

Internal distribution code:

- (A) Publication in OJ
(B) To Chairmen and Members
(C) To Chairmen
(D) No distribution

**Datasheet for the decision
of 23 July 2009**

Case Number: T 0211/08 - 3.5.03

Application Number: 00952512.2

Publication Number: 1214835

IPC: H04M 3/523

Language of the proceedings: EN

Title of invention:

Contact routing system and method

Applicant:

Avaya Technology Corp.

Headword:

Contact routing system/AVAYA

Relevant legal provisions:

EPC Art. 84, 116(1), 123(2)

RPBA Art. 15(3)

Keyword:

"Oral proceedings held in absence of appellant"

"Added subject-matter (yes)"

"Clarity (no)"

Decisions cited:

-

Catchword:

-



Case Number: T 0211/08 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 23 July 2009

Appellant: Avaya Technology Corp.
211 Mount Airy Road
Basking Ridge, NJ 07920 (US)

Representative: Wombwell, Francis
Potts, Kerr & Co.
15, Hamilton Square
Birkenhead
Merseyside CH41 6BR (GB)

Decision under appeal: Decision of the examining division of the
European Patent Office posted 23 July 2007
refusing European patent application
No. 00952512.2 pursuant to
Article 97(1) EPC 1973.

Composition of the Board:

Chairman: A. S. Clelland
Members: F. van der Voort
M.-B. Tardo-Dino

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division refusing European patent application No. 00952512.2 which was published under the PCT with publication number WO 01/13606 A.
- II. The examining division held that the subject-matter of claims 1 to 18 of a main request lacked an inventive step (Articles 52(1) and 56 EPC). A late-filed auxiliary request was not admitted and reasons were given.
- III. In the statement of grounds of appeal the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request or, failing that, on the basis of claims of an auxiliary request filed with the statement of grounds of appeal. Arguments in support of these requests were submitted. Oral proceedings were conditionally requested.
- IV. In a communication annexed to a summons to oral proceedings the board raised, without prejudice to its final decision, objections under Articles 84 and 123(2) EPC to the claims of each of the requests on file and gave a preliminary, negative opinion on the question of inventive step as to the subject-matter of the independent claims of each of the requests when read in the context of the application as filed.
- V. In response to the board's communication, the appellant filed with a letter dated 26 June 2009 claims of an amended auxiliary request, hereinafter referred to as

the first auxiliary request, as well as claims of a second and a third auxiliary request. The appellant implicitly requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request or, alternatively, on the basis of the claims of the first auxiliary request, the second auxiliary request, or the third auxiliary request, in that order.

VI. With a letter dated 17 July 2009 the appellant withdrew the request for oral proceedings and requested a decision in writing.

VII. Oral proceedings were held on 23 July 2009 in the absence of the appellant. At the end of the oral proceedings the board's decision was announced.

VIII. Claim 1 of the main request reads as follows:

"A contact routing system, comprising:

a plurality of media connectors which receive incoming customer contacts from an equal plurality of media channels (510);

contact routing logic (520) which routes said incoming contacts to particular customer service representatives CSRs (540) based on a set of routing variables including the particular media channel over which said contacts were received and the skill sets of said CSRs; and characterised in that:

a single call tracking data unit created for each incoming customer contact regardless of the medium channel of the customer contact to record data for said incoming customer contact, the recorded data being stored in the same call tracking data unit associated

with each incoming customer contact, the call tracking data unit to be archived upon termination of activities associated with the call tracking data unit based on an internally maintained list of processes utilizing the call tracking data unit, said call tracking data unit transmitted to said CSRs concurrently with said routing of said contacts for updating by said CSRs as said contact traverses said contact routing system, regardless of media type handled by said CSRs."

Claim 1 of the first auxiliary request reads as follows:

"A contact routing system, comprising:
a plurality of media connectors which receive incoming customer contacts from an equal plurality of media channels (510) each corresponding to a particular type of communication medias;
contact routing logic (520) coupled to the plurality of media connectors to route the incoming customer contacts to particular customer service representatives CSRs (540) based on a set of routing variables including the particular media channel over which said contacts were received and the skill sets and proficiency levels of said CSRs that are required to handle the incoming customer contacts; and
characterised in that:
a single call tracking data unit created for each incoming customer contact regardless of the media channel of the customer contact to record data for said incoming customer contact, the recorded data being stored in the same call tracking data unit associated with each incoming customer contact of a particular customer having a plurality of customer contacts, each

customer contact having a separate call tracking data unit to record data of transactions associated with the respective customer contact regardless [sic] the media types of the transactions,

wherein the call tracking data unit is to be archived upon termination of activities associated with the call tracking data unit based on an internally maintained list of processes utilizing the call tracking data unit, wherein a name of a process using the call tracking data unit is added to the internally maintained list, wherein the name of the process is removed from the internally maintained list once the process no longer utilizes the call tracking data unit, wherein the call tracking data unit is archived and terminated when the internally maintained list becomes empty, and

wherein said call tracking data unit is transmitted to said CSRs concurrently with said routing of said contacts for updating by said CSRs as said contact traverses said contact routing system, regardless of media type handled by said CSRs."

Claim 1 of the second auxiliary request reads as follows:

"A contact routing method comprising:

receiving customer contacts from a plurality of different media channel types;

selecting a particular media-specific queue group for each incoming customer contact based on said media channel over which said customer contact was received;

selecting a particular queue within said selected media-specific queue group for each customer contact based on one or more routing variables;

transmitting said customer contact to a particular customer service representative CSR based on the skill set of said CSR and the media channels over which said CSR is equipped to receive contacts; and

transmitting a single call tracking data unit regardless of the medium channel of the customer contact to a plurality of locations, each call tracking data unit recording data associated with one incoming customer contact, the call tracking data unit to be archived upon termination of activities associated with the call tracking data unit based on an internally maintained list of processes utilizing the call tracking data unit, said call tracking data unit transmitted concurrently with said routing of said contacts for updating by said CSRs as said contact transverses a contact routing center, regardless of media type handled by said CSRs."

Claim 1 of the third auxiliary request differs from claim 1 of the second auxiliary request only in that the following feature is added:

"controlling which contacts from which media types are to be allocated and the number of concurrent contacts to be presented to each CSR."

Reasons for the Decision

1. *Procedural matters*

1.1 Although the appellant withdrew the request for oral proceedings, the board considered it to be expedient to hold oral proceedings for reasons of procedural economy (Article 116(1) EPC, Article 15(3) RPBA).

1.2 In the communication accompanying the summons, objections under Articles 84 and 123(2) EPC were raised in respect of claim 1 of the main request. The appellant was thereby informed that at the oral proceedings it would be necessary to discuss these objections and, consequently, could reasonably have expected the board to consider at the oral proceedings these objections not only in respect of the main request but also, if it failed, in respect of the first, second and third auxiliary requests as filed by the appellant in response to the board's communication. In deciding not to attend the oral proceedings the appellant chose not to make use of the opportunity to comment at the oral proceedings on any of these objections but, instead, chose to rely on the arguments as set out in the written submissions, which the board duly considered below.

1.3 In view of the above and for the reasons set out below, the board was in a position to give at the oral proceedings a decision which complied with the requirements of Article 113(1) EPC.

2. *Main request*

2.1 In the board's communication *inter alia* the following objections under Articles 84 and 123(2) EPC were raised in respect of claim 1 of the main request (line numbers refer to the claim as filed by the applicant/appellant):

- i) "The application as filed does not appear to provide a basis for a transmission of the call tracking data unit to the CSRs or an updating of the call tracking data unit by CSRs "regardless of the media type handled by said CSRs" (claim 1, lines 15 to 18). It appears that the application as filed merely discloses that the generation (or creation) of an EDU may be regardless of the media channel type through which the contact is sent, see page 12, lines 14 and 15, and claims 8, 19 and 35 as filed.";

- ii) "Claim 1 is directed to a system. However, the subject-matter is partly defined in terms of method steps, see line 2 ("connectors which receive"), line 4 ("contact routing logic (520) which routes ..."), lines 6 and 7 ("channels over which said contact were received"), lines 9 and 10 ("a single call tracking data unit created for each incoming customer contact"), line 11 ("the recorded data being stored in ..."), line 15 ("list of processes utilizing the call tracking data unit"), and lines 15 and 16 ("said call tracking data unit transmitted to ..."). The subject-matter for which protection is sought in claim 1 is therefore unclear.";

iii) "In claim 1, line 6, it is unclear whether "the particular media channel" relates to the type of the media channel, e.g. e-mail, voice over PSTN, text chat, etc., or to the specific channel over which the contact is received, possibly irrespective of the channel type."; and

iv) "In claim 1, line 18, it is unclear whether or not the term "media type" relates to the type of the media channel over which the contact is received. Further, in claim 1, lines 15 to 18, it is unclear whether the feature "regardless of media type handled by said CSRs" refers to the transmission of the call tracking data unit to the CSRs or to the updating of the call tracking data unit by the CSRs.".

2.2 In response to the board's communication and in respect of the claims of the main request, the appellant merely stated that "With regard to the claims, the Board of Appeal is firstly advised that the Main Request is maintained". The appellant did not submit any arguments in support of the (unamended) claim 1 of the main request despite the objections raised by the board.

2.3 After having reconsidered the objections raised in its communication and having noted that the appellant did not file any substantive submissions concerning these objections, the board confirms the reasoning as expressed in the communication and, hence, maintains the objections raised.

2.4 Accordingly, the board concludes that claim 1 of the main request does not comply with the requirements of Articles 84 and 123(2) EPC and that for these reasons the main request is not allowable.

3. *First auxiliary request*

3.1 The objections raised in respect of claim 1 of the main request (see point 2.1 above) apply *mutatis mutandis* to claim 1 of the first auxiliary request, since most of the objected wording is maintained in the claim. In particular, the last feature of the claim ("regardless of media type handled by said CSRs") does not comply with Article 123(2) EPC and the claim's wording ("connectors which receive", "channel over which said contacts were received", "a single call tracking data unit created for each incoming customer contact", "the recorded data being stored in", "list of processes utilizing the call tracking data unit", "the particular media channel", "media type", and "regardless of media type handled by said CSRs") makes the claim unclear for the same reasons as set out at point 2.1 above.

3.2 Further, the added feature "wherein a name of a process using the call tracking data unit is added to the internally maintained list, wherein the name of the process is removed from the internally maintained list once the process no longer utilizes the call tracking data unit, wherein the call tracking data unit is archived and terminated when the internally maintained list becomes empty" and the amended wording "said call tracking data unit is transmitted to" give rise to further objection under Article 84 EPC in that the claim is directed to a system, whereas the above-quoted

features define method steps ("is added to", "is removed from", "once the process no longer utilizes", "is archived and terminated", and "is transmitted to"). The subject-matter for which protection is sought is thus unclear.

3.3 Claim 1 of the first auxiliary request does not therefore comply with the requirements of Articles 84 and 123(2) EPC and, hence, the first auxiliary request is not allowable.

4. *Second and third auxiliary requests*

4.1 Claim 1 of the second and third auxiliary requests does not comply with the requirements of Articles 84 and 123(2) EPC for the following reasons:

4.2 Claim 1 of each of the second and third auxiliary requests is based on independent method claim 23 as originally filed, in which, however, *inter alia*, the feature "transmitting a single call tracking data unit regardless of the medium channel of the customer contact to a plurality of locations" is added (see point VIII above).

4.3 In respect of the second auxiliary request the appellant argued that the claims related to claims 18 to 34 of the corresponding US patent, i.e. US Patent No. 6934381, and "relate to the features of the queue selection which is described in detail at col. 9, lines 12 to 4 [*sic*].", whilst in respect of the third auxiliary request the appellant argued that it was directed towards the agent blending features "as disclosed specifically at column 9, lines 46 to 65".

4.4 The board notes that the first passage in the US patent referred to by the appellant (assuming that it should read col. 9, lines 12 to 45) corresponds to a passage at page 14, line 11, to page 15, line 5, of the present application as filed. In this passage, however, reference is only made to "different locations" in the specific context of a queue selection by means of queue selection logic 630 (see Fig. 6) which "evaluates skill match, and applies rules that factor in routing variables such as estimated queue wait time, service level requirements for the particular customer, and perhaps the cost of transferring the contact from one location to another (i.e., if the call center is multi-site)" and which "selects the physical queue that best satisfies these requirements". This queue selection is carried out after a skills selection step at 620 (see Fig. 6), in which "an ordered list of logical skills or CSR [customer service representative; board's note] attributes desired to handle this contact" is outputted (page 14, lines 2 to 7). Further, at page 15, lines 1 to 5, reference is only made to "several geographically distinct locations" and only in the specific context of a contact center in a multi-site telephony system.

The second passage in the US patent referred to by the appellant corresponds to page 15, lines 6 to 20, of the present application as filed. This passage relates to an allocation of contacts to a set of agents 680 (Fig. 6) and is silent on a transmission of a single call tracking data unit to a plurality of locations.

The board further notes that in the description reference is made to an Electronic Data Unit (EDU), see

page 9, line 1, to page 12, line 10. Even if, as pointed out in the board's communication, an EDU is interpreted as corresponding to the call tracking data unit, it merely follows from this passage that the EDU information traverses the call center (page 9, lines 7 to 9), that the data and contact logically associated with the EDU can be routed to other software processes in the call center network (page 9, lines 27 to 29), that clients can transfer EDUs (page 10, lines 7 and 8), and that a terminated EDU can be sent to a Call History Server 330 (page 10, lines 26 to 28) and an EDU Object Store Server 365 (page 11, lines 21 to 23). A transmission of an EDU to a plurality of locations, for example in a multi-cast transmission, is accordingly not disclosed.

The board further notes that claim 36 as filed includes the specific feature that the call tracking data unit is transmitted to the customer service representatives (CSRs) concurrently with the routing of the contacts and that claim 37 as filed includes the specific feature that the call tracking data unit is transferred to a second CSR concurrently with the contact being transferred to the second CSR. These features do not however imply a transmission, e.g. a multi-cast transmission, of the call tracking data unit to a plurality of locations.

It follows that none of the above-cited passages of the description as filed and above-cited claims as filed disclose, in the same general terms as in claim 1 of the second and third auxiliary requests, the step of transmitting a single call tracking data unit to a plurality of locations. Nor can a basis for this step

be found elsewhere in the description or drawings as filed or in any other of the claims as filed.

The board also notes that the objections set out at point 2.1 i) and iv) apply *mutatis mutandis* to claim 1 of the second and third auxiliary requests for the same reasons as set out therein.

- 4.5 Claim 1 of the second and third auxiliary requests therefore defines an intermediate generalisation of what is disclosed in, on the one hand, the description and drawings and, on the other hand, claim 23 as filed. Since, for the reasons set out above, in the application documents as originally filed there is no basis for this intermediate generalisation, the claim contains subject-matter which extends beyond the content of the application as filed and, hence, fails to comply with Article 123(2) EPC. The second and third auxiliary requests are therefore not allowable.
5. In view of the foregoing, it has not proved necessary to consider any of the further objections, in particular those concerning inventive step, as set out in the communication accompanying the summons to oral proceedings.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Magliano

A. S. Clelland