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Datasheet for the decision of 3 September 2012

Case Number: T 1256/08 - 3.5.06

Application Number: 01994159.0

Publication Number: 1344143

IPC: G06F 15/16

Language of the proceedings: EN

Title of invention:
Cooperative network for mobile internet access

Applicant:
Tagg, James P.

Headword:
Mobile internet access/TAGG

Relevant legal provisions:
EPC Art. 123(2)

Relevant legal provisions (EPC 1973):
EPC Art. 56, 111(1)

Keyword:
"Amendments - added subject matter (no)"
"Inventive step - yes (auxiliary request 4)"
"Decision re appeals - remittal (yes)"

Decisions cited:
T 0641/00

Catchword:
-

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Case Number: T 1256/08 **-** 3.5.06

D E C I S I O N
of the Technical Board of Appeal 3.5.06
of 3 September 2012

Appellant: (Applicant)
Tagg, James P.
26 Sacramento Street 2
Cambridge, MA 02138 (US)

Representative:
Hibbert, Juliet Jane Grace
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Decision under appeal:
Decision of the Examining Division of the European Patent Office posted 11 February 2008 refusing European patent application No. 01994159.0 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: D. H. Rees
Members: A. Teale
W. Sekretaruk

Summary of Facts and Submissions

I. The appeal is against the decision by the examining division, dispatched on 11 February 2008, to refuse European patent application No. 01 994 159.0 (published as WO 02/057869 A2) on the basis of the application according to a main and four auxiliary requests.

II. During search the search division raised an objection of lack of unity and invited the applicant to pay further search fees. As no further search fees were paid, only the claims relating to the first invention were searched.

III. According to the reasons for the appealed decision, the independent claims of all of the requests did not satisfy Article 123(2) EPC regarding added subject-matter and also set out subject-matter not involving an inventive step, Article 56 EPC 1973, in view of the following document:

D1: Perkins C. et al., "IP Mobility Support", IETF Standard, Internet Engineering Test Force, IETF, CH, October 1996, XP015007786.

The following document was also cited in examination proceedings:

D2: "Specification of the Bluetooth System, Core, version 1.0 B", 1 December 1999, pages 1 to 42, XP002158172.

IV. In a notice of appeal, received on 10 April 2008, the appellant requested that the decision be set aside in

its entirety and that, as a main request, a patent be granted based on the text of the main request upon which the decision was based. The appeal fee was paid on 11 April 2008.

V. With a statement of grounds of appeal the appellant submitted sets of claims according to auxiliary requests 1 to 4. The appellant requested that the decision be set aside and a patent granted on the basis of the claims according to the main request forming the basis of the decision or the claims according to auxiliary requests 1 to 4 filed with the statement of grounds of appeal. Oral proceedings were requested should the board intend upholding the decision.

VI. In an annex to a summons to oral proceedings, scheduled for 22 August 2012, the board expressed doubts *inter alia* as to whether the application according to the main request and auxiliary requests 1 to 4 satisfied Article 123(2) EPC regarding added subject-matter and whether the application according to the main request and auxiliary requests 1 to 3 satisfied Article 56 EPC 1973 regarding inventive step. On the issue of whether the application according to auxiliary request 4 satisfied Article 56 EPC 1973 regarding inventive step, the board stated that it might be possible to remit the case to the first instance on the basis of this request.

VII. With a letter received on 23 July 2012 the appellant filed a main request and auxiliary requests 1 to 4 to replace those currently on file and also a new auxiliary request 5.

VIII. On 6 August 2012 a letter was received from the appellant stating *inter alia* that "We herby [sic] withdraw all requests except for Auxiliary Request 4, on the understanding that this auxiliary request 4 would then be referred back to the first instance for examination. If this is the decision of the Board then we will withdraw our request for Oral proceedings. If, however, the Board has objections in relation to auxiliary request 4 (e.g. an objection that the amendments do not meet the added subject matter issues raised by the Board) we still wish to attend the Oral proceedings to address these issues in person."

IX. In a letter received on 16 August 2012 the appellant enquired whether the oral proceedings would take place. The board responded in a fax sent on 17 August 2012 that the oral proceedings would take place as scheduled.

X. In a further fax sent on 20 August 2012 the board explained *inter alia* that the new requests did not seem to overcome all of the objections raised in the annex to the summons to oral proceedings against the previous requests. In particular, there remained objections to the claims according to auxiliary request 4. The board also expressed doubts as to whether auxiliary request 5 should be admitted into the proceedings.

XI. With a letter received on 20 August 2012 the appellant submitted amended claims, replacing those of auxiliary request 4, as well as amended pages 8 and 10 of the description. The appellant reiterated that, if the board were to decide to remit the case back to the first instance on the basis of the amended auxiliary request 4, then the appellant withdrew the request for

oral proceedings. However should the board be minded to refuse the appeal, then the request for oral proceedings was maintained.

XII. On 21 August 2012 the board issued a communication cancelling the oral proceedings.

XIII. The independent claims according to auxiliary request 4 read as follows:

"1. A method of connecting a first system to a target network (102) via a second system, the method characterized by the steps of: for each system, configuring (401-406) the system to enable cooperative networking capability of the system, comprising providing host and client tunneling software to the system, setting (404) tunnel preferences for provision of tunnels for use by other systems with cooperative networking enabled and setting (405) access preferences for use of tunnels provided by other systems with cooperative networking capability enabled, such that each system can act as a host system or a client system; with the second system having access to the target network and acting as a host system (104), the first system acting as a client system (106) and finding the second host system; establishing a physical link between the first client system and the second host system; on establishment of the physical link, setting up (203) a logical link between the second host system and the first client system, sending (204) information about access preferences of the first client system from the first client system to the second host system through the logical link and comparing (804,805) tunneling preferences of the second

host system with access preferences of the first client system under control of matching means; and when the tunnel preferences of the second host system match the access preferences of the first client system, establishing cooperative networking by establishing (209) a tunnel from the first client system to the second host system through which encapsulated data packets can be sent, such that data packets from the first client system can be sent to and from the target network via the second host system; wherein the client system only accesses resources of the host system required for the cooperative networking."

"19. A connection system for connecting a first system to a target network (102), the system characterized by: first and second systems each capable of configuration to enable cooperative networking capability of the system; wherein the connection system is arranged to configure each system by providing host and client tunneling software to the system, setting tunnel preferences for provision of tunnels for use by other systems with cooperative networking enabled and setting access preferences for use of tunnels provided by other systems with cooperative networking enable [sic], such that each system can act as a host system or a client system; with the second system having access to the target network and acting as a host system, the first system acting as a client system and being arranged to find the second host system, the connection system being arranged to establish (202) a physical link between the first client system and the second host system; the connection system further comprising matching means arranged to compare preferences of the second host system and the first client system on

establishment of the physical link; wherein the connection system is further arranged, on establishment of the physical link, to set up a logical link between the first client system and the second host system, to send (204) information about access preferences of the first client system from the first client system to the second host system and to establish cooperative networking by establishing a tunnel from the first client system to the second host system through which encapsulated data packets can be sent when the tunnel preferences of the second host system match the access preferences of the first client system such that data packets can be sent to and from the target network via the second host system; wherein the first client system only accesses resources of the second host system required for the cooperative networking."

XIV. The description and figures currently on file are as follows.

Description:

Pages 1 to 6, 9 and 11 to 20, published in WO 02/057869 A2.

Pages 7 and 7a, received on 26 June 2006.

Pages 8 and 10, received on 20 August 2012.

Figures:

Sheets 1 to 9, published in WO 02/057869 A2.

Reasons for the decision

1. *The admissibility of the appeal*

In view of the facts set out at points I and III to V above, the appeal fulfils the admissibility criteria under the EPC and is therefore admissible.

2. *The withdrawal of requests by the appellant*

2.1 The appellant stated in the letter received on 6 August 2012, that, if the board were to decide to remit the case to the first instance for further prosecution on the basis of auxiliary request 4, the appellant would withdraw all other requests, including that for oral proceedings.

2.2 As the board is deciding to remit the case to the first instance for further prosecution on the basis of auxiliary request 4, it follows that the appellant's conditions for withdrawing all other requests are fulfilled. For the purposes of this decision it is consequently only necessary to consider the application according to auxiliary request 4.

3. *Added subject-matter, Article 123(2) EPC*

3.1 Method claim 1 and system claim 19 set out corresponding features which derive from claim 1 as originally filed, restricted using features taken from figures 2, 4 and 6 and their corresponding passages in the description, together with page 7, lines 16 to 17. The dependent claims derive either from original dependent claims or the description: see page 7,

lines 1 to 2, page 13, lines 26 to 29, page 15, lines 6 to 8, page 18, lines 7 to 15, page 19, lines 22 to 24, and page 20, lines 9 to 11.

3.2 The board is consequently satisfied that the amendments made to the application comply with Article 123(2) EPC. The board is also satisfied that the claimed subject-matter was searched.

4. *The context of the invention*

The application relates to a client device, such as a cellular telephone, a PDA or a home appliance, (termed the "first system" in the claims) establishing a connection with a host system (termed the "second system" in the claims) via which it can communicate with a "target network" such as the Internet. This is termed a "cooperative networking service" because every client device can also act as a host device, each member device of the service having a unique ID. To prevent the resources of the host system being inappropriately accessed by the client system during such communication, the client and host systems both have a secure piece of software, termed a "cooperative tunneling agent" (CTA). A "tunnel" is established between the two CTAs through which data is sent as encapsulated packets. A server stores information (see figure 3) relating to the conditions (termed "preferences" in the claims) under which each member will provide such a tunnel (as host) or use such a tunnel (as client), meaning that the conditions must "match" before a tunnel can be established; see figure 8. Some of these conditions relate to details of the communication link, for instance the level of

encryption to be used or whether data or voice links are possible, but other conditions relate to financial aspects such as the charge a host makes for providing an uplink or the amount a client is prepared to pay to use such an uplink.

5. *The prior art*

5.1 *Document D1*

5.1.1 D1 relates to routing IP datagrams (a header and data payload) to mobile nodes in the Internet. IP version 4 assumes that a node's IP address uniquely identifies its point of attachment to the Internet. According to D1, a mobile node has a "home address", a "care-of address" being registered with a "home agent" in the home network so that the home agent can forward datagrams through a tunnel to the mobile node at the care-of address. Sections 1.5 and 1.6 define the following terms.

The **mobile node** is a host (a computer connected to a computer network) or router (a device that forwards data packets between computer networks) that does not change its IP address as it changes its point of attachment to the Internet.

A **home agent** is a router on a mobile node's home network which tunnels datagrams for delivery to the mobile node when it is away from home and maintains current location information for the mobile node; see section 4.2.3 (page 58).

A **foreign agent** is a router on a mobile node's visited network which provides routing services to and from the mobile node while registered. The foreign agent detunnels and delivers datagrams to the mobile node that were tunneled by the mobile node's home agent.

A **tunnel** is the path followed by a datagram while it is encapsulated, and a **link** is a facility or medium over which nodes can communicate at the link layer, this underlying the network layer.

5.1.2 According to section 1.7, the mobile IP protocol comprises the following steps:

1. Mobility agents (i.e. foreign agents and home agents) advertise their presence via "Agent Advertisement messages" comprising Mobility Agent Advertisement Extensions (see below). A mobile node may also solicit an Agent Advertisement message from any locally attached mobility agents.

2. A mobile node receives these Agent Advertisements (termed "Agent discovery") and determines whether it is on its home network or a foreign network; see section 2.1.1.

3. If returning to its home network from being registered elsewhere, the mobile node deregisters with its home agent.

4. When a mobile node detects that it has moved to a foreign network, it obtains a care-of address on the foreign network, for instance from a foreign agent's advertisements (a foreign agent care-of

address). An example scenario is provided in section D.1 (page 74).

5. The mobile node operating away from home then registers its new care-of address with its home agent through the exchange of a Registration Request and Registration Reply message with it.

6. Datagrams sent to the mobile node's home address are intercepted by its home agent, tunneled by the home agent to the mobile node's care-of address, received at the tunnel end point (either at a foreign agent or at the mobile node itself), and finally delivered to the mobile node.

7. In the reverse direction, datagrams sent by the mobile node are generally delivered to their destination using standard IP routing mechanisms, not necessarily passing through the home agent.

5.1.3 Section 2.1.1 of D1 specifies that the Mobility Agent Advertisement Extensions contain *inter alia* the following bits:

R: Registration required. Registration with this foreign agent is required.
H: Home agent. This agent offers service as a home agent.
F: Foreign agent. This agent offers service as a foreign agent.
M: Minimal encapsulation. This agent implements receiving tunneled datagrams that use minimal encapsulation.

5.1.4 According to section 2.3.1 (page 20), the Mobility Agent Advertisement Extensions may contain one or more router addresses, i.e. an agent may include one of its own addresses in the advertisement. According to sections 2.4 and 2.4.1 (page 22), when multiple methods of agent discovery are in use, the mobile node should first attempt registration with agents including Mobility Agent Advertisement Extensions in their advertisements, thereby maximizing the likelihood that the registration will be recognized in the fewest attempts. When the mobile node receives an agent advertisement with the "R" bit set (see above), the mobile node should register through the foreign agent, even when it could acquire its own co-located care-of address.

5.1.5 Section 5 (page 66 to 70) relates to security considerations. According to section 5.5 concerning privacy, users with sensitive data should use mechanisms such as encryption, and users concerned about traffic analysis should consider appropriate use of link encryption. If absolute location privacy is desired, then the mobile node can create a tunnel to its home agent.

5.2 *Disputed issues relating to the disclosure of D1*

5.2.1 The appellant has questioned the relevance of D1 to the claimed subject-matter on the basis that D1 does not address what the appellant terms the "primary access issue", i.e. the claimed establishing of a physical link between the first client system and the second host system. The board accepts the argument in the appealed decision (page 8, last paragraph) that in D1

connecting the mobile node to the foreign agent is part of the mobile IP concept, otherwise communication would be impossible. Moreover the skilled person reading D1 would be aware that establishing a physical link between the mobile node and the foreign agent and dealing with access rights to the host would be implicit tasks of the link layer of the protocol underlying the network layer; see D1, page 6, lines 30 to 31.

The appellant has also argued that, since D1 does not address the "primary access issue", mobile IP is only implementable, for example, in large corporations running their own network. Thus the appellant concedes that the lack of mention in D1 of the "primary access issue" does not prevent the implementation of mobile IP, at least in some cases.

The appellant has furthermore argued that, since the foreign agent in D1 (page 5) is a router, i.e. a gateway between networks, it cannot be considered as the claimed host system, since a host is a computer system capable of accessing a network such as the Internet. The board does not accept this argument for two reasons. Firstly, although D1 (see page 5, lines 21 to 27) states that the foreign agent is a router, even a router is a computer system. Secondly, the application states that "The host can be any form of general purpose PC or a custom built device, which [h]as two connection methodologies and an ability to selectively connect those methodologies under program control"; see page 10, lines 22 to 25. This definition does not exclude a host system being a router. Moreover it is implicit in D1 that the router has all the

functionality attributed to the foreign agent in the IP mobility support protocol.

Hence the board agrees with the interpretation in the decision (page 7) that the foreign agent and mobile node in D1 can be regarded as the claimed host and client, respectively, the "visited" or "foreign" network in D1 (page 5, line 16, and page 6, lines 18 to 19) being regarded as the claimed "target network".

5.2.2 The appellant has challenged whether D1 discloses establishing a tunnel through which encapsulated data packets are sent between the foreign agent and the mobile node and pointed to the fact that D1 discloses two alternative modes of acquiring a "care-of address", only one of which involves a foreign agent; see page 9, lines 1 to 5 and 19 to 39. In the "foreign agent care-of address" mode (page 9, lines 19 to 27) the care-of address is provided by a foreign agent through its agent advertisement messages, and the foreign agent is the end point of the tunnel. In the "co-located care-of address" mode (page 9, lines 28 to 39) no foreign agent is involved, the mobile node communicating directly with the home agent, and the tunnel end point is the mobile node itself. The appellant has argued that consequently D1 does not disclose the use of a foreign agent in the context of a tunnel from the home agent to the mobile node. The board does not accept this interpretation in view of the list of additional features for protecting privacy discussed in D1 in section 5.5; see page 67. This section states that "If absolute location privacy is desired, the mobile node can create a tunnel to its home agent"; see 5th to 4th lines from bottom of page. As there is no indication

that this measure is restricted to the "co-located care-of address" mode, the skilled person would understand D1 to disclose modifying the "foreign agent care-of address" mode so that the tunnel reaches from the home agent to the mobile node. It is implicit in D1 that encapsulated data packets are sent through the tunnel. Since in D1 the mobile node and foreign agent are in the foreign network, this also implies that, as set out in the claims, data packets from the first client system can be sent to and from the target network via the second host system.

5.2.3 The appellant has questioned whether D1 discloses configuring a host system by providing tunneling software and setting preferences for provision of tunnels. In the board's view, although in the application tunneling software is downloaded to a member device when a user logs onto a website to request the service (see figure 4, steps 401 and 402), while in D1 the mobile node, home network and foreign network must be adapted to support IP mobility, D1 does nevertheless disclose the claimed provision of tunnelling software to the foreign agent as a host. The provision of such software implies its configuration by *inter alia* setting the claimed "preferences for provision of tunnels for use by other systems with cooperative networking enabled"; see the "R" (registration required) and "M" (minimal encapsulation) bits defined on page 17.

5.2.4 The appellant has similarly questioned whether D1 discloses configuring a client system by providing tunneling software and setting preferences for provision of tunnels. In the board's view, as with the

foreign agent as host, D1 does disclose the claimed provision of tunnelling software to the mobile node as a client system. The provision of such software also implies its configuration in order for the system to work. The board does however accept the appellant's point that D1 does not disclose the configuration of a client system involves the setting of preferences, since, according to D1, the preferences are advertised by the home and foreign agents, and the mobile node adapts accordingly, there being no requirement that the claimed "match" occurs.

5.2.5 The appellant has questioned whether D1 discloses sending preference information from the mobile node to the foreign agent and comparing the preferences of the foreign agent and mobile node under the control of matching means. According to the appealed decision (pages 8 and 9), the home agent in D1 corresponds to the claimed matching means, and the advertisement of agents of their capabilities constitutes the comparison of system preferences. The board agrees with the appellant that D1 does not disclose the transmission of preference information from the mobile node or comparing preferences in the home agent. As stated above, in D1 the mobile unit has to accept the preferences expressed by the foreign agent. The board also agrees that, as the appellant has argued, a mobile node will attempt to register with the foreign agent no matter what the particular features offered by the foreign agent are, a "match" not being required.

5.2.6 The appellant has challenged whether in D1 the mobile node and the foreign agent can both act as either host system or client system. The board agrees with the

appellant that this is not foreseen by the IP mobility support protocol known from D1. For instance, the foreign agent is not moveable and thus cannot act as a mobile node by changing its point of attachment to the Internet from one network to another. The protocol also does not foresee the mobile node acting as a foreign agent by transmitting agent advertisements; see page 14, section 2.1.

5.2.7 The appellant has questioned whether D1 addresses security concerns. The board however agrees with the appealed decision that D1 does indeed address security concerns; see page 67, paragraph 5.5 "Privacy". This section in D1 considers measures to overcome several security vulnerabilities of the IP mobility support protocol.

5.2.8 The appellant has argued that D1 does not disclose access by the client system to resources of the host system being limited to those resources required for cooperative network. According to the appealed decision, D1 does not disclose access to resources of the host system being limited to those resources required for cooperative network. The board however takes the view that the skilled person would understand that such a limitation is implicit in D1 in the encapsulation of data packets sent from the mobile node to the mobile agent and thus necessary for the protocol of D1 to work.

5.3 *Document D2*

5.3.1 D2 (see pages 41 to 42 and figure 1.2) was cited in examination proceedings as being relevant to the "recursive service discovery" shown in figure 5 of the

application and described from page 16, line 21, to page 17, line 14.

5.3.2 D2 concerns the specification of a Bluetooth transceiver and, in particular (from page 33 onwards), the baseband specification of the link controller in the Bluetooth system. The link controller carries out baseband protocols and other low-level link routines; see page 33. The Bluetooth system can provide a point-to-multipoint connection between two or more units sharing the same channel to form a piconet, one unit acting as master of the piconet and the other unit(s) acting as slave(s). A plurality of overlapping piconets can form a scatternet, linked either by slaves in two piconets or a master in one piconet also being a slave in another piconet, meaning that Bluetooth units can act as master or slave (or both). In the scatternet shown in figure 1.2(c) communication can occur between two mutually distant Bluetooth units via links between up to three intermediate Bluetooth units. In the terminology of the application, D2 thus discloses a system being able to act as a host system or a client system; see figure 5 and page 16, lines 23 to 26, of the application. This disclosure is consequently comparable to the feature in claims 1 and 19 according to auxiliary request 4 that each system can act as a host system or a client system.

6. *Inventive step, Article 56 EPC 1973*

6.1 Regarding the mobile node, foreign network and foreign agent known from D1 as the claimed first system, target network and second system, respectively, D1 discloses

the following features set out in claims 1 and 19 according to auxiliary request 4:

1. A method of connecting a first system to a target network (102) via a second system, the method comprising the steps of: for each system, configuring (401-406) the system to enable cooperative networking capability of the system, comprising providing host and client tunneling software to the system, setting (404) tunnel preferences for provision of tunnels for use by other systems with cooperative networking enabled; with the second system having access to the target network and acting as a host system (104), the first system acting as a client system (106) and finding the second host system; establishing a physical link between the first client system and the second host system; on establishment of the physical link, setting up (203) a logical link between the second host system and the first client system, establishing cooperative networking by establishing (209) a tunnel from the first client system to the second host system through which encapsulated data packets can be sent, such that data packets from the first client system can be sent to and from the target network via the second host system; wherein the client system only accesses resources of the host system required for the cooperative networking.

19. A connection system for connecting a first system to a target network (102), the system comprising: first and second systems each capable of configuration to enable cooperative networking capability of the system; wherein the connection system is arranged to configure each system by providing host and client tunneling

software to the system, setting tunnel preferences for provision of tunnels for use by other systems with cooperative networking enabled; with the second system having access to the target network and acting as a host system, the first system acting as a client system and being arranged to find the second host system, the connection system being arranged to establish (202) a physical link between the first client system and the second host system; wherein the connection system is further arranged, on establishment of the physical link, to set up a logical link between the first client system and the second host system, to establish cooperative networking by establishing a tunnel from the first client system to the second host system through which encapsulated data packets can be sent such that data packets can be sent to and from the target network via the second host system; wherein the first client system only accesses resources of the second host system required for the cooperative networking.

6.2 Hence the subject-matter of claim 1 differs from the disclosure of D1 in that:

a. configuring each system comprises setting access preferences for use of tunnels provided by other systems with cooperative networking capability enabled; sending information about access preferences of the first client system from the first client system to the second host system through the logical link and comparing tunneling preferences of the second host system with access preferences of the first client system under control of matching means and establishing

cooperative networking when the tunnel preferences of the second host system match the access preferences of the first client system, and

b. each system can act as a host system or a client system.

6.3 The subject-matter of claim 19 differs from the disclosure of D1 in the following features:

a. the connection system is arranged to set access preferences for use of tunnels provided by other systems with cooperative networking enabled; the connection system further comprising matching means arranged to compare preferences of the second host system and the first client system on establishment of the physical link; the connection system being arranged to send information about access preferences of the first client system from the first client system to the second host system and establishing cooperative networking when the tunnel preferences of the second host system match the access preferences of the first client system, and

b. each system can act as a host system or a client system.

6.4 Difference features "a" for both claims relate to ensuring that the preferences of the first client system and the second host system match before establishing cooperative networking, whilst difference features "b" for both claims relate to an unrelated technical issue, namely that each member device can act

as a host system or a client system. Hence the contributions of difference features "a" and "b" of claims 1 and 19 to inventive step must be considered separately, there being no synergistic effect.

6.5 *Difference feature "a" of claims 1 and 19*

6.5.1 The preferences define the terms under which a member of the cooperative networking service agrees to grant access to the Internet to other members (termed "tunnel provision" in figure 3; 302) and also the terms under which they are prepared to access the Internet (termed "tunnel request" in figure 3; 303). As shown in figure 3, while some preferences concern technical aspects, such as the level of encryption, other preferences concern purely financial aspects. The tunnel provider can namely determine the charge for an uplink in $/hour and the cost to establish a connection in $/connect, and a tunnel user can define the maximum the user is prepared to pay for an uplink in $/hour and the maximum user link budget in $/day. In the light of original claim 7 and the example given on page 19, lines 7 to 10, the preferences set out in claims 1 and 19 can be understood to be solely financial in nature and thus in a non-technical field. Hence establishing cooperative networking by negotiating a financial transaction between the client system as "buyer" and the host system as "seller" in which the buyer sends an "offer" to the seller is an aim to be achieved in a non-technical field which can appear in the formulation of the problem; see T 641/00 (Two identities/COMVIK, OJ EPO 2009, 352). The problem to be solved in the case of claims 1 and 19, respectively, is consequently seen as providing a method and a system for establishing

cooperative networking by negotiating a financial transaction between the host system and the client system.

6.5.2 Difference features "a" of claims 1 and 19 set out usual technical implementations of the respective problem to be solved for the person skilled in the art of computer networks starting from D1. That the negotiation of a financial transaction may involve an offer and its acceptance or rejection, that this requires a communication from one party to the other (at least) and a comparison between what is offered and what is acceptable, appears to the board to be a matter of usual design for the person skilled in the art of computer networks starting from D1. It follows that difference feature "a" of claims 1 and 19 does not require an inventive step, Article 56 EPC 1973.

6.6 *Difference feature "b" of claims 1 and 19*

6.6.1 Difference feature "b" for both claims, which is based on page 15, lines 15 to 19, of the original description, is neither known nor obviously derivable from D1, but is known *per se* from D2 (see above). In the course of examination the first examiner stated, in the context of differently worded claims deriving from original claim 5, that this feature could not lend inventive step to the independent claims, but did not specify either a problem to be solved or how D2 disclosed its solution. On the basis of the arguments before it, it appears to the board that it would not, in fact, be obvious to combine the teachings of D1 and D2.

6.6.2 Consequently the board finds that it has not been established that the subject-matter of claims 1 and 19 according to auxiliary request 4 does not involve an inventive step, Article 56 EPC 1973, in the light of D1 and D2.

7. *Remittal to the first instance, Article 111(1) EPC 1973*

The restriction of both independent claims according to auxiliary request 4 using the feature that "each system can act as a host system or a client system", a feature which was not present in the claims decided upon by the examining division or mentioned in the appealed decision, significantly changes the nature of the subject-matter now claimed compared to that decided on by the first instance. Under these circumstances the board uses its discretion to remit the case to the first instance for further prosecution.

Order

For these reasons it is decided that:

The appealed decision is set aside.

The case is remitted to the first instance for further prosecution on the basis of auxiliary request 4 submitted on 20 August 2012.

The Registrar: The Chairman:

B. Atienza Vivancos D. H. Rees