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**Datasheet for the decision
of 17 February 2011**

Case Number: T 1416/08 - 3.5.03

Application Number: 02000168.1

Publication Number: 1225752

IPC: H04M 3/51

Language of the proceedings: EN

Title of invention:

System for reporting client status information to
communications-center agents

Applicant:

Genesys Telecommunications Laboratories, Inc.

Headword:

Client status information system/GENESYS

Relevant legal provisions:

EPC Art. 84, 123(2)

Relevant legal provisions (EPC 1973):

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Keyword:

"Added subject-matter - main request (yes)"
"Clarity - main request and first and second auxiliary
requests (no)"

Decisions cited:

-

Catchword:

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Case Number: T 1416/08 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 17 February 2011

Appellant: Genesys Telecommunications Laboratories, Inc.
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Decision under appeal: Decision of the examining division of the
European Patent Office posted 15 February 2008
refusing European patent application
No. 02000168.1 pursuant to Article 97(2) EPC.

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. 02000168.1 (publication number EP 1 225 752 A).
- II. In the notice of appeal the appellant requested that the decision be set aside. With the statement of grounds of appeal the appellant filed claims 1 and 18 of each one of a main request and first and second auxiliary requests and submitted arguments in support. It was implicitly requested that a patent be granted on the basis of claims 1 and 18 of either the main request, the first auxiliary request, or the second auxiliary request, all as filed with the statement of grounds of appeal, and claims 2 to 17 and 19 to 31 as filed with the letter dated 8 November 2005. Oral proceedings were conditionally requested.
- III. In a communication annexed to a summons to oral proceedings the board raised, without prejudice to its final decision, objections under, *inter alia*, Article 52(1) EPC in combination with Article 56 EPC (lack of inventive step), Article 84 EPC (lack of clarity) and Article 123(2) EPC (added subject-matter) against claims 1 and 18 of each of the requests on file and informed the appellant that at the oral proceedings these objections would be discussed.
- IV. In response to the board's communication the appellant informed the board that it would not participate in the oral proceedings. No substantive comments or amendments were submitted.

V. Oral proceedings were held on 17 February 2011 in the absence of the appellant.

In accordance with the written submissions the appellant had requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 and 18 of either a main request, a first auxiliary request, or a second auxiliary request, all as filed with the statement of grounds of appeal, and claims 2 to 17 and 19 to 31 as filed with the letter dated 8 November 2005.

At the end of the oral proceedings, after deliberation, the board's decision was announced.

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

"A system for a network, wherein the network includes a communication center (21) and a plurality of clients (9) and client devices (125, 129, 133, 137) connected to more than one type of communication network media (55, 61), and wherein the system enhances ability of real or robotic agents (27, 29, 31) of the communication center (21) to service the clients (9) using the client devices (125, 129, 133, 137), the system comprising:
- customer presence software (10, 97) executing at the client devices (125, 129, 133, 137) and at intermediary network-connected presence servers (93, 95; 121, 123) for monitoring client and device status, wherein client- status information includes on-line/off-line status of the client's devices (125, 129, 133, 137);
and
- communication center presence software (50, 94) executing in the communication center (21) for

receiving information from the customer presence software (10, 97) executing at the intermediary servers (93, 95; 121, 123);

characterized in that the customer presence software (10, 97) at the client devices (125, 129, 133, 137) monitors client and device status, communicates status information collected to the communication center presence software (50, 94) via the intermediary servers (93, 95; 121, 123), and the communication center presence software (50, 94) integrates the received status information or a portion thereof and provides the integrated result to the real or robotic agents (27, 29, 31) of the communication center (21) for configuring callback options, including the client's call-back preferences including network media (55, 61) preferences and device (125, 129, 133, 137) preferences client medium and callback preferences."

Claim 1 of the first auxiliary request reads as follows:

"A system for a network, wherein the network includes a communication center (21) and a plurality of clients (9) and client devices (125, 129, 133, 137) connected to more than one type of communication network media (55, 61), and wherein the system enhances ability of real or robotic agents (27, 29, 31) of the communication center (21) to service the clients (9) using the client devices (125, 129, 133, 137), the system comprising:

- customer presence software (10, 97) for monitoring device status, wherein device status information includes online/off-line status of the client's devices (125, 129, 133, 137); and
- communication center presence software (50, 94) executing in the communication center (21) for

receiving information from the customer presence software (10, 97);

characterized in that the system comprises at least one intermediary network-connected presence server (93, 95; 121, 123) and that the customer presence software (97) is executed on at least one of the intermediary presence servers (95), thereby monitoring device status and communicating status information collected to the communication center presence software (50, 94), and that the communication center presence software (50, 94) integrates the received status information or a portion thereof and provides the integrated result to the real or robotic agents (27, 29, 31) of the communication center (21) for configuring callback options, including the client's call-back preferences including network media (55, 61) preferences and device (125, 129, 133, 137) preferences client medium and callback preferences."

Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in that the characterising portion reads as follows:

"characterized in that the communication center (21) comprises a status server (49) and that the communication center presence software (50, 94) is executed at the status server (49), that the system comprises at least one intermediary network-connected presence server (93, 95; 121, 123) connected to the status server (49) by means of a high-speed data connection (20; 22) and that the customer presence software (97) is executed on at least one of the intermediary presence servers (95), thereby monitoring device status and communicating status information

collected to the communication center presence software (50, 94) via the high-speed data connection (20; 22), and that the communication center presence software (50, 94) integrates the received status information or a portion thereof and provides the integrated result to the real or robotic agents (27, 29, 31) of the communication center (21) for configuring callback options, including the client's call-back preferences including network media (55, 61) preferences and device (125, 129, 133, 137) preferences client medium and callback preferences."

Reasons for the Decision

1. *Procedural matters*

The board notes that in the board's communication the appellant's attention was drawn to the objections set out below. 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. Nor did the appellant reply in substance in writing. The board was therefore in a position to give at the oral proceedings a decision which complied with the requirements of Article 113(1) EPC.

2. *Article 123(2) EPC - claim 1 of the main request*

- 2.1 According to claim 1 as filed, the system includes "customer presence software executing at the client devices for monitoring client and device status" and "a communication-center presence software ... for

receiving information from the customer presence software".

In claim 1 of the main request these features are respectively amended as follows: "customer presence software (10, 97) executing at the client devices (125, 129, 133, 137) and at intermediary network-connected presence servers (93, 95; 121, 123)" and "communication center presence software (50, 94) executing in the communication center (21) for receiving information from the customer presence software (10, 97) executing at the intermediary servers (93, 95; 121, 123)".

In the statement of grounds the appellant argues that a basis for these amendments can be found at page 29, line 8, to page 30, line 20 (corresponding to paragraphs [0086] to [0089] of the application as published) and Fig. 4.

- 2.2 The above amendments however imply that customer presence software is at the client devices and at intermediary network-connected presence servers and that the communication center presence software need not be suitable for receiving customer presence software executed at the client devices. A basis for this combination of features can not be found in the application as filed.

More specifically, paragraphs [0086] to [0089] as referred to by the appellant relate to the embodiment of Fig. 4, in which customer presence server software CPS-SW 97 is either at customer presence server CPS 95, if the latter is present, or at the client device 9, but not at both (see paragraphs [0089] and [0103] of

the application as published). Hence, the passages referred to by the appellant do not provide a basis for the feature that customer presence software is executed at the client devices and at intermediary network-connected presence servers, even if it is assumed, as argued by the appellant, that in the embodiment of Fig. 4 the customer presence server CPS 95 and the foreign presence server FPS 93 correspond to the intermediary network-connected presence servers referred to in the claim.

Further, if, as defined in claim 1, customer presence software is being executed at the client devices, then, in accordance with the application as filed, the communication-center presence software is suitable for receiving information from the customer presence software (see paragraphs [0051] and [0089] ("CPS 10", "CPS-SW 97", "CCPS 94") and claim 1 as filed). Present claim 1 no longer requires this capability.

Nor could the board find a basis elsewhere in the application as filed for the above-mentioned combination of features. For example, in the embodiment of Fig. 1, customer presence software CPS 10 is only at the client device, i.e. at user's PC 9, and only supports agent status monitoring (paragraphs [0042], [0051] and [0056]). Nor did the appellant argue otherwise.

- 2.3 Claim 1 therefore includes subject-matter which extends beyond the content of the application as filed and, hence, violates Article 123(2) EPC.

3. *Article 84 EPC - claim 1 of the main request*

3.1 Claim 1 is directed to a system which includes customer presence software and communication center presence software. In the claim, reference is also made to various other entities which are not part of the system, in particular a "network", which includes a "communication center", "clients", "client devices" and "communication network media", and "intermediary network-connected presence servers". It is unclear to what extent, if at all, these entities limit the technical features of the system for which protection is sought.

Further, whilst it appears that protection is sought for a system comprising software, the subject-matter of claim 1 is partly defined in terms of method steps: "the system enhances ability ..."; "software ... executing at the client devices"; "software ... executing in the communication center"; "software ... monitors client and device status, communicates status information"; and "software ... integrates the received status information ... and provides the integrated result". It is therefore unclear whether protection is sought for the system per se, the system in use, or a use of the system, i.e. a method of using the system, in which the method includes the above-cited method steps.

With respect to the last feature ("callback options, including the client's call-back preferences including network media (55, 61) preferences and device (125, 129, 133, 137) preferences client medium and callback preferences") it is unclear to what extent, in terms of

technical features, the wording "client's call-back preferences including network media" is to be distinguished from "client medium and callback preferences".

- 3.2 Claim 1 is therefore not clear and, hence, does not meet the requirements of Article 84 EPC.
4. For the above reasons, claim 1 of the main request is not allowable and, consequently, the main request as a whole is not allowable.
5. The objections set out at point 3 as regards lack of clarity apply, *mutatis mutandis*, to claim 1 of both the first and second auxiliary requests, see point VI above. The first and second auxiliary requests are therefore not allowable either.
6. There being no allowable request, it follows that the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

G. Rauh

A. S. Clelland