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**Datasheet for the decision
of 7 June 2013**

Case Number: T 2061/09 - 3.5.03

Application Number: 05258038.8

Publication Number: 1760982

IPC: H04L 29/06

Language of the proceedings: EN

Title of invention:

Security setting in wireless communication network

Applicant:

Fujitsu Ltd.

Headword:

Security setting in wireless communication network/FUJITSU

Relevant legal provisions:

EPC Art. 123(2)

Keyword:

"Amendments - added subject-matter (yes)"

Decisions cited:

-

Catchword:

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Case Number: T 2061/09 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 7 June 2013

Appellant:
(applicant)

Fujitsu Ltd.
1-1, Kamikodanaka 4-chome
Nakahara-ku
Kawasaki-shi, Kanagawa 211-8588 (JP)

Representative:

Stebbing, Timothy Charles
Haseltine Lake LLP
Lincoln House, 5th Floor
300 High Holborn
London WC1V 7JH (GB)

Decision under appeal:

Decision of the examining division of the
European Patent Office posted 8 May 2009
refusing European patent application
No. 05258038.8 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: F. van der Voort
Members: A. J. Madenach
R. Moufang

Summary of Facts and Submissions

- I. The present appeal is against the decision of the examining division refusing European patent application No. 05258038.8 on the ground that the subject-matter of claims 1, 6, 9 and 15 extended beyond the content of the application as filed (Article 123(2) EPC).
- II. The board understands the appellant to be requesting that the decision of the examining division be set aside and that the application be remitted to the examining division for further prosecution on the basis of claims 1 to 13 and 16 (part) to 18 received on 23 March 2009 on which the decision of the examining division was based and claims 14 to 16 (part) as filed with the statement of grounds of appeal received on 2 September 2009.
- III. The board summoned the appellant to oral proceedings. In a communication accompanying the summons, the board gave its preliminary opinion. In particular, the board drew attention to deficiencies in respect of the requirement of Article 123(2) EPC.
- IV. With a letter dated 2 May 2013, the appellant informed the board that it would not attend the oral proceedings. No further requests were filed and no substantive comments were submitted.
- V. Oral proceedings were held on 7 June 2013 in the absence of the appellant. After deliberation, the chairman announced the board's decision.

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

"A security setting method for [sic] wireless communication network to [sic] a plurality of connection destinations that are wirelessly connected to a wireless Local Area Network (LAN) access point, the method comprising the operations of:

 setting a security level based on an instruction at the wireless LAN access point side;

 transmitting encryption information corresponding to the security level set based on the instruction at the wireless LAN access point side from the wireless LAN access point to said connection destinations for which security is not set or for which security of the same level as the wireless LAN access point is set, the connection destinations being registered at the wireless LAN access point side as a client permitted for connection;

 cutting off connections between said wireless LAN access point and the connection destinations given the encryption information;

 performing a security setting by the encryption information at the connection destinations cut off from connection with the wireless LAN access point; and

 changing the security level in incremental steps, wherein by repeating the operations, a security setting of a final security level is performed."

Reasons for the decision

1. *Procedural matters*

- 1.1 The board considered it to be expedient to hold oral proceedings in accordance with Article 116(1) EPC for reasons of procedural economy. Having verified that the appellant was duly summoned the board decided to continue the oral proceedings in the absence of the appellant (Rule 115(2) EPC).
- 1.2 In accordance with Article 15(3) RPBA, the board is not obliged to delay any step in the proceedings, including its decision, by reason only of the absence at oral proceedings of any party duly summoned who may then be treated as relying only on its written case.
- 1.3 The board's decision is based on a ground communicated to the appellant in the communication accompanying the summons to oral proceedings. The appellant thus had the opportunity to present its comments on the objections. In deciding not to attend the oral proceedings, the appellant chose not to make use of the opportunity to comment on any of the objections at the oral proceedings and, instead, to rely on the arguments set out in the statement of grounds of appeal, which the board duly considers below.

The board was therefore in a position at the end of the oral proceedings, to give a decision which complied with Article 113(1) EPC.

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

2.1 In comparison to the claims as originally filed, present claim 1 has been substantially modified with added features apparently taken from the description. More specifically, claim 1 only retains the wording "A security setting method for wireless communication network to ... a plurality of connection destinations" from its original version and is apparently based on a method shown in the flow chart of Figure 6 and described in the corresponding part of the description (paragraphs [0070] to [0081] of the application as published).

2.2 In particular, the feature "the connection destinations being registered at the wireless LAN access point side as a client permitted for connection" is subject-matter which extends beyond the content of the application as filed (Article 123(2) EPC) for the following reasons:

The feature in question is not disclosed in any of the original claims.

According to the description at paragraphs [0071] and [0072] a first judgement step (step S23 in Figure 6) is performed in order to judge whether or not the connection of a client device (*i.e.* a connection destination in the terms of claim 1) is permissible. This judgement step is followed by a further judgement step (step S25) in which it is judged whether or not the MAC address of the client device exists in a "list of the registered permission [*sic*] for connection in the server device". Hence, this part of the description does not give an explicit disclosure of the feature in question. It discloses a two step process during which

in a first step the permissibility of a connection is judged before a second step, during which registration of the client device's MAC address at the access point is judged before a connection can be successfully achieved. Since the feature in question does not include a two step judgement process, it cannot be considered to be disclosed by the description at paragraphs [0071] and [0072].

The more general description at paragraph [0019] also requires a judgement step prior to connection ("after it is determined whether the connection destination is a connectable object or not"), which is indeed considered essential for the security setting method of the invention ("so that the security of the communication is assured"). A judgement step is also required according to original claims 2 and 4 ("comprising the operation of being permitted to connect ... in the case where said connection destination is a connectable object" and "distinguishing said connection destination as a connectable object").

Hence, the application as filed does not provide a basis for the feature in question without at least one preceding judgement step.

- 2.3 The board also notes that the judgement steps for judging whether connection is permissible or not are performed by the security setting software in the management tool (see paragraphs [0046] and [0071]) which is part of the server device. The application as filed does not provide a basis for judging permission for connection and eventually establishing a connection without using a server device.

2.4 In its communication accompanying the summons, the board indicated that it considered that features represented by the security setting software were inextricably linked with (other) features taken from the description. The appellant did not provide any arguments with respect to this point. Its arguments in the statement of grounds of appeal relate to a different feature considered by the examining division as subject-matter which extends beyond the content of the application as filed.

2.5 For the reasons set out above, claim 1 does not fulfil the requirement of Article 123(2) EPC. The sole request is therefore not allowable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

G. Rauh

F. van der Voort