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**Datasheet for the decision
of 29 November 2012**

Case Number: T 1331/10 - 3.5.03

Application Number: 05300352.1

Publication Number: 1720335

IPC: H04M 17/00, H04M 15/00

Language of the proceedings: EN

Title of invention:
Improved network billing

Applicant:
Hewlett-Packard Development Company, L.P.

Headword:
Network billing/HEWLETT-PACKARD

Relevant legal provisions:
EPC Art. 56

Relevant legal provisions (EPC 1973):
-

Keyword:
"Inventive step (no)"

Decisions cited:
-

Catchword:
-



Case Number: T 1331/10 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 29 November 2012

Appellant: Hewlett-Packard Development Company, L.P.
(applicant) 20555 S.H. 249
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Decision under appeal: Decision of the examining division of the
European Patent Office posted 15 February 2010
refusing European patent application
No. 05300352.1 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. 05300352.1 (publication number EP 1 720 335 A).

- II. One of the reasons given for the refusal was that the subject-matter of claim 1 did not involve an inventive step (Article 56 EPC) having regard to the disclosure of

D1: WO 03/091918 A.

- III. In the statement of grounds of appeal the appellant requested that a patent be granted on the basis of claims of a main request or, in the alternative, claims of an auxiliary request, both requests as filed with the statement of grounds of appeal. Arguments in support were submitted and oral proceedings were conditionally requested.

- IV. The appellant was summoned to oral proceedings. In a communication accompanying the summons the board raised, without prejudice to its final decision, objections against claim 1 of both requests under, *inter alia*, Article 52(1) EPC in combination with Article 56 EPC (lack of inventive step). Further, the appellant's attention was drawn to Articles 13 and 15(3) RPBA relating respectively to amendment to a party's case and oral proceedings.

- V. In response to the board's communication the appellant informed the board that it would not be attending the

oral proceedings. No substantive submissions in reply to the communication were filed.

VI. In a subsequent communication the board informed the appellant that the oral proceedings were cancelled and that a decision would be issued in writing.

VII. From the appellant's written submissions the board understands the appellant to be requesting 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, in the alternative, on the basis of the claims of the auxiliary request, both sets of claims as filed with the statement of grounds of appeal.

VIII. Claim 1 of the main request and claim 1 of the auxiliary request are identical and read as follows:

"A method, in an intelligent network having access to an intelligent network, IN, billing system, of debiting a subscriber account for a charge-incurring use made by a subscriber of the network, comprising:

in response to receiving a request to make a non-telephone call charge-incurring use of the network, performing a simulated call to a predetermined called party number having a predetermined billable rate, the simulated call comprising:

requesting authorisation from the billing system for the requested use;

supplying to the billing system a billing rate identifier indicating a billing rate to be applied for the charge-incurring use; and

indicating to the billing system an amount of time for which the subscriber account is to be debited at

the indicated billing rate thereby causing the subscriber account to be debited a corresponding amount, characterised in that the duration of the simulated call is less than the amount of time indicated to the billing system."

Reasons for the Decision

1. *Inventive step*

1.1 The board has reconsidered its preliminary opinion as set out in the communication accompanying the summons, but sees no reason to alter its view that the subject-matter of claim 1 lacks an inventive step having regard to the disclosure of D1.

1.2 More specifically, D1 discloses, using the language of claim 1, a method of debiting a subscriber account for a charge-incurring use of an intelligent network which has access to an IN billing system (D1, Fig. 1, Pre-Paid intelligent network (IN) centre 8). In response to receiving a request to make a non-telephone call charge-incurring use of the network, e.g. a request to send an SMS message, a simulated voice call to a predetermined called party number (a simulated B-number which identifies the requested service) having a predetermined billing rate is performed by a Pre-Paid mediator 7, in which authorisation from the billing system 8 for the requested use is requested (page 4, lines 24 to 29, page 6, lines 12 to 16, page 6, line 26, to page 7, line 5, and Figs 1 and 2). An amount of time for which the subscriber account is to be debited at

the billing rate is also indicated to the billing system, thereby causing the subscriber account to be debited a corresponding amount (page 4, lines 24 to 26, and page 6, lines 12 to 16 and 22). D1 thereby implicitly discloses that a billing rate identifier indicating a billing rate to be applied for the charge-incurring use is supplied to the billing system 8, since otherwise the billing system 8 would not be able to debit the subscriber's account on the basis of the indicated amount of time.

The simulated call therefore consists of specifying by the Pre-Paid mediator 7 the chargeable amount (expressed in terms of an indicated amount of time) and the simulated B-number (which identifies the requested service) and sending this charging information to the billing system 8. In D1 the term "simulated call" is therefore used in the same way as in the application in suit in that performing a simulated call leads to system resources being used for a billing signaling message session, but does not lead to the establishment of any trunk connectivity or voice path (cf. the present application as published, col. 2, lines 26 to 32, and D1, page 6, lines 29 to 32).

- 1.3 D1 therefore discloses all features of claim 1 except the characterising feature according to which the duration of the simulated call is less than the amount of time indicated to the billing system. The board notes that this was not contested by the appellant.
- 1.4 In the statement of grounds of appeal the appellant argued that the system disclosed in D1 was an entirely conventional INAP pre-paid system for billing for non-

voice services such as described in the application in suit with reference to figures 1 to 3. Such a system did not include the above-mentioned characterising feature.

- 1.5 The board notes however that the prior art system referred to in the application in suit is a legacy IN billing system which receives a time record which specifies an actual time duration of the simulated call (cf. paragraph [0012] and paragraph [0045]: "*The IN gateway 120 maintains the established simulated call until it determines that the appropriate amount of time has passed to cause users account to be correctly debited and ends the simulated call by sending an ApplyChargingReport message 312 containing details of the length of the simulated call to the billing system 112.*"). Hence, the duration of the billing signaling message session, i.e. the simulated call, directly corresponds to the amount to be debited from the subscriber account, similar to the case of a normal voice call. This implies that, for example in the case of sending of an SMS message, the time duration of the simulated call may have to be much longer than is needed for the actual transmission the SMS message.

In D1, however, the billing system, i.e. Pre-Paid IN centre 8, receives a charging time duration which is determined by the Pre-Paid mediator 7 on the basis of the service data and rating (D1, page 5, line 31, to page 6, line 2, and page 6, lines 12 to 16). Hence, the charging time duration is independent of the duration of the billing signaling message session, i.e. the duration of the simulated call. Consequently, in some cases, the time required for the billing signaling

messaging may be much shorter than the amount of time indicated in the charging information which is sent by the pre-paid mediator 7 to the billing system 8 for charging purposes.

- 1.6 When faced with the problem of implementing the method and system of D1, it would therefore have been obvious to a person skilled in the art that, dependent on the specific services offered, the duration of the billing signaling message session, i.e. the duration of the simulated call, may be much shorter than the amount of time indicated to the billing system, for example if the predetermined billing rate is set relatively low and the charge to be paid for the requested service is high.
- 1.7 In view of the above, the board concludes that, when starting out from the disclosure of D1 and faced with the problem of implementing the system disclosed in D1, a person skilled in the art would, without exercising inventive skill, have arrived at a method which includes all features of claim 1.
- 1.8 As noted above (see point VIII), claim 1 of the main request and claim 1 of the auxiliary request are identical. The subject-matter of claim 1 of both requests does not therefore involve an inventive step having regard to the disclosure of D1 (Articles 52(1) and 56 EPC).
2. In view of the foregoing, it has not proved necessary to consider any of the further objections according to the preliminary opinion given by the board in the

communication accompanying the summons to oral proceedings.

3. 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