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**Datasheet for the decision  
of 18 December 2012**

**Case Number:** T 1457/10 - 3.5.03

**Application Number:** 02252432.6

**Publication Number:** 1276336

**IPC:** H04Q 7/22, H04L 12/56

**Language of the proceedings:** EN

**Title of invention:**  
Location and event triggered notification services

**Applicant:**  
Nortel Networks Limited

**Opponent:**

**Headword:**  
Location and event triggered notification/NORTEL

**Relevant legal provisions:**  
EPC Art. 56

**Relevant legal provisions (EPC 1973):**  
-

**Keyword:**  
"Inventive step (both requests) - no"

**Decisions cited:**  
-

**Catchword:**  
-



Case Number: T 1457/10 - 3.5.03

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.03  
of 18 December 2012

**Appellant:** Nortel Networks Limited  
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**Representative:** Anderson, James Edward George  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 21 December 2009  
refusing European patent application  
No. 02252432.6 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman:** A. S. Clelland  
**Members:** T. Snell  
R. Moufang

## **Summary of Facts and Submissions**

I. This appeal is against the decision of the examining division refusing European patent application No. 02252432.6, with publication number EP-A-1276336.

II. In the statement of grounds the appellant requested that the decision be set aside and a patent granted on the basis of the claims of a main request, or alternatively the claims of an auxiliary request, both requests as filed with the statement of grounds. The claims of the main request correspond to those refused by the examining division.

The appellant conditionally requested oral proceedings.

III. In a communication accompanying a summons to oral proceedings the board gave a preliminary opinion agreeing with the view of the examining division that claim 1 of the main request did not meet the requirement for an inventive step (Articles 52(1) and 56 EPC). The board's provisional opinion also applied to claim 1 of the auxiliary request.

IV. The appellant did not reply to the board's communication, except to state that it would not be attending the oral proceedings.

V. Oral proceedings were held on 18 December 2012 in the absence of the appellant. The board understood from the appellant's written submissions that the appellant requested that the decision be set aside and a patent be granted on the basis of claims 1-21 of the main

request, or alternatively claims 1-21 of the auxiliary request, both as filed with the statement of grounds. After due deliberation, the board's decision was announced at the end of the oral proceedings.

VI. Claim 1 of the appellant's **main request** reads as follows:

" A method for notification comprising:  
a) determining an event occurrence (102; 206, 208);  
b) determining location indicia (106, 108; 202); and  
c) sending information (116, 118; 216, 218) when the event occurrence and the location indicia correlate with an event criteria and location criteria defined in a user-desired profile,  
characterized in that the information is sent to a plurality of communication devices (18, 20, 22, 24, 26)."

The preamble of claim 1 of the **auxiliary request** is the same as that of claim 1 of the main request. The characterising part reads as follows:

"characterized in that the same information is sent to a plurality of communication devices (18, 20, 22, 24, 26) associated with the user."

## **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 and Article 15(3) RPBA).

1.2 In the communication accompanying the summons, the appellant was informed of the main reasons on which this decision is based. In deciding neither to respond in writing to the board's communication nor to attend the oral proceedings the appellant implicitly chose to rely on the arguments set out in the statement of grounds. The board was therefore in a position to issue a decision complying with Article 113(1) EPC.

2. *Inventive step (main request)*

2.1 The present application concerns a method for delivering notification of an event occurrence to communication devices (eg weather updates, stock quotes etc) according to a user profile which includes location indicia, such that an event is only notified if the user is found in the location stored in the profile.

2.2 The examining division and the appellant both consider that D1 represents the closest prior art. The board agrees.

2.3 The appellant does not dispute (cf. the statement of grounds, page 2, first paragraph) that document D1 discloses a method having all the features of the preamble of claim 1, namely (as set out in the impugned decision):

A method for notification comprising:

- a) determining an event occurrence (cf. D1, page 3, lines 17-21, an "event" being a match found between the personal profiles of A and B;
- b) determining location indicia (cf. page 3, lines 17-21, "location indicia" being a determination of when A enters the proximity of B); and
- c) sending information when the event occurrence and the location indicia correlate with an event criteria and location criteria defined in a user-desired profile (cf. page 3, lines 17-21, "information" being an alert sent if B matches A and B enters the proximity of A).

In respect of the preamble, the board also draws attention to D1, page 22, Table 1, which discloses an embodiment (cf. the first profile of Table 1) in which an alert is sent to JohnS's email address when any user with certain sporting interests ("Bball, NBA Bulls") comes within 2km of JohnS's location. This disclosure also falls within the scope of the preamble of claim 1.

- 2.4 The characterising part of claim 1 reads "characterized in that the information is sent to a plurality of communication devices".

The appellant interprets this phrase (when read in conjunction with the preamble) to mean that the same information is sent to a plurality of communication devices associated with a single user. For the sake of argument, the board adopts this interpretation of the claim.

- 2.5 With regard to the characterising part, the board notes that D1 specifically discloses that the same user

("JohnS") may have two devices (cf. page 22, first paragraph and Table 1). The first device receives an alert via JohnS's email address, whereas the second device is contacted via its telephone number. The "two profiles" (cf. page 22, first line) referred to here can be regarded as different parts (sub-profiles) of a single profile belonging to JohnS. The only difference with respect to claim 1 is that the alerts transmitted to each respective device in this example do not relate to the same event.

2.6 The appellant argues that the problem to be solved is "how to improve the chances of a user being alerted to the information which is sent to him by an event and location-based notification system". The board however considers that the problem should be defined as how to improve the chances of a user being alerted to the information which is sent to him by the event and location-based notification system of D1 in which the user has two devices.

2.7 The appellant argues that any formulation of the problem which mentions multiple devices would be inappropriate since it would unallowably point towards the solution. The board disagrees, since the starting point for judging inventive step is the embodiment of D1 in which a user has two devices.

2.8 In order to solve this problem the board considers it obvious that in practice a user would program his profile to send the same alert to both devices. For example, this would deal with the common situations that the user had only one of the devices to hand or one of the devices had a flat battery. This step

therefore, in the board's view, does not require inventive skill.

2.9 The appellant argues mainly that there is nothing in D1 to suggest to the skilled person that the same alert could be sent to different devices based on criteria in a single user-desired profile. However, it is not necessary for there to be an explicit hint to the solution in the closest prior art document for the solution to lack an inventive step. It merely has to be shown how the skilled person, starting out from D1, would arrive at the claimed solution in an obvious manner. The board therefore finds the appellant's argument unconvincing.

2.10 The board therefore concludes that the subject-matter of claim 1 lacks an inventive step (Article 52(1) and 56 EPC).

3. *Inventive step (auxiliary request)*

The amendments to claim 1 of this request merely clarify that the same information is sent to a plurality of communication devices associated with the user. However, the board in any case gave this meaning to claim 1 of the main request. Hence, the same reasoning applies to claim 1 of the auxiliary request as given above in respect of claim 1 of the main request.

It follows that the subject-matter of claim 1 of the auxiliary request does not involve an inventive step either (Articles 52(1) and 56 EPC).



4. *Conclusion*

As claim 1 of each request is not allowable, the requests as a whole are also not allowable.

As there is 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:

K. Boelicke

A. S. Clelland