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**Datasheet for the decision  
of 30 January 2014**

**Case Number:** T 0892/11 - 3.5.03

**Application Number:** 05732594.6

**Publication Number:** 1754365

**IPC:** H04M17/00

**Language of the proceedings:** EN

**Title of invention:**

Providing information in a communication system

**Applicant:**

Nokia Corporation

**Headword:**

Communication system/NOKIA

**Relevant legal provisions:**

EPC Art. 56

RPBA Art. 12(4)

**Keyword:**

Inventive step - main, first, second and fourth auxiliary requests (no)

Late-filed request (third auxiliary request) - request could have been filed in first instance proceedings (yes)

**Decisions cited:**

T 0641/00, T 1212/08

**Catchword:**



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Case Number: T 0892/11 - 3.5.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.03**  
**of 30 January 2014**

**Appellant:** Nokia Corporation  
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**Representative:** Ruuskanen, Juha-Pekka  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 3 December 2010  
refusing European patent application No.  
05732594.6 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman:** F. van der Voort  
**Members:** T. Snell  
R. Cramer

## Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division refusing European patent application No. 05732594.6, with international publication number WO 2005/122546 A1.

The refusal was based on the ground that the subject-matter of independent claims 1, 8 and 9 of the main request was not new (Articles 52(1) and 54 EPC) and the subject-matter of claims 1, 8 and 9 of respectively the first and the second auxiliary request did not involve an inventive step (Articles 52(1) and 56) having regard to the disclosure of the document:

D1: WO 99/08436 A.

- II. The appellant filed a notice of appeal against the above decision. Claims of a main request and first to fourth auxiliary requests, replacing all the requests on file, were subsequently filed with the statement of grounds of appeal.

Oral proceedings were conditionally requested.

- III. In a communication accompanying a summons to oral proceedings the board gave a preliminary opinion in which, *inter alia*, it was considered that the subject-matter of the independent claims of all requests did not involve an inventive step (Article 52(1) in combination with Article 56 EPC) with respect to the disclosure of the following document cited during the examining procedure:

D2: EP 0905961 A.

Document D2 has a corresponding English language version which forms the basis of the board's decision:

D2-US: US 2002/0161726 A1,

which was also published before the priority date of the present application.

With regard to claim 1 of the fourth auxiliary request, the board also referred to the following document cited during the examining procedure:

D4: WO 02/03674 A

- IV. The board additionally informed the appellant that it may be necessary to discuss the admissibility of the third auxiliary request pursuant to Article 12(4) RPBA, as this request had not been presented during the examining procedure.
- V. With a response to the board's communication, the appellant filed claims of third and fourth auxiliary requests intended to replace the third and fourth auxiliary requests on file.
- VI. Oral proceedings were held on 30 January 2014. At the oral proceedings the appellant replaced the claims of the fourth auxiliary request by those of the fourth auxiliary request filed with the statement of grounds.

The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the main request or alternatively the first or second auxiliary requests, all as filed with the statement of grounds of appeal, or the third auxiliary request as filed with the letter dated

19 December 2013, or the fourth auxiliary request as filed with the statement of grounds of appeal.

At the end of the oral proceedings, the chairman announced the board's decision.

VII. Claim 1 of the **main request** reads as follows:

"A method for providing user equipment information associated with use of services provided via a communication system, the method comprising:  
collecting, in a network element, use information indicating the charge for the use, by a user equipment (18) during a period, of a service provided via the communication system; characterised by  
detecting, by the network element, a change from the service to another service; and  
initiating, by the network element, loading of the use information automatically in a memory of the user equipment (18) in response to the detection of the change."

Claim 1 of the **first auxiliary request** reads as follows:

"A method for providing user equipment information associated with use of services provided via a communication system, the method comprising:  
collecting, in a network element, use information indicating the charge for the use of a service provided via the communication system; characterised by  
detecting, by the network element, a change of a browsing user equipment (18) from the service to another service; and  
initiating, by the network element, loading of the use information automatically in a memory of the user

equipment (18) in response to the detection of the change."

Claim 1 of the **second auxiliary request** differs from claim 1 of the first auxiliary request in that the third clause reads as follows:

"detecting, by the network element, a change of a browsing user equipment (18) from the service to another service based on change in Uniform Resource Locator;"

Claim 1 of the **third auxiliary request** reads as follows:

"A method for providing a browsing user equipment information associated with use of services provided by at least one external service provider (12, 14, 16) via a communication network (10) operated by a communication network operator, the method comprising:

    monitoring by a separate monitoring network element (30) or by an information provision entity (24) provided by a separate network element use of services by the browsing user equipment (18);

    collecting, in the information provision entity (24), use information indicating the charge for the use of the services provided via the communication network;

    detecting, by the information provision entity (24), a change of the browsing user equipment (18) from a service to another service based on change in Uniform Resource Locator; and

    initiating, by the information provision entity, loading of the use information automatically in a memory of the user equipment (18) in response to the detection of the change."

Claim 1 of the **fourth auxiliary request** differs from claim 1 of the first auxiliary request in that it comprises the following additional feature:

"providing a pre-note about credit in a prepaid account before redirection to the other service."

### **Reasons for the Decision**

1. *Claim 1 - main, first and second auxiliary requests - inventive step*
- 1.1 The present application concerns the provision of use information indicating the charge for the use of services by a user of a communications system, eg services obtained by using a browser of the user equipment. Claim 1 of the main, first and second auxiliary requests each includes the features of detecting a change from a service to another service and loading the use information automatically in a memory of the user equipment in response to the detection of the change.
- 1.2 For the sake of expediency, claim 1 of the second auxiliary request is considered in detail as the same reasons apply, *mutatis mutandis*, to claim 1 of each the two higher ranking requests, these being of broader scope (cf. point VII above).
- 1.3 The closest prior art is considered to be represented by document D2-US.

Document D2-US concerns a method of charging for the use of Internet services SERV provided by a server

(service provider unit SERVU) (cf. the abstract). The server provides chargeable information such as weather reports, stock market quotes, pictures, films or software programs (cf. paragraph [0029]). The board considers it to be implicit that providing these various different types of information over the Internet involves providing individually selectable chargeable services each associated with different respective Uniform Resource Locators, URL (cf. paragraph [0028]: "data network based on the transmission protocol TCP/IP").

1.4 Using the wording of claim 1 of the second auxiliary request, D2-US discloses a method for providing user equipment information associated with use of services provided via a communication system (cf. paragraphs [0029], [0048] ("for information of the subscriber") and paragraph [0051]), the method comprising: collecting, in a network element (service unit SERV\_IN, which includes service logic SL, service switching center SSP and service supporting device IP), use information indicating the charge for the use, by a user equipment during a period, of a service provided via the communication system (cf. paragraphs [0027] and [0044]).

1.5 The subject-matter of claim 1 of the second auxiliary request differs from the disclosure of document D2-US in that claim 1 additionally includes the steps of:

detecting, by the network element, a change of a browser user equipment from the service to another service based on [a] change in Uniform Resource Locator; and



initiating, by the network element, loading of the use information automatically in a memory of the user equipment in response to the detection of the change.

1.6 The problem to be solved may be considered as being how to make the system of document D2-US respond to the situation that a user connected to the Internet via his browser (a browser being mentioned in paragraph [0033] of D2-US) changes from one of the chargeable services to another of the chargeable services. The posing of the problem itself does not involve an inventive step as a user changing web sites/services merely reflects normal usage of the Internet.

1.7 As was well-known at the priority date (7 June 2004), a user equipped with a browser could request a different service from a different web site, eg by clicking on an HTML link. This resulted in the browser changing URL, and a different IP address being transmitted to the network. In the context of the system described in D2-US, the service logic SL in conjunction with the service supporting device IP would detect the address corresponding to the new service (cf. paragraph [0042]). Further, as the previous service is terminated, a charging message would be sent to the user of the fees he was charged, for display on the user device (cf. paragraph [0051]).

In so doing, the skilled person would without inventive skill have arrived at a method including the steps of "detecting, by the network element, a change of a browser user equipment from the service to another service based on a change in Uniform Resource Locator; and initiating, by the network element, loading of the

use information automatically in a memory of the user equipment in response to the detection of a change".

1.8 The appellant argued that document D2-US was essentially concerned with a different problem to the present application, namely that of billing, whereas the aim of the present application was the continuous and immediate informing of the user of charges associated with a change of URL. Nowhere in D2-US was there any disclosure of informing a user instantly of charges following a change. Paragraphs [0048] and [0051] of D1-US did not give any indication that a user would be informed instantly; rather, the charging information was stored for billing purposes.

1.9 The board however disagrees with the appellant with respect to the disclosure of document D2-US.

Paragraph [0048] of D2-US states that "Sending the fee charging data CHARG can take place before the service is provided, for example for information of the subscriber, or in the case of fixed fees for access to the service. It can also take place while the service is being provided, for example when the charging of the fee is time dependent. It can also take place after the service has been provided, when the amount of the applicable fees has been determined." (Board's underlining).

Paragraph [0051] states "There is further the possibility for the service logic SL to additionally or exclusively inform the subscriber about the applicable fees or the fees he was charged. To that end the service logic SL sends a signalling message SIG\_TE with such fee data CS to the service switching center SSP. The latter transmits the data CS via the ISDN

signalling channel to the terminal TE, which then displays the fee data on the screen for the subscriber." (Board's underlining).

- 1.10 In the board's view, both these paragraphs concern inter alia the real-time, ie instant, transmission of charging data to the subscriber, since it would make no sense to provide data informing the subscriber of fees before a service is provided, or while it is being provided, only at some later time on a bill (cf. paragraph [0048]). This is also consistent with paragraph [0051], according to which the subscriber is informed on screen about "applicable fees or the fees he was charged" (board's underlining). The board understands the term "applicable fees", considering that the term "or" has to mean that they are not the fees actually charged, to be information displayed to the user before the service is provided, ie real-time information. Since there is no suggestion in either paragraph that the fees the user was actually charged, ie after terminating a service, should be treated differently to the fee information provided in advance, the skilled person would conclude that these can be displayed instantly too.

The board therefore finds the appellant's arguments unconvincing.

- 1.11 The board concludes that the subject-matter of claim 1 of the second auxiliary request does not involve an inventive step with respect to the disclosure of D2-US (Articles 52(1) and 56 EPC).
- 1.12 As already stated, this conclusion applies, *mutatis mutandis*, to claim 1 of the main request and the first

auxiliary request, respectively, since these are both broader than claim 1 of the second auxiliary request.

2. *Third auxiliary request - admissibility*

- 2.1 In accordance with Article 12(4) RPBA, the board has the discretion to hold inadmissible requests filed during appeal proceedings which could have been presented in the first instance proceedings.
- 2.2 Claim 1 of the third auxiliary request differs from claim 1 of the second auxiliary request essentially in that there is an additional step of monitoring by a separate monitoring network element (30) or by an information provision entity (24) provided by a separate network element use of services by the browsing user equipment (Board's underlining).
- 2.3 This new feature was not originally claimed or in any set of claims submitted before the examining division. The board thus sees no reason to assume that the new feature has been the subject of a search.
- 2.4 If the board were to admit the request, it would have to contemplate remittal of the case to the examining division in order to enable a search to be performed. This would however run counter to the main purpose of appeal proceedings which is primarily to examine the correctness of the first instance decision. It would also substantially lengthen the proceedings and thus be contrary to procedural efficiency (cf. T 1212/08, not published, point 4 of the reasons).
- 2.5 The appellant's justification for not filing the request during the examination procedure was that it had been confident that the claims corresponding to the

current second auxiliary request (ie the first auxiliary request submitted before the examining division in response to the summons to oral proceedings) would have been allowed by the examining division. It also argued that the request should be admitted because the feature of using a separate monitoring network element was presented as an important feature in the description.

2.6 The board does not find these reasons convincing. The board notes that the applicant did not attend the oral proceedings before the examining division and therefore had no way of knowing the examining division's view as to the first auxiliary request. It follows that the applicant had no objective reason to assume that this request would be allowed. If an applicant chooses not to attend oral proceedings and is therefore unable to respond to the examining division's objections to requests filed for the first time in response to the summons, it has to be assumed that the applicant has provided an exhaustive list of requests on which it wishes a decision to be taken. If the applicant regarded a particular feature as "important", there is all the more reason to conclude that a corresponding auxiliary request could, and should, have been filed before the first instance.

2.7 For the above reasons, the board decided not to admit the third auxiliary request (Article 12(4) RPBA).

3. *Claim 1 - fourth auxiliary request - inventive step*

3.1 As the request is similar to the second auxiliary request presented in the examination procedure, the board admitted the request (Article 13(1) RPBA).

- 3.2 Claim 1 of the fourth auxiliary request differs from claim 1 of the second auxiliary request in that (i) the feature "based on [a] change in Uniform Resource Locator" is omitted, and (ii) the step is added of "providing a pre-note about credit in a prepaid account before redirection to the other service".
- 3.3 The omission of feature (i) has no relevance to inventive step.
- 3.4 Re (ii): The difference with respect to document D2-US is that the user is informed not only of the charge of a service but also is given a pre-note about credit in a pre-paid account.
- 3.4.1 In the board's view, the idea that the user could be presented with credit information in addition to receiving the charge amount of a service is in essence a concept concerned with the non-technical fields of business methods and presentations of information, in the same way that a bank statement may present financial information in the form of client's remaining balance in addition to debit items. The pre-note credit information is displayed to the user but is not used per se to solve any technical problem. Business methods and presentations of information as such are excluded from patentability under Articles 52(2)(c) and (d) EPC. In accordance with established case law, features which cannot be considered as contributing to the solution of any technical problem by providing a technical effect, eg features merely relating to a business method or a presentation of information as such, when included in a claim having technical features do not contribute to inventive step (cf. T 641/00 COMVIK, OJ 2003, 352, points 6 and 7 of the reasons). The board only has to

consider whether the technical implementation is obvious.

- 3.4.2 As claim 1 includes no technical features concerned with how the pre-note is obtained or administered, the only technical means required are means for providing the pre-note to the user. It would be immediately obvious to the skilled person that the pre-note could be transmitted using the same means as those for transmitting and storing the charging information, eg by being included as part of the same message. Hence, the technical implementation does not contribute to inventive step.
- 3.4.3 The appellant pointed to document D4, which is a document disclosing the transmission of a pre-note about credit in a pre-paid account to the user of a mobile phone. The appellant argued that D4 discloses displaying the credit information each time a mobile phone is turned on or at the completion of a call, but not when a service changes (cf. D4, page 2, lines 3-6). The delay in informing the user is therefore reduced compared with D4.
- 3.4.4 However, in the view of the board, the different time point at which to inform the user of credit information is in this case motivated by business considerations. The reduced delay achieved therefore in this case does not contribute to inventive step, which would require an inventive technical solution to a technical problem. The board therefore finds the appellant's argument unconvincing.
- 3.5 The board concludes that the subject-matter of claim 1 of the fourth auxiliary request does not involve an inventive step (Articles 52(1) and 56 EPC).

4. *Conclusion*

For the above reasons, the board concludes that there is no allowable request. It follows that the appeal has to be dismissed.

**Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:



G. Rauh

F. van der Voort

Decision electronically authenticated