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**Datasheet for the decision
of 13 June 2019**

Case Number: T 0239/14 - 3.5.01

Application Number: 02700546.1

Publication Number: 1379983

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Language of the proceedings: EN

Title of invention:

SYSTEM AND METHOD FOR CHARGING FOR DIRECTED PROVISIONING OF
USER APPLICATIONS ON LIMITED-RESOURCE DEVICES

Applicants:

Alcatel-Lucent USA Inc.
Gidron, Yoad
Holder, Ophir
Teichholtz, Haim

Headword:

CHARGING FOR DIRECTED PROVISIONING OF USER APPLICATIONS ON
LIMITED-RESOURCE DEVICES/ALCATEL

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - mixture of technical and non-technical features - main and auxiliary request (no)

Decisions cited:

T 0258/03, T 0641/00, T 1194/97

Catchword:



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Case Number: T 0239/14 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 13 June 2019

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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 31 July 2013
refusing European patent application No.
02700546.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairwoman A. Wahrenberg
Members: M. Höhn
 P. Schmitz

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division refusing European patent application No. 02700546.1 pursuant to Article 97(2) EPC on the grounds of lack of clarity (Article 84 EPC), added subject-matter (Article 123(2) EPC), and lack of inventive step (Article 56 EPC) with regard to D1 (ALONISTIOTI ET AL.: "An application platform for downloadable VASs provision to mobile users", October 2000, Galway, Ireland).

The decision also stated that a similar objection of lack of inventive step would arise starting from D2 (HOUSSOS ET AL.: "A VHE architecture for advanced value-added service provision in 3rd generation mobile communication networks", December 2000, pages 69-78, San Francisco, USA).

II. In the statement setting out the grounds of appeal, the appellants requested in writing that the decision under appeal be set aside and that a patent be granted on the basis of the rejected claims filed on 29 April 2013 (main request), or the claims of the auxiliary request filed with the statement setting out the grounds of appeal. Oral proceedings were requested on an auxiliary basis.

III. The Board arranged for oral proceedings to be held. In a communication pursuant to Article 15(1) RPBA, issued shortly after the summons to oral proceedings, the Board maintained some of the objections under Articles 123(2) and 84 EPC in the contested decision, and expressed its preliminary opinion that both requests lacked an inventive step (Article 56 EPC) in view of the disclosure of D1.

- IV. The appellants informed the Board that they did not intend to attend the oral proceedings.
- V. Oral proceedings were held on 13 June 2019 *in absentia* of the appellants. After due consideration of the appellants' arguments, the Chairwoman announced the decision.
- VI. Independent claim 1 according to the main request reads as follows:

"1. A method for charging for consuming dynamic content, the steps of the method comprising:
(a) receiving at a billing system an event indicative of consumption of a content unit by a user, wherein an authorization of said user to consume said content unit is defined via license terms within a client side policy;
(b) analyzing said event to determine an amount to be charged by the billing system, wherein a cost to said user to consume said content unit is defined via content unit associated billing terms within a server side policy; and
(c) charging said amount for consuming the dynamic content."

Claim 1 of the auxiliary request reads as follows:

"1. A method for charging for consuming dynamic content at a limited resource device, the steps of the method comprising:
(a) receiving at a billing system an event indicative of consumption of a content unit by a device of a user, wherein an authorization of said user to consume said

content unit is defined via license terms within a client side policy;

(b) analyzing said event to determine an amount to be charged by the billing system, wherein a cost to said user to consume said content unit is defined via content unit associated billing terms within a server side charging policy of the service provider, said event being analyzed according to at least one of a plurality of rules defined in accordance with said server side charging policy, said content unit associated billing terms including content provider defined parameters within said at least one of said plurality of rules."

VII. Although most of the appellants' detailed arguments presented during first instance proceedings and in the statement setting out the grounds of appeal deal with D2 as starting point for inventive step, they are nevertheless relevant to the present decision, because, as the examining division stated, similar arguments apply to both D1 and D2.

The appellants argued that the contribution of the invention resided in the automatic interaction of a server-side policy and a client-side policy so as to establish a billing mechanism that was dynamic and adaptable. This was a technical solution to a technical problem.

The appellants furthermore argued that the contested decision was based on hindsight and fell short of duly analysing all relationships between the various features in the claims.

The appellants did not submit further arguments with

regard to the Board's preliminary opinion that was based on D1 as closest prior art.

Reasons for the Decision

1. The invention concerns charging for consuming (e.g. downloading) dynamic content according to rules defined in a server-side charging policy, and the provision of licence terms in a client-side policy.

Main request

2. Article 56 EPC - Inventive step

The Board agrees with the examining division that the subject-matter of independent claim 1 lacks an inventive step. The Board essentially concurs with the reasoning in the contested decision.

- 2.1 The claim is directed to a mix of technical and non-technical features. The Board does not dispute that the method according to claim 1 appears in a technical context. The claimed method can be considered to be performed by technical means, because it involves a client and a server, i.e. inter-related devices with means for storing processing, transmitting, and receiving data. The overall subject-matter of claim 1 therefore, has technical character. Consequently, the claimed subject-matter is an invention in the sense of Article 52(1) EPC (see T 258/03 - *Auction method/HITACHI*).

2.2 However, the question of inventive step requires an assessment of whether the invention makes a technical contribution over the prior art. Features, which do not make such a contribution, cannot support the presence of an inventive step (see T 641/00 *Two identities/COMVIK*, Headnote I). The non-technical features may instead be included in the framework of the technical problem that the skilled person has to solve (Headnote II).

2.3 The Board shares the opinion of the examining division that the following features of claim 1 are disclosed in D1 (as set out in point 3.2 of the decision):

A method for charging for consuming dynamic content (see D1, "3. Charging Accounting and Billing system") the steps of the method comprising:

(a) receiving at a billing system an event indicative of consumption of a content unit by a user (see D1, page 5, line 4 and line 7);

(b) analyzing said event to determine an amount to be charged by the billing system, wherein a cost to said user to consume said content unit is defined via content unit associated billing terms within a server side policy (see D1, page 5, line 10); and

(c) charging said amount for consuming the dynamic content (see D1, page 5, line 22).

2.4 In other words, D1 discloses the server-side policy comprising billing terms. It does not disclose the client-side policy comprising license terms, i.e. the feature *"wherein an authorization of said user to consume said content unit is defined via license terms*

within a client side policy" is a difference over D1.

The Board concurs with the decision under appeal that this distinguishing feature is in the non-technical domain and does not contribute to the technical character of the claim.

- 2.5 The contribution is not a technical one, since it lies in the association of digital content with an authorization for its use/consumption.

What is called "client side policy" and "server-side policy" represents the underlying billing model in a mobile communication client-server environment. By providing part of the rules at the side of the client, rather than the server, they might be available offline (see page 12, lines 24 to 33). However, the Board does not regard this to be of technical relevance. The appellant has not brought forward convincing arguments to the contrary. The Board considers this split of rules between the client and the server to be part of the billing concept, which is provided to the skilled person as a set of requirements to implement. It is not the technically skilled person who comes up with the split in order to solve a technical problem.

The client-side policy defines license terms, i.e. rules specifying what the user can and cannot do with the content. For example, the licence terms could specify a limited period of usage or a limited number of uses (see page 12, lines 27-28 in the published application). In the Board's view, those are administrative rules, which do not contribute to the solution of a technical problem.

Furthermore, the licence terms are not technical, since they are cognitive data, not functional data in the sense of having a technical effect (for this distinction see T 1194/97 Data structure product/ PHILIPS, OJ EPO 2000, 525). The storage, selection, and processing of such cognitive data is an administrative measure, such as would be performed by a human when charging for consumed dynamic content, making use of general purpose computer or mobile communication device functions (e.g. transmitting, receiving, storing and retrieving information and content in electronic form) without creating a further technical effect.

The fact that steps of the claimed method are performed automatically is a mere consequence of implementing the non-technical billing model in a mobile communication client-server environment. Indeed, the automatic processing is already achieved in D1 (see the communications system underlying the MOBIVAS architecture in figure 1). D1 not only discloses the technical infrastructure necessary for implementing the non-technical billing concept, but also a significant part of the billing concept itself (see point 2.3 above).

2.6 The Board accepts that the billing concept according to claim 1 might be different from the one taught in D1. This difference, however, is in the non-technical domain. The problem to be solved is therefore considered to be the implementation of the business-related, administrative billing concept in the mobile communication client-server environment in D1.

- 2.7 The person skilled in the art within the meaning of Article 56 EPC, a computer expert provided with the complete description of the non-technical abstract billing concept, would have considered the claimed implementation obvious in view of the normal skills and the general knowledge of computer programming. No non-obvious technical implementation of the application specific billing model is detailed in the application documents. The Board is of the opinion that the knowledge for such an implementation was available to the skilled person, but pre-existing knowledge cannot be an inventive technical contribution.
- 2.8 In the absence of any technical contribution beyond the straight-forward computer-implementation, the subject-matter of claim 1 does not involve an inventive step (Article 56 EPC) in view of D1 and the skilled person's common general knowledge.

Auxiliary request

3. Article 56 EPC - Inventive step

Feature b) of claim 1 according to this request has been amended to read:

"(b) analyzing said event to determine an amount to be charged by the billing system, wherein a cost to said user to consume said content unit is defined via content unit associated billing terms within a server side **charging policy of the service provider, said event being analyzed according to at least one of a plurality of rules defined in accordance with said server side charging policy, said content unit associated billing terms including content provider**

defined parameters within said at least one of said plurality of rules." (emphasis added)

- 3.1 The added features do not contribute to the technical character of the invention in claim 1. In the Board's view, the server-side charging policy is considered to be part of a non-technical billing concept. The "event" indicative of consumption of content as well as the "plurality of rules" (e.g. one dollar fee per download) with the dedicated content provider specified "parameters" are non-technical meta-data of a cognitive nature representing financial information in a client-server messaging system, not technical functional data. The cognitive meaning of the information transmitted and received (media content, type of billing, authorization for consumption of the content, license terms, billing terms, cost etc.) has financial, legal, or administrative implications rather than any non-obvious technical implication for the functioning of the communication device on the client side or the server computer in the communications network. The underlying technical operations are carried out by any conventional smartphone used for consumption of data content and billing such a transaction. If such operations were non-obvious, the application would have to disclose them in enabling detail. The Board, however, does not see any such disclosure in the present application documents, nor have the appellants brought arguments forward in this regard.

The Board also does not see any non-obvious working interrelationship between the features added by the auxiliary request, contrary to what is argued by the appellants.

3.2 In the absence of any technical contribution beyond the straight-forward computer-implementation, the subject-matter of claim 1 according to the auxiliary request does not involve an inventive step (Article 56 EPC) in view of D1 and the skilled person's common general knowledge.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairwoman:



T. Buschek

A. Wahrenberg

Decision electronically authenticated