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Datasheet for the decision
of 23 January 2020

Case Number: T 0297/16 - 3.5.03

Application Number: 07721649.7

Publication Number: 2020813

IPC: H04L29/08, H04M3/56, H04L12/18,
                                  H04L29/12, H04L29/06

Language of the proceedings: EN

Title of invention:
A method, device and system for implementing the session
service

Patent Proprietor:
Huawei Technologies Co., Ltd.

Opponent:
James Poole Limited

Headword:
SIP conferencing system/HUAWEI

Relevant legal provisions:
EPC Art. 123(2)

Keyword:
Added subject-matter (yes) - all requests

Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0297/16 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 23 January 2020

Appellant: (Opponent)	James Poole Limited One Southampton Row London WC1B 5HA (GB)
Representative:	Brunner, John Michael Owen Carpmaels & Ransford LLP One Southampton Row London WC1B 5HA (GB)
Respondent: (Patent Proprietor)	Huawei Technologies Co., Ltd. Huawei Administration Building Bantian Longgang District Shenzhen, Guangdong 518129 (CN)
Representative:	Pfenning, Meinig & Partner mbB Patent- und Rechtsanwälte Joachimsthaler Straße 10-12 10719 Berlin (DE)
Decision under appeal:	Interlocutory decision of the Opposition Division of the European Patent Office posted on 26 November 2015 concerning maintenance of the European Patent No. 2020813 in amended form.

Composition of the Board:

Chair	K. Bengi-Akyürek
Members:	T. Snell
	R. Romandini

Summary of Facts and Submissions

I.   This decision, which was announced at the end of the
       oral proceedings held on 23 January 2020, concerns an
       appeal filed by the opponent (henceforth, appellant)
       against the decision of the opposition division
       concerning the maintenance of the opposed patent in
       amended form on the basis of the claims of the second
       auxiliary request filed with the letter dated 28 August
       2015.

II.   The appellant requests that the decision be set aside
       and that the patent be revoked.

       The patent proprietor (henceforth, respondent) requests
       that the appeal be dismissed. Alternatively, the
       respondent requests that the patent be maintained in
       amended form on the basis of one of auxiliary
       requests 1 to 10 and 12 to 14, all as filed with the
       reply to the statement of grounds of appeal dated 22
       August 2016, or auxiliary requests 1a, 4a, 6a, 12a and
       14a, all as filed with submission dated 17 January
       2020. The requests are to be considered in the
       following order: 1, 1a, 2, 3, 4, 4a, 5, 6, 6a, 7, 8, 9,
       10, 12, 12a, 13, 14, 14a.

III.   Claim 1 of the second auxiliary request referred to in
       point I (henceforth referred to as the **main request**)
       reads as follows (with feature annotations (1a) to
       (1h''') having been added by the board, essentially
       conforming to the impugned decision, cf. point 15 of
       the reasons):

       "(1a) A method for implementing the *[sic]* conference
       service, comprising:

(lb) sending (S202), by a conference initiator, a conference operation message which carries conference information,

(lc) wherein the conference information indicates more than one user that joins in the conference,

(1d) the conference operation message comprises at least one type of the following messages: SIP INVITE message, SIP REFER message, SIP SUBSCRIBER message, and HTTP message;

(1e) receiving (S204), by a network server, the conference operation message initiated by the conference initiator;

(1e') requesting, by the network server, a conference resource; and

(1f) adding, by the network server, more than one user terminal denoted by the conference information to the conference;

   wherein the conference information comprises the following types of parameters:

(1g) a user identifier, adapted to denote the user that joins in the conference; and

(1h) a dialog identifier, adapted to denote a dialog where the user that joins in the conference is engaged, of an established call;

   and the process of adding more than one user terminal denoted by the conference information to the conference comprises:

(1h') deciding, by the network server, the user that joins in the conference according to the user identifier and the dialog identifier, and

(1h''') adding, by the network server, the user that joins in the conference to the conference by redirecting said dialog where the user that joins in the conference is engaged to the conference resource."

IV.   For reasons of conciseness, the claims of the auxiliary requests on file are not reproduced.

Reasons for the Decision

1.   *Claim interpretation – all requests*

1.1   The claims as originally filed use the terms "dialog" and "call". The meaning of these terms was contested by the parties. For the sake of argument and in the respondent's favour, the board interprets the term "dialog" to mean a call leg comprising a signalling channel and a media channel, which was the interpretation given by the respondent. The board considers that a plausible alternative meaning is that the dialog comprises only the signalling part of a call leg, whereas the call comprises the dialog and a media channel. However, for the purposes of the reasoning given below, this difference is moot.

1.2   The patent concerns a method for adding call participants to a conference, e.g. in the context of a conference signalling system based on SIP ("session initiation protocol"). In essence, according to the method as claimed in claim 1 of the main request, a conference initiator sends a conference operation

message including a dialog identifier denoting a dialog of an established call where an intended conference participant is engaged. The network server adds the participant to the conference by "redirecting" said dialog to a conference resource previously requested by the network server.

2.   *Main request – claim 1 – Article 123(2) EPC*

2.1   Feature (1h) of claim 1 of the main request specifies a dialog identifier, adapted to denote <u>a</u> dialog where the user that joins in the conference is engaged, of <u>an</u> established call. This does not specify *which* dialog of *which* established call is meant. In accordance with feature (1h'''), the joining user is then added to the conference by redirecting said dialog to the respective conference resource.

2.2   Claim 2 as originally filed specifies "a user identifier, adapted to denote a conference participant", and claim 3 requires "adding the conference participant by ... redirecting the call <u>between the network server and the conference participant</u>" (board's underlining).

2.3   It follows that claims 2 and 3 as originally filed concern the particular situation where the redirected call is a call <u>between the network server and the conference participant</u>, whereas claim 1 of the main request embraces redirecting other dialogs/calls in which the conference participant is engaged, e.g. those between a *different* server and the conference participant.

2.4   This broadening of the scope of claims 2 and 3 as filed is not directly and unambiguously based on any part of

the application as filed. In this respect, although
claim 9 as filed more generally states "redirecting, by
the network server, the dialog to the conference
resource ...", there is no antecedent basis for "the
dialog" in claim 9 or in claims 1, 7 and 8 on which
claim 9 depends. Consequently, it is not directly and
unambiguously derivable from claim 9 as filed that "the
dialog" must refer to a dialog in which the conference
participant is engaged, rather than, for example, the
dialog of the call between the network server and the
conference initiator. Indeed, this latter
interpretation is plausibly more consistent with
claim 8 as filed, which includes the feature
"exchanging, by the network server, conference
operation messages with the conference initiator".

2.5   The appellant argues that feature (1h) is supported by
        Fig. 7 and the associated description (cf.
        paragraph [0078] ff. of the underlying patent
        application as filed). However, Fig. 7 refers to the
        particular case where, at the outset, a conversation is
        already established between two users, A and B, via the
        "conference AS" (application server), whereby the
        redirected dialog/call is that between the conference
        AS (application server) and the conference
        participant B. Claim 1, however, does not include these
        limitations.

2.6   The board concludes that present claim 1 does not
        comply with Article 123(2) EPC.

3.   *Auxiliary requests – claim 1 – Article 123(2) EPC*

        The same deficiency is present in claim 1 of each
        auxiliary request, since none of these claims includes
        the express limitation in claim 3 as filed of

redirecting the call <u>between the network server and the conference participant</u>. This was not contested by the respondent. Claim 1 of each auxiliary request therefore does not comply with Article 123(2) EPC either.

4. *Conclusion*

As there is no allowable claim request, it follows that the patent must be revoked.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The patent is revoked.

The Registrar: The Chair:

B. Brückner K. Bengi-Akyürek

Decision electronically authenticated