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D E C I S I O N
of 10 May 2002

Case Number: T 0754/01 - 3.5.1
Application Number: 92300518.5
Publication Number: 0497490
IPC: H04Q 7/04, H04M 1/72

Language of the proceedings: EN

Title of invention:
Automatically configuring wireless PBX system

Applicant:
AT&T Corp.

Opponent:
-

Headword:
PBX telephone system/AT&T

Relevant legal provisions:
EPC Art. 54, 56, 114(2)

Keyword:
"Inventive step (yes, after amendment)"
"Late-filed amendments (admitted)"

Decisions cited:
-

Catchword:
-



Case Number: T 0754/01 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 10 May 2002

Appellant: AT&T Corp.
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 31 January 2001
refusing European patent application
No. 92 300 518.5 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: S. V. Steinbrener
Members: A. S. Clelland
P. Mühlens

Summary of Facts and Submissions

I. European patent application 92 300 518.5 was refused by the examining division, inter alia on the ground that the subject-matter of claims 1 and 11 lacked an inventive step having regard the disclosure of the following document:

D1: US-A-4 284 848.

II. The applicant appealed, requesting grant on the basis of amended claims according to a main and a first auxiliary request. An auxiliary request was also made for oral proceedings.

III. In a communication accompanying a summons to oral proceedings the Board raised questions of clarity and support with respect to the claims of both requests. It also questioned whether the subject-matter of claim 1 of the main request was novel, and the subject-matter of claim 1 of the auxiliary request involved an inventive step, having regard to the disclosure of D1. In respect of the latter objection a further document was introduced by the Board in exercise of its power under Article 114(1) EPC:

D2: US-A-4 112 257

D2 is acknowledged in the application as filed and is referred to in several passages in D1 from column 30, line 60 to column 32, line 2.

In the communication the Board furthermore stated that any amendments to the application were to be submitted at least one month before the oral proceedings.

IV. Two days before the oral proceedings the appellant informed the Board by fax that the hearing would not be attended; the main request was withdrawn and claims 1 to 11 of a second auxiliary request filed; it was stated that if the Board were minded to admit the second auxiliary request the first auxiliary request would also be withdrawn. The preferred request was accordingly that the decision under appeal be set aside and a patent be granted on the basis of the second auxiliary request, alternatively if this were held inadmissible on the basis of the first auxiliary request.

V. Claim 1 of the second auxiliary request reads as follows:

"1. A wireless PBX telephone system comprising:
a control unit (201) for connecting to a switched network (210);
a plurality of stations (110-113) for communicating with the control unit over a wireless communication channel, the plurality of stations being dispersed so as to divide a location of the telephone system into multiple areas from which telephone service for each area is provided by one of the plurality of stations located in an associated one of the multiple areas,
wherein the control unit includes means for configuring at least a selected first one (110) of the plurality of stations for simultaneously providing telephone service with the control unit for both the area associated with said selected first one of the plurality of stations and for areas associated with selected second ones (111-113) of the plurality of stations located outside of the communication range of the control unit,

characterised in that:

the control unit has a system identification number associated therewith and each of the plurality of stations has a unique station address associated therewith, wherein each of the plurality of stations includes means for storing the system identification number and the respective unique station address together forming a unique signal code for each station, and the control unit includes means for storing the unique signal codes for each station, and

each of the plurality of stations includes comparison means for comparing the system identification number stored at each said station with the system identification number received from the control unit, the comparison means of each station causing said station to proceed with a configuration process only when the system identification number is recognised by said station, and

the control unit further including comparison means for comparing said unique signal codes with a signal code received in said control unit from a station requesting service, the comparison means causing the control unit to be unresponsive to any requests for service from a station not providing a unique signal code recognised by the control unit."

Claim 11 is directed to a corresponding method of configuring a plurality of stations for operation in a wireless PBX telephone system.

VI. The oral proceedings were held on 10 May 2002 in the absence of the appellant. At the end of the oral proceedings the Board announced its decision.

Reasons for the Decision

1. *The admissibility of the appeal*

The appeal fulfils the requirements mentioned in Rule 65(1) EPC and is consequently admissible.

2. *The admissibility of the second auxiliary request*

2.1 Under Article 114(2) EPC the Board has a discretion to disregard facts or evidence not submitted in due time. In exercising this discretion, which must be considered on a case-by-case basis, the Board seeks to deal with as many issues raised by the parties as possible, whilst also ensuring that the proceedings are conducted in an effective manner to conclude them within a reasonable time. Clearly, the more complex the issues raised by amendments and the later those amendments are filed, the greater the risk, particularly in inter partes proceedings, that the remaining time is insufficient to consider them properly.

2.2 In the present case, which is ex parte, the Board considers that the claims of the second auxiliary request resolve issues of clarity raised in the Board's communication and restrict the scope of the claims. It was also possible for the Board to consider the issues raised by the amendments in the short remaining time before the oral proceedings.

2.3 In the interest of procedural expediency the second auxiliary request has accordingly been admitted to these proceedings, the first auxiliary request therefore being withdrawn as stated by the appellant in the fax dated 3 May 2002.

2.4 The second auxiliary request is consequently the only request to be considered.

3. *Added subject-matter*

The Board is satisfied that the amendments to the claims are based on subject-matter to be found in the originally filed application and consequently finds that the amendments meet Article 123(2) EPC.

4. *Novelty*

4.1 D1 is the single most relevant prior art document. Figures 3 to 6 show a wireless telephone system including a central control unit (301) for connecting to a switched network 302 and a plurality of stations (303, 304) for communicating with the control unit over a wireless communication channel. The stations can be configured by the control unit to provide a telephone service directly with the control unit (Figure 3, units 303) or to act as repeaters for stations beyond the range of the control unit (Figure 3, units 304), see also column 3, lines 37 to 44. In the latter instance, using the language of claim 1, the stations are dispersed so as to divide a location into multiple areas from which the telephone service for each area is provided by one of the stations. Each subscriber has a unique ID number which is transmitted to the control unit, see Figure 12 and column 8, line 64 to column 9, line 5. At the control unit each subscriber is also assigned a unique location number based on position in order to enable dynamic routing, in other words dynamic configuration, by way of a chain of repeaters, see column 11, lines 14 to 29. In the Board's view it follows from this that the unique subscriber ID number

sent from a station to the control unit is mapped onto a location code and thus a subscriber number by the control unit. The control unit will thus be unresponsive to any alleged subscriber whose ID is not stored and mapped onto a location number.

- 4.2 The subject-matter of claims 1 and 11 differs from the disclosure of D1 in the provision, in addition to the unique subscriber ID number, of a system identification number which is compared in each station with a system identification number received from the control unit, and in that a configuration process is only proceeded with once the system ID is recognised by a station.
- 4.3 The subject-matter of claims 1 and 11 is consequently novel, Article 52(1) and 54(1,2) EPC.

5. *Inventive step*

- 5.1 All mobile telephone systems have from the very earliest days been faced with the need to ensure system integrity, i.e. to prevent unauthorised listening or system use. At the claimed priority date the problem of station identification in a mobile system, in essence an aspect of system integrity, was well appreciated and the solution disclosed in D1, the use of a unique station ID for comparison by the base station controller with a table of the IDs of authorized stations, was well-known in the art. However, the Board is not aware of any prior art document which at the claimed priority date suggested that in addition to a unique station ID a unique system ID number additionally be used.

- 5.2 Document D1 states at column 30, lines 60 to 64 that

the system described in document D2 "may easily be adapted for use with the presentSystem". Document D2 describes a cellular mobile telephone system comprising base stations and mobile units, each mobile unit having a "mobile ID" (column 3, lines 41 to 43) and being registered with one of the base stations (column 4, lines 60 to 66). The base station checks a received ID code against a list of its own registered subscribers, see column 5, line 57 to column 6, line 12. If it does not find the ID code it polls the other base stations to see if the mobile unit is registered there. If none of the other base stations responds then information regarding the received ID code is erased, meaning that the base unit is unresponsive to the mobile unit. Each base station has a number assigned to it which is said to be "unique to that base station" (column 6, lines 42 to 44).

5.3 A combination of the subject-matter of D1 with that of D2 would lead to a cellular system in which the individual mobile units can act as repeaters in a dynamically reconfigurable manner. It is however apparent that D2 does not provide for the system to be configured in dependence on a unique system ID; instead, the ID of a subscriber is stored in a base station and the result of an ID not being found by a particular base station is to poll the remaining base stations. Only if no base station recognises the calling station is it excluded from the system, see column 5, line 31 to column 6, line 16.

5.4 The Board accordingly considers that the feature of a unique system ID which is used in a configuration process is not derivable without the exercise of invention from a combination of D1 and D2. Nor is the

Board aware of any other document which would lead the skilled person to implement such a feature in the telephone system of D1.

5.5 The Board consequently finds that the subject-matter of claims 1 and 11 involves an inventive step, Article 52(1) and 56 EPC.

6. *Remittal*

6.1 The Board notes however that it is not clear from the impugned decision if the examining division has considered whether other aspects of the application fulfil the requirements of the EPC; since a number of deficiencies remain in the application, remittal for further prosecution is warranted.

6.2 The description does not appear to provide support for the features of original claim 6, which have now been included in the independent claims, Article 84 EPC.

6.3 Turning to the claims, the delimitation of claims 1 and 11 with respect to the disclosure of D1, Rule 29(1) EPC, appears to require attention. Moreover, in the light of original claim 4, the expression "control signal" in line 2 of claim 4 should presumably read "control signals". Claim 6 also appears to use different terminology to the independent claims, contrary to Rule 35(13) EPC. In the light of original claim 9, the expression in line 3 of claim 9 "therewith one" should apparently read "therewith over one".

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance for further prosecution.

The Registrar:

The Chairman:

M. Kiehl

S. V. Steinbrener