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**Datasheet for the decision
of 6 March 2009**

Case Number: T 0428/07 - 3.5.03

Application Number: 00306708.9

Publication Number: 1096772

IPC: H04M 17/00

Language of the proceedings: EN

Title of invention:

Pre-paid telephone calling card service implemented via
switch-based intelligent network

Applicant:

LUCENT TECHNOLOGIES INC.

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 56, EPC R. 115(2)

Relevant legal provisions (EPC 1973):

-

Keyword:

"Inventive step (main and auxiliary request) - no"

Decisions cited:

-

Catchword:

-



Case Number: T 0428/07 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 6 March 2009

Appellant: LUCENT TECHNOLOGIES INC.
600 Mountain Avenue
Murray Hill
NJ 07974-0636 (US)

Representative: Sarup, David Alexander
Alcatel-Lucent Telecom Limited
Unit 18, Core 3, Workzone
Innova Business Park
Electric Avenue
Enfield EN3 7XU (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 27 October 2006
refusing European application No. 00306708.9
pursuant to Article 97(1) EPC 1973.

Composition of the Board:

Chairman: A. S. Clelland
Members: B. Noll
M.-B. Tardo-Dino

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division posted on 27 October 2006 refusing European application no. 00306708.9.
- II. The following documents were referred to in the decision:
- D1: WO 99 21348, and
D2: EP-A-0 730 253.
- III. The reasons given for the refusal were that the subject-matter of claims 1 and 3 lacked an inventive step with regard to the disclosure of D1, and taking into account the general knowledge of the person skilled in the art.
- IV. The applicant filed an appeal against this decision and requested in the notice of appeal that the decision be set aside and that a patent be granted. With the statement of grounds a set of claims comprising an auxiliary request were filed and the claims filed with letter dated 3 March 2006 were maintained as the main request.
- V. In a communication accompanying the summons to oral proceedings the board raised objections of lack of clarity (Article 84 EPC) and lack of inventive step (Article 56 EPC) against claim 1 of each request.
- VI. In response to the summons the appellant filed new sets of claims of a main and an auxiliary request. The

appellant further informed the board that it would not be attending the oral proceedings.

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

" A telecommunications system for processing pre-paid telephone calling card account telephone calls comprising;
a plurality of telephone lines for handling telephone calls; and
a plurality of switches, each switch operatively coupled to origination telephone lines, adapted to route authorized calls to a destination number specified by a customer;
wherein at least one switch comprises a Service Switching and Control Point (SSCP) adapted to authorize and direct the routing of telephone calls, said SSCP storing account information for each calling card account supported by said switch;
wherein each switch is accessible by a call originating customer upon the system receiving a Service Access Code (SAC) dialed [*sic*] by the call originating customer;
wherein a calling card is indicated as having been sold by a second Personal Identification Number (PIN) entered by a merchant to replace a first preset PIN."

Claim 1 of the auxiliary request adds to claim 1 of the main request the feature of "and activating a calling card by receiving a third PIN set up by a customer". Furthermore, the expressions "at least one switch" and "each switch" in the third and fourth features of claim

1 of the main request are transposed in claim 1 of the auxiliary request.

VIII. Oral proceedings took place on 6 March 2009 in the absence of the appellant. At the end of the oral proceedings the board announced its decision.

Reasons for the decision

1. Procedural matters

1.1 The board considered it to be expedient to hold oral proceedings for reasons of procedural economy (Article 116(1) EPC). 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, objections under Article 84 EPC and Article 56 EPC were raised in respect of claim 1 of the main and the auxiliary request as pending at the time and the appellant was informed that at the oral proceedings these objections would be discussed. Consequently, the appellant could reasonably have expected the board to consider at the oral proceedings these objections not only in respect of claim 1 pending at the time but also in respect of any amended version of claim 1 of the main and the auxiliary request filed by the appellant in response to the summons to oral proceedings. In deciding not to attend the oral proceedings the appellant chose not to make use of the opportunity to

comment at the oral proceedings on any of these objections but, instead, chose to rely on the arguments as set out in the written submissions, which the board duly considered below.

- 1.3 In view of the above and for the reasons set out below, the board was in a position to give at the oral proceedings a decision which complied with the requirements of Article 113(1) EPC.

2. *Claim wording*

In the board's understanding the expression "each switch" in the fourth feature of claim 1 of the main request has to be construed as "each of the at least one switch comprising an SSCP" as only a switch with an SSCP can be dialled up using an appropriate SAC (cf. paragraph [0018] of the published application).

The board further understands that the expression "each switch" in the third feature of claim 1 of the auxiliary request should be taken to read "at least one switch" as, according to the third paragraph on page 1 of the appellant's letter of reply dated 6 February 2009, was apparently intended.

3. *Basis for the amendments (Article 123(2) EPC)*

Claim 1 of the main request is based on original claim 1 and the first feature of original claim 5. The further feature in claim 1 of the auxiliary request corresponds to the second feature of original claim 5.

4. *Claim 1 of the main request - inventive step*

4.1 Document D1 is considered as the closest prior art; this is not disputed by the appellant. The primary purpose addressed in D1 is to add operator services to a calling card telecommunications system. Figure 1 shows a network architecture of a telecommunications system capable of automatically processing debit card services which allow customers to make telephone calls using prepaid cards (cf. page 10, lines 20 to 24 and page 2, lines 20 to 23). The switch network 108 in figure 1 represents the known telephone network which inherently includes a plurality of telephone lines and a plurality of switches to route calls through the network according to the number dialled by a caller. The D1 system further comprises an IN overlay network containing an SSCP 140 configured to process calling card calls which are routed to the SSCP from the switch network 108 through an intermachine trunk 134. The SSCP stores account information of associated calling cards and is accessible by a caller upon the telecommunications system receiving an access number associated with the SSCP (cf. page 16, lines 8 to 14).

4.2 The system according to claim 1 of the main request differs from that of D1 in that a calling card is indicated as having been sold by a second PIN entered by a merchant to replace a first preset PIN.

The board has some difficulty in defining an objective technical problem starting out from the disclosure of D1 since it is not clear that the PIN replacement implies any technical effect or consequential change in the claimed system. The only reference to this feature

to be found in the application is at paragraph [0018]: "Once sold, the merchant can for example, dial up the switch with the responsible SSCP using an appropriate Service Access Code (SAC) and change the PIN from the factory PIN to a PIN which indicates purchase, but not customer usage". This passage does not indicate the steps to be taken in the system to change the status of a calling card. Furthermore, the board considers the expressions "as having been sold" and "entered by a merchant" as not limitative of the claimed system as they only indicate the commercial purpose of the change of status and the commercial role of the person changing the PIN.

Taking into account the above considerations the objective technical problem derived from the differing feature is seen by the board as being to indicate to the system some change in the status of a calling card.

- 4.3 It is known from D1 that the access number carried on the calling card is an electronic key for accessing the associated account (cf. page 19, lines 3 to 5). Having this in mind a person skilled in the art would consider document D2 which teaches the fabrication and distribution of key-carrying cards and the secure transition of ownership of a card. D2 suggests that key carriers produced in large numbers be provided with a common preset PIN (column 2, lines 19 to 21). The person skilled in the art would be led by the teaching of D2 to apply the method described therein to calling cards and would therefore fabricate them with a preset PIN. Thereafter, a change in ownership, e.g. sale by a merchant, is effected by changing of the PIN, thereby indicating a change of the status of the card (column 2,

lines 34 to 37). Such a procedure would result in the system of claim 1. For these reasons the subject-matter of claim 1 of the main request lacks an inventive step (Article 56 EPC).

4.4 In the statement of grounds the appellant argued that the system of claim 1 comprises an SSCP integral to the switch whereas D1 suggests that the SSCP is provided in an overlay network. The board observes that figure 1 of the application depicts, like figure 1 of D1, the system architecture in terms of a block diagram. According to figure 1 of the application the SSCP 114 has direct connections to OCP 116 inside switch 112 and to external OCP 130 and switch 124. These connections are considered by the board to be equivalent to trunk 134 in D1 and it is understood that each prepaid call associated with SSCP 114 has to be routed through one of these connections. Consequently, the appellant's central argument that the prepaid calls in D1 have to be transmitted through trunks whereas they have not in the application must fail.

5. *Claim 1 of the auxiliary request - inventive step*

The feature added to claim 1 of the auxiliary request is understood to require that a further change of the status of the calling card is indicated by a further change of the PIN. As regards this feature it is suggested in D2 (column 3, lines 35 to 41) that a further change of ownership of the card is indicated by a further change of the PIN. Thus, the person skilled in the art would be led by this teaching to the additional feature so that claim 1 of the auxiliary request does not involve an inventive step.

The appellant has put forward no specific arguments regarding the contribution of the added feature to inventive step.

6. Since the subject-matter of claim 1 of both requests fails to meet the requirement of inventive step the appeal cannot be allowed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Magliano

A. S. Clelland