BESCHWERDEKAMMERN DES EUROPÄISCHEN PATENTAMTS

BOARDS OF APPEAL OF THE EUROPEAN PATENT OFFICE

CHAMBRES DE RECOURS DE L'OFFICE EUROPEEN DES BREVETS

Internal distribution code:
(A) [ ] Publication in OJ
(B) [ ] To Chairmen and Members
(C) [ ] To Chairmen
(D) [X] No distribution

Datasheet for the decision of 28 June 2012

Case Number: T 1671/08 - 3.5.05

Application Number: 04743826.2

Publication Number: 1642430

IPC: H04L 12/58

Language of the proceedings: EN

Title of invention:
Method and system for providing network synchronization with a unified messaging system

Applicant:
Nortel Networks Limited

Headword:
E-mail status synchronization/NORTEL

Relevant legal provisions:
EPC Art. 54, 56, 123(2)

Keyword:
"Added-matter - No"
"Novelty and inventive step - Yes (after amendments)"

Europäisches Patentamt | European Patent Office | Office européen des brevets

Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T 1671/08 - 3.5.05

D E C I S I O N
of the Technical Board of Appeal 3.5.05
of 28 June 2012

Appellant: (Applicant)
Nortel Networks Limited
2351 Boulevard Alfred-Nobel
St. Laurent, QC H4S 2A9 (CA)

Representative:
Coyle, Philip Aidan
27 Clyde Road
Dublin 4 (IE)

Decision under appeal:
Decision of the Examining Division of the European Patent Office posted 3 April 2008 refusing European patent application No. 04743826.2 pursuant to Article 97(2) EPC.

Composition of the Board:

Chair: A. Ritzka
Members: P. Cretaine
D. Prietzel-Funk

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division to refuse European patent application No. 04 743 826.2, published as WO 2005/002159. The decision was announced in oral proceedings held on 26 March 2008 and written reasons were dispatched on 3 April 2008.

II. The application was refused because of lack of novelty (Article 54 EPC) of the independent claims of the applicant's sole request, having regard to the disclosure of document:

D1: US 2002/0131561.

The examining division additionally noted that the subject-matter of the dependent claims was either not new over D1 or did not involve an inventive step, having regard to the disclosure of D1 and

D2: US 2002/0040387.

III. The notice of appeal and the statement setting out the grounds of appeal were submitted on 29 May 2008 and the appeal fee was paid on the same day. The appellant requested that the appealed decision be set aside and that a patent be granted on the basis of claims 1 to 11 filed with letter of 22 February 2007 and refused in examination proceedings, with the wording "the e-mail client (110) is based on the synchronisation link" in claim 1 being replaced by the wording "the e-mail client (110) based on the synchronisation link". The

appellant also requested oral proceedings in the event that the board was not willing to grant claims 1 to 11.

IV. A summons to oral proceedings to be held on 28 June 2012 was issued on 21 February 2012. In an annex accompanying the summons the board gave its preliminary opinion that the subject-matter of the claims was already known from D1. Further, the board expressed its preliminary opinion that even if the appellant were able to amend the claims without infringing Article 123(2) EPC, in order to specify that network synchronisation was achieved without any user interaction, the subject-matter of the claims would not involve an inventive step (Article 56 EPC), having regard to the combination of D1 and D2.

V. At the oral proceedings held as scheduled on 28 June 2012, the appellant filed a new main and sole request comprising a set of claims 1 to 11. An amended page 3 of the description was also filed.

The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 11 filed as main and sole request during the oral proceedings before the board.

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

"A method operable in a unified messaging system (104) for providing network synchronization, said system comprising a media application server (126) coupled to a web server (128), the method comprising the steps of:

at the media application server (126), receiving and storing message data comprising at least one of audio data and video data, for a specified recipient;
generating an enhanced e-mail message, the message comprising the message data; and
sending the enhanced message to the specified recipient; and
at the web server (128), receiving a hypertext transfer protocol, HTTP request from an e-mail client (110) associated with the recipient, the HTTP request based on the message;
characterised by
said enhanced email message further comprising a synchronisation link comprising a HTTP, uniform resource locator, URL, with message specific header data pointing to the web server (128);
at the web server (128) receiving the HTTP request from the e-mail client (110) based on the synchronization link; and providing network synchronization of the marking of the e-mail message in both the e-mail client and the unified messaging system based on the synchronization link HTTP request between said email client (110) and the unified messaging system (104)."

The request includes further claims seeking protection for a corresponding unified messaging system (claim 6) and a corresponding computer program product (claim 11).

VII. At the end of the oral proceedings the chair announced the board's decision.

Reasons for the Decision

1. The appeal is admissible.

2. *Admissibility of request filed at oral proceedings*

Although the new main request was filed late, during the oral proceedings, the board exercised its discretion to admit it, since it was submitted in an attempt to overcome board's objections in its earlier communication.

3. *Article 123(2) EPC*

The board is satisfied that the amendments to the independent claims submitted during the oral proceedings, defining that the network synchronisation is the synchronisation of the mapping of the e-mail message in both the e-mail client and the unified messaging system, are supported by the originally filed application documents, in particular the passage on page 8, lines 16 to 28, and claims 12 and 13 of the published application.

4. *Prior art*

D1 relates to a unified communication services system (see Figure 4) comprising an Enhanced Services Platform coupled to a Web Server through the Internet or the Intranet. The Enhanced Services Platform receives and stores message data comprising voice, fax and video data for a specified recipient (see [0048]). It also generates an enriched e-mail message comprising the message data and an active user web-based interface

which enables the recipient to communicate with the unified communication services (see [0037]). The active interface may be sent within the e-mail as interaction controls (e.g. URLs) contained in an attached HTML, WML or XML formatted document (see [0048] and [0051]). Once the e-mail is opened, an HTTP connection is established to the Web Server which loads data necessary to construct the active interface (see [0052]. The active interface gives the user the ability to listen, view, save, delete or forward a message from the interface. Paragraphs [0137] and [0139] of D1 explicitly define how automatic network synchronisation of e-mails is achieved in the different servers of the unified communication services: a first system (e.g. the e-mail system of a client), party to the unified communication services, notifies a second system (e.g. the unified communication services system), also party to the unified communication services, when a message is deleted from the first system. The notification takes place by exchanging a message between the two systems. D1 is silent about the use of the above-mentioned user interface with respect to automatic network synchronisation.

D2 discloses a method for informing a sender about the opening of an e-mail message by a recipient (see Figure 01). A server communicates with a sender computer system and a recipient computer system. The e-mail message is modified by the server to create another e-mail message comprising an HTML code which is sent to the recipient. The opening of the modified e-mail message automatically causes the HTML code to request a file from the server, which informs the sender about the opening of the e-mail by the recipient.

5. *Novelty*

The decision under appeal stated that all the features of the independent claim were known in combination from D1. In particular the examining division considered that network synchronisation was provided in D1 by establishing an HTTP connection between the e-mail client and the web server, based on the URL link to the web server received in the e-mail message. The examining division cited paragraphs [0051], [0052] and [0066] of D1 in support of its argumentation.

D1 describes however that the URL link described in paragraph [0051] is used by the recipient of the e-mail message solely to establish an HTTP connection to the web server for loading images, data and programs (like Java applets) which are necessary to construct the graphical interface, as described in paragraph [0052].

The graphical interface, once constructed, enables the user to retrieve the message and interacts with services on the unified messaging system. The services provided by the interface are detailed in paragraphs [0078] to [0083] and are performed by the interface connecting to the web server that invokes an application (e.g. a Common Gateway Interface CGI script) that then invokes other processes on the enhanced services platform to carry out the request. In particular the user has the ability, from the interface, to save or delete a message from its message mail box. This is done by having the interface, upon a command entered by the user on the interface, send a request to a CGI program residing on the web server, this CGI

program then sending a request to a program on the Enhanced Services Platform, which changes the status of the message (saved or deleted) in the user's mail box (see paragraph [0082]). This does not however amount to a network synchronisation in the sense of claim 1 of the present application, wherein marking of the e-mail message (e.g. as saved or deleted) is provided in **both** the e-mail client (i.e. the message mail box as described in D1) and the unified messaging system.

Moreover these services are provided through programs residing on the server and on the Enhanced Service Platform and not **directly** through the HTTP link between the e-mail client and the server which has been used for downloading the user interface, in contrast to the subject-matter claimed in the present application. The board notes in that respect that paragraphs [0074] to [0083] of D1 do not mention any URL link.

Furthermore, D1 explicitly teaches in paragraphs [0137] to [0139] that network synchronisation is achieved by exchange of notifications. As an example D1 indicates that both the e-mail client and the unified communication system automatically send a notification to the other party when one of them deletes the message. Therefore D1 clearly teaches that network synchronisation is not based on an HTTP link between the server and the e-mail client, contrary to what is claimed in the present application.

For these reasons the board judges that the subject-matter of the claims according to the appellant's request is new over the disclosure of D1.

D2 does not relate to a unified messaging system and does not address the issue of network synchronisation specific to such systems. Therefore the subject-matter of the claims is also new over the disclosure of D2.

The claims therefore meet the requirements of Article 54 EPC.

6. *Inventive step*

As is apparent from the discussion in points 3 and 4 above, D1 represents the closest prior art.

The differences between the subject-matter of independent claims 1, 6 and 11 and the disclosure of D1 are that the enhanced e-mail message comprises an HTTP URL link to the server, and that network synchronisation of the marking of the e-mail message is provided based on an HTTP request sent from the e-mail client to the server of the unified messaging system, the HTTP request being based on the received link. It is clear for the skilled person that this implies a direct exchange of the marking of the message between the e-mail client and the unified messaging system on an established HTTP connection between the e-mail client and the server.

The technical effect of these differences is that no additional control software is needed on the e-mail client for sending an e-mail marking message, thereby enabling the use of any conventional e-mail server.

The objective technical problem can thus be seen as how to provide a simplified, less expensive and universal

network synchronisation scheme in a unified messaging system.

Although D1 describes the establishment of an HTTP connection between the e-mail client and a server, it does not use this connection for network synchronisation (see point 4 above). The appellant plausibly argued that D1 would teach the skilled person away from that, because it explicitly describes a different scheme for network synchronisation (see point 4 above).

Moreover, the skilled person would not consider the teaching of D2 since this document does not relate to a unified messaging system but rather to a mail system relying on a gateway inserted between a sender and a recipient. Furthermore, the synchronisation scheme disclosed in D2 is based on using CGI scripts (see paragraph [0022]), so that even a combination of D2 with D1 would not lead to a scheme based on an HTTP URL link to a server, as claimed in the present application.

For these reasons the board judges that the subject-matter of independent claims 1, 6 and 11 involve an inventive step and thus meet the requirements of Article 56 EPC.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the department of first instance with the order to grant a patent on the basis of claims 1 - 11 filed as sole request during the oral proceedings before the board, and the description pages 1 and 5 - 16 as published, page 2 received with letter dated 22 February 2007, page 3 as submitted at the oral proceedings, and drawings sheets 1/2 and 2/2 as published.

The Registrar: The Chair:

K. Götz A. Ritzka