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**Datasheet for the decision
of 20 April 2012**

Case Number: T 2082/09 - 3.5.03

Application Number: 04254143.3

Publication Number: 1499153

IPC: H04Q 7/38

Language of the proceedings: EN

Title of invention:

Method for indirectly establishing a call between a mobile station and a public service answering point

Applicant:

LUCENT TECHNOLOGIES INC.

Headword:

Emergency call/LUCENT

Relevant legal provisions:

EPC Art. 56

Keyword:

"Inventive step (yes, following amendment)"

Decisions cited:

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Catchword:

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Case Number: T 2082/09 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 20 April 2012

Appellant: LUCENT TECHNOLOGIES INC.
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Representative: Sarup, David Alexander
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 29 April 2009
refusing European application No. 04254143.3
pursuant to Article 97(2) EPC.

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 to refuse European patent application No. 04254143.3 on the ground that the subject-matter of claim 1 of a sole request lacked an inventive step (Article 56 EPC).
- II. In the notice of appeal the appellant requested that the decision under appeal be aside and a patent be granted.
- III. In the statement of grounds it was stated that the claims on file were maintained as a primary request. Claims of an auxiliary request were filed together with the statement of grounds.
- IV. In a communication accompanying a summons to oral proceedings the board gave a preliminary view on the case, inter alia, on inventive step (Article 56 EPC).
- V. With a response to the board's communication submitted on 20 February 2012, the appellant filed two sets of claims to replace the claims of both requests. Arguments in support of inventive step were given. The appellant further requested that the oral proceedings be cancelled and that the procedure be continued in writing.
- VI. The board understands the appellant's requests to be that the impugned decision be set aside and that a patent be granted on the basis of the claims of the main request ("Primary claim set") or those of the

auxiliary request ("Auxiliary claim set"), both as filed on 20 February 2012.

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

"A method of performing an emergency call back with a mobile station (10), characterized by:
receiving, at a call register associated with a mobile switching center (14), a call back request from a call register associated with a PSAP switch (16) via a direct interface between the call registers associated with the mobile switching center and the PSAP switch;
and
sending, in response to the call back request, a request to the mobile switching center (14) that the mobile switching center (14) establish a call between the mobile station (10) and a second party."

In view of the board's decision it is not necessary to give details of the auxiliary request.

The following documents are referred to in the present decision:

- D1: US 5,689,548 A
- D3: US 6,167,256 A
- D4: US 2002/0111159 A1
- D5: US 5,712,900
- D6: US 6,038,437 A

Reasons for the decision

Admissibility of the main request

1. The feature "via a direct interface between the call registers associated with the mobile switching center and the PSAP switch" added to claim 1 serves to overcome an objection of lack of inventive step raised in the board's communication. Therefore, although late filed, the main request is admitted into the procedure (Article 13(1) RPBA).

Amendments to claim 1 of the main request - Article 123(2) EPC

2. Claim 1 is based on original claim 9 and the last sentence in paragraph [0016] of the published application which discloses that a call-back is requested through a message signalled over the Ey interface (i.e. the "direct" interface) between the call register 24 and the call register 26. The amendments made to claim 1 therefore meet the requirement of Article 123(2) EPC.

Claim 1 of the main request - inventive step (Article 56 EPC)

3. The invention relates to initiating an emergency call back to a mobile telephone from which an original emergency call was received at a Public Safety Answering Point (PSAP 20) but was unintentionally released. The PSAP 110 in D1 is understood by the board as including the PSAP switch 14 in the terminology of claim 1. D1 discloses a call back procedure in which the PSAP informs the mobile switching center (MSC) which served to establish the preceding emergency call

that a call back to the mobile telephone in need is to be established (cf. column 6, lines 39 to 43). In detail, the PSAP returns an IAM signal 150(2) including the directory number of the serving MSC and an identification code MSISDN of the mobile telephone to the mobile switching center (column 6, lines 43 to 45). It is therefore implicit that the PSAP 110 is associated with a call register which keeps the directory number of the serving MSC, as well as the MSISDN of the mobile telephone which placed the previous emergency call, beyond the time the emergency call is released. In response to the IAM signal received at the serving MSC a call is established between the mobile telephone and the PSAP by sending an appropriate request to the mobile telephone (cf. column 6, lines 45 to 49).

The disclosure of D1 is understood by the board as being similar to a "direct" call back as described in the second sentence of paragraph [0016] of the published application. This has not been contested by the appellant.

4. Accordingly, the method of claim 1 differs from D1 in that the call back request is received at a call register associated with the mobile switching center via a direct interface between the call registers associated with the mobile switching center and the PSAP switch. This way of initiating a call back, called in the application an "indirect form of call back" (column 3, lines 47 to 54), is said by the appellant to result in a greater flexibility of the system (cf. page 2 of the statement of grounds of appeal). This is

accepted by the board as the objective technical problem to be solved.

5. The distinguishing feature identified above is not rendered obvious to the skilled person by D1 since D1 suggests a "direct call back" in which the PSAP 110 transmits the call back request directly to the serving mobile switching center. Hence, the skilled person is not led to the claimed method by having regard to D1 alone.

Nor would the provision of the distinguishing feature be rendered obvious to the skilled person by the disclosure of any of prior art documents D3 to D6. D3 does not relate to an emergency call back procedure but describes a call forwarding database for serving as a register for avoiding call forwarding loops. D4, D5 and D6 do not add anything which would suggest to the skilled person that the call back request should be routed other than a "direct" call back (cf. D4, paragraph [0016]; D5, column 7, lines 57ff.; D6, column 9, lines 28 to 31).

Therefore, the method according to claim 1 is not rendered obvious to the skilled person by having regard to D1 alone or in combination with any one of D3 to D6.

In view of the above, the board concludes that the subject-matter of claim 1 involves an inventive step, having regard to the prior art documents at its disposal.

6. The ground for refusal as set out in the impugned decision has been overcome by amendment so that the decision under appeal has to be set aside.

The board's decision is however only on inventive step, having regard to prior art documents D1 and D3 to D6 in relation to claim 1. In particular, the board has not considered the dependent claims in detail. It is therefore appropriate to remit the case to the examining division for further examination.

7. In view of the board's decision on the main request it was not necessary to consider the auxiliary request or to give reasons as to why the appellant's request for cancellation of the oral proceedings was not allowed.

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 for further prosecution.

The Registrar:

The Chairman:

G. Rauh

A. S. Clelland