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Datasheet for the decision
of 14 September 2012

Case Number:	T 0633/12 - 3.5.05
Application Number:	04255299.2
Publication Number:	1519534
IPC:	H04L 29/06, H04L 29/08, H04Q 7/38, H04L 12/56
Language of the proceedings:	EN

Title of invention:
Method and apparatus for secure wireless delivery of converged
services

Applicant:
Avaya Inc.

Headword:
Wireless application layer broker/AVAYA

Relevant legal provisions:
EPC Art. 123(2)

Keyword:
"Added subject-matter (main request) - no (after amendment)"
"Remittal for further prosecution"

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Case Number: T 0633/12 - 3.5.05

D E C I S I O N
of the Technical Board of Appeal 3.5.05
of 14 September 2012

Appellant: Avaya Inc.
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                        NJ 07920   (US)

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Decision under appeal: **Decision of the Examining Division of the
                              European Patent Office posted 21 July 2011
                              refusing European patent application
                              No. 04255299.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair: A. Ritzka
Members: P. Cretaine
                  G. Weiss

Summary of Facts and Submissions

I.   This appeal is against the decision of the examining
      division to refuse European patent application
      No. 04 255 299.2, published as EP 1 519 534. The
      decision was announced in oral proceedings held on
      30 June 2011 and written reasons were dispatched on
      21 July 2011.

II.   The application was refused because the independent
      claims 1 and 16 according to the sole request did not
      meet the requirements of Article 123(2) EPC.

III. The notice of appeal was received on 28 September 2011
      and the appeal fee was paid on the same day. In the
      statement setting out the grounds of appeal, received
      on 30 November 2011, the appellant (applicant)
      requested that the appealed decision be set aside and
      that the application be remitted to the examining
      division for further examination on the basis of the
      claims of either a main request or a first or second
      auxiliary request, in that order of preference. Oral
      proceedings were requested as a precautionary measure.

IV.   The board is in the position, on the basis of the
      written submissions, to take a decision and judges that
      the claims according to the main request meet the
      requirements of Article 123(2) EPC.

V.   Claim 1 according to the main request reads as follows:

      "1. A wireless communication system, comprising:
      one or more wireless communication devices (110-1,
      110-2, 110-N); and

at least one application server (170) for delivering
content to said one or more wireless communication
devices, characterised by:
an application layer broker between said one or more
wireless communication devices and said at least one
application server, wherein said application layer
(200) is adapted to provide an indirect coupling
between said at least one application server and said
one or more wireless communication devices, and wherein
said indirect coupling is event triggered; and
an event triggered content delivery mechanism, wherein
said event-triggered content delivery mechanism allows
for the application broker to receive requests to
transfer said content;
a secure service delivery mechanism that transfers said
content from said application server to said
application layer broker; and
a service indication mechanism that generates a service
indication to at least one of said wireless
communication devices, wherein said service indication
provides said indirect coupling and includes a short
text message and a URI link to allow said at least one
of said wireless communication devices to access said
content from said application layer broker."

Independent claim 16 according to the main request
reads as follows:

"16. A method performed by an application layer broker
for delivering content to a wireless device from an
application server, characterised by:
receiving a request, by the application layer broker,
from a said wireless device for said content;

providing, by the application layer broker, said
request to said application server;
receiving said content from said application server;
encoding said content with authentication information
so that said content may only be accessed by said
wireless device;
generating a service indication to said wireless device
wherein said service indication provides said indirect
coupling between the said wireless device and the said
application server and includes a short text message
and a URI link to allow said wireless device to access
said content from said application layer broker; and
providing said encoded content for access by said
wireless device."

Reasons for the Decision

1.   The appeal is admissible (cf. Facts and Submissions,
        point III above).

2.   *Main request*

2.1   *Claim 1*

2.1.1   The decision under appeal objected in Reasons 1.1 that
        the application as originally filed did not explicitly
        disclose that the event-triggered content delivery
        mechanism received requests to transfer the content,
        but rather disclosed that the application layer broker
        received requests for the content. The appellant has
        amended this formulation so that claim 1 now states
        that the event-triggered content delivery mechanism

allows the application broker to receive requests to
transfer the content.

Paragraphs [0005] and [0011] of the published
application indicate that the application layer broker
links the wireless environment to the enterprise
application server through an event-triggered content
mechanism. Paragraphs [0006] and [0012] state that the
event-triggered content delivery mechanism, which is
shown in Figures 1 and 3, allows the application server
to perform, inter alia, service queries. These passages
and drawings imply that the event-triggered content
delivery mechanism is the overall mechanism that
enables the wireless user to access content in the
application server through the application layer
broker, and therefore, in particular, that enables the
requests of the user to be received by the application
layer broker.

The board is thus satisfied that the above-mentioned
amended formulation of claim 1 according to the main
request is supported by the application documents as
originally filed.

2.1.2   The decision under appeal further objected (see Reasons
        1.2) that the application as originally filed did not
        explicitly disclose that the event-triggered content
        delivery mechanism transferred the content from the
        application server to the application layer broker. The
        appellant has amended claim 1 so that it now states
        that the wireless communication system further
        comprises a secure service delivery mechanism which
        transfers the content from said application server to
        said application layer broker.

Paragraphs [0006] and [0012] of the description as
published disclose that the enterprise application
server pushes the service content to the application
layer broker through a secure service delivery
mechanism. These passages imply that the secure service
delivery mechanism is the mechanism, part of the
claimed system, that delivers, i.e. transfers, the
service content issued by the enterprise application
server to the application layer broker.

The board is thus satisfied that the secure service
delivery mechanism of the wireless communication
system, as defined in claim 1 of the main request, is
supported by the application documents as originally
filed.

2.1.3   Furthermore, the decision under appeal stated in
        Reasons 1.3 that the application as originally filed
        did not explicitly disclose that the event-triggered
        content delivery mechanism generated a service
        indication to at least one of said wireless
        communication devices, wherein said service indication
        provided the indirect coupling. The appellant has
        amended claim 1 so that it now states that the wireless
        communication system further comprises a service
        indication mechanism that generates the service
        indication.

        Paragraph [0024] of the published application describes
        that a typical service indication, at its most basic,
        contains a brief message and a URI specifying a
        service. Paragraph [0025] describes that a service
        indication (SI) message is sent to the device 110, i.e.
        a wireless user device, using the Over the Air (OTA)

Service Indication (SI) protocol and that the service
indication mechanism consists of a short text message
and a URI link to retrieve the service content. The
board judges that this passage implicitly describes
that the service indication is generated by the cited
service indication mechanism. The feature that the
service indication provides the indirect coupling
between the application server and the wireless user
device is a direct consequence of the fact that the
service indication includes the URI link which the user
can access to retrieve the content.

The board is thus satisfied that the service indication
mechanism of the wireless communication system, as
defined in claim 1 of the main request, is disclosed in
the application documents as originally filed.

2.1.4   The board further considers that, even if the skilled
person may derive from the whole description and
figures that the three mechanisms are indeed parts of
the application layer broker and/or of the application
server, the appellant is nevertheless entitled to
define the mechanisms as being part of the claimed
wireless communication system as a whole, as is the
case in claim 1 of the main request, without infringing
Article 123(2) EPC.

2.1.5   For these reasons the board judges that claim 1 of the
main request meets the requirements of
Article 123(2) EPC.

2.2   *Claim 16*

2.2.1   The decision under appeal objected that the description
        as originally filed did not explicitly disclose that
        the **request** for content received by the application
        layer broker from a user associated with a wireless
        device was **event-triggered** (see Reasons 2.1). It may
        well be that this feature has infringed
        Article 123(2) EPC. However, said feature has been
        deleted in claim 16 of the main request so that the
        objection is now moot.

2.2.2   The decision further stated in Reasons 2.2 that the
        application as originally filed did not explicitly
        disclose that the application layer broker generated a
        service indication, wherein said service indication
        provided the indirect coupling.

        Figure 3 shows that the service indication (SI) is
        generated by the push initiator 320 and sent to the
        wireless user by the push proxy gateway 330. These two
        components, although displayed as separate entities in
        Figure 3, may be considered as being implicitly part of
        the application layer broker for the following reasons.
        Paragraph [0019] of the published application describes
        that the wireless users communicate with the
        application layer broker using the WAP protocol;
        paragraphs [0023] and [0027] describe that the WAP Push
        Access Protocol is integrated into the invention.
        Moreover, paragraph [0025] describes that the service
        indication (SI) is sent to the wireless user using the
        Over The Air (OTA) Service Indication (SI) protocol
        (lines 10-11) and that the procedures to establish the
        content pulling connection between the wireless device

and the application layer broker are all encoded underneath the SI protocol. The overall teaching of these passages, for the skilled person, is that the up and down links between the application layer broker and the wireless user are wireless links, as are the links between the wireless user and the WAP and push proxy gateways (310 and 330, Figure 3). As a consequence, the WAP gateway, the push proxy gateway, and a fortiori the push initiator (320, Figure 3) have to be considered as constitutive parts of the application broker, the latter being defined by its functionalities as defined in the whole description and not solely by the block diagram presentation of Figure 3.

The board is thus satisfied that the combination of steps defined in independent method claim 1 is fully supported by the application documents as originally filed.

2.2.3   For these reasons, claim 16 of the main request fulfils the requirements of Article 123(2) EPC.

3.   *Conclusions*

3.1   The decision under appeal was based solely on a finding of non-compliance with Article 123(2) EPC.

3.2   As the claims of the appellant's main request are found to have been amended in a manner which now complies with Article 123(2) EPC, the board judges that there is no need to consider the appellant's auxiliary requests and that under the given circumstances the most appropriate course of action is to remit the case, as requested by the appellant, to the department of first

instance for further prosecution in relation to all other outstanding matters.

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 on the basis of claims 1 to 20 filed as a new main request with the statement setting out the grounds of appeal.

The Registrar: The Chair:

K. Götz   A. Ritzka