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**Datasheet for the decision
of 25 April 2017**

Case Number: T 1009/13 - 3.5.03

Application Number: 08014903.2

Publication Number: 2101470

IPC: H04L29/08, H04M3/51

Language of the proceedings: EN

Title of invention:

Method and apparatus for creating secure write-enabled web pages that are associated with active telephone calls

Applicant:

Avaya Inc.

Headword:

Creating web pages associated with active telephone calls/
AVAYA

Relevant legal provisions:

EPC Art. 56, 84

Keyword:

Inventive step - (no) - main request
Clarity - (no) - auxiliary requests

Decisions cited:

Catchword:



Beschwerdekammern
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Case Number: T 1009/13 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 25 April 2017

Appellant: Avaya Inc.
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Representative: Tergau & Walkenhorst
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted on 6 February 2013 refusing European patent application No. 08014903.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman F. van der Voort
Members: T. Snell
S. Fernández de Córdoba

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division refusing European patent application No. 08014903.2, with publication number EP 2 101 470 A. The refusal was based on the ground that the subject-matter of claims 1, 2 and 7 did not involve an inventive step (cf. Articles 52(1) and 56 EPC) with respect to the disclosure of D3 (= EP 1 729 490 A1). In an *obiter dictum*, the examining division inter alia raised an objection that claims 1 and 2 were not clear within the meaning of Article 84 EPC.
- II. The appellant filed an appeal against the above decision. In the statement of grounds of appeal, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the pending request on file.
- III. In a communication accompanying a summons to oral proceedings, the board gave a preliminary view that, *inter alia*, claim 1 was not clear and that its subject-matter did not involve an inventive step with respect to the disclosure of D3.
- IV. Together with a letter of response dated 18 April 2017, received on 21 April 2017, the appellant submitted claims of two auxiliary requests and informed the board that it would not be attending the oral proceedings.
- V. Oral proceedings were held on 25 April 2017 in the absence of the appellant.

The appellant requested in writing that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 10 filed during the

examination procedure with the letter dated 31 August 2011 (main request), or on the basis of the claims of the first or second auxiliary request as filed with the letter dated 18 April 2017.

At the end of the oral proceedings, the chairman announced the board's decision.

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

"A method, comprising:

establishing a communication session between a plurality of participants for a first media type using a first application, wherein the first media type is voice;

after initiation of and during the communication session, determining that a second media type different from the first media type is desired;

establishing a second communication channel for the second media type using a second application; and

associating the second communication channel with the communication session, wherein the second communication channel is associated with the communication session by creating a link to the second communication channel based on information associated with the communication session, the link being dynamically created and incorporating information unique to the communication session, the link being to one or more write-enabled web pages for editing or viewing by the participants."

VII. Claim 1 of the first auxiliary request reads as follows:

"A method, comprising:

establishing a communication session between a plurality of participants for a first media type by a voice-based application residing on a first server, wherein the first media type is voice;

after initiation of and during the communication session, determining that a second media type different from the first media type is desired;

establishing a second communication channel for the second media type by a web-based application residing on the first or on a second server; and

associating the second communication channel with the communication session, wherein the second communication channel is associated with the communication session by creating a link to a web page based on information associated with the communication session, the link being dynamically created and incorporating information unique to the communication session, the link being to one or more write-enabled web pages for editing or viewing by the participants *[sic]*

generating session information that is unique to the communication session during the step of establishing the communication session for the first media type;

forwarding the unique session information to participant endpoints of the communication session;

using the unique session information to establish the second communication channel;

receiving a request to establish the second communication channel;

creating a web page with the unique session information;

receiving a request to access the web page;

determining whether the request comprises the unique session information."

VIII. Claim 1 of the second auxiliary request is the same as claim 1 of the first auxiliary request with the exception that the following text is added to the end of the claim:

"determining access permissions to the web page based on the following logic:

(a) in the event that the request comprises unique session information that matches the unique session information used to create the web page, allowing access to the web page; and

(b) in the event that the request does not comprise unique session information that matches the unique session information used to create the web page, restricting access to the web page; and

wherein the number of simultaneous logins allowed for the web page is limited to a number of participants engaged in the communication session."

Reasons for the Decision

1. *Main request - claim 1 - inventive step (Article 56 EPC)*

1.1 The present application is concerned broadly with a method of establishing a voice communication session between a plurality of participants, and subsequently establishing a further communication channel for exchanging data between the participants. The closest prior art is considered to be represented by document D3, which also discloses a method involving the establishment of a voice communication session, in this case between a mobile user and a call centre, and subsequently establishing a data connection in parallel (cf. D3, paragraph [0022]).

1.2 Using the wording of claim 1, D3 discloses a method comprising:

establishing a communication session between a plurality of participants for a first media type using a first application, wherein the first media type is voice (cf. col. 6, last line - col. 7, line 2); after initiation of and during the communication session, determining that a second media type different from the first media type is desired (cf. col. 7, lines 4-10); establishing a second communication channel for the second media type using a second application (cf. col. 7, lines 12-16); and associating the second communication channel with the communication session (in the broadest sense, this is implicit as the data connection in D3 is brought about via the voice connection, and both are then operated in parallel, simultaneously handled by the same communications computer 430 in the call centre 450, cf. paragraph [0027] and Figure 1).

1.3 The subject-matter of claim 1 differs from the disclosure of D3 in the following features:

(i) the second communication channel is associated with the communication session by creating a link to the second communication channel based on information associated with the communication session;

(ii) the link is dynamically created and incorporates information unique to the communication session; and

(iii) the link is to one or more write-enabled web pages for editing or viewing by the participants.

1.4 The problem to be solved starting out from D3 is considered as being to provide further implementation details with respect to online form filling by a user with the help of the call centre. In the board's view, the skilled person would solve this problem by incorporating features (i) to (iii) without inventive step for the following reasons:

1.4.1 Re (i): In D3, the data connection may be initiated by the user in response to a message from the call centre or data server, e.g. utilising SMS (cf. paragraph [0023]). The user then receives data, which may be in HTML format, from the data server, which may be a web server (idem). Hence, one obvious way of connecting to the correct web server is for the user to be informed in the SMS message of a link to the web server (e.g. a URL of a web page hosted by the web server) by the call centre. Such link information would implicitly be based on information associated with the communication session, since it would be based on the request made by

the user who is a participant in the voice call part of the communication session, and the link would contain the address of the web server which is itself associated or connected to the call centre (cf. col. 7, lines 12-16). Consequently, feature (i) does not contribute to inventive step.

1.4.2 Re (ii): In D3, a form (e.g. an HTML document, cf. col. 5, lines 40-43) is downloaded to the user which is then completed and, implicitly, returned to the server (cf. col. 5, lines 43-47, and paragraph [0029]). The skilled person knows based on common knowledge that Internet form filling is conventionally carried out by creating a dynamic web page, whereby, following the initial request from the user, the server creates a new HTML session object for the form. It was also common knowledge at the priority date to append a session id and/or identification data of the user to a URL so that when the completed form is sent back to the server, it can be correctly associated with the session object representing the form. This "dynamic URL" would thus "incorporate information unique to the communication session". These concepts, which are referred to in the present application, cf. in particular paragraphs [0048] and [0049] of the description, are considered by the board to be routine methods in Java/HTML/HTTP programming. This was pointed out by the board in the summons to attend oral proceedings and has not been contested by the appellant. Consequently, feature (ii) does not contribute to inventive step either.

1.4.3 Re (iii): In D3, the web page, i.e. the HTML document, is clearly write-enabled (since the requesting user has to be able to amend the form). Further, the call centre is able to access the server in order to monitor the progress of the form-filling by the user (cf. paragraph

[0029]). Therefore, the web page hosting the form can be viewed by the call centre as well as by the user. The board notes that claim 1 does not require that the document be write-enabled for editing by both participants. However, that notwithstanding, the board notes that one of the principal aims of D3 is to allow the call centre to provide assistance to the user in completing the form (cf. paragraph [0030]). It is therefore obvious that it would be desirable for the call centre to be able to edit the form as well. As the server is associated with or connected to the call centre (cf. paragraph [0029]), this task would be straightforward for the person skilled in the art of online form filling using HTML and HTTP protocols. Consequently, feature (iii) does not contribute to inventive step either.

1.5 In the statement of grounds of appeal, the appellant presented the following main counter-arguments:

(i) D3 does not disclose an application which performs the establishment of the second communication channel and the association of the second communication channel with the communications session, since, in D3, these steps are performed by persons; and

(ii) In D3 the link to the standard form is not created dynamically and does not incorporate information unique to the communication session.

1.6 Re (i): In the description of the application in suit, the term "application" is defined in paragraph [0013] as "any type of mechanism that utilizes the capabilities of a computer, processor, computing platform, server, or other type of hardware device on which it resides to execute a task that a user or some

other requesting agent wishes to perform".
Consequently, it is irrelevant whether a person is involved, as long as the task is partly carried out using such a mechanism. This is clearly the case in D3 as regards the establishing of the second communication channel, which involves an application running on a web server.

Re (ii): The board agrees that these features confer novelty on the subject-matter of claim 1. However, for the reasons given above, they do not contribute to inventive step.

- 1.7 Consequently, the board concludes that the subject-matter of claim 1 does not involve an inventive step (Articles 52(1) and 56 EPC).
2. *First and second auxiliary requests - claim 1 - clarity*
 - 2.1 Claim 1 respectively of the first and second auxiliary requests (which the appellant filed very late in response to the board's communication, namely only two working days before the oral proceedings) is held to be not clear for the following reasons, contrary to Article 84 EPC.
 - 2.2 Claim 1 of the first auxiliary request includes wording essentially taken from claims 3 and 5 as originally filed. The board notes, however, that claim 3 was dependent on claims 1 or 2, and claim 5 on claim 1 alone. As regards claim 1 of the first auxiliary request, the presence of features taken from both claims has resulted in a confusing and unclear formulation, since it is unclear how the respective features are to be construed when read in combination.

2.3 In this respect, the feature "session information that is unique to the communication session" in the method step "generating session information" (cf. original claim 5) has no definite article (i.e. the feature does not state "the" or "said" session information). Consequently, it is not clear whether this information is to be construed as the "information associated with the communication session" referred to in the preceding clause (based on wording essentially taken from original claim 3), or whether this is different information. This ambiguity is further compounded by the fact that, as now claimed, the "session information that is unique to the communication session" is used in "creating a web page" (cf. original claim 5), whereas the "information associated with the communication session" is used in "creating a *link* to a web page" (cf. original claim 3, which used the wording "creating a link to the second communication channel ..."). The board notes that creating a link to a web page is not the same as creating a web page. Moreover, it is unclear whether in each case the same web page is being referred to. It is further noted that the wording "information [that is] unique to the communication session" appears in two different features, without there however being a clear indication that both instances refer to the same unique information.

2.4 The board further notes the unclear presence of two separate features concerned with establishing the second communication channel: firstly (cf. claim 1, fourth paragraph), "establishing a second communication channel for the second media type ..." and secondly (cf. claim 1, eighth paragraph), "using the unique session information to establish the second communication channel", which are followed, rather

confusingly, by a later method step of "receiving a request to establish the second communication channel" (cf. claim 1, ninth paragraph). The board also draws attention to the discrepancy between the singular term "a web page" and the term "one or more .. web pages" in the feature "wherein the second communication channel is associated with the communication session by creating a link to a web page, the link being to one or more write-enabled web pages for editing or viewing by the participants" (cf. claim 1, fifth paragraph).

2.5 The board concludes that claim 1 of the first auxiliary request is not clear and, hence, does not comply with Article 84 EPC.

2.6 Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request only in that additional features from original claim 5 have been added. These additional features however do not affect the objection of lack of clarity referred to above.

2.7 The board therefore concludes that claim 1 of the second auxiliary request does not comply with Article 84 EPC either.

3. *Conclusion*

As there is no allowable request, it follows that the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



G. Rauh

F. van der Voort

Decision electronically authenticated