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Datasheet for the decision
of 28 April 2021

Case Number:	T 0935/14 - 3.5.06
Application Number:	10154934.3
Publication Number:	2369472
IPC:	G06F9/445, G06F21/00, H04L29/08, H04L29/06
Language of the proceedings:	EN

Title of invention:
System and method for providing access to a service relating
to an account for an electronic device in a network

Applicant:
BlackBerry Limited

Headword:
Associated accounts/BLACKBERRY

Relevant legal provisions:
EPC Art. 84

Keyword:
Claims - clarity (no)
Claim interpretation - broad vs. vague claims

Decisions cited:

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Catchword:

Beschwerdekammern

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Case Number: **T 0935/14 - 3.5.06**

D E C I S I O N
of Technical Board of Appeal 3.5.06
of 28 April 2021

Appellant: (Applicant)	BlackBerry Limited 2200 University Avenue East Waterloo, ON N2K 0A7 (CA)
Representative:	Hanna Moore + Curley Garryard House 25-26 Earlsfort Terrace Dublin 2, D02 PX51 (IE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 17 December 2013 refusing European patent application No. 10154934.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	M. Müller
Members:	T. Alecu
	B. Müller

Summary of Facts and Submissions

I.   The appeal is against the decision of the Examining
        Division to refuse the application. The appellant's
        main and sole request is that the decision be set aside
        and that a patent be granted on the basis of a set of
        claims 1-13 filed on 23 February 2021.

II.   This request was filed in response to a communication
        accompanying the summons to oral proceedings before the
        Board, wherein the Board set out its provisional
        opinion that the only request at that time, filed with
        the grounds of appeal, was deficient in view of
        Articles 83 and 84 EPC.

III.   The decision was announced in the oral proceedings.

IV.   Claim 1 of the main request recites (reference signs
        removed):

        A method for providing access for a terminal device to
        a messaging application operating on a server using a
        mobile device, said mobile device communicating with
        the server through a first communication link, said
        method comprising:
        establishing a second communication link between said
        terminal device and said mobile device;
        generating at the terminal device a request to initiate
        an associated account creation request and sending the
        request to the mobile device;
        sending by the mobile device , a request to create an
        associated account, to the server;
        receiving at said server the request to create the
        associated account, from the mobile device, the

associated account to be associated with a primary
account for said mobile device comprising one of:
     a hosted account where messages from said
     terminal device to said server include an
     identifier unique to the mobile device;
     a temporary account where messages from said
     terminal device to said server utilize a
     temporary unique identifier associated with the
     mobile device and the terminal device; or
     a meta account where messages from said
     terminal device to said server include a unique
     identifier based on unique identification data
     associated with the mobile device; and
at said server, creating said associated account for
said terminal device using identification data relating
to the terminal device and the primary account
associated with the mobile device, updating an account
database to associate messages for the primary account
with the terminal device as well as the mobile device
and sending a confirmation message to the mobile device
that an associated account has been created,
wherein the terminal device is provided with access, by
said server, to said messaging application using said
associated account and data relating to a messaging
application action on the terminal device is provided
to the mobile device, which then provides a command
associated with the action to the server.

V.   Claim 2 defines an alternative and differs from claim 1
        in that the last feature is replaced by:

        wherein the terminal device is provided with access, by
        said server, to said messaging application through said
        associated account such that said terminal device
        accesses said messaging application using said
        associated account through a third communication link

linking said terminal device to said server that does
not go through said mobile device.

Reasons for the Decision

Admittance (Article 13(2) RPBA 2020)

1.   The request filed with the grounds of appeal was an
        amended version of a request refused by the Examining
        division for lack of clarity and added matter. While
        the Board, in its provisional opinion, found that some
        objections were overcome by amendment, or not valid, it
        maintained part of the clarity objections under Article
        84 EPC, and it formulated a new objection under Article
        83 EPC.

2.   The current request responds in part to that latter new
        objection. This is seen as an exceptional circumstance
        warranting the admittance of the request.

The invention

3.   The invention relates to providing access to messaging
        services normally accessed from (trusted) mobile
        devices. Such a mobile device is said to have a primary
        account associated with it (paragraph 58), allowing
        access to a messaging application on the server
        (paragraphs 39 and 40).

4.   According to the application, it would be beneficial
        for the user to be able to access the application from
        terminals (e.g. a desktop computer) providing ease of
        use (keyboard, larger screen etc.) - see paragraphs 2
        and 3 of the description. The invention proposes
        enabling such use by using the mobile device to request

the server to create associated accounts for the
terminal. Three types are exemplified: a hosted account
(paragraphs 59, 63, 64, figure 2A), a temporary account
(paragraphs 60, 65, figure 2B), and a meta account
(paragraphs 61, 66, figure 2C). All these accounts
provide access to the messaging service from the
terminal, as long as the terminal-mobile device
connection is maintained (paragraph 21). This is said
to provide flexibility, and security for the primary
account (paragraph 58).

Clarity (Article 84 EPC)

5.   Claims 1 and 2 of the sole request on file define
        methods comprising steps corresponding to the creation
        of an associated account, including a definition of the
        three types of associated accounts, and a final step of
        providing access to the messaging services using the
        created associated account. Upon reading the claims,
        the Board made the following provisional observations.

6.   It is not clear what is the structure and content of
        the three types of associated accounts, i.e. what is
        actually stored on the server.

6.1   The claims distinguish the three accounts only on the
        basis of their name, and of the content of the messages
        that would go through those accounts, which are said to
        include *unique* identifiers. These identifiers are:
        – *hosted* account: *identifier unique to the mobile
        device*
        – *temporary* account: *temporary unique identifier
        associated with the mobile device and the terminal
        device*
        – *meta* account: *unique identifier based on unique
        identification data associated with the mobile device.*

On the basis of this wording, no difference can be identified between at least the *meta* and the *hosted* types.

6.2   An associated account (any of the three types) is further said to be created *using identification data relating to the terminal device and the primary account associated with the mobile device*. This expression defines neither what is actually stored when creating the account, nor how the three types of accounts are distinguished.

7.   It is also not clear how, and if, the associated accounts are used. These accounts are said to be associated with a primary account for said mobile device. Message formats for the primary account are not defined, but one possible, even standard, option, is to use a device identification number (see paragraph 54), i.e. the same messaging scheme as for the hosted and meta accounts. This raises the question as to how can the server distinguish between messages formatted for an associated account (e.g. hosted or meta) and the ones for the primary account, in particular when the messages come from the mobile device itself, as according to claim 1 (see also paragraph 63 describing the hosted account: *"With a proxy implementation, commands/instructions/messages from computer 116 may appear to server 114 as originating from device 108c".*). If this is not possible, are the associated accounts used at all, or do all messages go through the primary account in this context?

8.   The appellant acknowledged that there was overlap between the definitions of the associated accounts, and acknowledged that the claim language left the possibility that account creation was redundant, i.e. that the messages might go through the primary account.

According to claim 2 though, one could differentiate
messages based on the (third) communication link used,
so messages coming from the terminal would have to go
through an associated account.

9.   The appellant argued that the claim might be considered
          broad in its definitions, including overlapping or
          redundant implementations, but that this was not a
          problem of clarity. The scope of the claim needed to be
          clear, which was the case here. One would know whether
          a certain method was covered by the scope of the claim
          or not, there was no need to detail the embodiments in
          the claim. The claim required, upon request from the
          mobile device, the creation of an associated account,
          using mobile and terminal information, defined the
          three types of accounts, and required a corresponding
          certain format of messages, and further required that
          the associated account be used. All this could be
          verified, because the wording of the features, though
          broad, was clear.

10.   The Board disagrees with the appellant's conclusions
          for the following reasons. Under the EPC, claim
          construction is not a purely linguistic exercise. The
          board endorses the established case law according to
          which it is the skilled person who will construe the
          claim with a mind willing to understand such as to
          arrive at a claim interpretation which is technically
          sensible (see Case Law of the Boards of Appeal, 9th
          edition, II.A.6.1, esp. the first paragraph). If such
          an interpretation is not possible, then the claim is
          not clear.

10.1   In view of the appellant's argument that the features
          are worded clearly, the Board further notes that a
          prerequisite for arriving at a technically sensible
          claim interpretation is that the claim is technically

consistent: if two features are separately clear, but are inconsistent with each other from a technical point of view, then their combination, and the claimed matter, cannot be clear.

10.2   The Board agrees with the appellant that broad features may be considered clear, but only under the proviso that the borders of the - broad - scope of protection can be clearly inferred by the skilled person. This makes the distinction between broad but clear and broad and vague. If a feature formulation is such that some further technical features appear to be implied, particularly in view of the features' technical function, but it is not clear what those precisely are, then the claimed feature is vague and not clear.

11.   In the present case, the claim fails on more than one account in view of the above considerations.

11.1   As detailed before (point 6), the three types of associated accounts are not clearly distinguished. In the Board's judgment it is unclear to the skilled person whether the overlap between the three definitions was intended or not. If it were, the technical purpose of specifying two indistinguishable accounts (hosted and meta) would be technically questionable and, arguably, render claims 1 and 2 inconcise, Article 84 EPC. If it were not, the question would arise as to which other features might be implied - esp. by the terms *hosted* or *meta* - so that the accounts could be effectively differentiated.

11.2   A minimal claim construction, i.e. with no further implied features, would also be technically inconsistent: for instance, in that a hosted account is created to be used for messaging by the terminal, but is actually not used (point 7 above). This raises the question as to which other features may be implied,

either as message formatting, or upon the server side, or both, so that the account is used.

11.3   The (intended) answer may lie in the account creation steps. But, as noted above, the creation steps are vaguely defined. For instance, under a literal reading, an account creation wherein the server merely checks whether the *identification data relating to the terminal device* is properly formatted falls under the claim scope. But then, the question arises how this account can be used, as required by the claim? For the claim to make technical sense, some further technical features need to be read into the claim. It is not clear which those are.

12.   The Board concludes that claims 1 and 2 of the sole request lack clarity in the sense of Article 84 EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

L. Stridde   M. Müller

Decision electronically authenticated