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**Datasheet for the decision  
of 7 May 2018**

**Case Number:** T 1079/14 - 3.5.03

**Application Number:** 11153335.2

**Publication Number:** 2317796

**IPC:** H04W36/12

**Language of the proceedings:** EN

**Title of invention:**

A method and system for transferring user equipment in mobile communication system

**Applicant:**

Huawei Technologies Co., Ltd.

**Headword:**

Handover/HUAWEI

**Relevant legal provisions:**

EPC Art. 84

**Keyword:**

Claims - clarity (no)



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Case Number: T 1079/14 - 3.5.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.03**  
**of 7 May 2018**

**Appellant:** Huawei Technologies Co., Ltd.  
(Applicant) Huawei Administration Building  
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**Representative:** Körber, Martin Hans  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 17 January 2014  
refusing European patent application No.  
11153335.2 pursuant to Article 97(2) EPC**

**Composition of the Board:**

**Chairman** F. van der Voort  
**Members:** B. Noll  
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. 11153335.2, publication No. EP 2317796 A1.
- II. The refusal was based on the grounds that the claimed subject-matter extended beyond the content of the application as filed (Article 123(2) EPC) and that the claims did not meet the requirement of Article 84 EPC in respect of clarity.
- III. With its statement of grounds of appeal the appellant filed claims of a first and a second auxiliary request, the claims on which the decision was based forming the claims of a main request. Oral proceedings were conditionally requested.
- IV. In a communication accompanying a summons to oral proceedings, the board gave a preliminary opinion on clarity (Article 84 EPC) in respect of claim 1 of each request.
- V. With a letter dated 5 April 2018, the appellant submitted arguments in reply to the board's preliminary opinion.
- VI. Oral proceedings were held on 7 May 2018.
- VII. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims on which the decision under appeal was based (main request) or, in the alternative, on the basis of the claims of either a first or a second auxiliary request, both as filed with the statement of grounds of appeal.

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

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

"A method for a network-side initiated transfer of a user equipment (UE) in a mobile communication system, comprising:

determining (701, 801, 1201), by a source core network (CN) element, to transfer a UE that the source CN element serves, and sending (701,802,1202) a location area update instruction to the UE; wherein the location area update instruction is used to indicate the UE to be transferred from the source CN element to a target CN element;

receiving, by an access network, a location area update request sent (702,803, 1202, 1203) by the UE according to location area update instruction, wherein the location area update request carries information which includes a TMSI set as null;

selecting (703), by the access network, a target CN element that is different from the source CN element for the UE according to a set mechanism of load sharing; and

transferring (703) the UE to the target CN element."

Claim 1 of the first auxiliary request reads as follows:

"A method for a network-side initiated transfer of a user equipment, UE in a mobile communication system, characterized by comprising:

determining (1201), by a source core network, CN, element, to transfer a UE that the source CN element serves, and sending (1202) a location area update, LAU, instruction carrying a temporary mobile subscriber identity, TMSI, set as Null to the UE;

receiving (1203), by an access network, a LAU request sent by the UE, wherein the LAU request carries the TMSI set as Null;

selecting, by the access network, a target CN element that is different from the source CN element for the UE according to a set mechanism of load sharing; and

transferring the UE to the target CN element."

Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in that the wording

"determining, by the access network, the UE as a new entrant according to the TMSI set as Null;"

has been inserted before the penultimate paragraph.

### **Reasons for the Decision**

1. The application relates to the transfer of a communication service provided by a mobile communication network to a user equipment (UE), in short to a transfer of the UE from one network element to another. The process associated with such transfers

is generally referred to in the art as a "handover". The handover as specifically claimed is a network-initiated handover, i.e. it is the network itself and not the UE which determines that a handover is to be carried out and which further initiates the steps to be carried out for implementing the handover.

2. The method as claimed is defined by the steps to be carried out in order to transfer the UE from one network element to the other. The third paragraph of claim 1 of the main request specifies that, after a location area update (LAU) instruction has been sent to the UE, an LAU request, sent by the UE according to the LAU instruction, is received by an access network. The method is further defined by the feature that the LAU request "carries information which includes a TMSI set as null" (TMSI: temporary mobile subscriber identity).
3. The skilled reader would understand the wording "includes a TMSI set as null" in this context as meaning (a) that a TMSI data field is present in the LAU request and (b) that this field is "set as null", to indicate that the TMSI is set for purposes other than for associating the UE with the network for establishing a communication.
4. The appellant argued that the skilled reader would understand from the wording "set as null" that no TMSI data field was present at all, i.e. no sequence of bits at all, in the LAU instruction or request. The skilled reader would thus consider the meaning of the expression in question as given by the board (see point 3) to be inappropriate.
5. The board does not agree. The wording "includes a TMSI" clearly suggests to the skilled reader that a data

field representing a TMSI is present in the data structure of the request. The appellant's opinion as to how the wording "set as null" is to be understood is in contradiction with the board's understanding. Further, the appellant provided no evidence in support of its argument. Document D10 (Tdoc S2-051993, 3GPP TSG-SA2 Meeting #48, 5-9 September 2005, Sophia Antipolis, France, pages 1 to 6), referred to by the appellant in the oral proceedings, does not resolve the contradiction, since it discloses only that load distribution between CN nodes may be controlled using a "Null NRI" (D10, page 3). This document does not however disclose that using a "Null NRI" means that no NRI data at all is included in a registration request. The feature "carries information which includes a TMSI set as null" is therefore at least ambiguous and hence introduces a lack of clarity for claim 1 (Article 84 EPC).

6. The appellant further argued in writing that the feature in question was to be understood as meaning that a TMSI may be omitted from the LAU instruction or request and that the absence of a TMSI may be indicated by a flag.
7. However, the application as filed does not provide any disclosure of a missing TMSI indicated by a flag. Therefore, this argument is not relevant as regards the ambiguous meaning of the feature in question.
8. The board concludes that claim 1 does not comply with Article 84 EPC due to a lack of clarity.
9. The same clarity objection applies *mutatis mutandis* to claim 1 of both first and second auxiliary requests, each including the wording "carries the TMSI set as

Null" (see point VIII above). Therefore, claim 1 of either of the first and second auxiliary requests fails to comply with Article 84 EPC.

10. Since none of the requests is allowable, the appeal is to be dismissed.

## Order

### For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



M. H. A. Patin

F. van der Voort

Decision electronically authenticated