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**Datasheet for the decision
of 12 February 2020**

Case Number: T 2183/15 - 3.5.03

Application Number: 04794208.1

Publication Number: 1678580

IPC: H04Q7/20, H04H1/00

Language of the proceedings: EN

Title of invention:

APPARATUS, SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR
SERVICE SELECTION AND SORTING

Applicant:

Nokia Technologies Oy

Headword:

Selection and sorting of services/NOKIA

Relevant legal provisions:

EPC Art. 123(2)

Keyword:

Amendments - intermediate generalisation - added subject-
matter (yes)



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Case Number: T 2183/15 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 12 February 2020

Appellant: Nokia Technologies Oy
(Applicant) Karakaari 7
02610 Espoo (FI)

Representative: Swindell & Pearson Limited
48 Friar Gate
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 6 July 2015
refusing European patent application No.
04794208.1 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman J. Geschwind
Members: K. Schenkel
T. Snell
J. Geschwind

Summary of Facts and Submissions

- I. The applicant filed an appeal against the decision of the examining division refusing European patent application No. 4794208.1 with international publication number WO 2005/045603 A2. The refusal was based on the ground that the subject-matter of inter alia claim 1 respectively of a main request and first to third auxiliary requests did not involve an inventive step.

- II. 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 a main request or, in the alternative, one of first to third auxiliary requests, all requests as decided on by the examining division.

Further, the appellant requested reimbursement of the appeal fee under Rule 103(1)(a) EPC and conditionally requested oral proceedings.

- III. In a communication pursuant to Article 15(1) RPBA 2007 following a summons to oral proceedings, the board, without prejudice to its final decision, gave its preliminary opinion that inter alia claim 1 of the main request and each one of first to third auxiliary requests did not appear to comply with Article 123(2) EPC and that the subject-matter of inter alia claim 1 of the main request and each one of first to third auxiliary requests did not appear to involve an inventive step.

- IV. In response to the board's communication, with a letter dated 14 November 2019, the appellant withdrew the request for oral proceedings, informed the board that

it would not be attending the oral proceedings and requested a decision according to the state of the file.

V. The oral proceedings were subsequently cancelled.

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

"A mobile terminal (UE; 100), comprising:

means configured to receive (9), via a first network (2), broadcast data (120) identifying one or more bundles, each said bundle comprising a plurality of services, and, in respect to [sic] at least one of the bundles, data (123) describing one or more channels of a second network (3), through which access to the at least one of the bundles is obtained and subscription data for at least one service in the at least one of the bundles is provided; and

means (9) configured to send a request for a selected one of said bundles via at least one of said channels described in the received data."

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

"A mobile terminal (UE; 100), comprising:

means configured to receive (9), via a first network (2), broadcast data (120) identifying one or more bundles, each said bundle comprising a plurality of services, and, in respect to [sic] at least one of the bundles, data (123) describing one or more channels of a second network (3), through which access to the at least one of the bundles is obtained and subscription

data for at least one service in the at least one of the bundles is provided;

a user interface configured to receive a user input indicating a selected service and to display a list of bundles that are determined to include the selected service; and

means (9) configured to send a request for a selected one of the displayed bundles via at least one of said channels described in the received data."

VIII. Claim 1 of the second auxiliary request reads as follows:

"A mobile terminal (UE; 100), comprising:

means configured to receive (9), via a first network (2), broadcast data (120) identifying one or more bundles, each said bundle comprising a plurality of services, and, in respect to [sic] at least one of the bundles, data (123) describing one or more channels of a second network (3), through which access to the at least one of the bundles is obtained and subscription data for at least one service in the at least one of the bundles is provided;

a memory (84) storing subscription data relating to subscribed services;

a user interface configured to receive a user input indicating a selected service, to display bundles that include the selected service when the selected service is not one of the subscribed services, and to receive a user input indicating a selected one of the bundles that are displayed; and

means (9) configured to send a request for the selected one of the bundles via at least one of said channels described in the received data."

IX. Claim 1 of the third auxiliary request reads as follows:

"A mobile terminal (UE; 100), comprising:

means configured to receive (9), via a first network (2), broadcast data (120) identifying one or more bundles, each said bundle comprising a plurality of services, and, in respect to [sic] at least one of the bundles, data (123) describing one or more channels of a second network (3), through which access to the at least one of the bundles is obtained and subscription data for at least one service in the at least one of the bundles is provided;

a memory (84) storing subscription data relating to subscribed services, the subscription data comprising at least one key or code for descrambling or decrypting services in a bundle;

a user interface configured to receive a user input indicating a selected service, to display bundles that include the selected service when the selected service is not one of the subscribed services, and to receive a user input indicating a selected one of the bundles that are displayed; and

means (9) configured to send a request for the selected one of the bundles via at least one of said channels described in the received data."

Reasons for the Decision

1. *Main request - claim 1 - Article 123(2) EPC*

1.1 Claim 1 relates essentially to a mobile terminal configured to receive broadcast data and at least one of a plurality of services.

1.2 In detail, the mobile terminal of claim 1 includes means configured to receive via a first network broadcast data identifying one or more bundles, each bundle comprising a plurality of services, and, in respect of at least one of these bundles, data describing one or more channels of a second network through which access to the at least one of the bundles is obtained and subscription data for at least one service in the at least one of the bundles is provided.

The board is of the view that the wording "access to the at least one of the bundles" includes the meaning that the at least one bundle itself, i.e. its content, is accessed through the channel of the second network.

1.3 The board notes with respect to the use of different networks that the claims as originally filed do not refer to networks and do therefore not provide a basis for the aforementioned feature.

1.4 In this respect, the appellant referred in its letters dated 31 October 2013 and 5 December 2011 to the following passages of the application as filed :

- page 14, line 32 to page 15, line 10
- page 15, lines 22 to 29
- page 17, lines 12 to 13
- page 18, lines 22 to 28
- page 25, lines 17 to 22 and

- page 28, line 23 to page 29, line 18

The indicated passages on pages 14 and 15 are part of a description of a network for receiving broadcast services shown in Fig. 12. A datacast operator creates bundles which include one or more services and which are transmitted to the users via datacast bursts (page 15, lines 1 and 2). Bundle data 120 include inter alia a purchase code and an identifier of each purchase channel through which the bundle can be bought (page 15, lines 2 to 10). The bundle data 120 is sent to an electronic commerce system which is accessible through a second network different from the broadcast network (page 15, lines 23 to 27). The example given for the second network is a mobile phone network (page 15, lines 26 and 27). In order to buy a bundle, the user sends a request using the selected purchase channel (page 15, lines 27 and 28). The transmission of service components is disclosed to take place on the broadcast network, i.e. the first network ("DVB-T network", page 16, lines 4 to 7).

The indicated passage on page 17 repeats that a bundle is a group of services. The passage on page 18 relates to the information involved in the purchase of a bundle stating again that the bundles are bought through a purchase channel. The passage on page 25 refers to subscription data received after the purchase of a subscription and the data included therein. The board notes that the subscription data is different from the bundle of services. The passages on pages 28 and 29 relate to the purchase of bundles over purchase channels but do not give any details as to the network used for the transmission of the bundle or the purchase data.

The other parts of the description do not disclose either that data identifying a bundle is transmitted via a first network and the bundle itself is transmitted via a second network.

- 1.5 The board therefore notes that the application as filed discloses only the feature of transmitting via a first network broadcast data identifying one or more bundles, each bundle comprising a plurality of services, and, with respect to at least one of these bundles, data describing one or more channels of a second network through which the right to access the at least one of the bundles is obtained (i.e. bought) together with the feature that the at least one channel of the second network is a purchase channel.

These aforementioned features are clearly linked to each other. The board further notes that in the the described embodiments the first network has a high bandwidth and is, for example, a digital video broadcasting network (page 11, lines 11 to 13, and page 13, lines 6 and 7) and that, having that broadband network already available, it is consistent to use the second network only for purchasing a bundle which requires certainly less bandwidth than transmitting the bundle.

- 1.6 However, claim 1 does not contain the feature that the at least one channel of the second network is a purchase channel. Consequently, an intermediate generalisation has resulted.

- 1.7 In accordance with established case law, an intermediate generalisation may be allowable where the skilled person would directly and unambiguously recognise that there is no functional or structural

relationship between the extracted features and the omitted features. That is however not the case here, since there is clearly a functional and structural relationship between the use of two networks and the channel of the second network being a purchase channel. It follows that claim 1 is not directly and unambiguously derivable from the application as filed, contrary to Article 123(2) EPC.

1.8 The board therefore concludes that the subject-matter of claim 1 does not comply with Article 123(2) EPC.

2. *First to third auxiliary requests - claim 1 - Article 123(2) EPC*

2.1 With regard to claim 1 of each of these requests more features have been added. However, none of these claims include the feature of the at least one channel of the second network being a purchase channel (cf. points 1.6 and 1.7 above). Consequently, these claims respectively also concern an unallowable intermediate generalisation.

2.2 The board concludes that claim 1 respectively of the first, second and third auxiliary requests does not comply with Article 123(2) EPC either.

3. *Request for reimbursement of the appeal fee*

According to Rule 103(1)(a) EPC, one of the conditions for a reimbursement of the appeal fee is that the board deems the appeal to be allowable. Since this condition is not met, the request for reimbursement of the appeal fee is to be rejected.

4. *Conclusion*

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

Order

For these reasons it is decided that:

1. The appeal is dismissed.
2. The request for reimbursement of the appeal fee is rejected.

The Registrar:

The Chairman:



B. Brückner

J. Geschwind

Decision electronically authenticated