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Datasheet for the decision of 29 November 2021

Case Number: T 1355/19 - 3.5.05

Application Number: 11195203.2

Publication Number: 2472791

IPC: H04L12/28, H04L29/12

Language of the proceedings: EN

Title of invention:
Communication, monitoring and control architecture and method

Applicant:
Comcast Interactive Media, LLC

Headword:
Facilitating communication between incompatibile devices and/or applications in a network

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - (yes)

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Case Number: T 1355/19 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 29 November 2021

Appellant: (Applicant)	Comcast Interactive Media, LLC 1701 JFK Boulevard Philadelphia, Pennsylvania 19103 (US)
Representative:	V.O. P.O. Box 87930 2508 DH Den Haag (NL)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 6 December 2018 refusing European patent application No. 11195203.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair	A. Ritzka
Members:	P. Tabery
	E. Mille

Summary of Facts and Submissions

I. The appeal is directed against the examining division's decision dated 6 December 2018 refusing European patent application No. 11 195 203.2.

II. The examining division decided that the application did not fulfil the requirements of Article 56 EPC (main request and first and second auxiliary requests). A third auxiliary request was not admitted into the proceedings.

III. The documents referred to by the examining division included:

D1 WO 99/57839 A2, 11 November 1999

D2 US 2009/232020 A1, 17 September 2009

IV. In its statement setting out the grounds of appeal, the appellant (applicant) requested that a patent be granted on the basis of the claims in accordance with a main request or one of a first and a second auxiliary request, all submitted with the statement of grounds of appeal.

V. In a communication dated 26 October 2021, the board informed the appellant that it intended to remit the case to the examining division with the order to grant a patent and the reasons therefore.

VI. With a letter of reply dated 29 October 2021, the appellant withdrew its request for oral proceedings *"under the condition that the Request for Oral Proceedings [was] maintained in case the Board for any reason would intend to deviate from the ... favorable opinion".*

VII. The main request is identical to the first auxiliary request considered in the impugned decision.

VIII. **Claim 1** of the main request comprises the following features (as labelled by the board):

A method of operating a communication network device for coordinating communication between devices in a network, comprising:

(i) generating, by the communication network device, a first identification code;

(ii) assigning, by the communication network device, the first identification code to a first application executing on a first device, wherein the first identification code is unique to the first application executing on the first device;

(iii) receiving, by the communication network device, a transmission of data from a sending device, wherein the transmission specifies a recipient of the data using the first identification code, the recipient being different from the sending device;

(iv) determining, by the communication network device, that the transmission of data is incompatible with the first application based on compatibility information of the first application;

(v) modifying, by the communication network device, the data to generate a version of the data that is compatible with the first application;

(vi) determining, by the communication network device, that the transmission is incompatible with the first device based on compatibility information of the first device;

(vii) modifying, by the communication network device, the data to generate a version of the data compatible with the first device; and

(viii) transmitting, by the communication network device, the transmission of data to the recipient.

IX. Independent claims 6 and 11 are directed to a corresponding apparatus and system, respectively.

Reasons for the Decision

1. The application concerns a server *("communication network device")* which facilitates communication between devices and/or applications in a network without requiring each device to register with every other device or application. The server ensures compatibility of the data transmitted as well as the addressing of the receiving device/application.

2. Main request

2.1 Novelty (Article 54(1) EPC)

2.1.1 Feature (ii) of claim 1

In the impugned decision, the examining division considered that feature (ii) of claim 1 was disclosed in the passage *"page 45, lines 25-31"* of document **D1**.

In the grounds of appeal, the appellant argues that this passage fails to disclose feature (ii) since *"the 'service-id' and 'application-interface-id' referred to identify the devices 14, and not any applications being executed thereon"*.

The board concurs with the appellant that the *'service-id'* and *'application-interface-id'* mentioned in this passage identify devices since it is explicitly stated that the *"'service_id' or 'application_interface_id' includes the name, address or Web address or URL location of one or more **devices** 14"* [emphasis by the board]. Whether these identifiers also contain an

element referring to an *"application executing on a ... device"* is not derivable from the cited passage.

2.1.2 Features (iv)-(vii) of claim 1

As to features (iv)-(vii), the examining division referred to page 52, line 30 to page 53, line 1 and page 53, lines 1-12 of document **D1**.

The appellant argues that the claimed invention differs from document **D1** in that *"the communication network device of the invention verifies compatibility and modifies data to provide compatibility, both with respect to the application and the device on which it is running"*.

The board concurs with the appellant in that the first passage cited by the examining division merely discloses a determination whether the transmitted data is *"recognizable by the **device** 122"* [emphasis by the board]. It thus fails to disclose the claimed step of (iv), i.e. *"determining ... that the transmission of data is incompatible with the first **application**"* [emphasis by the board]. As to feature (v), the board concurs with the appellant that the second passage cited by the examining division fails to disclose modifying the data such that it is *"compatible with the first **application**"* [emphasis by the board]. On the other hand, regarding steps (vi) and (vii), the board holds that the passages cited by the examining division disclose the steps of *"determining"* and *"modifying"*, save for the aspect that these steps are to be performed by the communication network device.

2.1.3 Distinguishing features of claim 1

In otherwise following the feature analysis provided by the examining division in the impugned decision, the board considers that document **D1** discloses the features of **claim 1** as follows (the references in parentheses

are to **D1**; strike-through is used to mark features **D1** does not disclose, while alternative features disclosed in it are underlined):

A method of operating a communication network device for coordinating communication between devices in a network, comprising:

(i) generating, by the communication network device, a first identification code;
("typically a Dynamic Host Configuration Protocol (DHCP) software agent executes to assign an address and a default name to each device, and the address and a default name are added the interface of the service or device", see page 45, lines 28-31);

(ii) ~~assigning, by the communication network device, the first identification code to a first application executing on a first device, wherein the first identification code is unique to the first application executing on the first device~~;

(iii) receiving, by the communication network device, a transmission of data from a sending device; *("a first device 14 attempts to query the device interface of a second device 14", see page 40, lines 20-25)*, wherein the transmission specifies a recipient of the data using the first identification code, the recipient being different from the sending device *("The sending device 120 ... includes the address of the receiving device 122", see page 55, lines 1-4)*

(iv) ~~determining, by the communication network device, that the transmission of data is incompatible with the first application based on compatibility information of the first application~~;

(v) ~~modifying, by the communication network device, the data to generate a version of the data that is compatible with the first application~~;

(vi) determining, by the ~~communication network device~~ sending device, that the transmission is incompatible with the first device based on compatibility information of the first device; *("if a sending device 120 wishes to send data to a receiving device 122 which is known to use a different native format than that of the sending device 120", see page 54, lines 30-32)*

(vii) modifying, by ~~the communication network device~~ a translation server, the data to generate a version of the data compatible with the first device; *("the sending device 120 can send the data to the receiving device 122 by proxy through a translation server 124", see page 54, last line to page 55, first line)*

and

(viii) transmitting, by ~~the communication network device~~ a translation server, the transmission of data to the recipient *(see again page 54, last line to page 55, first line)*.

2.2 Inventive step (Article 56 EPC) of claim 1

The board holds that distinguishing features (ii), (iv) and (v) achieve the technical effect of allowing applications to be targeted individually and delivering the data in the correct format. On the other hand, the board considers that the fact that steps (vi), (vii) and (viii) are performed by the *"communication network device"* does not give rise to a technical effect since claim 1 does not specify any relationship between the *"assigning"* and *"modifying"* steps.

Document **D1** is concerned with establishing the communication of remote control units with home devices, i.e. security systems, theatre equipment, TVs, VCRs, etc. For this, an XML interface description is

downloaded which allows a device to control another device utilising XML remote procedure calls ("XML-RPC", see page 13, lines 13-18 or page 28, lines 7-12 of **D1**). On the controlled device, an XML to native lookup table is used to access and launch the native function implementations (see page 35, lines 14-17). Alternatively, a middleware layer HNORB may be used by the controlling device to access the native function implementations (see page 35, lines 19-22).

Hence, what is known from document **D1** achieves the same technical effect as the claimed subject-matter.

Consequently, the objective technical problem lies in providing an alternative solution for *allowing applications to be targeted individually and delivering the data in the correct format*.

Since document **D1** addresses a controlled native function implementation using native denominations, the skilled person finds no pointer in it towards generating and assigning a different, unique identification code to a certain application executing on a particular device. In addition, when modifying what is known from document **D1** to arrive at the claimed invention, the skilled person would have to realise that rather than requesting the interface library from the middleware layer, as in document **D1**, all communications may be sent to the middleware where they are redirected according to the unique identification code. Finally, document **D1** does not consider when data needs to be modified (translated) because of an incompatible **application**. To the contrary, the sending (controlling) device is provided with an XML interface description beforehand. Hence, the problem of incompatible application data does not arise, and thus the skilled person finds no motivation to envisage data

being modified (translated) according to the application.

For the above reasons, although the skilled person could have implemented the distinguishing features to arrive at the claimed subject-matter, the board is not convinced that they would have.

Consequently, the board considers that the subject-matter of **claim 1 of the main request** involves an inventive step over what is known from document **D1**.

The subject-matter of claim 1 differs from what is known from document **D2** at least in the same features as from document **D1**. Thus, the same considerations apply.

2.3 The subject-matter of independent claims 6 and 11 is inventive as well since it is directed to a corresponding apparatus and system, respectively, and so the same considerations apply mutatis mutandis.

3. Since the only objection raised in the impugned decision against the claims of the corresponding - at that time first auxiliary - request has been found not to be pertinent, the appeal is allowable.

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 with the order to grant a patent based on the claims according to the main request filed with the statement of grounds of appeal, with the description and the drawings to be adapted.

The Registrar: The Chair:

H.Jenney A. Ritzka

Decision electronically authenticated