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**Datasheet for the decision
of 18 December 2024**

Case Number: T 1532/23 - 3.5.05

Application Number: 19833282.7

Publication Number: 3800838

IPC: H04L61/4511, H04L101/695,
H04L101/30

Language of the proceedings: EN

Title of invention:

Identification device, identification method, and
identification program

Applicant:

NIPPON TELEGRAPH AND TELEPHONE CORPORATION

Headword:

Identification device/NIPPON CORP.

Relevant legal provisions:

EPC Art. 83, 111(1)
RPBA 2020 Art. 11, 12(8)

Keyword:

Sufficiency of disclosure - sole claim request (yes)
Remittal to the examining division on the basis of the sole
claim request (yes): novelty and inventive step not yet
finally assessed



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Case Number: T 1532/23 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 18 December 2024

Appellant: NIPPON TELEGRAPH AND TELEPHONE CORPORATION
(Applicant) 5-1, Otemachi 1-chome,
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Representative: Hoffmann Eitle
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 3 April 2023
refusing European patent application
No. 19833282.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair K. Bengi-Akyürek
Members: K. Schenkel
C. Almberg

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division to refuse the present European patent application. The refusal was based on the ground that the main request and the auxiliary request did not comply with Article 83 EPC.
- II. In this decision, reference is made to the following prior-art document:

D1: XIE, YINGLIAN et al.: "How Dynamic are IP Addresses?", SIGCOMM'07 Proceedings of the 2007 conference on Applications, technologies, architectures, and protocols for computer communications, 31 August 2007, pp. 301-312.
- III. With its statement setting out the grounds of appeal, the appellant requested that the appealed decision be set aside and that a patent be granted on the basis of the **main request** or the **auxiliary request** underlying the appealed decision.
- IV. In a communication under Article 15(1) RPBA, the board expressed its preliminary view that the main request did at least not comply with Article 84 EPC, but that the claims of the auxiliary request overcame the objections raised under Articles 83 and 84 EPC. The board further indicated effectively that, if said objection regarding the main request was overcome or if that request was withdrawn, it would remit the case to the examining division without the need of holding oral proceedings before the board.

- V. In a letter of reply, the appellant withdrew its main request and requested that a patent be granted on the basis of the claims of the auxiliary request.
- VI. Oral proceedings arranged before the board were then cancelled (cf. Article 12(8) RPBA).
- VII. **Claim 1** of the **auxiliary request** (sole claim request) reads as follows (board's labelling):
- (a) "An identification device (10) comprising:
 - (b) a specification unit (141) configured to specify a boundary dividing rows of IP addresses, which are included in an IP address block and sorted by a predetermined order based on a magnitude of numerical values of octets of the IP addresses, into a plurality of parts based on predetermined information about the IP addresses, the predetermined information including an AS number, a PTR record comprising an effective second level domain, e2LD,
 - (c) and wherein, when a Jaro-Winkler distance between a first PTR record excluding an effective second level domain (e2LD) from a host name of a first IP address and a second PTR record excluding an e2LD from a host name of a second IP address, which is subsequent to the first IP address in the order of the row, is equal to or less than a threshold value, the specification unit (141) specifies a position between the first IP address and the second IP address as the boundary; and an
 - (d) identification unit (142) configured to identify the IP addresses included in a part as dynamic IP addresses when the part divided by the boundary satisfies a predetermined condition, constituted by

the number of the IP address included in the part being equal to or higher than a threshold value."

VIII. Independent **claim 2** of the **auxiliary request** reads as follows (board's labelling):

- (a) "An identification method executed by a computer, the identification method including:
- (b) a specification process of specifying a boundary dividing rows of IP addresses, which are included in an IP address block and sorted by a predetermined order based on a magnitude of numerical values of octets of the IP addresses, into a plurality of parts based on predetermined information about the IP addresses, the predetermined information including an AS number, a PTR record comprising an effective second level domain, e2LD, and wherein[sic],
- (c) wherein, when a Jaro-Winkler distance between a first PTR record excluding an effective second level domain (e2LD) from a host name of a first IP address and a second PTR record excluding an e2LD from a host name of a second IP address, which is subsequent to the first IP address in the order of the row, is equal to or less than a threshold value, the specification unit (141) specifies a position between the first IP address and the second IP address as the boundary; and
- (d) an identification process of identifying the IP addresses included in the part as a dynamic IP addresses when the part divided by the boundary satisfies a predetermined condition, constituted by the number of the IP address included in the part is equal to or higher than a threshold value, the identification unit (142) identifies the IP addresses included in the part as a dynamic IP

address."

Reasons for the Decision

1. Sufficiency of disclosure (Article 83 EPC)
 - 1.1 The decision under appeal, referring to section 2.1 of document D1, indicated that, according to the applicant, the claimed invention exploited "statistical properties" and that these properties or assumptions could not be considered to be true for the whole range of IP addresses claimed. The examining division further argued in its summons to oral proceedings and its communication dated 10 March 2023 that the application did not give any hint as to how to determine the "thresholds" for dividing the list of IP addresses over the whole range claimed, i.e. over any IP-address block that may exist.
 - 1.2 The board is however of a different view. The present application in fact explains in paragraphs [0032] to [0034] of its description as originally filed how to actually calculate the "Jaro-Winkler distance". According to this calculation procedure, the *Jaro-Winkler distance* can in fact be calculated for any possible pair of strings and thus PTR records excluding the e2LD of two subsequent IP addresses as claimed. The application further provides in paragraph [0036] an example for the value of the "threshold", namely the value "0.9000".

In view of the above information given in the present application, there is no reason why a skilled person could not put into practice a device configured to specify the position of a boundary irrespective of the

specific IP addresses in the list. Even if all calculated *Jaro-Winkler distances* were to stay above a specific threshold, it would be apparent that the "threshold" needs to be increased.

1.3 The board is aware that the identification "as dynamic IP addresses" in feature (d) is no firm guarantee that these IP addresses are in fact *dynamic* since the procedure relies on certain assumptions. It appears however, that "to identify [...] as dynamic IP addresses" is to be understood as tagging IP addresses as dynamic IP addresses and that the effect of truly identifying dynamic IP addresses is not claimed. Thus, the invention as defined by independent claims 1 and 2 is sufficiently disclosed over the whole scope claimed.

1.4 The claimed invention according to the present auxiliary request therefore complies with Article 83 EPC.

2. Remittal (Article 111(1) EPC; Article 11 RPBA)

2.1 Given that the claimed invention according to the present independent claims 1 and 2 now complies with Article 83 EPC, the sole ground for refusal is overcome.

2.2 However, this request has still to be examined for compliance with the other requirements of the EPC, in particular novelty and inventive step, which were not finally decided upon by the examining division. Under the present circumstances, it would therefore not be prudent to take a final decision on e.g. novelty and inventive step for the first time in these appeal proceedings. The above considerations represent

"special reasons" within the meaning of Article 11 RPBA for a remittal of the case.

- 2.3 In view of the above, the board has decided to remit the case to the examining division for further prosecution under Article 111(1) EPC, on the basis of the claims of the **auxiliary request** on file.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the examining division for further prosecution.

The Registrar:

The Chair:



B. Brückner

K. Bengi-Akyürek

Decision electronically authenticated