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Datasheet for the decision
of 8 October 2025

Case Number: T 1775/23 - 3.5.06

Application Number: 19201836.4

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IPC: G06F9/50, H04L12/24

Language of the proceedings: EN

Title of invention:
METHOD FOR CONTROLLING ON-DEMAND SERVICE PROVISIONING

Applicants:
Koninklijke KPN N.V.
Nederlandse Organisatie voor Toegepast Natuurwetenschappelijk
Onderzoek TNO
IMEC VZW
Universiteit Gent

Headword:
Service Request/KPN

Relevant legal provisions:
EPC Art. 84
RPBA 2020 Art. 13(1)

Keyword:
Claims - clarity - main request (no)
Amendment to appeal case - suitability of amendment to resolve
issues raised (no)

Decisions cited:
G 0001/24, T 1561/23, T 3097/19

Catchword:
claim interpretation and clarity - G1/24; see reasons 11 to 14

Case Number: **T 1775/23 - 3.5.06**

D E C I S I O N
of Technical Board of Appeal 3.5.06
of 8 October 2025

Appellant: (Applicant 1)	Koninklijke KPN N.V. Wilhelminakade 123 3072 AP Rotterdam (NL)
Appellant: (Applicant 2)	Nederlandse Organisatie voor Toegepast Natuurwetenschappelijk Onderzoek TNO Anna van Buerenplein 1 2595 DA 's-Gravenhage (NL)
Appellant: (Applicant 3)	IMEC VZW Kapeldreef 75 3001 Leuven (BE)
Appellant: (Applicant 4)	Universiteit Gent Sint-Pietersnieuwstraat 25 9000 Gent (BE)
Representative:	De Vries & Metman Overschiestraat 180 1062 XK Amsterdam (NL)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 27 March 2023 refusing European patent application No. 19201836.4 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman   G. Zucka
Members: T. Alecu
                B. Müller

Summary of Facts and Submissions

I.   The appeal lies from the decision of the Examining
        Division to refuse the application for lack of novelty
        in view of document

        D3: US 2014/317293.

II.   The Appellant requested that the decision of the
        Examining Division be set aside and, in the following
        order, that
             (i)   the case be remitted to the Examining
                    Division for reassessment in view of
                    G 1/24, or
             (ii)   a patent be granted on the basis of the
                    request underlying the decision of the
                    Examining Division (main request), or
             (iii) a patent be granted on the basis of the
                    claims of one of the first or second
                    auxiliary request filed on
                    5 September 2025, or
             (iv)   a patent be granted on the basis of the
                    claims of a third auxiliary request filed
                    during the oral proceedings before the
                    Board.

III.   In a communication of 3 July 2025 accompanying a
        summons to oral proceedings, the Board provided its
        preliminary opinion that claim 1 of the main request
        lacked clarity; Article 84 EPC. During the oral
        proceedings the Board confirmed its opinion on the main
        request and did not admit any of the auxiliary requests
        pursuant to Article 13(1) RPBA.

IV.   Claim 1 of the main request defines (numbering by the
        Appellant, statement of grounds of appeal page 2):

        *1. A computer-implemented method for controlling on-
        demand service provisioning in a network comprising
        resources for providing a service, the method
        comprising the steps of:*
        *1.1. intercepting an http request from a user device
        that points to the service;*
        *1.2. generating a service request on the basis of a
        service identifier comprised in the http request;*
        *1.3. sending the generated service request to a service
        control node;*
        *1.4. the service control node detecting the service
        request;*
        *1.5. the service control node determining at least a
        first network function required for the service
        associated with the service request;*
        *1.6. the service control node instantiating the at
        least first network function on a resource in the
        network for executing the service in the network;*
        *1.7. the service control node configuring a routing
        path for service flows associated with the service
        request to enable redirection of data packets
        associated with the service request to the at least
        first instantiated network function.*

V.   Claim 1 of the first auxiliary request differs
        therefrom in the following features (same numbering):

        *1.1 intercepting, by a service request transmitter, a
        request on the basis of a service identifier in traffic
        from a user device;*
        ..
        *1.4 the service control node detecting the service
        request from within the network;*

..
*1.7. the service control node configuring a routing
configuration that enables redirection of data packets
associated with the service request to the at least
first instantiated network function.*

VI.   Claim 1 of the second auxiliary request differs from
that of the first auxiliary request in feature 1.4 by
deleting the term "*from within the network*"; the
feature is therefore identical to that of the main
request.

VII.   Claim 1 of the third auxiliary request differs from
that of the main request in the following features
(highlighting by the Board):

*1.1 intercepting a service identifier in data packets
running through a network node;
1.2 the network node generating a service request on
the basis of the service identifier;
..
1.4 the service control node determining at least a new
first network function required for the service
associated with the service request;
1.5 the service control node instantiating the at least
new first network function on a resource in the network
for executing the service in the network;
1.7. the service control node configuring a routing
configuration that enables redirection of data packets
associated with the service request to the at least new
first instantiated network function.*

Reasons for the Decision

The application

2.   The application relates to provisioning services in a
        cloud environment. It addresses problems caused by the
        fact that it is difficult to predict how much a certain
        service will be used (see bottom of page 1). To avoid
        wasting resources by over provisioning, or delays in
        providing the service by under provisioning (see top of
        page 2), the application proposes to instantiate the
        needed service function chains on demand, i.e. when and
        if the user needs it (see bottom of page 9).

Request for remittal

3.   The Examining Division refused the main request for
        lack of novelty of the subject-matter of claim 1 in
        view of D3. The Examining Division and the Appellant
        disagreed on claim interpretation, in particular of
        features 1.1, 1.2 and 1.7 (see decision at 18.2.1, see
        statement of grounds of appeal bottom of page 2 and
        page 3).

4.   The Appellant requested remittal because it was clear
        that the Examining Division had used claim
        interpretation principles which were not, or at least
        no longer, correct in view of G 1/24, which decided
        that the description and drawings should always be
        consulted for claim interpretation. The Appellant
        referred to the minutes of the oral proceedings before
        the Examining Division at point 5.12 and to the
        appealed decision at point 18.2.1, where it was made
        clear that the Examining Division interpreted the
        claims "on their own".

4.1   The case should hence be remitted for reconsideration
       by the Examining Division in view of G 1/24.

5.   The Board notes that a decision to remit lies within
       the discretion of the Board (Article 111(1) EPC).

       In the present case, the Board already delved into the
       matter of claim interpretation before the oral
       proceedings in its preliminary opinion (see points 4
       to 12 of its communication pursuant to Article 15(1)
       RPBA). The Appellant reacted thereto with its letter
       dated 4 September 2025.

6.   In view of this, the Board did not consider claim
       interpretation following G 1/24 a special reason in the
       meaning of Article 11, first sentence, RPBA for
       remitting the case to the Examining Division. According
       to that provision, the Board shall not remit a case to
       the department whose decision was appealed for further
       prosecution, unless special reasons present themselves
       for doing so. Consequently, the Board decided to
       exercise the power of the Examining Division in order
       to rule on the matter of claim interpretation, as well
       as on any (already raised) issues depending on claim
       interpretation, such as clarity (see G 1/24 reasons 17)
       or novelty.

Main request: claim interpretation and clarity

7.   The Examining Division found (see in particular points
       14.2.1, 15.1.1, 18.2 and 18.2.1) that the wording of
       claim 1 was very broad, and that the claim could be
       interpreted to define a method for provisioning a
       service upon a request for deployment for the user. In
       particular:

(a) in feature 1.1, without any specification of
    further details or of the technical means
    performing the intercepting, *intercepting* could be
    read as merely *receiving*;

(b) in the same feature, the expression "a request *that
    points to the service*" only meant that the service
    was identified in the http request;

(c) also, in feature 1.7 the *redirection* was implicit
    for any data packets sent to the requested service,
    after the service was deployed.

8.   The Board indicated in its communication of 3 July 2025
      (points 10 and 11) that it was of the provisional
      opinion that, in fact, the claims were not clear
      (Article 84 EPC). A clear claim interpretation was not
      possible.

9.   The Appellant was of the view that the claim was clear,
      and the claim terms should be interpreted in accordance
      with the description, also in view of G 1/24.

9.1   When doing so, one arrived at the conclusion that the
      claim terms defined that "*the at least one network
      function for a service is instantiated at the time a
      user device sends an http request that points to the
      service, i.e. actually tries to use the service*" (as
      summarised in the statement of grounds of appeal, third
      paragraph on page 9).

9.2   In response to the communication of the Board and
      during the oral proceedings the Appellant explained
      with reference to the description (page 4, lines 26
      to 30, page 10, lines 12 to 17) that the term
      intercepting was different from *receiving*. It implied
      that data packets sent for processing to a service were
      read, and a service identifier was extracted therefrom.
      A corresponding service request was then *generated* and

sent to the service node, informing the latter of the
need for that service.

9.3   The service node *determined* (feature 1.4) which
        functions were necessary for the service to be
        provided, and whether they were already deployed and
        could meet the demand, or whether new service functions
        needed to be instantiated. The creation of new service
        functions was performed on demand, conditional upon the
        need. This was implicit in the term "determining" read
        in view of the description (page 13, lines 1 to 10).

9.4   Afterwards, the data packets to be processed were
        redirected accordingly, to the network functions
        providing the desired service (page 13, lines 15
        to 19).

The Board's opinion

10.   The Board notes first that claim 1 nowhere defines the
        nature of the request explicitly.

10.1   The term "*request .. that points to a service*" (feature
        1.1) is ambiguous and may indeed, as the Examining
        Division stated, be read to define a request that
        identifies a service that is desired, so a request for
        deployment.

10.2   This reading would be consistent with the fact that the
        data packets (defined in feature 1.7) are only
        "*associated with*" the request, so they can be provided
        later, after the service is established. In this
        context *redirection* simply means, as usual, that a
        receiving node on the cloud providing the service
        redirects them on a routing path to the appropriate
        virtual devices.

10.3   The term *determining*, on which the Appellant relies to
        define a conditionality for provisioning services only
        when needed, merely defines, in the context of the
        claim as drafted, that the service node determines

which functions are needed to provide the desired
services (feature 1.5), and then instantiates them
(feature 1.6), without any implied conditionality.

11.   The term *intercepting* in feature 1.1 is indeed
       different from *receiving,* as the Appellant argued. But
       the claim does not define in what the interception
       consists. It does not even define the intended
       recipient, or the intercepting component.

11.1   If anything, this term, and only this one, raises a
       question mark over an otherwise straightforward
       interpretation (provided by the Examining Division) of
       the claim wording, as one for a method of deploying a
       service upon a request for deployment of that service
       from a user.

12.   The description itself may indeed be said to support,
       generally, the interpretation of the Appellant. But
       even the description remains ambiguous. The Appellant
       did not provide passages with clear definitions, and
       the Board does not see any either, of e.g. the term
       request that points to a service, or of the term
       intercepting, or of the term *determining,* to mean what
       the Appellant apparently intends them to mean. This
       intended meaning can only be gleaned, in the Board's
       view not unambiguously, or at least not exclusively,
       from the text of the application.

13.   Even if the description were clear about the intended
       meaning of the terms, the Board notes that the
       relatively large discrepancy between the
       straightforward interpretation of the wording of the
       claim (on its own), and the apparent intended meaning
       would already be a problem of clarity.

13.1   It is the Applicant/Appellant which chooses the wording
       of the claim, and it is reasonable to think that the

Applicant may aim for a broad scope of protection. Thus, if the wording of the claim allows for different, broader interpretations, then the question arises whether matter covered by such broader interpretations is protected or not - which is an issue of clarity (see also T 3097/19, reasons 30 to 32).

13.2   G 1/24 states (reasons point 18) that the description and drawings are always referred to when interpreting the claims. But this does not mean that in all cases definitions or meanings of the terms that may be implied by the description must necessarily be adopted (see also decision T 1561/23 from the present board in a different composition, reasons 2.10). Instead, the assessment will depend on the circumstances of the case at hand.

13.3   Furthermore, as also stated in G 1/24 (reasons 20), the correct answer to an objection of lack of clarity is, in examination, amendment, in order to remove any ambiguities as to what the intended protection may be.

14.   It follows from the above that the act of interpretation does not lead to a clear understanding as to for which matter protection is sought (see G1/24 reasons 17). The Board concludes that claim 1 of the main request lacks clarity (Article 84 EPC).

Auxiliary requests

15.   All auxiliary requests were filed by the Appellant after the communication of the Board under Article 15(1) RPBA. Their admittance is therefore subject to the provisions of Article 13 RPBA.

16.   The Appellant argued that the Board raised a new objection in its communication, that of lack of

clarity, and this would provide exceptional
circumstances as required by Article 13(2) RPBA.

17.   The Board is not convinced by this argument, because
         the objection of lack of clarity was a direct
         consequence of the dispute on claim interpretation
         which was already part of the decision under appeal
         (see above point 3).

18.   Be that as it may, the Board notes that none of these
         requests appears to address in a suitable manner the
         objections above (points 10 to 14).

18.1   In particular, the conditionality of the provisioning -
         which the Appellant saw in the term "*determining*" (see
         points 9.3 and 10.3 above) is not clearly defined in
         any of these requests.

18.2   The addition of the term "new" in the third auxiliary
         request was meant to address this issue. The Appellant
         referred to the description page 13, lines 1 to 10, to
         explain that a new service function was instantiated
         only if necessary - so conditionality was implied by
         the term "new".

18.3   The addition is in the Board's view clearly
         insufficient to address the objection. That is because
         even if the instantiation of the service function is
         not conditional, as per the interpretation of the
         Examining Division, it will still be a "new" service
         function. So the tension in claim interpretation
         remains.

19.   The Board decides therefore not to admit auxiliary
         requests 1 to 3 into the appeal proceedings pursuant to
         Article 13(1) RPBA.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

C. Rodríguez Rodríguez G. Zucka

Decision electronically authenticated