Datasheet for the decision of 5 October 2011

Case Number: T 1420/08 - 3.5.03
Application Number: 03018919.5
Publication Number: 1509049
IPC: H04Q 7/22
Language of the proceedings: EN

Title of invention:
Methods and systems for providing information to mobile users over limited bandwidth

Applicant:
Accenture Global Services Limited

Headword:
Providing information over limited bandwidth/ACCENTURE

Relevant legal provisions:
EPC Art. 56

Relevant legal provisions (EPC 1973):
-

Keyword:
"Inventive step (main, first to sixth auxiliary requests) - no"

Decisions cited:
T 0641/00

Catchword:
-
Case Number: T 1420/08 - 3.5.03

DECISION
of the Technical Board of Appeal 3.5.03
of 5 October 2011

Appellant: Accenture Global Services Limited
3 Grand Canal Plaza
Grand Canal Street Upper
IE-Dublin 4 (IE)

Representative: Müller-Boré & Partner
Patentanwälte
Grafinger Straße 2
D-81671 München (DE)

Decision under appeal: Decision of the Examining Division of the European Patent Office posted 26 February 2008 refusing European patent application No. 03018919.5 pursuant to Article 97(2) EPC.

Composition of the Board:
Chairman: A. S. Clelland
Members: A. J. Madenach
R. Moufang
Summary of Facts and Submissions

I. The present appeal is against the decision of the examining division to refuse application No. 03018919.5 on the ground that the independent claims either did not fulfil the requirement of Article 56 EPC (main, first and third auxiliary requests) or that of Article 123(2) EPC (second auxiliary request).

With respect to inventive step, the examining division cited:

D1: EP 1262931 A

II. The appellant requested that the decision of the examining division be set aside and a patent be granted on the basis of a main request or of auxiliary requests 1 - 3, all filed with the grounds of appeal. The claims of these requests correspond to those considered by the examining division. As an auxiliary measure, oral proceedings were requested.

III. The board summoned the appellant to oral proceedings. In a communication accompanying the summons, objections under Articles 84 and 56 EPC were raised in respect of the claims of the then pending requests.

IV. In reply to the board's communication, the appellant submitted with letter dated 5 September 2011 a new main request and auxiliary requests 1 - 6 and requested the issuance of a communication under Rule 71(3) EPC on the basis of these requests. As an auxiliary measure, the appellant requested that the previous auxiliary requests 1-3 be maintained as auxiliary requests 7-9 respectively.
V. The oral proceedings took place on 5 October 2011. The appellant essentially confirmed the previous requests, i.e. that the decision under appeal be set aside and a patent be granted on the basis of the main request or, in the alternative, any one of the first to sixth auxiliary requests, all requests having been filed with the letter dated 5 September 2011. The appellant did not maintain the auxiliary requests 7-9.

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

VI. Independent claim 9 according to the main request reads as follows:

"A mobile terminal (201), comprising:
a display screen;
an input system (307) for receiving user input;
a wireless communications subsystem;
a processor (301),
memory (311) on which computer executable instructions to be executed by the processor (301) are stored, such that the mobile terminal (201) is adapted to:
(i) load a first or a second local client executable application (315) for decoding a coded short text messaging system message;
(ii) receive the coded short text messaging system message via the wireless communications subsystem, wherein the coded short text messaging system message comprises compressed data;
(iii) decoding the received short text messaging system message using a set of short codes that comprises short codes unique to the first or second application
to be translated into human understandable format and administrative short codes consistent for the first and second applications used for instructing the first or second application,

wherein the set of short codes for the first local client executable application comprises unique short codes referring to information related to the first local client executable application, and

wherein the set of short codes for the second local client executable application comprises unique short codes referring to information related [sic] the second local client executable application.

This claim corresponds to claim 9 as considered by the examining division in the impugned decision with the addition of the last two features.

Claim 9 according to the first auxiliary request essentially adds the further feature: "the first and the second local client executable applications being different local client executable applications and the first local client executable application (315) customized to provide information on a first topic and the second local client executable application (315) customized to provide information on a second topic, wherein the first topic and the second topic are different".

Claim 9 according to the second auxiliary request essentially adds to claim 9 of the first auxiliary request the further feature: "wherein said administrative short codes are used for the same purpose in said first local client executable application and said second local client executable application".
Claim 7 according to the third auxiliary request essentially adds to claim 9 of the second auxiliary request the further feature: "wherein the human understandable format comprises text in a native language of the user of the mobile terminal (201) and/or graphics".

Claim 7 according to the fourth auxiliary request essentially adds to claim 7 of the third auxiliary request the further feature: "wherein instructing the first or second local client executable application comprises the first or second local client executable application to flush its memory [sic]".

Claim 7 according to the fifth auxiliary request essentially adds to claim 7 of the fourth auxiliary request the further feature that the client executable applications "are associated with different microportals".

Claim 7 according to the sixth auxiliary request essentially adds to claim 7 of the fifth auxiliary request the further feature that "each unique short code [is] associated with information used to determine how to order the output of the mobile terminal".

Independent claim 1 of all requests relates to a corresponding method.

Reasons for the decision

1.1 Inventive step (main request), Article 56 EPC:
The board understands the present invention as claimed in claim 9 according to the main request to essentially reside in a mobile terminal having a memory into which computer executable instructions can be loaded and stored. Specifically, these computer executable instructions comprise local client executable applications for decoding text messages which comprise compressed data. (It is noted that according to paragraphs [0038] and [0039] the text messages are coded and decoded in order to reduce the amount of transmitted data.) The text messages comprise short codes unique to various applications, such as reports on soccer games or automobile races, and the local client executable applications are able to translate these into "human understandable format". Furthermore, administrative short codes which are consistent between the various applications are used for instructing the applications.

1.2 The board considers D1 as the closest prior art.

D1 relates to coding and decoding text messages in mobile communications in order to reduce the length of the transmitted message (see abstract). Hence it comprises explicitly and implicitly the generic features relating to a mobile terminal recited in the part of claim 9 preceding feature (i).

The electronic device shown in Figure 1 of D1, which can be a mobile telephone as shown in Figure 2, comprises a processing logic 104 with an electronic code book stored therein (column 9, lines 41-57). Such a code book together with the application used for reading it (column 9, lines 47-51) is understood to correspond to a
first or second local client executable application for decoding a coded short text messaging system message. It is loaded into the mobile device (column 9, lines 13-15).

The mobile terminal of D1 is furthermore adapted to receive the coded short text messaging system message via the wireless communication subsystem (feature (ii) of claim 9) (D1, column 9, line 58 - column 10, line 11).

Hence, the mobile terminal of D1 is adapted to decoding the received short text messaging system message using a set of short codes that comprises short codes unique to the first or second application to be translated into human understandable format (D1, ibidem).

The appellant is essentially in agreement with this analysis (see letter of 5 September 2011, point VI.).

Furthermore, according to D1 there may be a plurality of different code books which may be mutually exclusive (column 11, lines 12-31) and which are understood to be intended together with the application used for reading them for decoding short code specific to them. Hence, D1 also discloses the feature "wherein the set of short codes for the first local client executable application comprises unique short codes referring to information related to the first local client executable application, and wherein the set of short codes for the second local client executable application comprises unique short codes referring to information related [to] the second local client executable application".

Finally, according to D1 (column 11, lines 27-29) "a portion of the message itself can be arranged to inform the target device which code book to select". From this passage follows that an instruction, i.e. an
administrative code (here: the selection of a particular codebook), in the form of a text message is sent to the mobile terminal. On the basis of the above understanding of a code book together with the application used for reading it corresponding to a local client executable application, it is clear that the administrative code sent to the mobile device must be readable for the first and second applications, i.e. consistent for the two applications in the terminology of claim 9, because otherwise at least one of the two applications would not be able to read the administrative code.

1.3 Hence, the claimed device differs from the device known from D1 by the administrative codes being "administrative short codes".

The objective problem could thus be seen in providing administrative codes to mobile devices in a way to reduce the required bandwidth.

1.4 The solution to the above problem is already given in D1 which teaches to use short code for text messages in general (see abstract).

Hence, it would have been obvious to the skilled person to have the administrative codes which, according to D1, are part of text messages (column 11, lines 27-29) in the form of short codes.

1.5 In this respect, the appellant essentially argued that D1 teaches away from the invention.

It was argued that if the instruction was for the selection of a specific code book, no short code could
have been used for the instruction since no code book to be used for decoding the short code would have previously been designated.

The board does not accept this argument. It would have been self-evident to the skilled person that the administrative short code must necessarily be understandable for all code books which might run on the mobile device in order to ensure that it can always be understood and, therefore, "consistent" for all the applications running on the mobile device.

1.6 The appellant also argued that the claimed subject-matter related to two different local client executable applications which, on the basis of the context of the application, were present on the mobile terminal at the same time. According to D1 only one application could be present at a given time because in D1 a code book together with the application used for reading it corresponded to the claimed local application (see point 1.2 above) and because it appeared from column 11, lines 12-31 of D1 that only one code book was used at a given time.

The appellant's argument is not considered convincing since such a feature is neither claimed nor does it form part of the originally filed application. The skilled person would moreover not understand the application in such a sense since mobile devices running several applications at a time were not common at the filing date of the application in suit.
1.7 The board concludes that the subject-matter of claim 9 of the main request does not involve an inventive step with respect to the disclosure of D1 (Articles 52(1) and 56 EPC).

2. Auxiliary requests (inventive step), Article 56 EPC:

2.1 Claim 9 according to the first auxiliary request essentially adds the further feature: "the first and the second local client executable applications being different local client executable applications and the first local client executable application (315) [being] customized to provide information on a first topic and the second local client executable application (315) [being] customized to provide information on a second topic, wherein the first topic and the second topic are different".

The first part of this feature, i.e. "the first and the second local client executable applications being different local client executable applications", was introduced to clarify the term "unique to" and to underline the fact that the first and second local client executable applications are different to one another.

However, claim 9 of the main request has been interpreted by the board in this sense. Hence, the considerations set out above with respect to claim 9 of the main request apply, mutatis mutandis, to claim 9 of the first auxiliary request. Specifically, this part of the feature is known from D1 (column 11, lines 12-31).
The second part merely specifies that the applications provide information on first and second topics and thus relates to non-technical subject-matter which is not taken into account when considering inventive step. The board follows here the reasoning set out in T 641/00, OJ 2003, 352: headnote 1.

The board concludes that the subject-matter of claim 9 of the first auxiliary request does not involve an inventive step with respect to the disclosure of D1 (Articles 52(1) and 56 EPC).

2.2 Claim 9 according to the second auxiliary request essentially adds the further feature: "wherein said administrative short codes are used for the same purpose in said first local client executable application and said second local client executable application".

This feature was introduced to clarify the term "consistent for" in feature (iii). It does not limit the claim additionally or require that anything be added to the arguments already provided in relation to the main request in the context of the administrative code.

The board concludes that the subject-matter of claim 9 of the second auxiliary request does not involve an inventive step with respect to the disclosure of D1 (Articles 52(1) and 56 EPC).

2.3 Claim 7 according to the third auxiliary request essentially adds the further feature: "wherein the human understandable format comprises text in a native language of the user of the mobile terminal (201) and/or graphics".
According to D1, decoded text is rendered as plain text (see abstract). It would have been obvious to the skilled person on the basis of the plain text examples given in column 10, lines 19-29, to use text in a native language of the user.

The board concludes that the subject-matter of claim 7 of the third auxiliary request does not involve an inventive step with respect to the disclosure of D1 (Articles 52(1) and 56 EPC).

2.4 Claim 7 according to the fourth auxiliary request essentially adds the further feature: "wherein instructing the first or second local client executable application comprises the first or second local client executable application to flush its memory".

D1 is silent about the possibility of flushing one of its memories. It is, however, implicit that a mobile terminal receiving text messages, as in D1, must provide this functionality in order to be able to receive further text messages once the relevant memory is full. This was pointed out in general terms by the examining division.

The problem to be solved by this feature can thus be seen in providing a specific way to flush the mobile terminal's memory.

The board moreover notes that the above feature as well as the relevant part of the description are unspecific as to exactly what memory is concerned. This question
It was not contested at the oral proceedings that several ways of flushing a memory in a mobile device were known to the skilled person at the filing date of the present application.

Considering the update of codebooks described in paragraphs [0051] and [0061] of D1 it would have been obvious to the skilled person to notify the user of the mobile device of an update in order to give the user the option to accept or decline an update. Any software update can be expected to require that the working memory be flushed and the device restarted, but even if this were not the case it would be necessary to flush the codebook memory in order to create enough memory for the updated codebook. Such a notification of a codebook update would necessarily comprise administrative code for flushing the mobile terminal's memory.

On the basis of the teaching of D1, i.e. reducing the bandwidth used for sending text messages, it would have been obvious to the skilled person that this notification is sent in a coded form to be decoded by the resident code book with the application used for reading it, i.e. by the local client executable application. Hence, it would have been obvious to the skilled person that the text message comprises an administrative short code instructing the local client executable application to flush the mobile device's memory.
The board concludes that the subject-matter of claim 7 of the fourth auxiliary request does not involve an inventive step with respect to the disclosure of D1 (Articles 52(1) and 56 EPC).

2.5 Claim 7 according to the fifth auxiliary request essentially adds the further feature that the client executable applications "are associated with different microportals".

There was agreement that a microportal should be understood as a website that is used as a point of entry to the internet where information has been collected that will be useful to a particular person or group.

According to D1, the automatic selection of a particular code book may be dependent, *inter alia*, on the telephone number of the sender (col. 11, lines 21-25). Hence, the client executable application based on a specific code book is associated with a specific telephone number. At the filing date of the present application, it was a generally known possibility to send text messages from an internet webpage to mobile devices in addition to sending message from a telephone. It would thus have been obvious to the skilled person to include this possibility in the list of associations given in D1 in order to make sure text messages sent by this channel are also correctly decoded. Hence, it would have been obvious to associate a code book with the application used for reading it, *i.e.* by the local client executable application, with a microportal.

The board concludes that the subject-matter of claim 7 of the fifth auxiliary request does not involve an
inventive step with respect to the disclosure of D1 (Articles 52(1) and 56 EPC).

2.6 Claim 7 according to the sixth auxiliary request essentially adds the further feature that "each unique short code [is] associated with information used to determine how to order the output of the mobile terminal".

Given the fact that the term "information" in this feature is vague and unspecified and that this feature does not comprise any clear technical teaching, the board concludes that this feature is solely concerned with the presentation of information, i.e. for displaying and ordering the output (page 6, lines 51 and 52 of the published application), and is, hence, not to be taken into account for determining an inventive step. Reference is directed to the reasoning developed in T 641/00 (OJ 2003, 352: headnote 1), which the board considers also to apply, mutatis mutandis, to a presentation of information.

The board concludes that the subject-matter of claim 7 of the sixth auxiliary request does not involve an inventive step with respect to the disclosure of D1 (Articles 52(1) and 56 EPC).

3. Since none of the independent device claims of the main and first to sixth auxiliary requests complies with the requirements of Article 56 EPC (inventive step) none of these requests is allowable. It is therefore not necessary to consider whether these claims comply with the further requirements of the EPC or to consider any further claims.
Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar                      The Chairman

G. Rauh                           A. S. Clelland