Datasheet for the decision of 14 September 2012

Case Number: T 0633/12 - 3.5.05
Application Number: 04255299.2
Publication Number: 1519534
IPC: H04L 29/06, H04L 29/08, H04Q 7/38, H04L 12/56

Language of the proceedings: EN

Title of invention:
Method and apparatus for secure wireless delivery of converged services

Applicant:
Avaya Inc.

Headword:
Wireless application layer broker/AVAYA

Relevant legal provisions:
EPC Art. 123(2)

Keyword:
"Added subject-matter (main request) - no (after amendment)"
"Remittal for further prosecution"
Case Number: T 0633/12 - 3.5.05

DECISION
of the Technical Board of Appeal 3.5.05
of 14 September 2012

Appellant: Avaya Inc.
(Applicant)
211 Mount Airy Road
Basking Ridge
NJ 07920 (US)

Representative: Williams, David John
Page White & Farrer
Bedford House
John Street
London WC1N 2BF (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 21 July 2011
refusing European patent application
No. 04255299.2 pursuant to Article 97(2) EPC.

Composition of the Board:
Chair: A. Ritzka
Members: P. Cretaine
G. Weiss
Summary of Facts and Submissions

I. This appeal is against the decision of the examining division to refuse European patent application No. 04 255 299.2, published as EP 1 519 534. The decision was announced in oral proceedings held on 30 June 2011 and written reasons were dispatched on 21 July 2011.

II. The application was refused because the independent claims 1 and 16 according to the sole request did not meet the requirements of Article 123(2) EPC.

III. The notice of appeal was received on 28 September 2011 and the appeal fee was paid on the same day. In the statement setting out the grounds of appeal, received on 30 November 2011, the appellant (applicant) requested that the appealed decision be set aside and that the application be remitted to the examining division for further examination on the basis of the claims of either a main request or a first or second auxiliary request, in that order of preference. Oral proceedings were requested as a precautionary measure.

IV. The board is in the position, on the basis of the written submissions, to take a decision and judges that the claims according to the main request meet the requirements of Article 123(2) EPC.

V. Claim 1 according to the main request reads as follows:

"1. A wireless communication system, comprising:
one or more wireless communication devices (110-1, 110-2, 110-N); and
at least one application server (170) for delivering content to said one or more wireless communication devices, characterised by:
an application layer broker between said one or more wireless communication devices and said at least one application server, wherein said application layer (200) is adapted to provide an indirect coupling between said at least one application server and said one or more wireless communication devices, and wherein said indirect coupling is event triggered; and
an event triggered content delivery mechanism, wherein said event-triggered content delivery mechanism allows for the application broker to receive requests to transfer said content;
a secure service delivery mechanism that transfers said content from said application server to said application layer broker; and
a service indication mechanism that generates a service indication to at least one of said wireless communication devices, wherein said service indication provides said indirect coupling and includes a short text message and a URI link to allow said at least one of said wireless communication devices to access said content from said application layer broker."

Independent claim 16 according to the main request reads as follows:

"16. A method performed by an application layer broker for delivering content to a wireless device from an application server, characterised by:
receiving a request, by the application layer broker, from a said wireless device for said content;
providing, by the application layer broker, said request to said application server;
receiving said content from said application server;
encoding said content with authentication information
so that said content may only be accessed by said wireless device;
generating a service indication to said wireless device
wherein said service indication provides said indirect coupling between the said wireless device and the said application server and includes a short text message and a URI link to allow said wireless device to access said content from said application layer broker; and providing said encoded content for access by said wireless device."

**Reasons for the Decision**

1. The appeal is admissible (cf. Facts and Submissions, point III above).

2. **Main request**

2.1 **Claim 1**

2.1.1 The decision under appeal objected in Reasons 1.1 that the application as originally filed did not explicitly disclose that the event-triggered content delivery mechanism received requests to transfer the content, but rather disclosed that the application layer broker received requests for the content. The appellant has amended this formulation so that claim 1 now states that the event-triggered content delivery mechanism
allows the application broker to receive requests to transfer the content.

Paragraphs [0005] and [0011] of the published application indicate that the application layer broker links the wireless environment to the enterprise application server through an event-triggered content mechanism. Paragraphs [0006] and [0012] state that the event-triggered content delivery mechanism, which is shown in Figures 1 and 3, allows the application server to perform, inter alia, service queries. These passages and drawings imply that the event-triggered content delivery mechanism is the overall mechanism that enables the wireless user to access content in the application server through the application layer broker, and therefore, in particular, that enables the requests of the user to be received by the application layer broker.

The board is thus satisfied that the above-mentioned amended formulation of claim 1 according to the main request is supported by the application documents as originally filed.

2.1.2 The decision under appeal further objected (see Reasons 1.2) that the application as originally filed did not explicitly disclose that the event-triggered content delivery mechanism transferred the content from the application server to the application layer broker. The appellant has amended claim 1 so that it now states that the wireless communication system further comprises a secure service delivery mechanism which transfers the content from said application server to said application layer broker.
Paragraphs [0006] and [0012] of the description as published disclose that the enterprise application server pushes the service content to the application layer broker through a secure service delivery mechanism. These passages imply that the secure service delivery mechanism is the mechanism, part of the claimed system, that delivers, i.e. transfers, the service content issued by the enterprise application server to the application layer broker.

The board is thus satisfied that the secure service delivery mechanism of the wireless communication system, as defined in claim 1 of the main request, is supported by the application documents as originally filed.

2.1.3 Furthermore, the decision under appeal stated in Reasons 1.3 that the application as originally filed did not explicitly disclose that the event-triggered content delivery mechanism generated a service indication to at least one of said wireless communication devices, wherein said service indication provided the indirect coupling. The appellant has amended claim 1 so that it now states that the wireless communication system further comprises a service indication mechanism that generates the service indication.

Paragraph [0024] of the published application describes that a typical service indication, at its most basic, contains a brief message and a URI specifying a service. Paragraph [0025] describes that a service indication (SI) message is sent to the device 110, i.e. a wireless user device, using the Over the Air (OTA)
Service Indication (SI) protocol and that the service indication mechanism consists of a short text message and a URI link to retrieve the service content. The board judges that this passage implicitly describes that the service indication is generated by the cited service indication mechanism. The feature that the service indication provides the indirect coupling between the application server and the wireless user device is a direct consequence of the fact that the service indication includes the URI link which the user can access to retrieve the content.

The board is thus satisfied that the service indication mechanism of the wireless communication system, as defined in claim 1 of the main request, is disclosed in the application documents as originally filed.

2.1.4 The board further considers that, even if the skilled person may derive from the whole description and figures that the three mechanisms are indeed parts of the application layer broker and/or of the application server, the appellant is nevertheless entitled to define the mechanisms as being part of the claimed wireless communication system as a whole, as is the case in claim 1 of the main request, without infringing Article 123(2) EPC.

2.1.5 For these reasons the board judges that claim 1 of the main request meets the requirements of Article 123(2) EPC.
2.2 Claim 16

2.2.1 The decision under appeal objected that the description as originally filed did not explicitly disclose that the request for content received by the application layer broker from a user associated with a wireless device was event-triggered (see Reasons 2.1). It may well be that this feature has infringed Article 123(2) EPC. However, said feature has been deleted in claim 16 of the main request so that the objection is now moot.

2.2.2 The decision further stated in Reasons 2.2 that the application as originally filed did not explicitly disclose that the application layer broker generated a service indication, wherein said service indication provided the indirect coupling.

Figure 3 shows that the service indication (SI) is generated by the push initiator 320 and sent to the wireless user by the push proxy gateway 330. These two components, although displayed as separate entities in Figure 3, may be considered as being implicitly part of the application layer broker for the following reasons. Paragraph [0019] of the published application describes that the wireless users communicate with the application layer broker using the WAP protocol; paragraphs [0023] and [0027] describe that the WAP Push Access Protocol is integrated into the invention. Moreover, paragraph [0025] describes that the service indication (SI) is sent to the wireless user using the Over The Air (OTA) Service Indication (SI) protocol (lines 10-11) and that the procedures to establish the content pulling connection between the wireless device
and the application layer broker are all encoded underneath the SI protocol. The overall teaching of these passages, for the skilled person, is that the up and down links between the application layer broker and the wireless user are wireless links, as are the links between the wireless user and the WAP and push proxy gateways (310 and 330, Figure 3). As a consequence, the WAP gateway, the push proxy gateway, and a fortiori the push initiator (320, Figure 3) have to be considered as constitutive parts of the application broker, the latter being defined by its functionalities as defined in the whole description and not solely by the block diagram presentation of Figure 3.

The board is thus satisfied that the combination of steps defined in independent method claim 1 is fully supported by the application documents as originally filed.

2.2.3 For these reasons, claim 16 of the main request fulfils the requirements of Article 123(2) EPC.

3. Conclusions

3.1 The decision under appeal was based solely on a finding of non-compliance with Article 123(2) EPC.

3.2 As the claims of the appellant's main request are found to have been amended in a manner which now complies with Article 123(2) EPC, the board judges that there is no need to consider the appellant's auxiliary requests and that under the given circumstances the most appropriate course of action is to remit the case, as requested by the appellant, to the department of first
instance for further prosecution in relation to all other outstanding matters.

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 for further prosecution on the basis of claims 1 to 20 filed as a new main request with the statement setting out the grounds of appeal.

The Registrar:       The Chair:

K. Götz       A. Ritzka