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Notice of intervention to a European patent

I. Patent opposed

Patent No.	EP2387844
Application No.	EP10700814.6
Date of mention of the grant in the European Patent Bulletin (Art. 97(3), Art. 99(1) EPC)	25 August 2021
Title of the invention	Managing Associated Sessions in a Network

II. Proprietor of the patent

first named in the patent specification	Koninklijke KPN N.V.
Opponent's or representative's reference	S06809-E

III. Intervener

Name	Orope Germany GmbH
Address:	Graf-Adolf-Platz 15 40213 Düsseldorf Germany
State of residence or of principal place of business	Germany
Multiple interveners (see additional sheet)	☐

IV. Authorisation

1. Representative

	Gulde & Partner Patent- und Rechtsanwaltskanzlei mbB
Address of place of business	Wallstr. 58/59 10179 Berlin Germany
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E-mail:	office@gulde.com
Additional representative(s) on additional sheet/see authorisation	☐

Authorisation(s)

is/are enclosed ☐

has/have been registered under No. ☐

V. Opposition is filed against

the patent as a whole ☒

claim(s) No(s).

VI. Grounds for opposition:

Opposition is based on the following grounds:

(a) the subject-matter of the European patent opposed is not patentable (Art. 100(a) EPC) because:

- it is not new (Art. 52(1); Art. 54 EPC) ☒
- it does not involve an inventive step (Art. 52(1); Art. 56 EPC) ☒
- patentability is excluded on other grounds, namely articles ☐

(b) the patent opposed does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art (Art. 100(b) EPC; see Art. 83 EPC). ☒

(c) the subject-matter of the patent opposed extends beyond the content of the application/of the earlier application as filed (Art. 100(c) EPC, see Art. 123(2) EPC). ☒

VII. Facts (Rule 76(2)(c) EPC)

presented in support of the opposition are submitted herewith on an attached document ☒

VIII. Other requests:

- - decision of the Opposition Division of 31 August 2023 to be set aside,
- EP2387844B1 to be revoked in its entirety, and
- intervener to be formally summond to attend oral proceedings scheduled for 11 December 2024

IX. Evidence presented

D11	Patent document	US2008/0151918 (A1) , 26.06.2008 original file name: D11.pdf attached as: Published-Evidence-1.pdf

X. Payment

Method of payment: Debit from deposit account

The European Patent Office is hereby authorised, to debit from the deposit account with the EPO any fees and costs indicated in the fees section below.

Currency: EUR

Deposit account number: 28001082

Account holder: Gulde & Partner Patent- und Rechtsanwaltskanzlei mbB

Refunds

Any refunds should be made to EPO deposit account: 28001082

Account holder: Gulde & Partner Patent- und Rechtsanwaltskanzlei mbB

Fees	Factor applied	Fee schedule	Amount to be paid
010 Opposition fee	1	880.00	880.00
Total:		EUR	880.00

	A Forms	Details:	System file name:
A-1	Form for notice of intervention		as ep-oppo.pdf

	B Attached document files	Original file name:	System file name:
B-1	1. Facts and arguments	S06809-E- intervention to EPO.pdf	OPPO.pdf

	C Attached evidence files	Original file name:	System file name:
C-1	1. Patent document	D11.pdf	Published-Evidence-1.pdf

Annotations

Title (Author):

1. Note (for EPO)

Appeal Fee (Marco Scheffler)

As a precaution, we have separately paid the appeal fee in the amount of EUR 2925.

Signature of intervener or representative

Place	**Berlin**
Date:	**18 November 2024**
Signed by:	**/Marco Scheffler/**
Association:	**Gulde & Partner Patent- und Rechtsanwaltskanzlei mbB**
Representative name:	**Marco Scheffler**
Capacity:	**(Representative)**

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80298 Munich

Date	18 November 2024	TM/SF/kis
Gulde Ref.	S06809-E	
File No.	10700814.6 - EP 2 387 844 - T1841/23-3.5.05	
Applicant	Koninklijke KPN N.V.	
Title	Managing Associates Sessions in a Network	

URGENT – ORAL PROCEEDINGS scheduled 11 DEC 2024

Intervention of the alleged infringer according to Art. 105 EPC into the opposition proceedings against EP 2 387 844 B1 / T1841/23-3.5.05

Application number **10700814.6** — Patent **EP 2 387 844 B1**

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Representative: Marco Scheffler, Dr. Martin Thimm,
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On behalf of the Intervener, Orope Germany GmbH (hereinafter also: "Intervener"), we declare that

Orope Germany GmbH intervenes in the pending opposition (appeal) proceedings regarding EP 2 387 844 (hereinafter "the patent") according to Art. 105 EPC.

The intervener requests

1. the decision of the Opposition Division of 31 August 2023 (grounds of 28 September 2023) be set aside;
2. the Patent EP 2 387 844 B1 be revoked in its entirety; and
3. to be formally summoned to attend the oral proceedings scheduled for 11 December 2024.

The Intervener suggests that the proceedings remain accelerated and agrees, in view of Art. 12(1) RPBA, to be summoned at (that) short term.

An opposition form is attached.

The opposition fee of EUR 880 and, for sake of precaution, the appeal fee in the amount of EUR 2925 have been paid electronically. The payment order is attached.

Grounds:

I. Admissibility of the intervention

The intervention of the Intervener is admissible in accordance with Art. 105 EPC.

1. On 5 September 2024, the Patentee (KPN) has filed a complaint against the Intervener at the Unified Patent Court, UPC (Local Division The Hague). This complaint is based on alleged infringement of the Patent. The proceedings at the UPC are kept under the docket number ACT_49150/2024 UPC_CFI_502/2024.

2. The statement of complaint in the matter ACT_49150/2024 UPC_CFI_502/2024 was served on the Intervener on 17 September 2024.

The Intervener submits to have taken all necessary steps for preparation of this intervention with the highest possible urgency and without any delay.

3. In view of this, the Intervener has declared its intervention as soon as possible and within the term according to Rule 89(1) EPC.

II. Accelerated proceedings

The Intervener requests accelerated proceedings.

It is not intended to delay the present proceeding, in particular in view of the above-mentioned parallel infringement proceedings, which have not been interrupted.

There appears to be no need to postpose the oral proceedings in the present case, which have been scheduled for 11 December 2024.

It also appears that the nature of the arguments provided in this intervention is such to be dealt without any problems by all parties on 11 DEC 2024, in particular in view of the patentee's capability to substantially react to the preliminary opinion dated 21 OCT 2024 already on 8 NOV 2024.

III. Grounds for Opposition

The Intervener relies on the following grounds for opposition:

1. Extension beyond the subject-matter as filed (Art. 100 (c), 123 (2) EPC)
2. Insufficient disclosure (Art. 100 (b), 83 EPC)
3. Lack of novelty (Art. 100 (a), 54 EPC)
4. Lack of inventive step (Art. 100 (a), 56 EPC)

IV. Facts and arguments

The Intervener relies on all facts and arguments submitted by the Opponent (Xiaomi), in the proceedings at the Opposition Division and in the appeal proceedings. All these facts and arguments are herewith incorporated by reference.

Further to that, the Intervener submits additional own facts and arguments below.

V. Extension beyond the subject-matter as filed (Art. 100 (c), 123 (2) EPC)

1. In this respect, we fully agree with the analysis set out in the preliminary opinion of the Board of 21 October 2024 (hereinafter "the opinion") in sections 6.1.4, 6.2.

2. Patentee's counter arguments in the writ of 8 November 2024 are not convincing, as set forth below.

a) In the passage on page 10 of the original application, which is directed to a second and minor aspect of the invention, namely a user equipment, the skilled person is only taught that the user equipment includes a multimedia client that is configured for initiating a composition session.

It is to be noted that original claim 14, which forms the basis of granted claim 11, with reference to the multimedia client, fails to include the configuration to initiate a composition session. This feature, which is optional according to the original application[1], can only be found in dependent claim 15.

The passage on page 7 is directed to an embodiment of the main aspect of the invention, namely a method. The basic method is already described on page 4 (below the heading "Summary of the invention"), and, in line with claim 14, fails to include a step of initiating a composition session.

In view of the above, the skilled person, from the original application, first learns that initiating a composition session is an optional feature, which is also explicitly mentioned on page 6, third paragraph.

So, in contrast to the assertion in paragraph 11 (last sentence), the embodiment disclosed on page 7 (with respect to the method) is not disclosed "under the umbrella disclosure" of the user equipment aspect on page 10.

b) Still further, granted claim 11 already includes the method aspects disclosed on page 7, which have been included during examination proceeding (based on system claim 13, which has essentially been included into original claim 14, and based on the argument that the system of claim 13 may be configured to support a method according to claims 1, 2, and 3), namely as follows:

[1] in contrast to the priority application

"A user equipment (UE) for use in a system for managing associated sessions [...], the system comprising:

- a UE configured for providing a composition session identifier (CSID) for associating sessions between the network and the UE in a network, said providing comprises the UE generating the CSID;

the UE further configured for initiating the composition session, said initiating comprises the UE sending a request for initiating the composition session to the network element, the request comprising the CSID,

[...] ;

the UE further configured for exchanging the CSID with the network element; [...]".

In other words, there is no "clear and unambiguous" support in the general specification concerning the multimedia client sending a request for initiating the composition request.

c) Patentee tries to interpret the rather specific features referring to "multimedia client" in granted claim 11 to merely refer to "software" generally known to the skilled person.

This is misleading, because granted claim 11 does not only mention a "multimedia client", but also an "ID generator", and each of these distinguished elements (which may well be implemented in software) is defined in the claim by assigning specific configurations to these elements.

In view of original claims 14 and 15, the skilled person, rather than specifying the "multimedia client" to be further configured for "sending a request for initiating the composition session [...]", would contemplate a separate element, in addition to the "ID generator" and the "multimedia client", such as a "composition session initiator", which would then be configured to implement aspects concerning the initiation of a composition session.

d) In contrast to the Patentee's assertion (cf. paragraph 11), proprietor has improved its position by the not disclosed amendment, already because more specific features as now defined in claim 11 with respect to the multimedia client are much harder to invalidate in the context of a nullity action / invalidity counterclaim.

VI. Insufficient disclosure (Art. 100 (b), 83 EPC)

1. The subject matter of claim 1 is not disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

a) Claim 1 (according to the pending main request) reads as follows (underlining added; we refer to the numbering of features as indicated in the opinion).

> " [...]
>
> 1b providing a composition session identifier (CSID) for associating sessions in a network, said sessions being between the network and the UE, wherein said providing comprises the UE generating a CSID;
>
> 1c initiating a composition session, wherein said initiating comprises the UE sending a request for initiating a composition session to the network element, the request comprising the CSID,
>
> *F2* *wherein the composition session is a signalling session between the UE and the network element for the managing of associated sessions*;
>
> 1d exchanging the CSID between the UE and the network element; and
>
> 1e associating at the network element two or more sessions between the network and the UE with the CSID by said exchanging of the CSID between the network element and the UE".

b) Neither based on the wording of the claim, nor based on the specification of the patent, nor based on the original specification, alone or in combination, the skilled person can learn how arbitrary "two or more sessions" could possibly be "associated" by simply exchanging the CSID between the UE and the network element.

aa) According to the claim, the CSID is provided by the UE, which freshly generates this CSID (cf. feature 1b).

The CSID is not related to any of the "two or more sessions", but only to the "composition session", which is initiated, by the UE, by sending the request for initiating the composition session to the network element, the request comprising the CSID (cf. feature 1c).

Already this sending of the request may be considered as "exchanging" the CSID.

This CSID is then (again) exchanged between the UE and the network element (cf. feature 1d).

Still, there is no relation whatsoever between the CSID and any of the "two or more sessions".

Also feature F2 cannot help in this respect, rather the contrary, because therein it is mentioned that the "composition session" is "a signalling session [...] for the managing of associated sessions". However, the "two or more sessions" are not yet associated.

Thus, there is no disclosure in claim 1 which could teach the skilled person as to how the "two or more session", which are arbitrary session between the network and the UE, could possibly be associated by exchanging the CSID, which is not related to any of these sessions, between the UE and the network element.

In particular, the skilled person would be unable to determine which of the sessions between the UE and the network element (already pending and/or set up in the future) would be associated by the exchange of the CSID, and which not, and why.

bb) The specification of the patent essentially fails to include any teaching concerning associating sessions by exchanging a CSID.

In paragraph [0022] it reads that upon initiation of such a composition session, a composition session identifier (referred to as "PSCID" in that passage) is generated and exchanged between the SCF (corresponding[2] to the "network element") and the user equipment.

This "PSCID" is not related to any "session" except for the "composition session", and no other session is mentioned in this context, and in particular, no sessions are associated by the exchange of the PSCID.

Rather, according to the specification in paragraph [0024], associating sessions, such as the multimedia sessions mentioned in that passage, are performed differently, not by exchanging a PCSID, but (underlining added) "by adding the multimedia sessions to the composition session using the composition session identifier".

As can clearly be seen from paragraph [0024] in combination with paragraph [0022],

- exchanging the PSCID between the UE and the network element, and

[2] cf. [0019], „In one embodiment, the network element comprising the session management system may be based on IMS architecture. It may for instance be a logical IMS network element referred to as a Service Control Function (SCF)"

- adding a session to the composition session, so as to associate the session with the composition session,

are different operations, and the former, the exchanging the PSCID, does not result in an association of sessions, not even close.

cc) The original specification includes passages identical to paragraphs [0022] to [0024] of the patent, namely on p. 14, second to fourth paragraph.

The above understanding is further underpinned by the original specification (cf. p. 5, first paragraph; a passage that has been deleted during examination), where it reads that "the sending of such composition session identifier in either direction may be referred to as an 'exchange'", which, as indicated above, means that already the sending of the "request" according to feature 1c has to be understood as "exchange" with the meaning of claim 1.

dd) There is one additional passage in the specification of the patent (and the original application) concerning associating sessions by exchanging a PSCID, namely paragraph [0058] with reference to Fig. 7.

However, the embodiment described there hardly reads on claim 1, in particular features 1b and 1c appear to be missing.

More importantly, this passage is not supported by the priority application of the patent (which fails to include the passages with reference to Fig. 7 and 8, which have only been added in the original application).

This means that in case one would have to rely on this passage as enabling disclosure, the claimed priority would not be valid[3].

2. Consequently, the patent should be revoked.

[3] which in turn means that claim 1 would be not novel over D5 or D6, as set forth below

VII. Lack of novelty (Art. 100 (a), 54 EPC)

1. Priority

The claimed priority (EP09000661, 19.01.09) is not valid.

a) Claim 1 is not entitled to priority because the disclosure in the priority document is not an enabling disclosure – as set forth above in detail with reference to the patent and the original application.

The passages corresponding to paragraphs [0022] and [0024] of the patent can be found in the priority application in the paragraph bridging pages 9 and 10.

The priority document does not include additional passages that are not present in the original application or the patent.

As mentioned above, the passages in the original application and the patent referring to Fig. 7 and 8 are not present in the priority application.

b) It is established case law that a valid priority claim can only be made when the disclosure in the priority document is an enabling disclosure for a skilled person (see Case Law of the Boards of Appeal, Part II.D.3.1.6).

c) Consequently, the priority claim is invalid as a whole, including the subject-matter of claim 1. The above argument applies to independent claims 11 and 12, mutatis mutandis.

2. Lack of novelty in view of D5 or D6

a) Due to the fact that the priority of claim 1 not valid, both D5 and D6 represent prior art with respect to the patent, because these documents have been published before the filing date of the patent.

b) Claim 1 is not novel over D5 or D6.

In this respect, in order to avoid unnecessary repetitions, we refer to the opponent's arguments as set forth in the notice of opposition and in the reasons for appeal.

c) Proprietor appears to not contest as such that the subject matter of claim 1 is already disclosed in D5 or D6 (cf. reply to the grounds of appeal, paragraphs 227, 231).

3. Lack of novelty in view of I1 / D11

a) D11 has been introduced by the opponent only at the appeal stage.

As a precaution, in case D11 would not be admitted to the proceedings as being late filed, we formally introduce this document, which appears to be highly relevant, as document I1, into the proceedings.

b) I1 / D11 *(also referred to only D11 and/or only I1)* is highly relevant with respect to claim 1, since all features of claim 1 are disclosed in I1 / D11, as indicated below.

D11 was published before the earliest priority date and is full prior art. It pertains to the field of managing media sessions in telecommunications, specifically IP Multimedia (IMS) for streaming media, such as IPTV, to user terminals.

The central idea of D11 is to link a media session, which streams media content to a user terminal, to a signalling session that was used to establish the media session in the first place (cf. [0016]).

D11 also teaches that multiple streams can be linked to the same signalling session, and that in the table (shown in figure 3, below) which stores these links, further information can be stored (cf. [0028]). In more detail:

aa) D11 is generally related to methods of managing media sessions (cf. [0001]), and these sessions can be associated or linked (cf. [0005], [0016]).

This managing takes place in a network (cf. Fig. 1, shown below, the IP network including a user terminal, UT, and several network elements, such as the media content server, MCS, and the application server, AS).

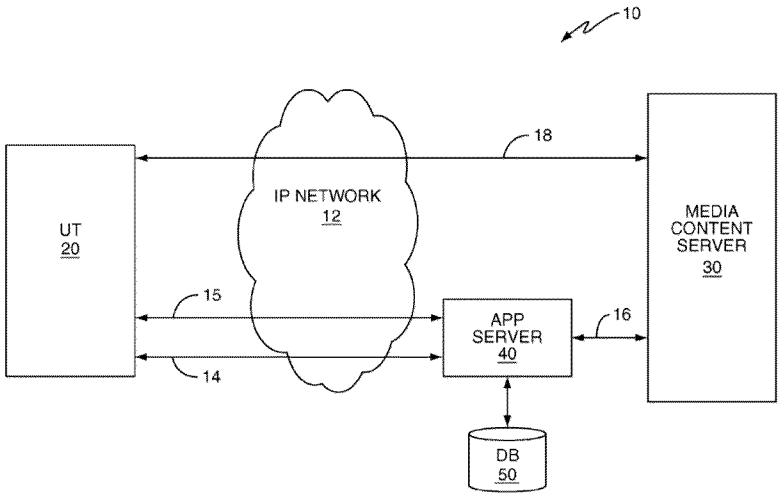


FIG. 1

Consequently, features 1a and F1, namely

1a Method

F1 for managing associated sessions forming a group of sessions, from within a network, separate from other sessions that are not part of the group, the network comprising a network element configured for managing associated sessions between the network and a user equipment (UE)

are known from I1 / D11.

As regards the sub-feature "forming a group of sessions", we tend to agree with the Opposition Division, OD, (cf. decision, section 17.3) in that feature F1 means that the associated sessions form a group that can be managed and that other sessions that are not associated with these sessions are not part of that group and are not managed as part of the group. In other words, the group is formed by associating, and has no separate specific meaning.

In case, however, the features referring to the "group" would be understood to go beyond mere "associating", feature F1 would not be supported by the priority application, as discussed in detail in the first instance proceedings (cf. decision, section 17).

Still further, the example discussed in I1 / D11 in [0028] with reference to Fig. 3 (shown below), clearly shows "associated sessions forming a group" and "other session that are not part of the group".

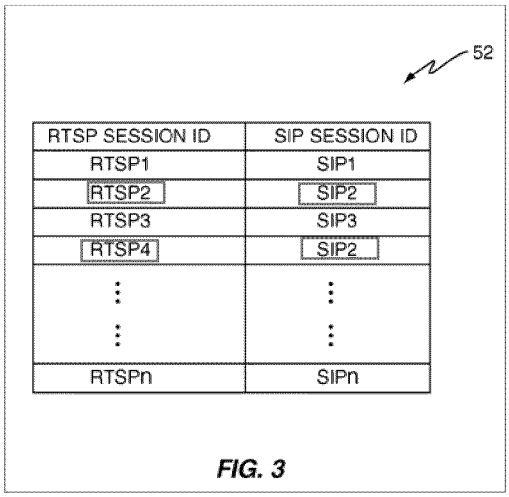


FIG. 3

The media sessions identified by RTSP2 and RTSP4 are both linked to the signalling session identified by SIP2, thereby forming a group, while other sessions, such as RTSP1 or RTSP3, are not part of this group, because they are associated to different SIP Sessions.

bb) As regards feature 1b, namely

> "providing a composition session identifier (CSID) for associating sessions in a network, said sessions being between the network and the UE, wherein said providing comprises the UE generating a CSID",

one may point to SIP session ID (cf. [0028], [0030]) that is included in a SIP INVITE message that is transmitted by the user terminal to the AS (cf. [0025], [0030]).

cc) According to I1 / D11,

"1c initiating a composition session, wherein said initiating comprises the UE sending a request for initiating a composition session to the network element, the request comprising the CSID",

is carried out by sending a SIP INVITE message to initiate a media session (cf. [0025], [0030]), essentially in the same manner as described in the patent in [0032] with reference to "Example 1: SIP INVITE message to initiate a Broadcast (BC) service (session) as part of a PSC session".

dd) Apparently, the SIP invite message according to I1 / D11 is also a signalling session within the meaning of feature F2 – just as the SIP INVITE message according to "Example 1" of the patent.

ee) According to I1 / D11, the SIP session ID is exchanged between the UT and the AS (cf. [0025}, [0030), so also feature 1d is shown in I1 / D11.

ff) Finally, as far as feature 1e can be understood, the associating of sessions is based on the SIP session ID, as explained in I1 / D11, e.g. in [0027], where it reads that the controller 42 (of the AS 40, which is a network element) correlates the RTSP session ID to the SIP session using, for example, information included with the SIP INVITE message previously received from the UT 20.

As specifically mentioned in [0028] with reference to the above Fig. 3, this correlating (or associating) can be based on the SIP session ID, which is sent to the AS as part of the SIP INVITE message.

c) Consequently, claim 1 is not novel over I1 / D11.

VIII. Lack of inventive step (Art. 100 (a), 56 EPC)

1. Lack of inventive step in view of D3

a) We concur with the opponent, and the Board (cf. opinion, section 6.3), in that the subject matter of claim 1 is obvious in view of D3.

b) As regards feature F2,

> "wherein the composition session is a signalling session between the UE and the network element for the managing of associated sessions",

for the following reasons, we believe that this feature cannot be considered a differentiating feature.

aa) The Board already doubts whether a "composition session" being a "signalling session" as claimed in feature F2 should – as alleged by the Patentee - necessarily rule out the exchange of other data over the same session. Such a limitation can be derived neither from the wording of the claim nor from the description of the patent.

bb) Neither the claim nor the specification support such a limitation, but, in addition, the specification of the patent includes, with reference to the invention[4], an embodiment that

[4] cf. [0016], „Fig. 2 depicts a flow diagram of a method according to **one embodiment of the invention**"

describes a "composition session" exchanging other data, namely paragraphs [0032], [0033] with reference to Fig. 2.

"Example 1" refers to a "SIP INVITE message to initiate a Broadcast (BC) service (session) as part of a PSC session" (underlining added).

In other words, the "PSC sessions" exchanges data, namely a message to initiate another session, the BC session".

This embodiment disproves the Patentee's understanding (cf. reply to grounds of appeal, paragraph 177) that a composition session and a media session necessarily need to be distinct, i.e. different session.

c) Consequently, the only difference between claim 1 and D3 is feature 1b, which, as explained in the opinion in section 6.3.3 (a), as one of many straightforward alternatives, is obvious.

d) Below, we would like to very shortly comment on some arguments provided by the Patentee in the writ of 8 November 2024 in response to the preliminary opinion. Other arguments have already been addressed above.

aa) In contrast to the wording in feature F1, in fact "managing associated sessions" is not the subject matter of claim 1, already because only in the last method step, associating sessions is mentioned.

That is, the preceding steps can basically not refer to any "managing of associated sessions", because there are no associated sessions yet.

Consequently, the Patentee's argument in paragraph 28 is in vain.

bb) As mentioned above with reference to lack of enabling disclosure, Patentee's interpretation of the term "compositing session being a signalling session" appears to be not supported in the application as filed, rather the contrary.

The fact that sessions can be associated, and then efficiently managed, does not depend on the concept of a composition session, but merely on the use of the composition session identifier, which can well be used without initiating a composition session, and the terms "signalling session" and "composition session" are used synonymously, as clearly described in the original application on page 6, third paragraph (**underlining and emphasiz added**):

"*In further embodiments, the method may comprise the step of initiating a composition session. Although in principle it may be sufficient to just generate a composition session identifier and store this in a place in the network under control of a network element, which is in charge of managing the associated sessions, there may be advantages in initiating a separate* ***signaling session*** *(****composition session****) as well. For instance such composition session may be used to exchange the composition session identifier between the user equipment and the network element. If no such composition session is initiated, the composition session identifier may be incorporated in the signaling of the individual sessions*".

IX. Remaining independent claims 10, 11, 12, and 14

The remaining independent claims are at least not inventive for the reasons set forth above with reference to claim 1.

a) The computer program product according to claim 14 merely contains software implementing the steps of the method according to claim 1, which, once the method is known, as e.g. from D11, is a mere implementation issue.

b) The system according to claim 10 includes a network element and a user equipment which are just configured to carry out the steps of the method according to claim 1. Consequently, claim 10 is at least not novel over D11 and not inventive in view of D3.

c) In case the subject matter of claim 11, directed to the user equipment, against expectation, should be considered to be in line with Art. 123(2) EPC, this could only be based on a very broad and functional understanding to the term "multi media client", meaning that also any prior art user equipment, e.g. in D11, which is configured for sending a request for initiating the composition session to a network element, includes or at least strongly suggests a respective "multi media client" functionality.

The same applies to the "ID generator" of claim 11, which can only be understood as a functionality configured to generate the CSID. Such a functionality, however, has to be present e.g. in D11.

d) The same applies, mutatis mutandis, to the "session manager" and the "storage means" of the network element according to claim 12, which is thus at least suggested in D11 or D3.

X. Auxiliary requests

1. It is requested to not admit auxiliary requests XIII and XVI (or XIV-A).

Both auxiliary requests include the additional feature

"wherein the signalling session only needs exchange of signalling messages".

The additional feature is neither clear within the meaning of Art. 84 EPC nor properly supported in the original application as filed.

a) Lack of support

aa) Patentee, as main supporting passage, points to page 26, third paragraph, of the original specification (corresponding to [0055] of the patent) with reference to Fig. 6 (shown below).

Already on first sight, this embodiment does not map to the method according to claim 1 for several reasons, not even close:

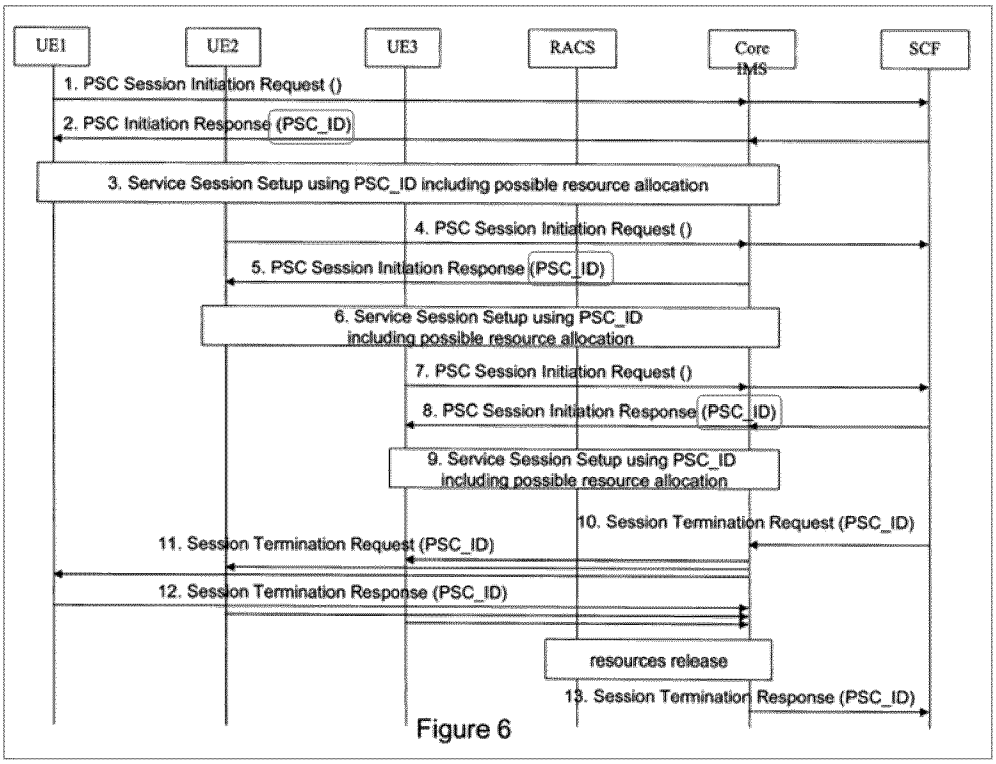


Figure 6

- It refers to a "multi-device session" including a plurality of user equipment (cf. Fig. 6, UE1, UE2, UE3),

- the PSCID is not generated at the (respective) UE, but at the network element (cf. Fig. 6, red highlighting added), and
- associating of sessions is not performed by "said exchanging of the CSID", but respective services are associated by adding the same to a composition session (cf. p. 25, l. 6-11):

> **Fig. 6** depicts a process flow **600** regarding a further use of a PSC session involving three different user terminals UE1,UE2,UE3. Different services, provided to different UEs, e.g. a television broadcast service to UE1, a telephony service to UE2 and a gaming service to UE3, are now added to one composition session, and hence associated with each other.

Consequently, this embodiment is incomparable to the subject matter of claim 1, and cannot support the intended amendment. Patentee merely picks these features from a different context, which is not compatible with claim 1.

bb) Still further, we would like to note that the last sentence in the above indicated passage, the feature of "associating" the services, is not supported in the priority application.

cc) The additional alleged supporting passage on p. 17, l. 18-21 with reference to Fig. 2 (corresponding to [0032] of the patent), which reads as follows

> Thereafter the PSC session is initiated by a PSC session initiation request. The PSC session may be initiated using the SIP protocol by sending a SIP INVITE comprising the PSC ID via the IMS core to the SCF (step **202**). The PSC ID may

apparently fails to clearly and unambiguously teach the feature in question, namely that

"the signaling session only needs exchange of signaling messages".

dd) Thus, claim 1 according to auxiliary requests XIII, XIV, and XIV-A is not in line with Art. 123(2) EPC.

b) Lack of clarity

aa) While lack of clarity is generally not a ground for opposition, according to G 3/14, in considering whether, for the purposes of Article 101(3) EPC a patent as amended meets the

requirements of the EPC, the claims of the patent may be examined for compliance with the requirements of Article 84 EPC – namely only when, and then only to the extent that the amendment introduces non-compliance with Article 84 EPC.

bb) This is the case here.

It is unclear what is meant by "signalling messages", and how these signalling messages can be differentiated from other type of messages or data. There is no definition of this term in the patent or the original specification.

In the passage on p. 26. l. 23 of the original specification (mentioned by the Patentee), the term "signalling message", which only appears in that paragraph, appears to be used synonymously with the term "SIP message".

Consequently, as regards clarity, the feature should at least read

"the signaling session only needs exchange of ~~signaling~~ SIP messages".

2. In any case, the subject matter of the independent claims of the auxiliary requests would not be patentable in view of the cited prior art, e.g. in view of D3 or D11

a) Both D3 and D11 describe composition sessions exchanging only signalling messages, i.e. SIP messages (cf. D3, p. 7, last paragraph with reference to Fig. 3; D11, [0025], [0030] with reference to Fig. 4).

b) As regards the additional amendments in auxiliary request XIV (including features from granted claim 8), D11, in paragraph [0038] with reference to Fig. 6A, 6B (shown below)

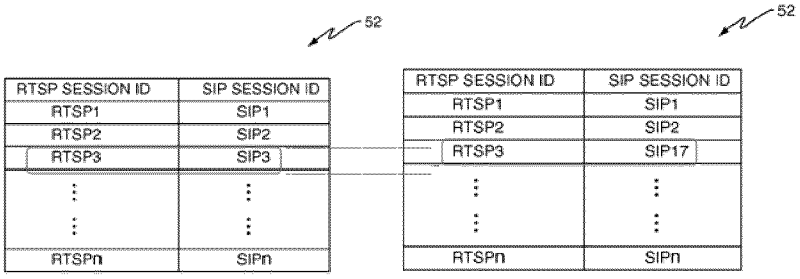


FIG. 6A *FIG. 6B*

describes how a network element might correlate a new SIP session ID (SIP 17) to an existing RTSP session ID (RTSP3), and thus clearly describes

"transferring one or more media sessions from the composition session to a further composition session or outside the composition session".

Dr. Martin Thimm
European Patent Attorney

Marco Scheffler
European Patent Attorney

Encl.:
Prior art document I1 (corresponding to D11) – US 2008/ 0151918 A1