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ANWALTSSOZIETÄT

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**Patents on Computer Implemented Inventions  
- EPO Case Studies -**

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# EP 1 493 101 / WO 03/085558

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## 1. A method comprising:

representing normalized eXtensible Markup Language (XML) information in a fixed set of tables.

- *Representing information, not amending/creating*
- *Not necessarily on a computer (no CII), XML?*
- *“tables” will be interpreted very broad by EPO*
- *Very critical formulation !*

# EP 1 493 101 (alternative formulations)

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1. A (computerized) method carried out on a computer comprising:  
inputting multiple extensible Markup Language (XML) documents into a computer;  
creating a data representation of said multiple XML documents by said Computer; and  
reducing redundancy across said multiple XML documents via a fixed set of tables by said Computer.

# EP 1 493 101 (alternative formulations)

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16. A computerized method comprising:  
inputting one or more standard XML tree structures; and  
converting said one or more standard XML tree structures  
into a fixed representation having reduced redundancy.
25. An apparatus comprising:  
means for creating a graph based data structure representing  
multiple standard XML tree structures;  
means for transforming said graph based data structure to a  
fixed set of tables; and  
means for using said fixed set of tables.

# Example Digital Rights Management

## EP 1 329 791 B1

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- A. "1. A method for controlling distribution and use of digital works, the method comprising the steps of:
    - B. creating usage rights from a usage rights grammar,
      - 1. each of said usage rights defining a specific instance of how a digital work may be used or distributed;
    - C. associating said usage rights with a digital work;
    - D. storing said digital work in a first repository,
      - 1. said first repository having a server mode of operation for enabling said first repository to grant or deny requests from other repositories to access digital works according to usage rights;
    - E. a second repository, having a requester mode of operation for enabling said second repository to request access to digital works,
      - 1. initiating a request to access said digital work in said first repository, said request specifying a transport usage right;
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# Example Digital Rights Management

## EP 1 329 791 B1

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- F. the first repository determining if said specified transport usage right is associated with said digital work;
- G. the first repository denying access to said digital work if said specified transport usage right is not associated with said digital work;
- H. the first repository permitting access to said digital work if said specified transport usage right is associated with said digital work;
- I. transporting said digital work and its associated usage rights from the first repository to the second repository,
  - 1. wherein the transported usage rights specify how said digital work can be used and if it can be further distributed after it is transported to said second repository;
- J. storing said digital work and its associated usage rights in the second repository;

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- K. said second repository further having a server mode of operation for enabling said second repository to grant or deny requests from other repositories to access digital works according to usage rights;
- L. a third repository, having a requester mode of operation for enabling said third repository to request access to digital works,
  - 1. initiating a request to access said digital work in said second repository, said request specifying a further usage right;
- M. the second repository determining if said specified further usage right is associated with said digital work;
- N. the second repository denying access to said digital work if said specified further usage right is not associated with said digital work;
- O. the second repository permitting access to said digital work if said specified further usage right is associated with said digital work."

# Example Digital Rights Management

## - preliminary opinion Opposition Division -

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- 4 *Exclusion from patentability - Articles 100(a) and 52(2)(3) EPC*
- 4.1 Opponent Vodafone considered the subject-matter of claims 1-52 excluded from patentability (Article 52(2)(c) and (3) EPC). The claims defined nothing more than a digital implementation of any standard lending library. There was nothing technical about the usage rights or the process of approving a requesting party for access to a file depending on the party's access rights.
- 4.2 The opposition division observes that the subject-matter of independent claims 1 and 24 includes technical means, like repositories, storage means, ... . Therefore, claims 1 and 24 are technical in character (cf. decision T258/03), -i.e. the claimed system and method are not excluded from patentability under Article 52(2)(c) and (3) EPC.


# Example Digital Rights Management

## - preliminary opinion Opposition Division -

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5 *Novelty and inventive activity - Articles 100(a), 54 and 56 EPC*

5.1 The opposition division considers documents O4, A1 and A2(=O1) to represent the most relevant state of the art. Therefore, each of these documents will be discussed below. However, these documents do not anticipate the novelty of the subject-matter of granted independent claims 1 and 24 (Article 54(1) and (2) EPC, cf. below). Documents O2, O3 and A3-A9 are considered more remote to the disputed patent and/or not relevant for the case under examination and, hence, will not be analysed in this communication.



# Example Digital Rights Management

## - preliminary opinion Opposition Division -

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### 5.3 *Inventive activity in view of the common knowledge*

- 5.3.1 When considering granted independent claims 1 and 24, the opposition division observes that the following scheme is implemented: Different entities are each in charge of a set of digital assets that they use and distribute in accordance with preset contract terms. For each asset, the preset terms define the use and distribution privileges an entity has for this asset. A first entity can then distribute a given asset with its associated contract terms to a second entity if a request from this second entity to use the asset meets the contract terms associated with the requested asset. The second entity can then, in turn, re-distribute this particular asset to a third entity when the associated contract terms allow such re-distribution and when the request from the third entity meets the associated contract terms.
- The opposition division considers that this scheme relates to the distribution of digital assets along the terms of a predefined contract. In other words, the scheme is deemed a legal and business scheme as such in the sense of Article 52(2) and (3) EPC to impose limitations on the distribution of digital assets and, consequently, is not relevant for the assessment of inventive step.

# Example Digital Rights Management

## - preliminary opinion Opposition Division -

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- 5.3.2 The only technical problem that the opposition division can define, resides in the implementation of such a scheme in a computer-based environment. It is noted by the division, however, that the principle of implementing a digital rights management scheme in a computer-based environment was well known at the priority date of the disputed patent (cf. for example A2). The skilled person aware of the scheme under consideration would implement it, at the technical level defined in claims 1 and 24, without the exercise of inventive activity.

# Example Digital Rights Management

## - preliminary opinion Opposition Division -

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The creation of the usage rights (contract terms) from a grammar and the association of the created usage rights to a digital asset (cf. features B, B.1 and C of claim 1) is considered the equivalent of the legal and commercial act of drawing up a contract in accordance with prevalent contract law. The opposition division considers these acts of creating and associating not to involve an inventive step. They appear not to have any technical effect on the way the digital assets are distributed and to solely amount to an abstract, intellectual and nontechnical activity. Therefore, they are not relevant for assessing inventive step. Only the purposive use of a nontechnical activity in the context of a technical solution to a technical problem may possibly contribute to the technical character, and thus to inventive step, of an invention. However, such contribution to the technical solution of a technical problem is not apparent to the opposition division.

- 5.3.3 Accordingly, the subject-matter of granted independent claims 1 and 24 is considered not inventive (Article 56 EPC).

# EP 1 350 373 B1 (Claim 1-part 1)

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- A method of certifying transmission, reception and authenticity of electronic documents between at least one sender user (2) and at least one addressee user (3) in a telecommunication network (4)
- wherein said sender user (2) carries out the following steps:
  - drafting the document to be sent,
  - sending a message comprising the drafted document to a mailbox associated to the addressee user (3) through the telecommunication network,
- and wherein the addressee user (3) carries out the following step:
  - downloading the message from the mailbox associated to the addressee user (3),

# EP 1 350 373 B1 (Claim 1-part 2)

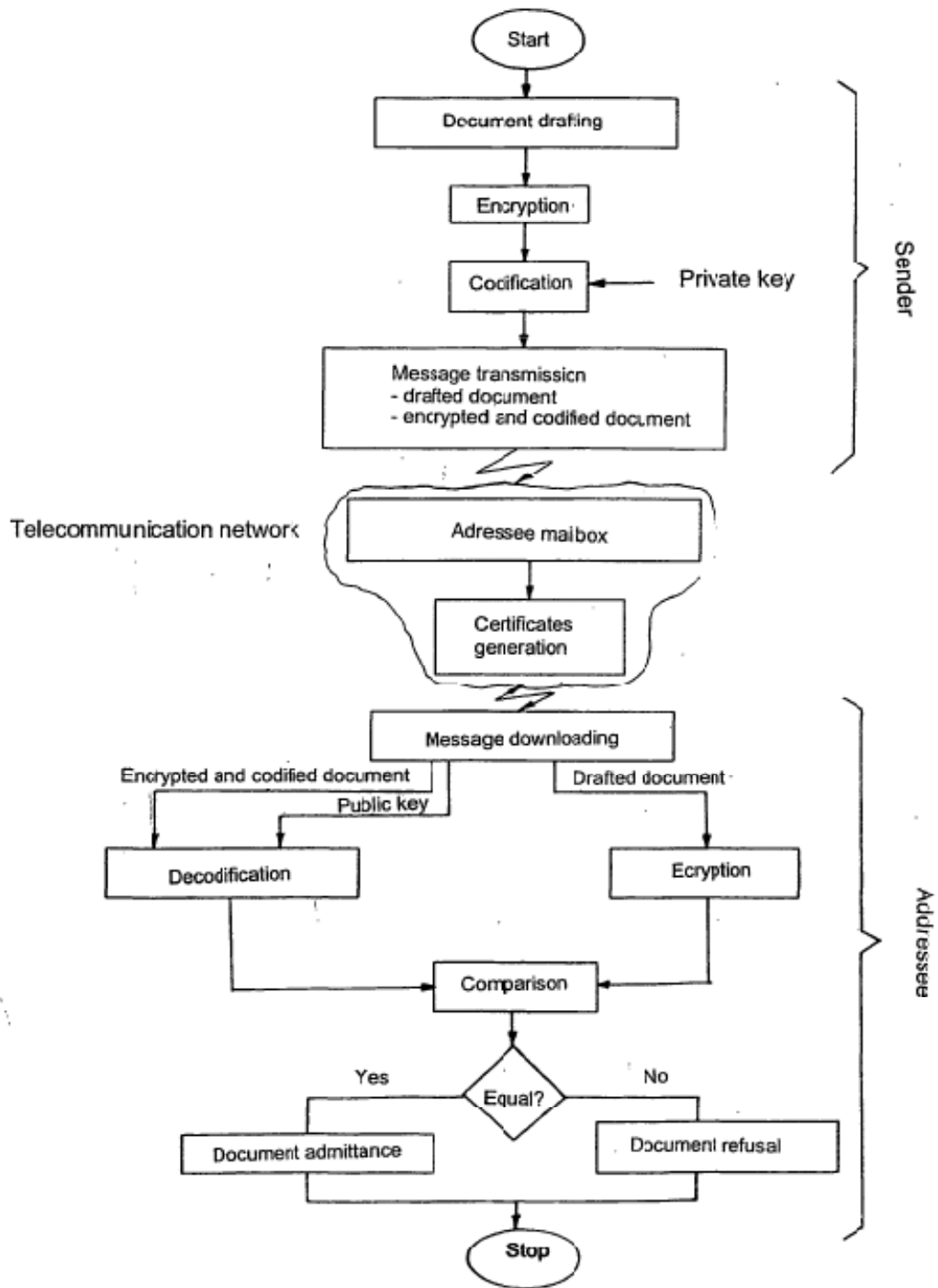
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- wherein a transmittal certificate is automatically generated and sent to a mailbox associated to said sender user (2) by a certification entity (1) connected to the telecommunication network (4) when said message reaches said mailbox of said addressee user (3),
- the method being **characterized by** further comprising the steps of:
  - receiving the message from the sender user (2) at the certification entity (1),
  - identifying by the certification entity (1) the sender user (2) from whom the message is received, and
  - checking at the certification entity (1) if said sender user (2) is a certified sender user included among sender and addressee users (2, 3) comprised in at least one file unit (16) so as to admit or refuse the message,

# EP 1 350 373 B1 (Claim 1-part 3)

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- wherein a transmittal certificate is automatically generated and sent to a mailbox associated to said sender user (2) by a certification entity (1) connected to the telecommunication network (4) when said message reaches said mailbox of said addressee user (3),
- the method being **characterized by** further comprising the steps of:
  - receiving the message from the sender user (2) at the certification entity (1),
  - identifying by the certification entity (1) the sender user (2) from whom the message is received, and
  - checking at the certification entity (1) if said sender user (2) is a certified sender user included among sender and addressee users (2, 3) comprised in at least one file unit (16) so as to admit or refuse the message,
  - wherein the transmittal certificate is only generated and sent, if the identified sender user (2) is included among said sender and addressee users (2, 3) in the file unit (16) of the certification entity (1).



**FIG.2**

# EP 1 350 373 B1 - Opposition

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- Which features are technical features?
- Which features are business aspects (standard „registered letter“?)
- What „Prior Art“ is available (earliest priority 12/2000)?
  - Known e-mail systems ?
  - DSN (Delivery Status Notifications) ?
  - rDNS look-up (checking of IP-No. in DNS-file) ?
- 1st Instance Decision of EPO Opposition Div. in 2011 ?

# Further Questions ?

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