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D E C I S I O N
of 20 March 2002

Case Number: T 0254/00 - 3.5.1

Application Number: 91114891.4

Publication Number: 0474205

IPC: H04N 7/087

Language of the proceedings: EN

Title of invention:

Teletext receiver

Patentee:

EDICO S.r.l.

Opponent:

Interessengemeinschaft für Rundfunkschutzrechte GmbH
Schutzrechtsverwertung & Co. KG

Headword:

Teletext receiver/EDICO

Relevant legal provisions:

EPC Art. 52(1), 56

Keyword:

"Inventive step (yes)"

Decisions cited:

-

Catchword:

-



Case Number: T 0254/00 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 20 March 2002

Appellant: Interessengemeinschaft
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Decision under appeal: Interlocutory decision of the Opposition Division
of the European Patent Office posted 19 January
2000 concerning maintenance of European patent
No. 0 474 205 in amended form.

Composition of the Board:

Chairman: S. V. Steinbrener

Members: R. Randes

P. H. Mühlens

Summary of Facts and Submissions

I. Both the Opponent and the Patentee lodged an appeal against the interlocutory decision of the Opposition Division finding that the European patent as amended in accordance with the Patentee's second auxiliary request fulfilled the requirements of the EPC (Article 106(3) EPC). Both parties requested in their respective notices of appeal that the decision be set aside. The Appellant/Opponent requested that the patent be revoked and the Appellant/Patentee requested that the patent be maintained as granted (main request) or on the basis of the first auxiliary request, as filed in the oral proceedings before the Opposition Division.

II. The patent had been opposed in its entirety based on Article 100(a) together with Articles 52(1) and 56 EPC. The Opposition Division held that the grounds for opposition mentioned in Article 100(a) EPC did not prejudice the maintenance of the patent as amended, having regard to inter alia the following documents, all of which having been apparently accepted as prior art by both parties:

D1: Patent Abstracts of Japan, Vol. 9, No. 159,
(E-326) & JP-A-60 035 889

D2a: Extract from the operating instructions of a TV-set made by Metz-Werke GmbH & Co. KG, Model Studio Stereo FST 7744, print code 689 47 1055/39103

D6: Metz additional operating instructions for Videotext and TOP-Videotext, for models 77..., 78..., Chassis 687 G.. and apparatus numbers from 600001, print codes B 687 47 1031/58905 and B 689

47 1039/29001, respectively.

The Opposition Division held that claim 1 of the Patentees' second auxiliary request involved an inventive step, since there was no suggestion in the prior art that two keys of a command means, each with a function outside the teletext mode, could be provided in the teletext mode for cancelling either one digit or two digits, respectively, which were erroneously entered to retrieve a teletext page.

III. After responses by both parties to the statements of grounds of appeal the Board, in an annex to the summons to oral proceedings pursuant to Rule 71(1) EPC, expressed doubts as to whether the subject-matter of claim 1 of the main request involved an inventive step and also stated that the Board was inclined to consider the two auxiliary requests as not meeting the requirements of Article 123(3) EPC.

IV. In response to the Board's provisional opinion expressed in the annex, the Patentee with a letter, received one month before the oral proceedings, filed an English translation of the Japanese published application JP-A-60 035 889 corresponding to the Japanese abstract D1 and also claim 1 of a third auxiliary request. According to the letter, the Japanese publication made clear that the cancellation key had to be operated twice to cancel the last digit entered.

V. During the oral proceedings, held on 20 March 2002, the Patentee filed a new claim 1 of a main request, which reads as follows:

"Receiver for a transmission system, transmitting information together with normal television signals, said information being represented by a plurality of pages, each of which is selectable by the user from receivable pages, by sending to the receiver a sequence of digits which identify the chosen page, comprising command means (1) which provide a plurality of standard keys, activated by the user for generating command signals and with control means (2), coupled to the command means for generating, in reply to said command signals, the sequence of digits and with a decoder circuit (4), connected to the control means (2), able to receive, select, process and reproduce the pages of information after receiving the sequence of digits, and further comprising key means for cancelling at least one digit included in the sequence by mistake, characterised by the fact that a standard " - " or "left arrow" key for the command of the receiver is foreseen for cancelling one digit included in the sequence by mistake, and a standard " + " or "right arrow" key for the command of the receiver is foreseen for cancelling more than one digit included in the sequence by mistake, said standard " + " or "right arrow" key being pressed once to perform said cancellation, which said standard keys, during the period of time when the control means (2) are receiving the input of said sequence of digits, are not operative for their normal function as standard " - " or "left arrow" and " + " or "right arrow" keys, respectively, for the command of the receiver, but perform said cancellation functions instead."

VI. The Opponent's arguments during the oral proceedings can be summarised as follows:

Claim 1 filed in the oral proceedings was filed too late and should not be allowed into the proceedings. Moreover the amendments made in the claim are not occasioned by grounds for opposition specified in Article 100 EPC. If the amendments are considered to concern clarity then they are not allowable, since clarity is not a ground of opposition.

Having regard to inventive step, document D2a formed the closest prior art, disclosing a key which in proceedings before the Opposition Division had been called a "Metz key" and was labelled with the symbol "000" (D2a, see table, page 17). This key had different functions in two different teletext submodes. When entering the digits of a number in a specific teletext submode ("Basis-Bedienebene") all of the entered digits could be cancelled with that key. This however meant that erroneous digits could also be cancelled if only one or two of the three digits of a teletext page number had been entered. It was true that the prior art of D2a differed from the present invention if the operator discovered that the second digit entered was wrong. In that case, according to D2a, both entered digits had to be deleted with the "Metz key", whereas according to the invention there was a second key for cancelling the single erroneous digit. Hence the problem to be solved had to be seen in creating an arrangement whereby also a single digit that had been erroneously entered could be cancelled. A person skilled in the technical field concerned had, at the priority date of the present patent, a good knowledge of computer techniques and was well aware of the use of a backspace key. It would therefore have been obvious for him to add an additional key to the "Metz key" in order to be able to cancel just a single digit. It was

true that the "Metz key" in D2a was not used in the normal television mode. Nevertheless it was disclosed that this key was used in two different modes and it would have been obvious that a key normally used as a standard key in the television mode could also be used for cancellation of a digit or digits entered during the teletext mode.

Moreover document D1 also disclosed the idea that a key in the teletext mode was used for cancelling a single digit. This key functioned like a backspace key in that the key had to be repeatedly operated if several digits in a row had to be cancelled. Thus it appeared that the skilled person in combining the teachings of D2a and D1 would also arrive at the invention in an obvious way.

The Patentee's arguments can be summarized as follows:

Claim 1 had been delimited against document D1 which was considered the closest prior art, although not disclosing a cancellation key used in the normal television mode. The "Metz key" in D2a was also not used in the television mode in the sense of the cancellation keys of the present invention. It was only used for cancelling digits in the teletext submode for programming series of teletext pages ("Basis-Bedienebene") and moreover for leaving another submode ("Top-Bedienebene" - see table, page 17 in D2a). The present invention however used standard keys for cancelling digits erroneously entered when selecting a teletext page. The standard keys used according to the invention were standard in the sense that they were used as standard keys in the normal television mode as well as in the "normal" teletext mode.

Regarding the criticism by the Opponent during the oral proceedings, the Patentee considered it appropriate to amend the wording of claim 1 of the main request to clearly restrict the subject-matter of the claim to the use of the " - " or "left arrow" and the " + " or "right arrow" keys for cancelling the digits entered by mistake. This meant that these standard keys were only operative a very short period of time in the "cancellation mode", since as soon as the third page digit had been entered for a selected teletext page the key had to be used for commands in the normal teletext mode for changing the page number by 1 (incrementing using the " + " key, decrementing using the " - " key). Such operation of standard keys had not been disclosed anywhere and was not obvious to a skilled person.

VII. The Appellant (Patentee) requested that the decision under appeal be set aside and that the patent be maintained on the basis of claim 1 filed in the oral proceedings (main request), or, as first or second auxiliary request, on the basis of claim 1 of the first or the second auxiliary requests filed in the oral proceedings before the opposition division, or, as a third auxiliary request, on the basis of claim 1 of the request filed with letter dated 20 February 2002, and claims 2 to 7 as granted.

The Appellant (Opponent) requested that the decision under appeal be set aside and that the patent be revoked.

VIII. At the end of the oral proceedings the Board's decision was announced.

Reasons for the Decision

1. The appeal complies with the provisions mentioned in Rule 65 (1) EPC and is therefore admissible.

Main request

2. Regarding the Opponent's argument that Claim 1 of the main request filed during the oral proceedings by the Patentee was late filed, it is true that this claim should preferably have already been filed with Patentee's letter one month before the oral proceedings. The Board is however of the opinion that the amendments made therein are easy to understand and are made in reaction to the argumentation by the Opponent and statements by the Board in the course of the oral proceedings. Moreover these amendments in part correspond, as argued by the Patentee, to features contained in the main claims of the three auxiliary requests filed before the oral proceedings. Hence, they cannot be regarded as entirely surprising.

The Board is also of the opinion that these amendments, although they imply clarifications, are occasioned by grounds for opposition (Rule 57a EPC), since these amendments restrict the scope of the claim and directly influence its interpretation and therefore also the assessment of inventive step, the lack of which was the reason for the Opposition Division's rejecting the claim as granted.

Also the Board considers that the amendments made in claim 1 in relation to granted claim 1 (thus identical to claim 1 of the main request before the Opposition Division) are allowable with regard to Articles 123(2)

and (3) EPC. The phrase added to claim 1 at the beginning of it (see cited claim above, lines 1 and 2 - "transmitting information together with normal television signals") is supported for example by the published (original) application, column 1, second paragraph. The sentence at the end of the preamble ("and further comprising key means for cancelling at least one digit included in the sequence by mistake") is derivable, for example, from original claim 1 in the published application. Moreover, it is clear in the original description that the " + " and " - " or "left arrow" and " right arrow" keys can be used for cancellation of the digits entered by mistake (column 4, lines 23 to 45) and that these keys are standard keys (published application, the paragraph bridging columns 2 and 3). Therefore all of the amendments relating to the identification of the keys comply with Article 123(2) EPC and satisfy also Article 123(3) EPC, since they all restrict the scope of claim 1.

The Board moreover notes that the Opposition Division considered that the expression (in the first auxiliary request before the Opposition Division) that "an additional key (+) is foreseen for cancelling **more than one digit**" contravened Article 123(2) EPC. This is not however the position of the Board. The cancellation of more than one digit as claimed is, in the opinion of the Board, disclosed in the original description (column 4, lines 23 to 45) and also in original claim 5 which relates to claims 1 and 2. Therefore the corresponding expression in present claim 1 is allowed.

3. Due to the restriction of the claim to the specific cancellation keys and their function during the

cancellation period (cf. "which **said** standard keys, during the period of time when the control means (2) are **receiving** the input of said sequence of digits , are not operative for their normal function") the subject-matter of claim 1 is clearly different from the prior art.

Neither of the cancellation keys disclosed in documents D1 (key 14a) or D2a (the "Metz key"), referred to in proceedings before the Opposition Division and the Board, can be identified as a standard key in the sense that they function both in the normal teletext mode and in the normal television mode. In D2a the remote control unit has a separate key for changing volume, two keys for changing program channel by one (P+ and P-) and two keys for changing the teletext page number by 1 (" + " and " - " keys in the dedicated teletext key section of the remote control unit). It appears that the remote control unit shown in Figure 1 of D1 does not have any keys at all which are used in the normal TV mode. Figure 1 shows that the command unit 13 can influence the "receiving circuit of character broadcasting 6" but cannot influence the "receiving circuit of television". It therefore appears that this control unit is only used for manipulating the received text and it has no keys at all which could be compared to the " + " and " - " keys in the present patent. In any case, D1 is silent about any additional key function.

4. It therefore appears to the Board that in the present case the appropriate starting point of the invention is a normal television receiver, as described in the description (see patent, column 1, lines 32 to 45 and column 2, lines 36 to 46), having standard keys which

are not only used in the TV mode (for example for entering the desired program channels) but also for entering and manipulating the numbers of the selected teletext pages. The Board therefore considers the problem mentioned in the introductory part of the description of the patent (see column 1, line 57 to column 2, line 4) to be the objective problem to be solved, i.e. "to realise a receiver for a Teletext transmission system that allows the user, in a simple way, to remedy an error or a loss of digits during the course of the operation of sending to the decoder the sequence of digits for obtaining the desired page".

5. When developing the invention, the designers started, as was explained by the Patentee in the oral proceedings, from the idea that it must be convenient for a normal TV viewer to cancel erroneously entered digits by standard keys which could be easily associated with a cancellation operation. Since the " + " and " - " (or corresponding) keys in the normal television mode have always been used for increasing or decreasing the volume (or changing the program channel by 1) and in the normal teletext mode have always been used for incrementing or decrementing the page number by one (as was also agreed by the Opponent in the oral proceedings), it is apparent that these keys could also be easily associated with a change in the number of displayed digits of a teletext page number.

It might therefore appear to be obvious to choose the " + " and " - " keys as cancellation keys. However the implementation of the invention with these keys might not appear to be self-evident, since, as pointed out above, the " + " and " - " keys must be operable in the normal teletext mode for increasing or decreasing the

page number by one. If these keys were used for cancellation then they could only be active for that purpose during the short time the TV viewer needs to enter the first two digits of a teletext page number, since after entering the third digit the " + " and " - " keys must again be operable for changing the page number in the normal teletext mode. However the prior art contains no hint in this direction. As stated above, neither of documents D1 and D2a is concerned with the normal (standard) teletext mode. The key 14a in D1 is used, as mentioned above, as a backspace key and is also said to act as a "replay" key, i.e. it can be used to retrieve a teletext page already stored in a certain "reservation field". The "Metz" key in the arrangement of D2a is, as mentioned above, used for preprogramming series of teletext pages in a specific teletext submode and is used to exit from another teletext submode.

It therefore appears to the Board that, starting from the prior art referred to in the introductory part of the patent description, the skilled person would not arrive at the invention in an obvious way, even in the light of prior art documents D1 and D2a.

6. Also the Board cannot see how a skilled person starting from the prior art disclosed in document D2a and combining it with the teaching of D1, or just applying common general knowledge, would arrive at the present invention in an obvious way (cf. argumentation by the Opponent - see point VI above). As pointed out above (see under point 3), the remote control unit D2a has many separate keys for the different functions in the different modes and moreover a specific key for deleting digits in two separate teletext submodes. It

appears that the skilled person would have to redesign the remote control unit of D2a entirely in order to arrive at the invention. Therefore, starting from the teaching of D2a, the objective problem to be solved would not be to create an arrangement for cancelling a single erroneous digit, as the Opponent believes, but a simplified redesign for which no indication is given in this prior art. For analogous reasons the arrangement of D1 cannot be successfully used against the inventive step of the invention, either in isolation or in combination with D2a. Nor does the remaining prior art cited in the appealed decision lend itself to questioning inventive step.

Hence, even if the idea were obvious, having regard to the prior art suggested by the Opponent (D2a combined with common general knowledge or D1), to use two different keys for cancelling digits erroneously entered in the teletext mode, the invention as set out in claim 1 is still not obvious. The choice of the specific standard keys according to the invention results in an economic design and requires a specific function of the claimed receiver that results in the subject-matter of claim 1, thus involving an inventive step.

7. The Board consequently finds that the subject-matter of claim 1 meets the requirements of Articles 52(1) and 56 EPC.

Auxiliary requests

8. Since the Board finds that claim 1 of the main request is allowable it is not necessary to examine the auxiliary requests.

Remittal for first instance

9. The dependent claims (see, for example, claim 3) and the description (see, for example, column 4, lines 11 to 18) need further consideration for reasons of consistency with amended claim 1. The Board therefore exercises its discretion pursuant to Article 111(1) EPC to remit the case to the first instance for further prosecution in this respect.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance with the order to maintain the patent on the basis of claim 1 filed in the oral proceedings and the dependent claims and description to be adapted.

The Registrar:

The Chairman:

M. Kiehl

S. V. Steinbrener