

Internal distribution code:

- (A) [] Publication in OJ
(B) [] To Chairmen and Members
(C) [X] To Chairmen
(D) [] No distribution

D E C I S I O N
of 13 December 2002

Case Number: T 0864/00 - 3.5.1

Application Number: 93900569.0

Publication Number: 0571604

IPC: H04N 5/445

Language of the proceedings: EN

Title of invention:

Channel labelling apparatus for a television receiver

Patentee:

THOMSON CONSUMER ELECTRONICS, INC.

Opponent:

Interessengemeinschaft für Rundfunkschutzrechte GmbH
Schutzrechtsverwertung & Co. KG

Headword:

Channel labelling apparatus/THOMSON

Relevant legal provisions:

EPC Art. 52(1), 56

Keyword:

"Inventive step (no)"

Decisions cited:

-

Catchword:

-



Case Number: T 0864/00 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 13 December 2002

Appellant: THOMSON CONSUMER ELECTRONICS, INC.
(Proprietor of the patent) 600 North Sherman Drive
Indianapolis
Indiana 46201 (US)

Representative: Powell, Stephen David
WILLIAMS POWELL
4 St Paul's Churchyard
London EC4M 8AY (GB)

Respondent: Interessengemeinschaft für
(Opponent) Rundfunkschutzrechte GmbH
Schutzrechtsverwertung & Co. KG
Bahnstrasse 62
D-40210 Düsseldorf (DE)

Representative: Eichstädt, Alfred, Dipl.-Ing.
Maryniok & Eichstädt
Kuhbergstrasse 23
D-96317 Kronach (DE)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 6 June 2000
revoking European patent No. 0 571 604 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: S. V. Steinbrener
Members: R. Randes
E. Lachacinski

Summary of Facts and Submissions

I. This is an appeal against the decision of the Opposition Division to revoke the present European patent because the subject-matter of claim 1, which was identical for both the main and auxiliary requests, did not involve an inventive step in view of the following documents:

D1: DE-A-27 46 186 and

D3: DE-C-30 31 527.

II. The patentee appealed, requesting in the statement of grounds of appeal that the patent be maintained on the basis of claim 1 which was slightly amended with respect to rejected claim 1. The appellant argued that the Opposition Division had not interpreted the teachings of documents D1 and D3 properly and had seen features in them which were not in fact present.

III. The respondent argued that claim 1 lacked an inventive step and defended the appealed decision.

IV. In an annex to the summons to oral proceedings the Board noted that, in order to assess inventive step, it appeared that it was necessary to find out whether it would be obvious to a skilled person to provide a pre-programmed list of labels. It was also noted that document

D4: EP-A-0 391 656

appeared to disclose all features of refused claim 1 except the preprogrammed labels not entered by the user of the apparatus.

V. Oral proceedings were held before the Board on 13 December 2002.

1. **The appellant requested** that the decision under appeal be set aside and that the patent be maintained on the basis of the main request or the first auxiliary request presented at the oral proceedings.

Claim 1 of the main request reads as follows (the indication of the features (a) to (f) having been added by the Board):

"Apparatus for use in a television system apparatus comprising:

- (a) means (120, 125) for user input;
- (b) memory means (116, 117) for storing data;
- (c) control means (110) coupled to said memory means for reading said data from said memory means and associating said stored data with a television channel in response to input by a user of the apparatus,

characterised in that

- (d) said data are representative of one of a plurality of preprogrammed labels not entered by said user of said apparatus

and in that the apparatus further comprises

- (e) on-screen display and graphics generator means coupled to said control means for producing text character and graphics signals for display when a television channel is selected by said user, said

text character and graphics signals corresponding to said stored data representative of said one of said plurality of preprogrammed labels associated with said selected television channel,

- (f) and further in that during a programming mode, said user of said apparatus is capable of selecting a channel and thereafter all of said plurality of said preprogrammed labels can be displayed, and the user is capable of sequentially selecting any one of said displayed preprogrammed labels to be associated with said selected channel."

Claim 1 of the auxiliary request differs from claim 1 of the main request in that the phrase

"wherein said preprogrammed labels are network logos or service marks"

has been added at the end of feature (f).

2. The appellant's arguments can be summarized as follows:

The starting point of the invention was the situation described in D4 and mentioned in the introductory part of the present patent specification. For example, in the hotel/motel environment (D4, column 1) the visitor was unfamiliar with local channel numbers. Moreover a problem arose if stations changed frequencies or channels. Hence a visitor wishing to watch a favourite program on a known major network could have difficulty locating the appropriate local channel owned by the major network. Instead of providing channel subscribers with channel conversion charts, so that visitors could locate

the proper channels, D4 proposed a tuning system which allowed a user, for example a hotel owner, to enter a text label, character by character, and to associate this label with a particular channel to be tuned. This was however time consuming and rather complicated, requiring extensive knowledge of the different stations and their labels. The present invention therefore suggested a list of permanently preprogrammed labels to be freely selected and which could be associated with desired stations. This also made it possible to use labels which were simplified and could even be easily recognisable by small children. There was no suggestion anywhere that such an approach could be used when programming labels to corresponding stations. D1 disclosed labels which were permanently assigned to specific stations, there being no possibility of freely selecting the labels, since the labels in the memories HR 1, HR 2.....BR1 were permanently stored. It was not clear what was meant by the last paragraph of D1. In any case it was not disclosed that the TV user could freely select a desired label among a number of permanently stored labels to be associated with a specific channel.

An important difference between the invention and the teaching of D1 was that the invention used graphics generator means, so that pictorial labels could be produced on an on-screen display. According to D1, it was only possible to display text labels. The present invention therefore provided a flexible and extended selection of the labels and, in addition, permitted a comfortable and effective label programming procedure.

3. **The respondent requested** that the appeal be dismissed.

4. The respondent's arguments can be summarized as follows:

The teaching of D1 destroyed the novelty, or at least inventive step, of the invention. All features of the claim were disclosed in D1, although a graphics generator as such and the feature that preprogrammed labels can be freely selected and displayed were not explicitly mentioned. For a skilled person however they were implicitly disclosed in D1. It was true that the character generator of the embodiment shown in D1, Figure 1, displayed labels in the form of alphanumeric characters, but, since the arrangement of D1 also was intended to be used in a TV system, it was self-evident that a graphics generator could be used for the on-screen display of labels. Moreover, according to D1, last paragraph, a free selection of labels could be performed, i.e. if a channel was used by more than one station, and it therefore appeared that D1 suggested that the user could choose among different labels.

- VI. At the end of the oral proceedings the Chairman of the Board announced the Board's decision.

Reasons for the Decision

1. The appeal satisfies the requirements mentioned in Rule 65(1) EPC and is thus admissible.

Main Request

- 2.1 D1 discloses, in correspondence with present claim 1, an apparatus for use in, for example, a television

system apparatus (see D1, page 2, first paragraph) comprising:

- (a) means for user input (see D1, Figure 1, reference numeral 20),
- (b) memory means for storing data ("Anspruch 1", "zweiter Digitalspeicher", page 3, first paragraph, the two last sentences),
- (c) control means coupled to said memory means for reading said data from said memory means and associating said stored data with a television channel in response to input by a user of the apparatus (Figure 1, MPU 15 and "Anzeigeeinheit" 14; "Anspruch 1", lines 8 to 13; page 2, first paragraph, page 3, last paragraph),
- (d) said data are representative of one of a plurality of preprogrammed labels not entered by said user of said apparatus (page 3, penultimate sentence),
- (e') display and character generator means ("Charaktergenerator" 16) coupled to said control means for producing text characters for display when a channel is selected by said user, said text character signals corresponding to said stored data representative of said one of said plurality of preprogrammed (text) labels associated with said selected channel (Figure 2, HR1...BR1; Figure 1, "Charaktergenerator" 16, page 3, last paragraph),

Of these features disclosed in D1, feature (e') is slightly different from the corresponding feature (e) of present claim 1, which mentions an "**on-screen** display and **graphics** generator means", instead of the display and character generator means known from D1.

Although the practical embodiments disclosed in D1 are apparently concerned with radio applications, it is clearly stated in D1 that the problem to be solved is how to indicate the name of the received station in alphanumerical letters on a display of a radio -or TV receiver, instead of only indicating the frequency or channel number (see page 2, first paragraph). Therefore it appears to be self-evident that a skilled person reading this document would also associate the teaching with TV applications.

The Board therefore considers that features (a) to (d) and partly also feature (e) (with the exception of the **on-screen display and graphics generator means** as mentioned above of present claim 1 are disclosed in D1.

- 2.2 The last feature (f) of claim 1 is not present in the principal embodiment disclosed in D1. However the Board understands that the alternative embodiment hinted at in the last paragraph of D1 (page 4, lines 9 to 14) points in the direction of this feature. Here it is stated that, because different stations [in different geographical areas] in the USW-space often have the same transmitting frequencies, there is no sense in permanently programming the microprocessor, as is done in the principal embodiment wherein a single frequency is assigned to each station. Instead it is suggested in such cases that the programming be freely done at the receiving place. It is said that this could be easily performed by known microprocessor means (for example, by means of a keyboard and a table of frequencies/-stations) at the moment the transmission of the correct station is received with the desired quality.

The alternative embodiment in the last paragraph of D1, in the opinion of the Board, reveals the disadvantage of the principal embodiment if a certain frequency is used by more than one broadcasting station, such

stations all possibly having different labels. Therefore it can be understood from this last paragraph of D1 that the alternative arrangement must be such that it is possible at the receiving location to assign the received frequency to the correct memory block (A, B...N) and the corresponding label memory (HR1, HR2...BR1), so that the correct preprogrammed label is displayed for the station currently being received. This can apparently be done by using a list of locally receivable frequencies and associating the received frequency with the memory block (A...N) corresponding to the receiving location (in Munich for example with memory block N corresponding to the label memory ("Sendererkennungsspeicher") BR1= Bayerischer Rundfunk 1). By doing this the preprogrammed label in the label memory is apparently automatically associated with the frequency currently received, since as can be understood, this memory is permanently programmed (D1, page 3, the penultimate sentence, "...Sendererkennungsspeicher sind fest vorprogrammiert"). The Board therefore considers that it is known from the alternative embodiment of last paragraph of document D1, in the terms of claim 1, feature (f), that during a programming mode, said user of said apparatus is capable of selecting a channel and thereafter to select a label to be associated with said selected channel.

It is however true that **feature (f)** as a whole is not disclosed in D1, since there is no mention in D1 that (in the terms of present claim 1)

"all of said plurality of said preprogrammed labels can be displayed", and that "the user is capable of sequentially selecting any one of said preprogrammed labels to be associated with said selected channel".

2.3 Thus the difference between the subject-matter of

present claim 1 and the alternative embodiment of D1 is that the user according to claim 1 is able to freely select a label from a list of permanently preprogrammed labels in the memory. It is not necessary for him to associate correctly the frequency received with a single corresponding preprogrammed label. Moreover, as has been made clear above, according to the invention it is possible not only to use labels in the form of text labels (made up of alphanumeric characters) but also labels having an arbitrary pictorial form (logos and service marks of different design).

- 2.4 The Board therefore considers that the problem to be solved is to provide an apparatus which is more flexible in its visual channel identification than the arrangement disclosed in the alternative embodiment of D1.

Starting from the alternative embodiment of D1, it appears to the Board that the main difference resides in the fact that the user has the possibility, or limited freedom, to select among a certain number of preprogrammed labels to find the correct or personally preferred one. After the user has made his selection, the label selected is automatically associated with the corresponding station. Technically speaking, this means a step back from a more or less fully automatic association (as according to the alternative embodiment - and a still larger step back from the principal embodiment of D1 which functions automatically) to allowing the user to select from among all the preprogrammed labels according to taste. Although an incorrect association could also be made in accordance with the alternative embodiment of D1, the choice would be restricted to labels of those stations broadcasting on identical frequencies.

In the Board's view, the claimed invention thus relates

to the typical situation where, based on entirely conventional technology, as e.g. selecting specific items from memory content, a compromise has to be found for the user between comfort through automation and flexibility necessitating additional user effort. Such compromise is a matter of customary practice normally exercised by the skilled man and hence cannot be considered inventive.

Having regard to the additional feature of providing an on-screen display and graphics generator means, such means is known from document D3 for graphically displaying memory contents associated with specific broadcasting stations (see D3, claim 5 and column 4, lines 47 to 56). The Board finds that its use in a device according to D1 would be obvious to a skilled person if graphic symbols, like network logos or service marks, were to be employed as more sophisticated labels.

It follows that claim 1 of the main request is not allowable (Article 52(1) and 56 EPC).

Auxiliary Request

3. Claim 1 of the auxiliary request differs from claim 1 of the main request only in that it is explicitly stated at the end of the claim that the "preprogrammed labels are network logos or service marks". However, the Board has already interpreted claim 1 of the main request in this way. This follows from the fact that it is claimed that the on-screen display and graphics generator is intended to produce graphics signals. As made clear in the oral proceedings, on a question by the appellant, the Board held that claim 1 should indeed be so interpreted that "graphics signals" could create logos or service marks on the screen not constituted of alphanumeric characters. Therefore, also

the subject-matter of claim 1 of this request does not involve an inventive step.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

M. Kiehl

S. V. Steinbrener