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**Datasheet for the decision
of 11 October 2007**

Case Number: T 1157/03 - 3.5.04

Application Number: 99918787.5

Publication Number: 1076995

IPC: H04N 5/445

Language of the proceedings: EN

Title of invention:

Program guide system with flip and browse advertisements

Applicant:

United Video Properties, Inc.

Opponent:

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Headword:

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Relevant legal provisions:

EPC Art. 123(2)

Keyword:

"Amendments - added subject-matter (yes)"

Decisions cited:

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Catchword:

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Case Number: T 1157/03 - 3.5.04

D E C I S I O N
of the Technical Board of Appeal 3.5.04
of 11 October 2007

Appellant: United Video Properties, Inc.
7140 South Lewis Avenue
Tulsa, OK 74136 (US)

Representative: Hale, Peter
Kilburn & Strode
20 Red Lion Street
London WC1R 4PJ (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 1 July 2003
refusing European application No. 99918787.5
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: F. Edlinger
Members: A. Dumont
B. Müller

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the examining division to refuse European patent application 99 918 787.5, published as WO 99/56473.
- II. The application was refused because the subject-matter of at least claim 1 lacked an inventive step.
- III. Oral proceedings before the board took place on 11 October 2007, during which the appellant filed a set of claims 1 to 4 replacing the claims previously filed.
- IV. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the sole request submitted in the oral proceedings. He offered to adapt the remaining claims 5 to 40 filed with letter dated 11 September 2007 and the description if the board found that the patent could be granted on the basis of claim 1 as filed in the oral proceedings.
- V. Claim 1 reads as follows.

"A system (30) in which an interactive television program guide is implemented on user television equipment (44) comprising:
means for receiving program listings data and advertisement data
means (48, 52) for providing a program guide screen (78) with the interactive television program guide that contains video (124) for a given channel;
means (48, 52) for providing a program listings display region in the program guide screen (78) that contains a single program listing (84) for a single channel; and

means for overlaying the program listings display region on the video for the given channel, characterised by:

means (62, 66) for selecting said display region as one of a browse display (80) and a flip display (96) in response to an input from a user;

means for providing a highlight (108) positioned on the program listing, whereby additional information for the program may be obtained by a user;

means for navigating the highlight (108) from the program listing (110) to an advertisement (112) from said advertisement data and displayed in the listings display region in response to an input from a user;

means for selecting the advertisement (112) in response to an input from a user when the highlight (108) is over the advertisement (112); and

means for performing an operation associated with the advertisement (112) when the advertisement (112) is selected."

- VI. The appellant argued that the addition of the first feature of the characterising portion of claim 1 complied with Article 123(2) EPC because it was based on several passages in the description as filed (page 3, lines 1 to 4; page 15, lines 13 to 17; page 16, lines 8 to 12; page 18, lines 10 to 13; page 20, lines 5 and 6 and lines 27 to 30 and page 21, lines 6 to 8).

Reasons for the Decision

1. The appeal is admissible.
2. The subject-matter of claim 1, comprising the feature set out in the first paragraph of the characterising

portion of claim 1 ("means (62, 66) for selecting said display region as one of a browse display (80) and a flip display (96) in response to an input from a user"), was not disclosed in the application as filed (WO 99/56473). This amendment extends the subject-matter beyond the content of the application as filed for the following reasons (Article 123(2) EPC).

- 2.1 It is common ground that this feature was not present in any of the claims, nor explicitly disclosed, in the application as originally filed.

- 2.2 The prior art according to figures 4 and 5 of the application shows conventional browse and flip displays, respectively. The description (page 15, lines 9 to 12) mentions that "[t]he user may operate the program guide in either browse mode or flip mode by using the appropriate remote control keys (e.g., cursor keys for browse mode and channel up and down keys for flip mode)". This passage however concludes the description of the prior art and it does not hint at a selection of the display mode in response to an input from the user in the context of the present invention, which relates to displays containing an advertisement as shown from figure 6 onwards.

- 2.3 The description and the drawings contain the expressions "flip and browse displays" and "flip or browse display" (see for instance page 3, lines 1 to 4; page 15, lines 13 to 17; figures 10, 11 and 14). In the board's view, these expressions read in context merely indicate that the invention is equally applicable to flip displays and browse displays, but they do not say,

nor do they imply, that the user may select one particular display mode.

- 2.4 Page 16, lines 8 to 12, mentions a "browse display" being "invoked" when the user depresses a cursor key, whereas page 18, lines 10 to 13, mentions a "flip display" being "provided" when the user depresses a suitable key. These passages, to which the appellant has referred, however relate to two separate embodiments of a browse display (figure 6) and a flip display (figure 9), respectively (see page 5, lines 5 to 7 and lines 15 to 17). A unique display mode is described in the context of each of these embodiments and the description does not mention the possibility of combining them.
- 2.5 Passages on pages 20 and 21 disclose the user selecting whether the program listings display region operates in either "browse mode or flip mode" by depressing different keys. These passages relate to an embodiment in which the video is displayed in a reduced-size window contained in the full-screen display region (see page 20, lines 5 to 7, and figure 12). In contrast, the subject-matter of claim 1 comprises means for overlaying the display region on the video (see the last feature in the preamble of claim 1) and therefore relates to different systems in which the program listings display region is overlaid on the video, as shown in figures 6 to 9. This was not contested by the appellant.
3. In conclusion, the application discloses a user selecting a particular display mode by depressing particular keys on a remote control either in the

context of the prior art (see section 2.2) or in the context of a full-screen display (see section 2.5). The board recognises that applying the technique to an overlay display containing an advertisement according to claim 1 might be straightforward. It is however not directly and unambiguously disclosed in the application documents as filed. This decisive criterion for allowing amendments in accordance with established jurisprudence of the Boards of Appeal is therefore not met (see Case Law of the Boards of Appeal of the European Patent Office, 5th edition 2006, III.A.2.1).

4. As a result of the amendment to claim 1 the application contains subject-matter which extends beyond the content of the application as filed, thereby infringing Article 123(2) EPC. Claim 1 is therefore not allowable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar

The Chairman

D. Sauter

F. Edlinger