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**Datasheet for the decision
of 16 October 2006**

Case Number: T 0131/04 - 3.5.04

Application Number: 93104180.0

Publication Number: 0616466

IPC: H04N 5/44

Language of the proceedings: EN

Title of invention:

Horizontal panning for wide screen television

Patentee:

THOMSON CONSUMER ELECTRONICS, INC.

Opponent:

Interessengemeinschaft für Rundfunkschutzrechte GmbH
Schutzrechtsverwertung & Co. KG

Headword:

-

Relevant legal provisions:

EPC Art. 56, 114(1),(2)

Keyword:

"Inventive step - yes"

Decisions cited:

-

Catchword:

-



Case Number: T 0131/04 - 3.5.04

D E C I S I O N
of the Technical Board of Appeal 3.5.04
of 16 October 2006

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

Representative: Kohrs, Martin
Thomson multimedia
46, quai A. Le Gallo
F-92648 Boulogne Cedex (FR)

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

Representative: Eichstädt, Alfred
Maryniok & Partner
Kuhbergstraße 23
D-96317 Kronach (DE)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 2 December 2003
revoking European patent No. 0616466 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: F. Edlinger
Members: C. Kunzelmann
J. Willems

Summary of Facts and Submissions

I. The appeal is against the decision of the opposition division revoking European patent No. 0 616 466. The opposition division was of the opinion that the ground on which the opposition was based, namely lack of inventive step, prejudiced the maintenance of the European patent.

II. Claim 1 of the patent as granted reads as follows:

"A horizontal panning system for a television apparatus, comprising:

means (244) having a wide format display ratio for displaying a processed video signal; characterized by signal processing means (304) for generating said processed video signal by manipulating data in at least one input video signal (Y_MN) representative of a picture, said signal processing means having memory means (356) with asynchronous write and read ports for selectively cropping said picture in at least one display mode in which a first area of said picture is cropped and a second area of said picture is represented in said processed video signal, and means (339) for generating writing control signals (WR_EN_MN_Y, WR_EN_MN_UV) for said memory means (356), said writing control signals having a selectable phase relative to a synchronizing component of said at least one input video signal and having selectable time durations, for cropping said picture to form said second area in said at least one display mode."

Claim 10 of the patent as granted reads as follows:

"A horizontal panning system for a television apparatus, comprising:

display means (244) having a wide format display ratio, and of a certain size, for displaying a processed video signal; characterized by

signal processing means (304), having memory means (356), for generating said processed video signal by selectively cropping a picture represented by data in at least one input video signal (Y_MN) to define a subset of said picture for implementing a plurality of display modes, including a first display mode in which said picture is both enlarged and cropped, said subset representing an enlarged portion of said picture corresponding to said certain size and a second display mode in which said picture is cropped, said subset filling a portion of said display means smaller than said certain size; and,

a microprocessor (310) for supplying control signals, including writing control signals for said memory means, to said signal processing means, said control signals having selectable phases relative to a synchronizing component of said at least one input video signal and having selectable time durations for determining which subset of said picture is represented in said processed video signal when not all of said picture is represented in said processed video signal."

Claims 2 to 9, 12 and 13 are dependent on claim 1.

Claim 11 is dependent on claim 10.

III. The decision under appeal dealt with the following documents amongst others:

D1: Siemens Preliminary Specification, "Display Processor SDA 9280", Version 1.0, 11 January 1993

D2: CANFIELD B. A. et al. "Multi-Feature Pix-in-Pix IC (CPIP) with Full Screen Pan and Zoom". In: IEEE 1990 International Conference on Consumer Electronics, 6 to 8 June 1990, pages 82 and 83

D3: WO 91/19378 A1

D5: SAKURAI, Masaru. "NTSC-HDTV Up-Converter". In: Signal Processing of HDTV, II, Proceedings of the third international Workshop on HDTV, Turin, IT, 30.08 - 01.09.1989, pages 665 - 673. Edited by L. Chiariglione. Amsterdam, NL: Elsevier Science Publishers B.V., 1990

D6: DE 31 15 367 A1

IV. In a communication dated 18 March 2002 the opposition division had indicated that D1 to D4 did not appear to render the claimed subject-matter obvious and emphasised that, according to the patent, cropping was performed on the write site of the memory.

V. In reply to the communication the opponent *inter alia* submitted document D5. Subsequent to a summons to oral proceedings before the opposition division the patent proprietor and the opponent sent letters on the same day, the opponent submitting document D6.

VI. The reasoning in the decision under appeal can be summarised as follows:

D5 and D6 were prima facie so relevant that they posed a potential obstacle to the patentability of the contested claims. The opposition division was convinced that D5 and D6 had been filed because the opponent had been confronted with a new argument (cropping on the write site). Thus, D5 and D6 were admitted into the proceedings.

The manufacturer of the IC of D1 had a great interest in the publication of D1 so as to sell the IC and to reach as many potential customers as possible. Also, it was rather unlikely that a major IC manufacturer would not provide a marking such as "confidential" or "for internal use only" on D1 if it was not intended for publication. Thus, the proprietor's argument that a tacit secrecy agreement had to be assumed because it was usual between an IC manufacturer and a client, an alleged recipient of D1, was not convincing. Hence D1 had been made available to the public.

D2 disclosed all the features of claim 1 except the last one relating to writing control signals for the memory. When faced with the problem of the opposed patent, namely to reduce the memory size required for performing a panning or zooming operation, the person skilled in the art would consider the teaching of D6, since it related to a panning system having all the features of claim 1 except the feature relating to the means having a wide format display ratio. In particular, D6 disclosed shifting the active image portion by using a shift in the write timing for the memory, the

duration of the write control signal being selected since D6 produced pulses which corresponded to a selected portion of the image. Thus, the features of claim 1 were rendered obvious by a combination of D2 with D6. Other combinations could also lead to the subject-matter of claim 1. For example, D1 showed the same features of claim 1 as D2. The combination with the features known from D6 would also arrive at the subject-matter of claim 1. Furthermore, a combination of D3 with D6 would arrive at the subject-matter of claim 1 apart from the fact that the panning in D3 was performed in the vertical direction and not horizontally as in the opposed patent. Essentially the same reasons applied to the subject-matter of claim 10.

VII. The appellant's (patent proprietor's) arguments can be summarised as follows:

D5 was filed more than one and a half years after the expiry of the opposition period without any valid reason. Thus D5 should not have been admitted by the opposition division. Furthermore, D5 was not relevant for three reasons. Firstly because it related to an NTSC-HDTV up-converter instead of a panning system, secondly because it did not control the writing into a memory to define which portion of the original picture was cropped and which was displayed, and thirdly because it did not solve the problem of the opposed patent.

D6 was filed the same day as the proprietor submitted his arguments before the oral proceedings. The filing was not in reaction to amendments or new arguments. D6

was not prima facie so relevant that it posed a threat to the patentability of claim 1. Without valid reasons for filing D6 so late in the proceedings, D6 should not have been admitted into the opposition procedure. Moreover the following arguments were presented in case the Board admitted D6 into the appeal procedure.

D6 disclosed a telecine, a film scanning device which received an optical input signal directly from film using a CCD, and constructed therefrom a video signal output. The telecine of D6 had no video signal input, and its optical input had no synchronizing signals associated with it. In D6 only the timing of the leading edge of a "Writing in Start Point Pulse" was critical, but not its duration, since the "Writing in Start Point Pulse" had to be controlled to occur at a time which would result in a video line of a predetermined length. D6 neither taught nor suggested controlling the panning by generating a writing control signal having a selectable phase relative to a synchronizing component of the input signal and having selectable time durations.

The invention of the opposed patent related to horizontal panning in a wide screen television apparatus, which was quite different from a telecine. A television apparatus received a video signal at an input and generated an optical output on a video display. Also the claims of the patent recited "at least one input video signal".

D1 was a preliminary specification of an IC under development so that the manufacturer may have had an interest in sending documents in a confidential way to

customers to prevent competitors from being aware of the new IC. Even though a letter on file contained a statement that it should be assumed that D1 was available to the public a tacit secrecy agreement usually existed between two contracting firms. Any doubt in this matter should favour the proprietor, not the opponent. Strict proof that D1 was available to the public before the filing date of the patent should be provided.

VIII. The appellant requested the setting aside of the decision revoking the patent and maintenance of the patent as granted. Oral proceedings were requested if the decision was not to be set aside.

IX. In response to the notice of appeal the respondent (opponent) requested that the appeal be dismissed and that oral proceedings be scheduled if this request could not be allowed. The respondent did not submit any arguments in response to the statement of grounds of appeal. Instead, he indicated that he refrained from making further submissions, that he would not attend oral proceedings and asked for a decision according to the state of the file.

Reasons for the Decision

1. The appeal is admissible.
2. *Documents D5 and D6 (Article 114 EPC)*

The appellant has argued that D5 and D6 should not have been admitted into the opposition procedure. However,

it follows from Article 114, paragraphs 1 and 2, EPC that an opposition division has a discretion to take facts or evidence into account even if they were not submitted in due time (and not in reaction to a change). According to the decision under appeal, the opposition division considered the *prima facie* relevance of D5 and D6, the opponent's reasons for filing D5 and D6 after the time limit under Article 99(1) EPC and the patent proprietor's reasons for requesting that D5 and D6 be disregarded. Thus the opposition division exercised its discretion according to correct principles, and the Board has no reason to overrule the way in which the opposition division exercised its discretion.

3. *Availability to the public of D1 (Article 54(2) EPC)*

The reasons for revoking the patent in the decision under appeal are mainly based on documents D2 and D6, the teaching of D6 having the decisive influence because D6 was said to disclose writing control signals for the memory as in claim 1 of the opposed patent. This had apparently led the opposition division to introduce D6 into the proceedings and to deviate from their provisional opinion. The combination of D1 with D6 (and also D3 with D6) is only referred to as another possible combination because D1 showed the same relevant features as D2. Nothing in the file suggests that D1 might constitute more relevant prior art than D2, when combined with D6. In these circumstances, and since the availability to the public of D1 is contested and the respondent (opponent) bearing the burden of proof has not provided further evidence, the question of whether D1 was available to the public may be left

open because, according to the state of the file, it does not influence the outcome of this decision.

4. *Inventive step (Article 56 EPC)*

4.1 It is uncontested that neither D2 nor D3 discloses generating writing control signals as specified in present claim 1. The Board concurs with this finding.

4.2 The decision under appeal is further based on the finding that the features of claim 1 relating to generating writing control signals are disclosed in D6. This finding by the opposition division has been disputed in the appeal proceedings. The teaching of D6 is therefore decisive for the outcome of this appeal.

4.3 D6 discloses a "telecine", namely a device for scanning cinemascope films. The scanned image signals are intended for display on a television screen having a smaller aspect ratio than the cinemascope film, using the full height of the television screen. The necessary selection of that portion of the image which is to be displayed on the television screen is carried out purely electronically (see page 7, lines 6 to 11) by selectively cropping the scanned image from the left and/or right side, resulting in horizontal image shifting, termed panning (see claim 1 of D6).

4.4 The Board agrees with the opposition division that D6 discloses on page 10, lines 4 to 9, that this horizontal panning system includes means for generating writing control signals for an image memory (4).

4.5 However D6 does not disclose writing control signals having selectable time durations corresponding to a selectable portion of the image. In the embodiment of figure 1 of D6, the selected portion of the scanned image is written into an image memory (4) which can store the content of one full television image, so that the portion of the scanned film which is to be displayed on the television screen is available at the output (6) of the telecine (see page 9, lines 6 to 13 in conjunction with page 10, lines 9 to 12). A read-out start pixel of the scanned image determining one edge of the scanned image portion to be displayed and a corresponding start point for writing into the image memory can be selected. The end of writing and thus the time duration will automatically be determined by the read-out start pixel and the length of the active line of the television system (see D6, claim 1 and page 9, last line to page 10, line 4). Also in the other embodiments of D6 this time duration is predetermined by the system. Thus the durations of the writing control signals are not selectable as specified in claim 1 of the opposed patent.

4.6 Furthermore in D6 the scanned image of the cinemascope film does not have a synchronizing signal. Synchronizing signals in the form of H-pulses are mentioned in D6 (page 9, lines 27 to 30), but they are related to the downstream construction of the output video signal. Thus the writing control signals do not have a "selectable phase relative to a synchronizing component of said at least one input video signal" as specified in claim 1 of the opposed patent.

- 4.7 Moreover D6 is concerned with the scanning of film to be displayed as a full television image, not with details of signal processing of the television signal which is available in D6 at the telecine output. Thus the main purpose of having a selectable phase and selectable time durations indicated in the opposed patent, namely the possibility of selecting boundaries of the subset of the picture for display (see figure 1 and column 4, lines 47 to 51 of the patent specification), is not addressed in D6.
- 4.8 D6 explicitly mentions the problem of reducing memory size (claims 13 and 15). However the problem in the context of D6 concerns the storing of scanned images and is solved by providing pixel interpolation.
- 4.9 In the telecine of D6 a different time duration of writing into the memory would have the effect that the image memory would not store one television image, meaning that the telecine output signal would not lead to a proper display of the selected portion of the scanned cinemascope film on a television screen. Thus it would not have been obvious to a person skilled in the art to change the time duration of writing into the image memory. Even if a person skilled in the art had considered applying the horizontal panning system used in the telecine of D6 to a television apparatus, the time duration for writing one full television image into the image memory would still be predetermined by the system. Thus D6 did not give a hint to a person skilled in the art that the phase and time duration of writing into the image memory could be made selectable as specified in claim 1.

- 4.10 In view of the above (see points 3 and 4.1), irrespective of whether a person skilled in the art would have combined D2 or D3 with D6, having regard to these documents it would not have been obvious to a person skilled in the art to provide a horizontal panning system as specified in claim 1.
- 4.11 D5, which the opposition division considered to be *prima facie* relevant, discloses an NTSC-HDTV up-converter. In one conversion mode 3N/4 scanning lines are converted to N scanning lines to be displayed, and N/4 scanning lines are abandoned. However D5 does not disclose a horizontal panning system. Furthermore D5 does not disclose in detail how the 3N/4 scanning lines are selected. In particular, it does not disclose controlling the writing into a memory to define which portion of the original picture is cropped as specified in claim 1. Thus, even if a person skilled in the art had considered combining D2 or D3 with D5, having regard to these documents it would not have been obvious to a person skilled in the art to provide a horizontal panning system as specified in claim 1.
- 4.12 Claim 10 specifies that writing control signals are included in control signals which have selectable phases and time durations. In effect this serves the same purpose as in the system of claim 1, and includes additional features, such as defining a subset of the picture and first and second display modes. Thus the above argumentation also applies to the horizontal panning system of claim 10.

5. In view of the above, the Board judges that the ground for opposition of lack of inventive step does not prejudice the maintenance of the opposed patent.
6. No oral proceedings were held because the appellant requested oral proceedings only if the decision under appeal was not set aside, the respondent indicated that he would not attend oral proceedings and the Board did not consider oral proceedings to be expedient.

Order

For these reasons it is decided that:

1. The contested decision is set aside.
2. The patent is maintained unamended.

The Registrar:

The Chairman:

D. Sauter

F. Edlinger