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**Datasheet for the decision
of 5 October 2006**

Case Number: T 0679/04 - 3.5.01

Application Number: 99124105.0

Publication Number: 0989749

IPC: H04N 7/08

Language of the proceedings: EN

Title of invention:

Transmission system and receiver

Applicant:

MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.

Opponent:

-

Headword:

Transmission system/MATSUSHITA

Relevant legal provisions:

EPC Art. 52(2)(d), 54, 84

Keyword:

"Presentation of information (no)"

"Remittal (yes)"

Decisions cited:

-

Catchword:

-



Case Number: T 0679/04 - 3.5.01

D E C I S I O N
of the Technical Board of Appeal 3.5.01
of 5 October 2006

Appellant: MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.
1006, Oaza Kadoma
Kadoma-shi, Osaka-fu (JP)

Representative: Eisenführ, Speiser & Partner
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 2 January 2004
refusing European application No. 99124105.0
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: S. Steinbrener
Members: R. Wibergh
P. Schmitz

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division to refuse European patent application No. 99 124 105.0.

- II. According to the decision appealed, claim 1 was not clear since it did not contain a proper definition of the expression "added services". Also the wording "newly assigned" was stated to be "rather unclear" but nevertheless susceptible of interpretation. The data structure containing fields was commonly used, so that the invention was not new. Even if the data of some fields had new assignments, the known data fields were suitable for the stated use and the new assignments could therefore not establish novelty. Moreover, since the claim was silent on any potential new technical features involved in an arrangement or manner of representation, the data group identification sign set out in claim 1 was only characterized by its information content, and the feature was therefore not allowable under Article 52(2)(d) EPC.

- III. With the statement of grounds of appeal, the appellant requested that the decision be set aside and a patent be granted based on claims 1 and 2 filed together with the grounds.

- IV. In a communication, the Board made a number of comments in particular with respect to Articles 52(2) and 84 EPC. Noting that the data listed in claim 1 were either "added" or "newly assigned", the Board found both expressions obscure. They were method features rather than device features, and especially the formulation

"newly assigned" might render the scope of protection unclear because the claimed transmission system was defined in terms of substitutions for features of an unidentified prior art system. It was also noted that if the claim could be understood as setting out new control data, the examining division's objections under Articles 54 and 52(2)(d) EPC were not justified.

V. By letter dated 3 August 2006 the appellant filed amended claims 1 and 2. Claim 1 read:

"A transmission system in which, on transmission side, television-program table information including channel information, date information, time information, program code information and title information are transmitted using a teletext in a television coding transmission system, while, on reception side (A), reservation of video recording on an image recording/reproducing apparatus (39) is effected on the basis of the received television-program table information, comprising
a data type deciding means (3) for deciding whether classified data groups of the television-program table information are character-program data or added data;
an added data decoding means (36) for decoding the signals decided as added data and accumulating the added data from the data type deciding means into a buffer memory (37), wherein said added data decoding means (36) comprises means for reading a program-content update index (DB 2) for notifying any update of program content if identified as the added data with a parameter (DB9) for identification of a data header related to added services and means for comparing the update index with the previously read index;

means for adding a channel identification number (DB11) for identifying a broadcasting channel at a data header section (DB8), the program-content update index (DB12) for notifying any update of program content, and a program broadcasting date (DB13, DB14) for representing broadcasting date of a program;

means for newly assigning the parameter (DB9) for identification of a data header related to added services to the data header parameters for identifying a program data header, a page data header and a program search data header;

means for adding a television-program identification number (PB5) for identifying each television program broadcast a day at a data-unit section, a program-classification identification index (PB10) for representing program broadcasting start time (PB6, PB7), program broadcasting terminate time (PB8, PB9), and type of program content, and program title display start position and program-title display terminate position for representing display position of a program title in vertical and horizontal directions when program title data is displayed on a screen; and

means for newly assigning a parameter for identification of added service data to data-unit parameters (PB2) for identifying a type of data unit including text, header text, and added sound information;

wherein a sign for identification of being added service data is newly assigned to a data group identification sign (DB2) for performing identification of program management data or page data and program search data at a data group header section (DB2 to DB7) and for judging whether the data group transmitted in a teletext broadcasting is of teletext program data or

added service data, whereby the data type deciding means (3) decides whether classified data groups of the television-program table information are character-program data or added data according to the data group identification signs."

- VI. The appellant requested the Board to "indicate allowability on the basis of the presently filed new claims", ie those filed with the letter dated 3 August 2006.

Reasons for the Decision

1. *Amendments*

Claims 1 and 2 have been substantially amended as compared with the version of the claims before the examining division. In particular, several hardware features (such as a deciding means, a decoding means and a buffer memory) have been added. It would be inappropriate for the Board to fully examine such extensively amended claims, in particular considering that the examining division remarked on the absence of potentially new technical features in claim 1 in the version before it (cf the decision under appeal, point 1.e.). The Board will therefore only examine whether the objections raised in the decision under appeal still prevail.

2. *Clarity (Article 84 EPC)*

- 2.1 The examining division held that claim 1, and indeed the entire application, contained no "proper definition

of the nature of the 'added services' (as opposed to the 'teletext program')". It was therefore obscure.

The expression "added service" remains in claim 1. The Board notes that the examining division itself found a definition of the expression, namely a service which is not a teletext program. Another possible definition, based on paragraph [0049] of the application, is that "added services" are those associated with the data processed by the added data decoder section (36). In the Board's view, this expression does not pose a problem under Article 84 EPC. The nature of the added services could conceivably be involved in the determination of the problem to be solved, but this would be an issue under Article 56 EPC.

- 2.2 The examining division found also the expression "newly assigned" obscure. The Board notes that claim 1 now additionally refers to "means for newly assigning". Since the examining division did not say why the wording "newly assigned" was obscure it is not possible to determine whether their objection applies in this new context. This issue must therefore be left to the examining division. The Board would like to add that the newly claimed means apparently must contain information about any previous or standard assignments as well as the new ones - an assumption which might need further investigation with respect to allowability (see point IV *supra*).

3. *Novelty (Article 54 EPC)*

The examining division argued that the feature "newly assigned" could not serve to distinguish the invention

from the prior art since any data in a corresponding known data field would be *suitable* for other uses.

The Board agrees that, in general, a known data format is not rendered new by the invention of a receiver which reacts to it in a new way. Only the method of using the format would be new. Whether or not this situation occurred in the present case need however not be decided, since claim 1 now includes several hardware means whose response depends on the transmitted data. Thus, the novelty of the presently claimed subject-matter does not turn on the data or data format.

4. *Presentations of information (Article 52(2)(d) EPC)*

4.1 The examining division found that the data structure set out in claim 1 was only characterized by the content of its information, and thus not allowable under Article 52(2)(d) EPC, since the claim was silent about potential new technical features. The Board notes that this can in any case not be true for the amended claims (see the preceding paragraph).

4.2 Moreover, the Board doubts that this objection was ever justified. An isolated claim feature cannot be contrary to Article 52(2)(d) EPC, since the whole subject-matter of the claim must be considered (cf Article 52(3) EPC). Claim 1 is directed to a transmission system using teletext, ie a technical system, which would not normally be regarded as a (method of) presentation of information as such. Whether or not an isolated claim feature within such a system contributes to a technical effect has to be considered when the invention is examined with respect to inventive step.

5. It should be pointed out that the Board has only examined the new claims with respect to the particular objections set out in the decision under appeal, as far as this has been deemed possible. Whether the application is deficient in other respects is a matter for the examining division to decide.

Order

For these reasons it is decided that:

1. The contested decision is set aside.
2. The case is remitted to the department of the first instance for further prosecution.

The Registrar:

The Chairman:

P. Guidi

S. Steinbrener