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**Datasheet for the decision  
of 19 September 2006**

**Case Number:** T 0923/04 - 3.5.03

**Application Number:** 97113196.6

**Publication Number:** 0810739

**IPC:** H04B 1/20

**Language of the proceedings:** EN

**Title of invention:**

System feature starting method and controlling method for  
audio/visual system

**Patentee:**

SONY CORPORATION

**Opponent:**

Interessengemeinschaft für Rundfunkschutzrechte GmbH

**Headword:**

System feature starting method/SONY

**Relevant legal provisions:**

EPC Art. 100(a), 52(1), 56  
RPBA Art. 10b

**Keyword:**

"Inventive step - (yes) third auxiliary request"

**Decisions cited:**

G 0009/91

**Catchword:**

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Case Number: T 0923/04 - 3.5.03

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.03  
of 19 September 2006

**Appellant:**  
(Opponent)

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

**Representative:**

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

**Respondent:**  
(Patent Proprietor)

SONY CORPORATION  
7-35, Kitashinagawa 6-chome  
Shinagawa-ku  
Tokyo (JP)

**Representative:**

Ayers, Martyn Lewis Stanley  
J.A. KEMP & CO.  
14 South Square  
Gray's Inn  
London WC1R 5JJ (GB)

**Decision under appeal:**

Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
8 April 2004 concerning maintenance of European  
patent No. 0810739 in amended form.

**Composition of the Board:**

**Chairman:** A. S. Clelland  
**Members:** D. H. Rees  
M.-B. Tardo-Dino

## Summary of Facts and Submissions

I. This is an appeal by the sole opponent against the interlocutory decision of the opposition division to maintain European Patent No. 0 810 739 in amended form.

II. The appellant had requested revocation of the patent in its entirety on the grounds that the claimed subject-matter was not new or did not involve an inventive step with respect to the disclosure of documents

E1: DE 3 815 560 A and

E2: DE 3 003 425 A

III. In oral proceedings held on 23 March 2004 the opposition division decided that the patent could be maintained on the basis of a request filed during the oral proceedings, the independent claim 1 of which read as follows:

"A system feature starting method for an audio/visual system which includes a plurality of audio/visual devices (11-14) each including a control circuit (11CT-14CT) for controlling operation of that audio/visual device, the control circuits of said audio/visual devices being connected to each other by way of a bus system (B4-B6), said audio/visual system further including an audio/visual center device (13) for controlling said audio/visual system in a concentrated manner, at least one of said audio/visual devices (14) other than said center device, including manually-operable inputting means (Kp) for a system feature by which the audio/visual device operates in cooperation with any one of the other audio/visual devices, the

method comprising issuing commands to start the system feature from the audio/visual device having said manually operable inputting means when said manually operable inputting means is manually operated and the further step of controlling the system feature by the one audio/visual device itself."

- IV. Notice of appeal was filed with the appropriate fee with a letter dated 1 and received 2 June 2004. A statement of grounds of appeal was subsequently filed on 17 August 2004. The appellant maintained its request to revoke the patent in its entirety, arguing that the subject-matter of the new claim 1 did not involve an inventive step with respect to the disclosure of either E1 or E2. A conditional request for oral proceedings was made.
- V. In its response the respondent (proprietor) requested that the appeal be dismissed and the patent be maintained in its present form. The respondent too made a conditional request for oral proceedings.
- VI. The board issued a summons to oral proceedings to be held on 19 September 2006, in preparation for which the respondent filed new sets of claims of three auxiliary requests. Should the board envisage maintaining the patent on the basis of any of the auxiliary requests the respondent further requested a "conforming" but unspecified amendment of the description at Paragraph [0027].

In the first auxiliary request the final "further step" feature of the independent claim was amended to read

"the further step of controlling the execution of the system feature by the one audio/visual device itself."

In the second auxiliary request this feature became, "the further step of controlling the system feature by the one audio/visual device itself by issuing commands to said any one of the other audio/visual devices."

In the third auxiliary request the features of granted dependent claim 4 were appended to claim 1 as maintained by the opposition division, so that the independent claim read,

"A system feature starting method for an audio/visual system which includes a plurality of audio/visual devices (11-14) each including a control circuit (11CT-14CT) for controlling operation of that audio/visual device, the control circuits of said audio/visual devices being connected to each other by way of a bus system (B4-B6), said audio/visual system further including an audio/visual center device (13) for controlling said audio/visual system in a concentrated manner, at least one of said audio/visual devices (14) other than said center device, including manually-operable inputting means (Kp) for a system feature by which the audio/visual device operates in cooperation with any one of the other audio/visual devices, the method comprising issuing commands to start the system feature from the audio/visual device having said manually operable inputting means when said manually operable inputting means is manually operated and the further step of controlling the system feature by the one audio/visual device itself;

wherein the one audio/visual device (14) which controls the system feature communicates demands directly with the other audio/visual device(s) (12), which takes or take part in the system feature, by way of said bus system (B4, B5, B6)."

VII. In the oral proceedings the appellant requested that the decision under appeal be set aside and that the European patent No. 0 810 739 be revoked.

The respondent requested that the appeal be dismissed or the patent be maintained on the basis of one of the auxiliary requests 1 to 3 submitted with letter of 18 August 2006.

The decision of the board was announced at the end of the oral proceedings.

## **Reasons for the Decision**

### 1. Admissibility of the new requests

The new requests were submitted and communicated to the appellant a month before the oral proceedings. *Prima facie* they represent attempts to find a formulation clearly expressing the difference seen by the respondent between the invention as described in the patent specification and the state of the art. This difference had already been the subject of arguments put forward by the respondent. The amendments were comparatively minor and no objections to their admission were raised by the appellant. Taking these factors into account the board decided to admit the

requests into the procedure in accordance with Article 10b of the Rules of Procedure of the Boards of Appeal.

2. The subject of appeal proceedings is the decision issued by the department of the first instance (see G 9/91 OJ 1993, 408, Point 18). With respect to the present main request the only ground of opposition raised against it (see the minutes of the oral proceedings of 23 March 2003 page 1, Point 3) and dealt with in the decision was the alleged lack of an inventive step. Consequently with respect to this request the power of the board is restricted to dealing with this issue. The amendments in the auxiliary requests appeared for the first time in the appeal proceedings and these amendments are hence to be fully examined as to their compatibility with the requirements of the EPC (G 9/91, Point 18). However the appellant raised only the issue of lack of an inventive step with respect to these requests and the board sees no other objections either. In particular the amendments do not add matter which extends beyond the content of the application as filed or make the claimed subject-matter unclear. The further reasoning of this decision is therefore restricted to the issue of inventive step for all the requests.

3. Interpretation of expressions used in the claims

- 3.1 "System feature": The respondent argued that this expression is to be taken to mean a feature which requires two or more of the audio/visual devices to act in cooperation and pointed out the qualification in claim 1 of all the requests, "by which the audio/visual

device operates in cooperation with any one of the other audio/visual devices." Three examples of "system features" are given in the description, namely "one-touch play" reproduction from the video tape recorder (VTR) (Fig. 1 Element 12 and Paragraphs [0049] to [0051] of the published patent), the same from the multi-disk player (MDP) (Fig. 1 Element 14 and Paragraphs [0053] to [0055]), and "synchronous dubbing", the process by which the or some of the contents of a disk are recorded on tape, see Paragraphs [0045] to [0047]. This definition was not disputed by the appellant, who only pointed out that the definition was broad and would not be limited to these examples. The board accepts this definition.

- 3.2 "Bus system": It is noted that the devices in the Fig. 1 embodiment are connected in a "daisy-chain", i.e. in order to pass a message from device A to device Z, the message must go through any intermediate devices B, C, etc., rather than simply past them, as would be the case with e.g. Ethernet. The board considers that such a daisy-chain arrangement must be considered to be a bus system in the context of this patent, as long as the contents of the message are not changed by the intermediate devices.

It is further noted that at Paragraph [0010] the patent refers to a "star connection" arrangement as "another exemplary one of conventional audio/visual systems of the type described above," where the systems previously described as conventional (Paragraphs [0001] and [0002]) are said to use bus systems for connection. The board concludes that the skilled person reading the patent



would consider that a star connection was intended to fall within the terms of the claims.

4. The prior art documents

4.1 E1 describes, in the terminology of the present claims, an audio/visual system which includes a plurality of audio/visual devices each including a control circuit for controlling operation of that audio/visual device, the control circuits of said audio/visual devices being connected to each other by way of a bus system, said audio/visual system further including an audio/visual centre device for controlling said audio/visual system in a concentrated manner (E1 Fig. 1). E2 describes an audio system having the same features except that the devices are audio devices only (E2 Fig. 1).

4.2 E1 further discloses a method of operation whereby a "stopped" status message received from an audio/visual device by the central control device will cause it to send commands to one or more other of the audio/visual devices to stop them. The concrete example given is when a recording signal source or recording device runs out of media (e.g. end of tape or disc) (E1 column 3 lines 32 to 39).

4.3 Beyond the features given in Point 4.1 E2 discloses that at least some of the audio devices have control buttons (i.e. "manually-operable inputting means") by which "system features" (see Point 3.1) may be activated. As one example pressing the "33" button on the turntable will result in not only the turntable 1 but also the preamplifier 4 and power amplifier ("Endstufe") 15 being switched on (E2 page 6 lines 13

to 17 and page 8 lines 1 to 7). Equally, pressing the "Stop" button on the turntable will result in the preamplifier and power amplifier also being switched off (E2 page 8 lines 7 to 11 and 19 to 24).

5. The main request

5.1 With respect to E2 the board considers that the "one-touch play" operation initiated by pressing the "33" button constitutes "A system feature starting method ... at least one of said audio/visual devices (14) other than said center device, including manually-operable inputting means for a system feature by which the audio/visual device operates in cooperation with any one of the other audio/visual devices, the method comprising issuing commands to start the system feature from the audio/visual device having said manually operable inputting means when said manually operable inputting means is manually operated," as claimed, except that "audio/visual" must be replaced by "audio". Moreover, the "one-touch stop" operation applied after the "one-touch play" constitutes "the further step of controlling the system feature by the one [audio] device itself."

5.2 The respondent argued that E2 does not discuss how the method is actually implemented. From the document as a whole (and *expressis verbis* from page 11, lines 1 and 2) it was apparent that control is exercised by the central controller, not by the devices themselves. Thus the situation was equivalent to that in E1 where a "status message" is sent by a device to the central controller and the central controller issues commands to the devices in response. Thus E2 did not disclose

"issuing commands ... from the audio/visual device" nor "controlling the system feature by the one audio/visual device itself." These features required that the audio/visual device have "intelligence", i.e. some kind of processor, which could formulate a series of commands to be executed by other audio/visual devices without the central controller taking command of the process.

5.3 The board does not find this argument convincing. The skilled person would, in the view of the board, consider a user pushing the "33" button to be issuing a "command" to the system. This command is communicated, in one way or another, to the relevant other devices. The skilled person would therefore understand the communication from the device to be a "command"; the claim does not exclude that command being processed by the central controller which then initiates the appropriate action in the other devices.

5.4 Thus the board agrees with the appellant that the only difference between the claimed subject-matter and the disclosure of E2 is that the former relates to an audio/visual system and the latter to an audio system. The board considers that it would have been natural to apply methods previously used in audio systems to audio/visual systems. Hence the subject-matter of the independent claim of the main request does not involve an inventive step with regard to the disclosure of document E2 and this request is not allowable.

6. The first auxiliary request

6.1 The board does not consider that amending "controlling the system feature" to "controlling the execution of the system feature" necessarily adds anything to the technical content of the claim. Specifically, the example of "one-touch stop" in E2 would appear to satisfy both formulations. Hence the reasoning of Point 5 applies equally to the first auxiliary request and this request is also not allowable.

7. The second auxiliary request

7.1 Appending "by issuing commands to said any one of the other audio/visual devices," to the independent claim also does not distinguish with respect to the disclosure of E2. Firstly the claim does not unambiguously specify the source of the commands; it could therefore be satisfied by commands issued by the central controller. Secondly, even if the board considered the claim to be limited to commands issued by the "one audio/visual device itself," this would in fact be satisfied by the "stop" message sent from the audio/visual device; the claim still does not exclude that message being processed by the central controller which then initiates the appropriate action in the other devices. Hence this request too is not allowable.

8. The third auxiliary request

8.1 The independent claim of this request specifies that, "the one audio/visual device which controls the system feature communicates demands directly with the other audio/visual device(s) which takes or take part in the

system feature." With respect to the disclosure of E2, this solves the technical problem of allowing one audio/visual device to use a command or sequence of commands which the central controller does not "know", as long as the other audio/visual devices involved can respond to them. The system may therefore be updated by adding new audio/visual devices designed after the central controller was designed and having capabilities not foreseen at that time. In the board's view there is no hint of this in document E2. The implementation in E2 is not discussed in detail, but the skilled person could be expected to infer that on an event occurring at one of the audio devices a signal or message would be communicated to the central controller which would then command the other relevant devices appropriately. A polling method would equally be possible. At any rate there is no suggestion of a message being communicated directly from one audio/visual device to another without intermediate processing by the central controller.

- 8.2 Nor, in the board's view, would this feature be obvious from the general background knowledge of the skilled person. The appellant argued that it would be made obvious by the transition to digital control systems from analogue and the common use of broadcast buses for communication between devices. The document E2 was old (it was published in 1981) and the addition of this feature would have been obvious when converting to a digital system. This is not convincing - as the respondent pointed out, E2 specifically teaches that the central controller carries out the functions discussed, and a microprocessor is used (E2 page 11, lines 1 to 6), so that clearly digital techniques were

already well-known and favoured at the publication date of E2.

8.3 The appellant also made arguments that the claimed subject-matter of the various requests was obvious in the light of document E1. However with regard to the present request at least the arguments were not convincing, for the same reasons as for E2. There is no suggestion in E1 of direct communication of commands from one audio/visual device to another and the board does not find convincing the assertion without evidence that the skilled person would have added this feature merely in the course of normal development of technology.

8.4 Hence the board concludes that the subject-matter of the independent claim of the third auxiliary request involves an inventive step with respect to the disclosure of the available prior art documents. This request is therefore allowable.

**Order**

**For these reasons it is decided that:**

1. The decision under appeal is set aside.
  
2. The case is remitted to the department of first instance with the order to maintain the patent on the basis of claims 1 and 2 of the third auxiliary request filed with the letter of 18 August 2006, and a description to be adapted.

The Registrar:

The Chairman:

D. Magliano

A. S. Clelland