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**Datasheet for the decision  
of 22 June 2010**

**Case Number:** T 0010/06 - 3.5.04

**Application Number:** 97916031.4

**Publication Number:** 0886964

**IPC:** H04N 5/455

**Language of the proceedings:** EN

**Title of invention:**

Method for displaying television programs and related text

**Patentee:**

E GUIDE, INC.

**Opponent:**

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**Headword:**

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**Relevant legal provisions:**

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**Relevant legal provisions (EPC 1973):**

EPC Art. 56

**Keyword:**

"Inventive step (yes)"

**Decisions cited:**

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**Catchword:**

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Case Number: T 0010/06 - 3.5.04

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.04  
of 22 June 2010

**Appellant:** E GUIDE, INC.  
(Patent Proprietor) 7th floor - West Tower  
9100 Wilshire Boulevard  
Beverly Hills, CA 90212 (US)

**Representative:** Kinsler, Maureen Catherine  
Kilburn & Strode LLP  
20 Red Lion Street  
London WC1R 4PJ (GB)

**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office posted 26 October 2005  
revoking European patent No. 0886964 pursuant  
to Article 102(1) EPC 1973.

**Composition of the Board:**

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

## Summary of Facts and Submissions

- I. The patent proprietor filed an appeal against the decision by the opposition division to revoke European patent No. 0 886 964.
  
- II. An opposition had been filed on the grounds that the subject-matter of granted independent claim 1 lacked novelty and that the subject-matter of all claims lacked an inventive step in view of the following prior art documents:  
  
D1: WO 96/07270 A1;  
D6: EP 0 682 452 A2;  
D7: WO 94/13107 A1; and  
D8: WO 94/14284 A1.
  
- III. The opposition division decided that the subject-matter of claim 1 according to the requests then on file lacked novelty over D1.
  
- IV. With the statement of grounds of appeal the appellant submitted claim 1 of a main request and of an auxiliary request, respectively, and requested that the decision be set aside and the patent be maintained as amended.
  
- V. In a letter dated 12 July 2006 the opponent explained why the finding of lack of novelty by the opposition division was justified. He further requested the board also to consider the sections of the notice of opposition relating to the objection of lack of inventive step against all claims. In a letter dated 12 April 2007 the opponent withdrew the opposition.

VI. The board sent a communication accompanying the summons to oral proceedings.

VII. With a letter dated 20 April 2010 the appellant filed new requests comprising *inter alia* replacement pages of a fifth auxiliary request, in which figure 7 was deleted.

VIII. In a letter dated 13 May 2010, in reply to a further communication of the board, the appellant made the previously filed fifth auxiliary request the sole main request and filed replacement pages comprising:

- columns 1 to 4, 9 and 10 of the patent specification;
- claims 1 to 8.

IX. The board then cancelled the oral proceedings.

X. Independent claim 1 according to the (sole) main request reads as follows:

"A method for navigating between a normal television viewing mode and an electronic program guide (EPG) in a television system comprising the steps of:

tuning a television tuner (11) to a channel having a channel designation;

displaying a program telecast on the channel on a screen;

selecting the EPG;

storing the channel designation in a channel memory (34);

creating a last channel listing (45) for the stored channel designation;

displaying in a first area (42) of the screen a television program and in a second area of the screen the EPG simultaneously with the last channel listing (45);  
marking the displayed last channel listing (45) on the second area of the screen;  
retrieving the stored channel designation from the channel memory; and  
re-displaying the program telecast on said channel on the screen."

Claims 2 to 8 are dependent on claim 1.

XI. The reasoning in the decision under appeal may be summarised as follows:

D1 discloses a method of channel surfing comprising the step of displaying, in the EPG mode, a banner with the designation of the particular channel telecast when the EPG mode was selected, and, implicitly, the step of storing the channel in a memory. Furthermore, as long as navigating in the guide mode does not require the tuner to be set to another channel, as is the case in the embodiments according to figure 4 and figure 5, the particular channel remains stored in the memory and is thus "selected" when the guide mode is exited and the full screen television mode is restored by pressing the GUIDE/TV key on the remote control.

The same circuitry is used for the television system in D1 and the patent in suit, both originating from the same applicant, so that the step of "setting the tuner" is not a distinguishing feature in the case where the channel is not changed during the navigation.

XII. Further relevant arguments by the former opponent may be summarised as follows:

The use of an icon ("Rücksprung-Icon") to select the last channel listing, leave an electronic program guide and return to the normal TV mode is common general knowledge; see for instance the icon to return to cable TV in D7 (figures 18 to 23) and in D8 (figure 14). Its use in the method according to D1 would be obvious.

The step of "marking the displayed last channel listing" renders the subject-matter of granted independent claim 8 (which is now claim 1) novel over D1. However using a cursor to mark a last channel listing, as a alternative to the pressing of a key such as the GUIDE/TV key in D1, is an obvious extension.

D6 discloses a method according to granted claim 1 except for the steps of storing the last channel viewed prior to entering the program guide mode and displaying it with the program listings in a second area of the screen in the guide mode. Including these missing features, which are known from D7 or D8, in the method according to D6 in order to enhance the ease of use would be obvious.

XIII. The appellant's arguments may be summarised as follows:

The present invention allows a user to navigate without the fear of getting lost in the program guide mode. The content of a particular memory remains fixed when the user navigates further away from the starting point in the program guide mode. Setting a reference point

allows a quick and easy return to the previously watched channel, even if the television tuner has been switched to another channel during channel grazing.

The prior art referred to by the opposition division addresses other problems. In particular the channel last viewed in the guide mode is displayed when returning to full-screen in D1, whereas the channel last viewed full-screen before entering the guide mode can be easily retrieved in the present invention.

The guide of D1 maintains no information about the channel last viewed before entering the guide mode. There is thus no sense in storing, displaying and selecting/marketing a last channel designation, or setting the tuner to this last channel designation as assumed in the decision under appeal, in cases where the tuner remains set to the same channel. The corresponding steps of claim 1 are therefore not disclosed in D1.

Claim 1 makes it clear that the selection takes place onscreen by highlighting the last channel listing, which is distinct from selecting the last channel by other means.

The claimed invention is thus novel over D1 and involves an inventive step. The same holds true for D6.

## **Reasons for the Decision**

1. The appeal is admissible.

2. Granted claim 8 is identical to claim 1 according to the main request. The subject-matter of granted claim 8 was not addressed in the decision under appeal. An objection against granted independent claim 8 was raised in the notice of opposition under Article 100(a) EPC 1973 together with Article 56 EPC. The former opponent expressly conceded that the argumentation relating to lack of novelty did not apply to granted claim 8 (see page 11, first paragraph, of the notice of opposition).

3. *Inventive step starting from D1*

3.1 D1 discloses a method for navigating between a normal television viewing mode and an electronic program guide (EPG), in which the channel last telecast and viewed in full screen mode is displayed as a video in a first area (video window 42) and as a last channel listing in a second area (banner 49), when the EPG is entered. The board agrees with the opposition division that the channel designation must be associated with a memory location in order to be displayed in the banner (49) under the control of a microprocessor and a video processor (24 and 30 in figure 1). The method step "storing the channel designation in a channel memory" can thus be regarded as implicitly disclosed in D1.

The video channel may be altered when navigating in the program guide mode, for instance when the user moves a cursor (48) up and down to select different channel listings in the "NOW" guide mode of figure 2 (see D1, page 17, lines 13 to 15). In other instances, such as the guide modes of figures 3 to 5, the content of the



banner (49) may remain unaltered (see D1, page 15, lines 11 to 24).

It is common ground that the banner (49) in D1 is displayed for the exclusive purpose of informing the user about the currently broadcast television program in real time and that it cannot be marked by the user, in contrast to the listings displayed in the EPG.

- 3.2 The present invention is directed to methods for providing the viewer with a simple way of returning to the channel last viewed in the full screen television mode prior to entering the program guide mode (the so-called "last channel full screen" or LCF in the patent in suit). This frees the user from having to rely on his or her memory to retrieve that last viewed channel, which is particularly beneficial when the channel has been changed several times in the EPG during channel surfing/grazing (see paragraph [0017] of the patent specification). This is achieved in the invention by providing a dedicated channel memory (34 in figure 1) for storing the last channel designation, by creating a corresponding last channel listing and by marking it for easy retrieval.
- 3.3 The last channel listing according to claim 1 is created for the channel viewed when the EPG is selected, the so-called LCF. According to claim 1 it is displayed simultaneously with the EPG. In the board's understanding, it is thus a listing created in addition to, and distinct from, the channel listings normally included in an EPG. The method according to claim 1 thus sets out that the television system is so designed as to enable the user to (directly) mark the displayed

additional last channel listing which remains displayed immutably and distinctly from the EPG during channel surfing in the EPG mode because it relates to the content of the dedicated channel memory.

- 3.4 The argumentation by the opposition division essentially relied on particular circumstances of the operation of the EPG, in which the last channel would have been selected and retrieved when returning to the full screen television mode as long as the navigation in the EPG did not cause the channel to change (see in particular the analysis of the steps M7 and M8 in the decision under appeal).
- 3.5 However, the method according to claim 1 includes steps for storing the designation of the LCF, displaying and marking an additional listing for the LCF. It is thus designed to enable the user to easily retrieve the LCF in all circumstances. This possibility is not envisaged in D1, in which the LCF designation serves a different purpose, namely to identify the current television program by channel name, channel number, and program title (see e.g. D1, page 6, lines 22 to 25; page 7, lines 5 to 7). This information may be lost and a listing in the EPG corresponding to the LCF may disappear from the screen when the user grazes through the channel listings in the EPG mode. D1 does also not contain a hint, for instance a statement about the desirability of keeping track of the LCF, which would have led the skilled person to the method as claimed for providing a simple way of returning to the last channel a user was watching before entering an EPG mode (see section 3.2 above).

- 3.6 Both D7 and D8 relate to television systems in which an icon is provided in all screens of a program guide reminding the user of the possibility to return to full-screen cable TV mode by pressing a single key similar to the "GUIDE/TV" key of D1 on the remote control (see for instance D7, page 83, lines 11 to 13). Pressing this key causes the program to which the tuner is currently set to be displayed full screen. The systems are therefore not designed to store the LCF and retrieve it simply by marking an item displayed on the screen in all circumstances, i.e. regardless of whether the channel has changed in the meantime during channel surfing in the EPG mode. Thus D7 or D8 do not come closer to the invention than D1.
- 3.7 As a result, neither D7 nor D8 addresses the problem underlying the present invention and would have led the skilled person to try and design a method according to claim 1.
- 3.8 The opposition division further pointed out that the same circuitry was used in D1 and in the claimed invention. The schematic block diagrams of the television receiver shown in figure 1 of D1 and of the patent in suit are indeed largely identical. They however decisively differ in an additional dedicated channel memory ("LAST CHANNEL REGISTER" 34) in the patent in suit which is used in the method of claim 1 for storing the last channel designation. An argument based on similarities in block diagrams is therefore not convincing.

3.9 As a result, the subject-matter of claim 1 involves an inventive step over a combination of D1 with either of D7 or D8.

4. *Inventive step starting from D6*

4.1 D6 discloses a method, in which the user may change between a television viewing mode and an EPG mode ("schedule"; figure 2). In the EPG mode the content of the television program in a first area (video window 240) normally corresponds to the program selected and highlighted in the EPG (schedule layout 200), if the program is currently broadcast. A "television button" (see column 11, lines 9 to 13) similar to the GUIDE/TV key according to D1 causes the currently set program to be displayed full-screen. As correctly analysed by the opponent on top of page 10 of the notice of opposition, D6 discloses neither the storage of the LCF nor the provision of an LCF listing in addition to the EPG. D6 is thus less relevant than D1. Consequently, for analogous reasons, a combination of D6 with the features known from either D7 or D8 would not have rendered the subject-matter of claim 1 obvious.

4.2 As a result, the subject-matter of claim 1 involves an inventive step over a combination of D6 with either of D7 or D8.

5. In conclusion, the ground for opposition under Article 100(a) EPC 1973 together with Article 56 EPC 1973 does not prejudice the maintenance of the patent in amended form according to the main request.

6. Amendments to the description and drawings essentially consist in correcting a reference to the prior art and suppressing embodiments not falling under the wording of claim 1 any more. They are not objectionable under the provisions of the EPC.

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance with the order to maintain the patent as amended in the following version:
  - columns 1 to 4, 9 and 10 of the patent specification as filed with the letter dated 13 May 2010;
  - columns 5 to 8 of the patent specification;
  - claims 1 to 8 as filed with the letter dated 13 May 2010;
  - figures 1 to 6 of the patent specification.

The Registrar

The Chairman

L. Fernández Gómez

F. Edlinger