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**Datasheet for the decision  
of 28 April 2009**

**Case Number:** T 0178/06 - 3.5.05

**Application Number:** 98102734.5

**Publication Number:** 0859306

**IPC:** G06F 3/00

**Language of the proceedings:** EN

**Title of invention:**

Electronic equipment control apparatus, electronic equipment control method and electronic equipment

**Patentee:**

Sony Corporation

**Opponent:**

Interessengemeinschaft für Rundfunkschutzrechte e.V.

**Headword:**

Transfer of user interface information when equipment is selected/SONY

**Relevant legal provisions:**

EPC Art. 52(1)  
RPBA Art. 13(1)

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

EPC Art. 54(2), 56, 100(a)

**Keyword:**

"Inventive step - main request, first and second auxiliary requests (no)"  
"Inventive step - third auxiliary request (yes)"

**Decisions cited:**

G 0007/95



Case Number: T 0178/06 - 3.5.05

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.05  
of 28 April 2009

**Appellant:** Interessengemeinschaft  
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**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office posted 6 December 2005  
rejecting the opposition filed against European  
patent No. 0859306 pursuant to Article 102(2)  
EPC 1973.

**Composition of the Board:**

**Chairman:** D. H. Rees  
**Members:** M. Höhn  
P. Schmitz

## Summary of Facts and Submissions

- I. This is an appeal by the opponent against the decision of the opposition division to reject the opposition against European Patent No. 0859306. The opposition was based on lack of inventive step (Article 100(a) EPC 1973).
- II. In the notice of appeal filed with letter dated 6 February 2006 the opponent (appellant) requested that the decision of the opposition division be set aside and the patent be revoked in its entirety. Oral proceedings were requested on an auxiliary basis. In the statement setting out the grounds of appeal filed with letter dated 13 April 2006, the opponent (appellant) argued that the subject-matter of the independent claim 1 lacked novelty and an inventive step over document  
D1: EP0637157  
and lacked an inventive step in the light of document  
D2: EP0490505.  
In addition, with the statement setting out the grounds of appeal the opponent (appellant) submitted a new prior art document  
D5: P. Gilster, "Der Internet-Navigator", Carl Hanser Verlag München Wien, 1994, p. 135-151  
and argued that the subject-matter of the independent claims lacked novelty over D5, which should be admitted into the proceedings because of its relevance.
- III. In a letter dated 24 August 2006, the patent proprietor (respondent) requested that the decision of the opposition division be maintained, that the patent be maintained as granted and to schedule for oral

proceedings as an auxiliary request. In this letter the proprietor (respondent) also submitted arguments in favour of novelty and an inventive step of the independent claims in the light of prior art documents D1 and D2. The proprietor (respondent) did not give the consent to admit D5 into the appeal proceedings.

- IV. With a communication dated 23 January 2009 the parties were summoned for oral proceedings to be held on 28 April 2009. In an annex to the summons for oral proceedings the board gave its preliminary opinion that the subject-matter of independent claims 1, 4, 7 and 12 appeared to be not only not novel but also obvious in the light of D1. D2 appeared less pertinent than D1. With regard to the D5 introduced with the statement setting out the grounds of appeal the board took the preliminary view not to admit this publication into the appeal proceedings since it was late filed without justification for the late filing, it appeared to be less relevant than D1, and the respondent's consent was not given.
- V. With a letter dated 27 March 2009, the proprietor (respondent) submitted three amended sets of claims 1 to 16 corresponding to a first to third auxiliary request.
- VI. Oral proceedings were held on 28 April 2009 in the course of which the proprietor (respondent) filed two amended sets of claims 1 to 16 corresponding to an amended second and third auxiliary request. The opponent (appellant) no longer referred to the publication D5.

The opponent (appellant) requested that the decision under appeal be set aside and that the European patent No. 0859306 be revoked in its entirety.

The proprietor (respondent) requested that the appeal be dismissed and that the patent be maintained as granted, alternatively that the decision under appeal be set aside and that the patent be maintained according to the claims of auxiliary request 1 filed with a letter of 27 March 2009, or of auxiliary requests 2 or 3, filed in the oral proceedings before the board on 28 April 2009.

VII. Claim 1 of the main request reads as follows:

"1. An electronic equipment control system comprising a first piece of electronic equipment (121;2,3,4,5) and a second piece of electronic equipment (1) connected to said first piece of electronic equipment (121;2,3,4,5) by a communication line (6) and used for controlling said first piece of electronic equipment (121;2,3,4,5) wherein:  
said first piece of electronic equipment (121;2,3,4,5) comprises:  
a first communication means (97) for carrying out communication with said second piece of electronic equipment (1) through said communication line (6);  
a first storage means (92) for storing user interface information (UI;112,113,114,115) required for controlling said first piece of electronic equipment (121;2,3,4,5); and a first control means (91) which is used for reading out said user interface information (UI;112,113,114,115) from said first storage means (92) and transmitting said user interface information

(UI;112,113,114,115) to said second piece of electronic equipment (1) when a request for transmission of said user interface information (UI;112,113,114,115) is received from said second piece of electronic equipment (1), and

said second piece of electronic equipment (1) comprises:

a second communication means (57) for carrying out communication with said first piece of electronic equipment (121;2,3,4,5) through said communication line (6);

a second control means (51) for requesting said first piece of electronic equipment (121;2,3,4,5) to transmit said user interface information (UI;112,113,114,115) required for controlling said first piece of electronic equipment (121;2,3,4,5) by said second piece of electronic equipment (1) to said second piece of electronic equipment (1); and

a second storage means (53) for storing said user interface information (UI;112,113,114,115) transmitted by said first piece of electronic equipment (121;2,3,4,5) through said communication line (6), characterised in that

said second control means (51) makes a request for said user interface information (UI;112,113,114,115) from said first piece of electronic equipment (121;2,3,4,5) when said first piece of electronic equipment (121;2,3,4,5) is selected".

Claim 1 of the first auxiliary request differs from the main request in that the characterizing portion reads as follows:

"said second control means (51) makes a request for said user interface information (UI;112,113,114,115) from said first piece of electronic equipment (121;2,3,4,5) when said first piece of electronic equipment (121;2,3,4,5) is selected at said second piece of electronic equipment (1)".

Claim 1 of the second auxiliary request reads as follows:

"1. An electronic equipment control system comprising a first piece of electronic equipment (121;2,3,4,5) and a second piece of electronic equipment (1) connected to said first piece of electronic equipment (121;2,3,4,5) by a communication line (6) and used for controlling said first piece of electronic equipment (121;2,3,4,5) wherein:

said first piece of electronic equipment (121;2,3,4,5) comprises:

a first communication means (97) for carrying out communication with said second piece of electronic equipment (1) through said communication line (6);  
a first storage means (92) for storing user interface information (UI) required for controlling said first piece of electronic equipment (121;2,3,4,5); and  
a first control means (91) which is used for reading out said user interface information (UI) from said first storage means (92) and transmitting said user interface information (UI) to said second piece of electronic equipment (1) when a request for transmission of said user interface information (UI) is received from said second piece of electronic equipment (1), and

said second piece of electronic equipment (1) comprises:

a second communication means (57) for carrying out communication with said first piece of electronic equipment (121;2,3,4,5) through said communication line (6);

a second control means (51) for requesting said first piece of electronic equipment (121;2,3,4,5) to transmit said user interface information (UI) required for controlling said first piece of electronic equipment (121;2,3,4,5) by said second piece of electronic equipment (1) to said second piece of electronic equipment (1); and

a second storage means (53) for storing said user interface information (UI) transmitted by said first piece of electronic equipment (121;2,3,4,5) through said communication line (6),

characterised in that

said second control means (51) makes a request to each of said first pieces of electronic equipment (121;2,3,4,5) to receive from each of said first pieces of electronic equipment (121;2,3,4,5) data (112, 113, 114, 115) enabling a selection of said first pieces of electronic equipment (121;2,3,4,5); and

said second control means (51) makes a request for said user interlace information (UI) from said first piece of electronic equipment (121;2,3,4,5) when said first piece of electronic equipment (121;2,3,4,5) is selected".

Claim 1 of the third auxiliary request differs from the second auxiliary request in that the characterizing portion reads as follows:

"said second control means (51) makes a request to each of said first pieces of electronic equipment



(121;2,3,4,5) for icon picture data (112, 113, 114, 115) from each of said first pieces of electronic equipment (121;2,3,4,5);  
said second control means (51) displays said icon picture data (112, 113, 114, 115) on a selection screen enabling a selection of one of the icon picture data (112, 113, 114, 115);  
said second control means (51) receives a selection of one of the first pieces of electronic equipment (121;2, 3,4,5) by receiving a selection of one of the icon picture data (112, 113, 114, 115); and  
said second control means (51) makes a request for said user interface information (UI) from said first piece of electronic equipment (121;2,3,4,5) when said first piece of electronic equipment (121;2,3,4,5) is selected".

(The phrase added to the independent claims of the second and third auxiliary request during oral proceedings has been underlined in the above.)

Independent claim 7 of all requests is directed to a corresponding electronic equipment control apparatus. Independent claims 4 and 12 of all requests are directed to a corresponding method for controlling an electronic equipment control system and apparatus respectively.

VIII. At the end of the oral proceedings the chairman announced the board's decision.

## Reasons for the Decision

### *Main request*

#### 1. *The appellant's argumentation*

1.1 The appellant essentially argued that there was no support in claim 1 for a two step approach of first connecting an external device to the control apparatus and then selecting it, contrary to the arguments made by the opposition division. The appellant further alleged that there was no support for an automatic transmission and storing of icon picture data related to the external device as argued by the respondent. As neither of these features were reflected in claim 1 they could not render the subject-matter of claim 1 inventive over the disclosure of D1. The term "selected" was not defined in claim 1 and therefore could be interpreted in a broad manner. It was not limited to the meaning "selecting for operation", as was done by the opposition division, but also comprised addressing an external device. In D1 (see col. 2, l. 26-31 and col. 16, l. 40-52) a device ID was sent to the peripheral device of a video-recorder which reacted by sending an object description file (see steps 638 and 639 of figure 16). The appellant interpreted this object description file as representing user interface information of the external device, i.e. the video-recorder. The appellant argued that sending a "device ID" was nothing else than selecting this device according to claim 1.

1.2 Even if the opposition division were right that claim 1 required a two step approach of firstly connecting and

subsequently selecting the external device, the appellant argued that this was also disclosed in D1 where the external device, a digital video-recorder, was connected and, after having been detected by the second device, i.e. the control apparatus, was selected by sending the device ID to it (see col. 16, l. 40-52).

1.3 The appellant concluded that the subject-matter of claim 1 was anticipated by D1. The appellant further argued that if the subject-matter lacked novelty, it was automatically obvious.

1.4 Regarding document D2 the appellant argued that this document also showed the features of the preamble of the independent claims. As the opposition division decision, when dealing with D2, relied on the same reasoning as it used when starting from D1 and this argumentation had to be considered to be wrong, according to the appellant, the subject-matter of independent claim 1 also lacked an inventive step when starting from D2. The appellant also referred to arguments made during the opposition proceedings, including the notice of opposition (see p. 4 and 5).

## 2. *The respondent's argumentation*

2.1 The respondent essentially argued that according to the independent claims an external device was connected via a communication line to the control apparatus. User interface information was only requested when the external device (first piece of electronic equipment) was selected. The patent started from a status in which the external device was already connected to the control apparatus. At any time during this connected

state the external device could be selected. Icon picture data was information which identified the presence of the external device and the possibility of its selection. User interface information enabled the control of the external device and might comprise pictures of buttons, text or the like. The independent claims therefore clearly reflected a two step approach. A "selection" indicated that there was a choice of either choosing or not choosing one of the external devices, which meant that according to claim 1 only one connected device was selected at a time and a decision could be made not to choose the other devices.

2.2 D1 taught that the selection (of an external device by the user) took place first, then the step of connecting the external device, after which the control information was transmitted. If at all, by stretching the disclosure of D1, it might have been possible to say that the selection step was performed by the connection step. The main problem addressed by D1 was that for control of the external device the necessary software had to be installed in the controlling apparatus, which made it difficult to update and to make the system variable. With regard to the appellant's argument that sending a device ID in D1 could be considered a selection of the external device, the respondent argued that the sending of the device ID according to D1 happened automatically if devices were connected to the network and no choice could be made between sending or not sending the device ID which was therefore not a selection of a device as specified in the opposed patent.

2.3 The respondent further argued that D2 did not reveal the transmission of user interface information serving for manipulating and operating a newly added module. In consequence, there was no disclosure of a single request to send such information to the control apparatus. D2 rather dealt with a multimedia system in which the access of multiple external devices to a common communication bus was controlled. The external media devices sent media signals and did not transmit software or user interface information for controlling the media sources.

2.4 The respondent concluded from his analysis that the subject-matter of the independent claims was neither anticipated nor rendered obvious by the disclosures of D1 or D2 or by a combination thereof.

3. *Inventive Step - Article 56 EPC 1973*

3.1 It is common ground between the parties that D1 discloses all the features of the preamble of independent claim 1. The correspondence of features was correctly given in the notice of opposition (p. 2, last three paragraphs and p. 3, first three paragraphs).

3.2 The board follows the appellant's interpretation of claim 1 and of prior art document D1 and considers figure 16 and the corresponding text of the description (in particular col. 2, l. 26-34; col. 16 and 17 of D1) the best source of information of D1 corresponding to figure 12 and the disclosure in paragraphs 55-58 of the opposed patent. Figure 16 of D1 shows that there is a distinction made between connection of the external

device (step 636) and sending of a device ID to it (step 638). The board therefore has to decide whether a) sending a device ID can be interpreted as a "selection" of the external device and b) the delegate object description file can be considered user interface information according to claim 1.

3.3 Question a): The board agrees with the appellant's argument that the term "selected" is not defined in claim 1 and therefore can be interpreted in a broad manner not limited to the meaning "selecting for operation", as was done by the opposition division, but also comprising addressing an external device. According to the board's understanding steps 636 and 637 in figure 16 of D1 are an initialisation of the digital VTR which is an external device connected to a network. Step 638 can be interpreted as selecting a connected external device and at the same time requesting it to transmit display data with objects needed for operating the external device. Addressing a device by sending a device ID in D1 (see col. 2, l. 26-31 and col. 16, l. 40-52) is considered to require inherently a selection of the device since it is identified by its ID and there must have been a decision to choose this ID. Hence, there must have been a selection in the controller of this particular device for processing.

3.4 Question b): In reaction to having received its device ID the external device, in the following step 639, sends a digital VTR delegate object description file to the controller, which "loads" it, i.e. this file is stored. According to step 641 this file contains

display data, which can be considered user interface data (see paragraph 56 of the opposed patent) because it describes a panel with a manipulation picture which is equivalent to the buttons etc. shown in figure 13 of the opposed patent.

3.5 Thus the independent claims of the opposed patent do require a two step approach as argued by the respondent, because the external device must have been connected to the control apparatus before it can be selected, even if these two events should happen so closely together as to appear simultaneous. But for the reasons set out above this is also disclosed in D1 and, hence, is not a differentiating feature (see D1, col. 16, l. 43-48 "When the digital VTR 203 represented as an object is connected to the LAN 4 (Step 636), the system director object 205 recognizes the connection to the digital VTR 203 (Step 637). Then, the system director object 205 sends a device ID to the digital VTR 203 (Step 638)." - emphasis added).

3.6 The opposition division argued in its decision that "the most substantial user interface information is transmitted and stored after selection of the first piece of electronic equipment", solving the objective technical problem of "avoiding unnecessary processing and unnecessary storing of user interface data". However, according to the board's interpretation of D1 as given above there is no corresponding distinguishing feature in the subject-matter of claim 1. In particular, there is no basis for an argument based on "the most substantial user interface information" since claim 1 does not make a any distinction between substantial and insubstantial user interface information.

- 3.7 Furthermore, the board is not convinced by the respondent's argument that it is a disadvantage of D1 that for the control of the peripheral device the necessary software has to be installed in the control apparatus, since this is also necessary according to the opposed patent - see step S24 of figure 12 and the independent claims (see e.g. claim 1, second storage means or the storing step of claim 12).
- 3.8 In the light of the afore mentioned analysis the disclosure of D1 anticipates all the features of the independent claims 1, 4, 7 and 12.
- 3.9 In a case where a patent has been opposed under Article 100(a) EPC on the ground that the claims lack an inventive step in view of documents cited in the notice of opposition, the ground of lack of novelty based upon Articles 52(1) EPC and 54(2) EPC is a fresh ground for opposition and accordingly may not be introduced into the appeal proceedings without the agreement of the patentee. However, the allegation that the independent claims lack novelty in view of the closest prior art document may be considered in the context of deciding upon the ground of lack of inventive step (G 7/95 Headnote). As no inventive difference over D1 exists, the subject-matter of claims 1, 4, 7 and 12 is not only not novel but also cannot involve an inventive step.
4. *Admissibility of the auxiliary requests*
- 4.1 The appellant did not object to the admissibility of the first auxiliary request, but requested not to admit



the second and third auxiliary requests since they were filed late in the proceedings, were not clearly allowable and introduced features from the description and not from dependent claims.

- 4.2 The board agrees with the respondent's point of view that the features introduced by amendment correspond to the arguments presented by the proprietor (respondent) during the first instance and, therefore, do not raise issues which the board or the appellant cannot reasonably be expected to deal with without adjournment of the oral proceedings. The new amendments were submitted one month before the appointed date and in reaction to the negative preliminary opinion of the board expressed in the annex to the summons for oral proceedings. The further amendment of the second and third auxiliary requests during the oral proceedings merely exclude a possible interpretation of the claims which would not have been supported by the description. The board therefore admits all the auxiliary requests under Article 13(1) RPBA.

*First auxiliary request*

5. According to the characterizing portion of claim 1 of this request it is specified that the first piece of electronic equipment is selected "at said second piece of electronic equipment".
- 5.1 The respondent essentially argued that according to D1 it was not clear where from the device ID was sent. D1 therefore did not disclose that a selection is accomplished at said second piece of electronic equipment.

5.2 The board, however, agrees with the appellant that according to D1 the system director object of the central controller corresponding to the second device recognizes that an external device corresponding to the first device has been connected (D1, Col. 16, l. 43-46). Since sending a device ID requires the selection of the external device (see 3.3 above) and the controller recognizes the connection and initiates sending the device ID, the selection is made at the controller side, corresponding to the added feature of claim 1.

Since there is still no difference over D1, the subject-matter of claim 1 of this request is not novel and thus can not involve an inventive step for the reasons set out for the main request.

*Second auxiliary request*

6. According to the characterizing portion of claim 1 of this auxiliary request it is further specified that the second control means makes a request to each of said first pieces of electronic equipment to receive from each of said first pieces of electronic equipment data enabling a selection of said first pieces of electronic equipment.

6.1 The respondent argued that according to the characterizing portion of amended claim 1 two requests are submitted instead of only one as disclosed in D1. Even if the icons according to figure 17 of D1 were regarded as data enabling a selection of an external device represented by such an icon, as argued by the appellant, in contrast to amended claim 1 this would

only be possible after the whole procedure shown in figure 16 of D1, including transmission of user interface information was finished. Therefore, according to D1 the order of the steps would be different to that specified in amended claim 1.

6.2 The appellant counterargued that claim 1 was not a process claim, but a system claim. The order of steps therefore did not play a role and could not be considered a distinguishing feature. Amended claim 1 included the situation that the claimed system is powered on for the first time. Assuming the same situation according to the teaching of D1, the added feature was at least obvious, since the controller would have to decide on an order of confirming the connection of a plurality of external devices providing connection information at the same time (i.e. when the power is switched on), having the same effect as a request for connection information.

6.3 The board agrees with the respondent that D1 does not explicitly disclose that such data enabling a selection of an external device is transmitted in reply to a specific request sent from the control means. However, the board considers such a request an obvious design alternative in the light of the disclosure of an initialization in D1 with an explicit step of confirming the connection of an external device (see e.g. D1, figure 16, steps 636 and 637) which is a separate step preceding the selection of an external device and the request for user interface information. According to D1 it is only after a connection has been confirmed that the central controller has enough information about the external device to select it by

sending a device ID, thereby solving the problem of enabling a selection of the external device. An initialization by requesting connection information from one external device after another is considered an obvious alternative to an initialization by confirming connection of one external device after another, since in both cases the central controller has to decide on an order of enabling selection of such external devices.

The subject-matter of claim 1 of this request is therefore obvious in the light of the teaching of D1.

*Third auxiliary request*

7. According to the characterizing portion of claim 1 of this auxiliary request it is further specified that the second control means makes a request to each of said first pieces of electronic equipment for icon picture data from each of said first pieces of electronic equipment, that the second control means displays said icon picture data on a selection screen enabling a selection of one of the icon picture data and that the second control means receives a selection of one of the first pieces of electronic equipment by receiving a selection of one of the icon picture data before user interface information is transmitted. The further independent claims 4, 7 and 12 are defined by corresponding features.

- 7.1 The appellant essentially argued that according to figure 17 of D1 it was known to transmit icon picture data. There were only two alternatives for transmission of such data. Either the external device provides the icon picture data itself or the central controller asks

for it. Furthermore, D1 discloses selection and control of external devices by using icon displays (see D1, col. 16, l. 21-23). By transmitting all user interface data the initialization phase would take longer, but a selection of an external device later would be shorter in comparison to the claimed solution where user interface data are transmitted later separate from icon picture data after selection of an external device rendering the initialization phase shorter. This was only a choice between two obvious alternatives for the skilled person.

7.2 The respondent essentially argued that the teaching of D1 discloses to transmit icon picture data, but it is displayed for selection only after the rest of the user interface data has been transmitted. An advantage of the claimed solution to transmit icon picture data separately from the rest of the user interface data during the initialization phase is that this phase is shorter and there are less storage activities needed. In D1 there was no motivation for the skilled person to perform the steps in the order of the invention. The appellant's conclusion in the light of the disclosure of D1 was therefore based on hindsight.

7.3 In the light of the added feature of a selection of an external device by receiving a selection of the icon picture data, the board considers that sending of a device ID according to D1 can no longer be considered a selection as claimed. There is no hint found in D1 that would lead the skilled person to transmit icon picture data from the VTR separately from other user interface information. The subject-matter of claims 1, 4, 7 and 12 is therefore novel over the disclosure of D1.

7.4 A selection of an external device based on icon picture data as disclosed in D1 (see col. 16, l. 21-23) is only possible after all other user interface information has been transmitted, in contrast to the amended independent claims where it is specified that a request for user interface information is sent when such a selection takes place. Therefore not only is the order of steps different, but the concept of the claimed system and of the system disclosed in D1 is also different.

7.5 The objective technical problem solved by the distinguishing features of the independent claims in comparison to the disclosure of D1 is to render the initialization phase shorter.

7.6 The appellant did not present a convincing argument why the skilled person would have found a motivation in D1 or that it was common general knowledge to transmit only icon picture data during the initialization phase and to transmit other user interface information only when the corresponding external device had been selected by receiving a selection of its icon picture. D1 clearly teaches the transmission of all the user interface information during the initialization phase directly after connection of an external device and storage of this data in the central controller for selection of such an external device by use of the icon picture (see e.g. figures 17 -21 and the corresponding text of the description of D1). There is no hint found in D1 to render the initialization phase shorter as is achieved by the subject-matter of amended claims 1, 4, 7 and 12.

8. The further prior art document D2 discloses a control module with memory for storing graphical user interface functions (see e.g. claim 4 of D2). D2 mentions how input is used in order to provide control of external devices (see D2, col. 13, l. 14 onwards), but it does not disclose the reception of user interface information from external devices and consequently it also does not disclose any request for such information as required by the characterising portion of independent claims 1, 4, 7 and 12 of this request. Thus, D2 is less pertinent than D1 and the board agrees with the respondent's interpretation of D2 which does not render the subject-matter of the independent claims 1, 4, 7 and 12 obvious.
  
9. The subject-matter of the independent claims 1, 4, 7 and 12 of this request therefore involves an inventive step over the disclosures of D1 or D2 or a combination thereof.

**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 the claims of auxiliary request 3, filed during the oral proceedings before the Board on 28 April 2009 and a description still to be adapted.

The Registrar

The Chairman

K. Götz

D. H. Rees