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**Datasheet for the decision  
of 18 September 2009**

**Case Number:** T 0700/06 - 3.5.05

**Application Number:** 02001970.9

**Publication Number:** 1229425

**IPC:** G06F 1/00

**Language of the proceedings:** EN

**Title of invention:**

Content usage management system and content usage management method

**Applicant:**

Panasonic Corporation

**Opponent:**

-

**Headword:**

Content usage management system/PANASONIC

**Relevant legal provisions:**

EPC Art. 123(2)

RPBA Art. 15(3)

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

EPC Art. 106, 107, 108, 113(1)

**Keyword:**

"Extension of subject-matter - (yes)"

**Decisions cited:**

J 0010/07

**Catchword:**

-



Case Number: T 0700/06 - 3.5.05

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.05  
of 18 September 2009

**Appellant:**

Panasonic Corporation  
1006, Oaza Kadoma  
Kadoma-shi  
Osaka 571-8501...(JP)

**Representative:**

Balsters, Robert  
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**Decision under appeal:**

**Decision of the Examining Division of the  
European Patent Office posted 12 December 2005  
refusing European patent application  
No. 02001970.9 pursuant to  
Article 97(1) EPC 1973.**

**Composition of the Board:**

**Chairman:** D. H. Rees  
**Members:** P. Corcoran  
P. Schmitz

## Summary of Facts and Submissions

- I. This is an appeal against the decision of the examining division to refuse the European patent application No. 02 001 970.9 (publication No. 1 229 425) which was issued in writing and dispatched on 12 December 2005.
- II. The decision under appeal is based on a set of claims 1-31 filed with the letter dated 7 June 2005 and was preceded by a communication pursuant to Article 96(2) EPC 1973 dated 25 July 2005. Said communication was issued after the examining division had set aside an earlier decision in the same case by way of interlocutory revision after it had been appealed. Said earlier decision had been delivered during oral proceedings on 24 January 2005 and was dispatched on 7 February 2005.
- III. In the decision under appeal the examining division refused the application due to an alleged lack of novelty of claim 1 with respect to each of the following documents:
- D1: US 5 949 876 A;
  - D2: WO 00 58962 A.

The examining division also stated that there was a lack of compliance with Article 123(2) EPC. In support of these findings said decision referred to the reasoning given in the earlier decision dated 7 February 2005 and in the communication dated 25 July 2005.

IV. Notice of appeal was received on 1 February 2006 and a statement setting out the grounds of appeal was received on 6 April 2006. The appeal fee was paid on 1 February 2006.

In the statement of grounds the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims 1-31 filed with the letter dated 7 June 2005. A precautionary request for oral proceedings was also made.

V. In a communication accompanying a summons to oral proceedings to be held on 18 September 2009 the board gave its preliminary opinion that the appellant's request was not allowable due to lack of compliance with the requirements of Article 123(2) EPC. With respect to novelty, the board noted *inter alia* that D1 appeared to be prejudicial to the independent claims (cf. communication, point 6.) and that a novelty objection based on D2 might also be justified (cf. communication, point 7.).

VI. In a letter of reply dated 9 September 2009 it was stated that the appellant's representative would not be attending the scheduled oral proceedings. Said letter of reply did not contain any substantive response to the issues raised by the board in its communication.

VII. Claim 1 of the appellant's request reads as follows:

"A content usage management system that comprises a terminal device (200) that is operable to use a content as a digital production, and a server device (100) that is operable to manage usage of the content

on the terminal device (200) via a transmission line (300),

wherein the server device (100) includes:  
a right information memory unit (120) operable to memorize entire right information related to a usage right of the content entitled to a user who uses the terminal device (200), characterized in that:

the server device further includes a license ticket issuance unit (170) operable to generate a license ticket (LT) based on a request from a user as relevant right information that indicates a part of the usage right entitled to the user by extracting said part of the usage right from the entire right information, and to send the license ticket to the terminal device (200),

wherein when the license ticket is generated, the entire right information is updated by decrementing said part of the usage right indicated by the license ticket, and the terminal device (200) includes:  
a receiving unit (210) operable to receive the license ticket from the server device (100); and

a content usage control unit (260) operable to control usage of the content according to said part of the usage right indicated on the received license ticket."

VIII. Oral proceedings were duly held as scheduled on 18 September 2009 in the absence of the appellant. At the end of the oral proceedings the chairman announced the board's decision.

## **Reasons for the Decision**

### 1. *Admissibility*

The appeal complies with the provisions of Articles 106 to 108 EPC 1973 which are applicable according to J 0010/07, point 1 (cf. Facts and Submissions, item IV. above). Therefore it is admissible.

### 2. *Procedural matters*

2.1 In the present case, the board judged that it was appropriate to proceed by holding the oral proceedings as scheduled in the absence of the appellant. The appellant could reasonably have expected that during the oral proceedings the board would consider the objections and issues raised in the communication annexed to the summons to oral proceedings (cf. item V. above). In deciding not to attend the oral proceedings, the appellant effectively chose not to avail itself of the opportunity to present its observations and counter-arguments orally but instead to rely on its written case (cf. Article 15(3) RPBA). Given that the appellant did not submit any substantive written response to the issues raised by the board in its communication, its written case corresponds to that presented in the statement setting out the grounds of appeal.

2.2 The right to be heard under Article 113(1) EPC 1973 has thus been satisfied notwithstanding the appellant's non-attendance at the oral proceedings because the appellant, having been duly summoned, had an opportunity to present

comments on the grounds and evidence on which the board's decision is based.

3. *Article 123(2) EPC*

3.1 Claim 1 as originally filed included the following specification of a right information memory unit:

*"a right information memory unit operable to memorize right information related to a usage right of the content entitled to a user who uses the terminal device."*

In claim 1 of the appellant's request the aforementioned memory unit feature was amended to read as follows (emphasis added):

*"a right information memory unit (120) operable to memorize entire right information related to a usage right of the content entitled to a user who uses the terminal device (200)."*

3.2 According to the appellant, the expression "the entire usage right entitled to the user" found on p.7 l.30-31 of the application as filed (corresponding to [0032] of the published application) provides a basis for the disputed wording of claim 1 (cf. statement of grounds, p.2, last paragraph).

3.3 The passage of the description cited by the appellant reads as follows: *"Therefore, it is not necessary for the terminal device to manage the entire usage right entitled to the user, and usage of the content can be controlled*

*just by managing a part of the usage right entitled to the user that is shown on the licence ticket ..."*

This passage relates to the terminal device and discloses that, according to the invention, the terminal device manages a part of the usage right entitled to the user in distinction to the prior art system disclosed in [0003]-[0026] where the terminal device manages the entire usage right entitled to the user (cf. [0026]; [0027], in particular point (3) thereof ; see also [0144], in particular, col.25 1.7-13).

3.4 The feature of claim 1 under discussion here is, however, a feature of the server device, not a feature of the terminal device. Consequently, the passage of the description referred to by the appellant which does not relate to the server device cannot, in the board's judgement, provide support for this feature.

3.5 A disclosure of "right memory unit" in the form of a user right information database is found in [0047] of the application where it is stated that this database associated with the server is *"a memory unit to memorize multiple user right information management tables 121 to manage the content purchased by the user and the remaining usage rights (license) entitled to the user for the content per each usage aspect."* (emphasis added)

In [0077]-[0079] (cf. in particular, col.14 1.3-16 and also Fig.7) it is further disclosed that the "remaining information" is assigned an initial value at the time of the content purchase and is decremented in response to a user's licence ticket issuance request.



In [0141] it is stated that "*it is possible to make the content usage of each user be managed mainly at the server side in this system*" (emphasis added), and in [0144] that "*the terminal device doesn't need to manage all of the usage authorization owned by the user, is able to control the content usage just by managing a part of the user's usage authorization indicated on the licence ticket ...*" (emphasis added).

- 3.6 Based on the above-cited passages of the description the board is of the opinion that the application as filed discloses a system in which the management of usage rights information for a user is shared between the server and the terminal device, said usage rights information being managed mainly at the server side but also in part at the client side, i.e. at the terminal device. This contrasts with the prior art system disclosed in [0003]-[0026] where usage rights information is managed entirely at the terminal device.

In the context of the disclosed invention, the skilled person would understand the expression "*entire right information ... entitled to a user*" as encompassing both the remaining user rights stored on the server and the partial user rights contained in the licence ticket stored on the terminal device.

- 3.7 In the board's judgement the application as filed does not disclose that a memory unit of the server is operable to memorize the "*entire right information related to a usage right of the content entitled to a user*" as specified by the wording of claim 1 in its present

amended form. The data stored in the memory unit of the server corresponds to the remaining usage rights to which the user is entitled rather than to the "entire right information ... entitled to a user".

The disputed feature of claim 1, viz. "a right memory unit (120) operable to memorize entire right information related to a usage right of the content entitled to a user who uses the terminal device (200)", lacks a basis in the application as filed and is thus found to infringe Article 123(2) EPC.

4. Due to the infringement of Article 123(2) EPC noted under 3. above, the appellant's request is not allowable. In the absence of an allowable request the appeal must be dismissed.
  
5. In view of the deficiency discussed under 3. above, it is not necessary for the board to give further consideration to the additional issues raised in the communication accompanying the summons to oral proceedings. However, given that the appellant made no submissions in response to the observations set out in the board's communication, it is noted for the sake of completeness that the board sees no reason for revising its preliminary opinion that D1 appears to anticipate the subject-matter of claim 1 and, likewise, claims 18, 22, 28, 30 and 31 of the appellant's request (cf. Facts and Submissions, item V. above).

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:

K. Götz

D. H. Rees