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Datasheet for the decision of 23 November 2010

Case Number: T 0246/07 - 3.5.04

Application Number: 00102795.2

Publication Number: 0999702

IPC: H04N 5/445

Language of the proceedings: EN

Title of invention:
Improvements in receivers for television signals

Patentee:
British Sky Broadcasting Limited

Opponent:
IGR GmbH & Co. KG

Headword:
-

Relevant legal provisions:
-

Relevant legal provisions (EPC 1973):
EPC Art. 100(a)

Keyword:
"Construction of claim necessary (yes)"
"Novelty (yes)"
"Inventive step (yes)"

Decisions cited:
-

Catchword:
-

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Case Number: T 0246/07 - 3.5.04

D E C I S I O N
of the Technical Board of Appeal 3.5.04
of 23 November 2010

Appellant: (Opponent)
IGR GmbH & Co. KG
Bahnstraße 62
D-40210 Düsseldorf (DE)

Representative:
Kinnstätter, Klaus
Maryniok & Eichstädt
Patentanwälte GbR
Kuhbergstraße 23
D-96317 Kronach (DE)

Respondent: (Patent Proprietor)
British Sky Broadcasting Limited
Grant Way
Isleworth
Middlesex TW7 5QD (GB)

Representative:
Cross, James Peter Archibald
R.G.C. Jenkins & Co
26 Caxton Street
London SW1H 0RJ (GB)

Decision under appeal:
Decision of the Opposition Division of the European Patent Office posted 8 December 2006 rejecting the opposition filed against European patent No. 0999702 pursuant to Article 102(2) EPC 1973.

Composition of the Board:

Chairman: F. Edlinger
Members: M. Paci
T. Karamanli

Summary of Facts and Submissions

I. This is an appeal by the opponent against the decision of the opposition division rejecting the opposition.

II. Opposition had been filed against the patent as a whole, based on Article 100(a) EPC 1973 on the grounds of lack of novelty and lack of inventive step.

III. The following prior-art documents have been cited in the decision under appeal and in the statement of grounds of appeal:

E1: EP 0 360 070 B1
E2: EP 0 486 987 A2
E3: EP 0 598 576 A2
E4: EP 0 550 911 A1
E5: WO 95/01056 A1

IV. In the decision under appeal the opposition division held that the claimed subject-matter was not disclosed by E1 to E5 and was not rendered obvious by these documents, taken singly or in any combination.

V. In the statement of grounds of appeal the appellant (opponent) disputed the construction put upon claim 1 by the opposition division in the reasons for the appealed decision. Based on a proper, less restrictive interpretation, the appellant argued, the subject-matter of claim 1 lacked novelty in view of the disclosure of any of E1 to E5. Moreover, even according to the opposition division's interpretation, the subject-matter of claim 1 lacked inventive step in view of E3 alone or E3 and E5.

VI. Oral proceedings, at which both parties were represented, were held on 23 November 2010.

VII. The appellant's final requests are that the decision under appeal be set aside and that the patent be revoked.

VIII. The respondent's (patent proprietor's) final requests are that the appeal be dismissed and, if this main request is not allowed, that the patent be maintained in amended form on the basis of the claims of one of the first to third auxiliary requests filed with letter dated 21 October 2010.

IX. Claim 1 of the patent reads as follows:

"A receiver for receiving television signals defining television programmes in a plurality of channels, the receiver being arranged to produce output signals defining a plurality of video clips representing television programmes available in the plural signal channels which output signals are output for display of the clips in respective areas on a television screen, the receiver comprising a user operable selector operable to select one of the displayed clips and responding to such user selection by storing data to cause the receiver to receive the television signals when the programme corresponding to the selected clip is transmitted in the corresponding channel for display of the programme on a television screen."

Claims 2 to 6 of the patent are dependent on claim 1.

X. In the decision under appeal the opposition division's reasoning can be summarised as follows.

Claim 1 of the patent as granted

Construction of the claim

The term "video clip" is generally understood by the person skilled in the art to refer to a short video sequence, also called a trailer, advertising a longer programme such as a feature film. This is the sense in which the term "video clip" is understood by the person skilled in the art, and it is the sense in which the patent proprietor uses the term in the patent itself, so there can be no doubt that this is the sense the term is intended to be given in claim 1.

Regarding the phrase "storing data to cause the receiver to receive the television signals when the programme corresponding to the selected clip is transmitted", there is no reasonable doubt that this English text is referring to programmes that will be transmitted at a future time or date. A native speaker of English would not use such language, in particular the words "when the programme corresponding to the selected clip is transmitted", if the programmes were in fact transmitted at the same time as the video clips were viewed. Of course, the receiver might additionally be arranged to tune immediately to the programme corresponding to a selected video clip if that programme is in fact being transmitted at the time as the video clip is selected, and this additional feature is specifically protected by dependent claim 2, but the meaning of claim 1 is that the viewer will see video

clips relating to longer programmes to be broadcast at some future time or date, and when a viewer selects one clip the receiver will store data - which must sensibly include at least the broadcast start time and the channel on which the programme will be broadcast - so that at the broadcast start time the receiver can tune to the appropriate channel and display the longer programme on screen.

Novelty and inventive step

E1 to E4 do not disclose displaying video clips of longer programmes. They all relate to systems for displaying simultaneously on screen reduced size frames of a plurality of programmes currently being broadcast, i.e. systems intended to help the viewer decide which of the programmes currently being broadcast he might wish to watch. Selection by the viewer of a video clip has the result that the receiver stores information associated with the video clip so that when at some future time or date the programme advertised by the clip is in fact broadcast, the receiver is then able to tune into the right channel at the right time so that the viewer can watch the programme. This implies that the receiver must store at least the channel number and broadcast transmission start time for the program. Storing the broadcast transmission start time is not necessary in the systems of E1 to E4 because all the programmes corresponding to the displayed video clips are in fact currently being broadcast when the video clips are displayed.

E5 discloses a receiver which displays reduced size frames of a plurality of programmes currently being

broadcast. However, as explained in the paragraph bridging pages 60 and 61, one of the small images on screen might instead relate to a pay-per-view programme, whereby if the viewer selects this small image then a preview trailer, i.e. a video clip, of the pay-per-view programme is displayed in the centre of the screen. However, a pay-per-view programme is broadcast at a time of the viewer's selection and is to be distinguished from a television programme which is broadcast at a scheduled time selected by the broadcaster.

For the above reasons, E1 to E5 do not disclose or suggest, taken singly or in any combination, displaying simultaneously a plurality of reduced-size video clips of programmes to be broadcast at a future time or date and allowing a viewer to select one of the video clips, whereupon the receiver stores data relating to that programme, so that at the time when the programme is in fact broadcast the receiver can tune in to the right channel and present that programme on screen.

Accordingly, the subject-matter of claim 1 of the patent is novel and involves an inventive step in view of E1 to E5.

XI. The appellant essentially argued as follows.

Construction of claim 1 of the patent

In the reasons for the decision, the opposition division construed claim 1 in an unduly narrow manner.

The definition of the term "video clip" given by the opposition division is not disputed, but it has no limiting effect on the features of the receiver of claim 1. Indeed, according to the description of the patent (see paragraph [0062]), the clips are combined in the mosaic form by the TV service company before transmission, and the whole mosaic is transmitted as video data representing a single picture in a single channel. In other words, the receiver of claim 1, which receives the mosaic of video clips as a single programme, is not able to determine whether the received video signals in the cells of the mosaic correspond to video clips, to other types of videos or even to still pictures. As a consequence, the indication in claim 1 that the video signals represent "video clips" has no effect whatsoever on the technical features of the claimed receiver and therefore cannot contribute to distinguishing the receiver of claim 1 from prior-art receivers. Another consequence of the mosaic not being created by the receiver is that the phrase "the receiver being arranged to produce output signals ... in respective areas on a television screen" in claim 1 should be construed as merely stating that the receiver is able to receive a video signal representing a mosaic of video clips and to transmit it for display on a television screen, which is something that any television receiver can do.

As to the expression "storing data to cause the receiver to receive the television signals when the programme corresponding to the selected clip is transmitted", the opposition division construed it as necessarily implying that the programme referred to will be transmitted at a future time or date. However,

what matters is not when the programme is transmitted, but which measures are taken to receive the programme when it is transmitted. Hence the above expression also covers the case where the receiver switches immediately to the channel of the selected programme and remains tuned to that channel until the programme starts at a later scheduled time. Claim 1 does not specify the type of the data mentioned in the above expression. In the simplest case, when the receiver switches immediately to the channel of the selected programme, only the channel number (or similar information) needs to be stored by the receiver. Importantly, such an immediate switching to the channel of the selected programme is presented in the description of the present patent as a specific embodiment, as one of three possible responses to the user's selection of one of the video clips (see column 15, lines 13 to 16, of the patent specification). Hence claim 1 also covers the case where the stored data consists of only the channel number and where the switching to the channel of the selected programme occurs immediately in response to the user's selection.

Novelty

E3 (see for instance the abstract) discloses a television receiver which receives in one channel a mosaic of 16 small screens containing videos representing currently transmitted programmes in separate channels (see multi-screen displays A and B in figures 1, 5A, 6B and 10). The user can select any one of these mini-screens with a moveable cursor, in response to which the receiver immediately tunes to the channel of the selected programme. In order to do so the receiver must store data containing the number of

the selected channel (or tuning information for this channel).

Thus, upon a proper interpretation of claim 1, its subject-matter lacks novelty in view of E3.

As to the novelty of the subject-matter of claim 1 in view of E1, E2, E4 or E5, the appellant stated in the statement of grounds of appeal that the receiver of claim 1 also lacked novelty in view of each of these prior-art documents, because they disclosed the simultaneous reception and display of several television signals, wherein upon selection of one of the television signals the receiver switches to the corresponding channel. However, no further details were subsequently provided and, during the oral proceedings, the appellant stated that these objections were no longer pursued because E3 was regarded as the best prior-art document for attacking the novelty of the subject-matter of claim 1.

Inventive step

Even if claim 1 were construed narrowly as implying that the stored data comprises not only the channel number but also the start time of a programme, its subject-matter would still be obvious in view of E3, alone or in combination with E5, for the following reasons.

Obviousness in view of E3 alone

According to E3, the video signal which contains the mosaic of video programmes also includes control data

(see column 3, lines 33 to 38). Although E3 does not disclose in detail the contents of the control data, it comprises at least channel data (see column 7, lines 32 to 47). Depending on the circumstances, the broadcasting centre 11 could include additional information in the control data, such as a start time or a reference to an entry into the Electronic Program Guide (EPG) so that the start time can be indirectly obtained via the EPG. It would therefore be obvious to adapt the receiver of E3 in such a way that it could receive the start time of transmitted programmes and react accordingly.

Hence the subject-matter of claim 1 does not involve an inventive step in view of E3 alone.

Obviousness in view of E3 and E5

E5 discloses a receiver which can display a mosaic of television programmes, at least one of which may be a Pay-Per-View (PPV) programme. Contrary to the opposition division's contention, a PPV programme may be broadcast at a scheduled future time rather than at a time of the viewer's selection.

E5 thus teaches that a mosaic of programmes can include a video clip for a PPV programme, as opposed to only currently transmitted programmes as in E3. By applying this teaching to the receiver of E3 the skilled person would arrive at the receiver of claim 1.

Accordingly, the subject-matter of claim 1 does not involve an inventive step in view of E3 in combination with E5.

XII. The respondent's arguments can be summarised as follows.

Claim 1 of the patent as granted

Construction of the claim

It is a general principle established by the case law of the boards of appeal of the EPO that for the interpretation of a claim the patent must be construed by a mind willing to understand, not a mind desirous of misunderstanding. Moreover, in view of the Protocol on the Interpretation of Article 69 EPC 1973, if there is an ambiguity in a claim, an embodiment which clarifies the matter should be taken into account for interpreting the claim.

The receiver of claim 1 of the patent is specifically arranged so as to receive a selected programme when that programme is transmitted. The programme may be transmitted some time in the future, or may even be a current programme; the stored data causes the receiver to receive the programme whenever it is transmitted. It is clear that "when" in claim 1 is used in the sense of "whenever", and it is this sense that the appellant has failed to understand. In other words, the expression "responding to such user selection by storing data to cause the receiver to receive the television signals when the programme corresponding to the selected clip is transmitted" implies that the stored data includes time information about the selected programme.

The above interpretation is corroborated by the description of the patent specification. In

paragraph [0062], at the top of column 15, it is explained that "[d]ata identifying the events being promoted in each cell is transmitted with the video data for use by the processor 23 in the decoder". In paragraph [0067] it is further indicated that "each promotional video clip has associated with it data defining such information as the title of the programme and the time or times when the programme is to be broadcast".

Moreover, contrary to the appellant's assertion, the immediate tuning of the receiver to the selected programme described in paragraph [0063] of the patent specification is not a separate embodiment but one of three possible ways in which the receiver responds to the viewer's selection of a video clip in the mosaic. The receiver has means for responding to the viewer's selection in all three ways and chooses the appropriate way depending on the circumstances as follows:

– If the receiver detects from the time information associated with the video clip that the selected programme has already started, then it switches immediately to the selected programme.
– If the receiver detects from the time information associated with the video clip that the selected programme will start at a later scheduled time, then it adds details to the "custom channel" for later viewing.
– If the receiver detects from the data associated with the video clip that the selected programme is a Pay-Per-View programme, the receiver displays the "Box Office" screen shown in figure 12.

Hence, even in the first way, where the switching to the selected programme occurs immediately, the receiver makes use of the time information to decide to respond to the viewer's selection in this way rather than by adding details to the "custom channel" according to the second way.

Novelty

The receiver of E3 immediately switches to the selected channel as soon as the corresponding window is selected. The receiver of E3 operates to select a particular channel, not a particular programme. Since the windows in the mosaic display of E3 relate to currently transmitted programmes, the selected channel is likely to be showing the same programme as was shown in the window when it was selected, but this is not a result of an arrangement of the receiver.

In contrast, the receiver as defined in claim 1 of the patent is specifically arranged so as to receive a selected programme whenever that programme is transmitted.

Hence the subject-matter of claim 1 is novel in view of E3.

E1, E2 and E4 add nothing to the disclosure of E3, and the appellant has produced no further arguments based on these citations.

Inventive step

Obviousness in view of E3 alone

The appellant's arguments for lack of inventive step over E3 alone are based entirely on hindsight, and ignore the clear purpose of the system of E3, which is to display only current programmes and to allow the user to switch immediately to the corresponding channel. It is significant that the appellant does not attempt to apply the "problem-solution" approach, but merely argues that the proposed modifications to E3 would be "easily possible".

Obviousness in view of E3 and E5

The appellant argues that the selectable PPV programmes of E5 might not be immediately receivable, but might only be transmitted at a number of fixed start times. However, the appellant offers no basis for this conjecture in E5. If anything, the phrase "currently shown" in the last line on page 60 suggests the opposite.

Moreover, since E3 only displays mosaics of currently transmitted programmes, it teaches away from providing access in this way to a Pay-Per-View programme which will only be available at a later time. Thus the combination of E3 with E5 is based on hindsight.

Reasons for the Decision

1. The appeal is admissible.

Claim 1 of the patent as granted

Construction of claim 1

2. In the present case the construction of claim 1 is in dispute. Therefore, the board has to assess how the claim must be construed in order to determine the technical features of the claimed subject-matter for the examination of novelty and inventive step.

3. Legal principles

The established case law of the boards of appeal concerning the general principles for the construction of claims, to which this board also subscribes, is summarised in the Case Law of the Boards of Appeal of the EPO, 6th edition 2010, section II.B.5.1, as follows:

> "The skilled person when considering a claim should rule out interpretations which are illogical or which do not make technical sense. He should try, with synthetical propensity, i.e. building up rather than tearing down, to arrive at an interpretation of the claim which is **technically sensible** and takes into account the whole disclosure of the patent. The patent must be construed by **a mind willing to understand**, not a mind desirous of misunderstanding".

The parties do not dispute that claim 1 of the patent must be construed according to the above general principles.

4. Construction of claim 1 of the patent as granted

Regarding the expressions "television programmes" and "channels" used in claim 1, it is undisputed that these expressions have different meanings. A television programme has a start time and an end time whereas the term "channel" refers to the bandwidth used by a single service to broadcast television programmes in succession (see, for instance, paragraphs [0007] and [0060] of the description of the patent).

As to the phrase "the receiver being arranged to produce output signals defining a plurality of video clips representing television programmes available in the plural signal channels which output signals are output for display of the clips in respective areas on a television screen" in claim 1, as pointed out by the appellant, according to the description of the patent (see paragraph [0062]) "the clips are combined in the mosaic form by the TV service company before transmission, and the whole mosaic is transmitted as video data representing a single picture in a single channel". The receiver, therefore, receives the mosaic of video clips as a single picture, i.e. as a video signal like in any other television channel and outputs it for display on a television screen. In other words, the receiver does not create a mosaic from the video clips, but merely displays the assembled clips in the form combined by the TV service company. This interpretation is not disputed by the parties.

As to the term "video clip", the parties do not dispute the opposition division's assertion that a "video clip" is generally understood by the person skilled in the art to refer to a short video sequence, also called a trailer, advertising a longer programme such as a feature film. In any case, the duration and content of a "video clip" in the context of claim 1 are not essential because the receiver does not have to determine whether video sequences in the mosaic are video clips, television programmes or any other type of video. The receiver merely has to establish a correspondence between a selected clip and the corresponding programme. It should however be noted that, as the respondent pointed out, these video clips represent television programmes, as opposed to merely representing television channels. This feature, which is not disputed by the appellant, is of importance and is further discussed below in the context of the data stored by the receiver.

In the present appeal, the dispute between the parties as to the construction of claim 1 focuses on how the phrase "responding to such user selection by storing data to cause the receiver to receive the television signals when the programme corresponding to the selected clip is transmitted in the corresponding channel for display of the programme on a television screen" should be construed.

The board agrees with the respondent that the most sensible meaning of the expression "when the programme ... is transmitted" in claim 1 is that of "whenever the programme ... is transmitted", i.e. "at

the time the programme ... is transmitted, whether now or later". Moreover, this interpretation is supported by the description (see paragraph [0063] of the patent specification) which discloses that the selected programme may be either currently transmitted or scheduled for transmission at a later time.

In the board's view, the expression "storing data to cause" implies a causal link between the data and the resulting action. It also means that the data must include all the information necessary to allow the resulting action to take place. The resulting action is that the receiver is put in such a state that it receives the television signals when the programme is transmitted in the corresponding channel which, as explained above, could be either now (for a currently transmitted programme) or at a later time (for a scheduled programme). In order for the receiver to perform this action successfully whenever the programme corresponding to the selected clip is transmitted, it is necessary that the receiver knows the start and end times of the selected programme. Without the start time, the receiver does not know when to switch to the channel of the selected programme, and without the end time the receiver might switch to the channel of the selected programme which is still advertised as a video clip but has in fact just finished. The board therefore comes to the conclusion that the data mentioned in claim 1 must include not only information as to the channel (e.g. the channel number) of the selected programme but also the start and end times of the selected programme.

The appellant argued that the start and end times of the selected programme are not necessary data because it would be sufficient for the receiver to switch immediately to the channel of the selected programme in order "to receive the television signals when the programme ... is transmitted", even if the programme is only transmitted at a later time. Hence, only channel data would be necessary in order to perform this action.

The board is not convinced by this argument for the following reasons. Switching immediately to the channel of a selected programme scheduled for transmission at a later time does not guarantee that the selected programme will be received when it is transmitted. Indeed, the receiver may be tuned to another channel (for instance, by the user) before the start time of the selected programme. This is particularly true if the selected programme is scheduled at a time which is hours, or even days, in the future. If no time information about the selected programme is stored, the receiver would be unable to switch back to the right channel to receive the selected programme at the scheduled time.

Article 100(a) EPC 1973 - novelty

5. E3 discloses a television signal transmission and reception system in which a cable-television broadcasting centre (see 11 in figures 1 and 2) broadcasts television signals corresponding to a plurality of channels, control information added to the television signals, a guide channel Cx and a notification channel Ck (see columns 3 to 5). The guide channel Cx transmits a television signal representing

one of two mosaics of 16 television channels each and including control information about the 16 channels in the mosaic. The guide channel Cx switches periodically from one mosaic to the other (see column 4, lines 23 to 44). The notification channel transmits messages addressed to the subscribers, such as advertisements for channels to which the subscriber has not yet subscribed.

At the receiving side of the system of E3, the channels are received, e.g. in a subscriber's home, by a receiver (22 in figures 1 and 3) and displayed on a television set. The control information transmitted with the television signals is stored in a memory of the receiver (see memory 46 in figure 3 and column 6, lines 28 to 35). By switching to the guide channel, the subscriber can display a mosaic of 16 channels showing in miniature the television programmes currently transmitted in the 16 channels (see column 4, lines 1 to 44, and column 5, lines 1 to 7). While the guide channel is displayed, the subscriber can position a cursor over any of the small screens of the mosaic and select the corresponding desired channel (see column 5, lines 27 to 39, column 9, lines 4 to 42, and figures 6A and 6B). In response to the subscriber's selection, the receiver reads out the stored channel data (in memory 46) and tunes immediately to the selected channel (see column 10, lines 35 to 56).

In E3, since the selection is channel-based, not programme-based, there is no mention of time information relating to programmes being transmitted with the mosaic in the guide channel Cx.

6. The receiver of claim 1 of the opposed patent therefore differs from the receiver of E3 in that in response to the user's selection of one of the clips, the receiver stores data to cause the receiver to receive the television signals when the programme corresponding to the selected clip is transmitted. As set out in section 4 *supra*, this requires relevant time information, including start and end times of the selected programme.

Hence the subject-matter of claim 1 of the patent is not anticipated by the disclosure of E3.

7. In the statement of grounds of appeal, the appellant alleged that the subject-matter of claim 1 of the patent also lacked novelty in view of any of E1, E2, E4 and E5. The only brief substantiation indicated that the reasoning was analogous to that for E3. During the oral proceedings, the appellant stated that these objections were no longer pursued, as E3 was regarded as the best prior-art document for attacking the novelty of the subject-matter of claim 1 of the patent.

Under these circumstances and since the board agrees with the appellant that E3 is the most relevant prior-art document for novelty, the opposition division's finding on novelty of the subject-matter of claim 1 of the patent in view of E1, E2, E4 or E5 need not be further discussed.

Article 100(a) EPC 1973 - inventive step

8. It is undisputed that E3 represents the closest prior art for the subject-matter of claim 1 of the opposed patent.

9. Obviousness in view of E3 alone

The appellant argued that, depending on the circumstances, the broadcasting centre 11 of E3 could include additional information in the control data, such as a start time or a reference to an entry into the Electronic Program Guide (EPG) so that the start time could be indirectly obtained via the EPG, and that it would therefore be obvious to adapt the receiver of E3 in such a way that it could receive the start time of the transmitted programme and react accordingly.

The board does not share the appellant's view. The mosaic of the guide channel Cx of E3 contains miniature versions of programmes being **currently transmitted** in respective channels. By selecting one of these miniature programmes, the subscriber switches **immediately** to the corresponding channel. There is therefore no suggestion of a temporal condition in E3, for example that any of the videos in the mosaic could refer to a corresponding programme broadcast at a future scheduled time. Moreover, the control information sent by the broadcasting centre with the television signals contains address data, command data, check data and control data, the latter further comprising frequency data, superimposition data, generic data, channel data and instruction data (see figure 4 and column 7, lines 20 to 47). Thus, although

several different types of data are transmitted, none of them relates to start and end times of programmes. For these reasons, the board considers that the appellant's argument is based on inadmissible hindsight.

Hence the subject-matter of claim 1 of the patent is not rendered obvious by E3.

10. Obviousness in view of E3 and E5

The appellant referred to E5 which discloses a television receiver which can display a mosaic of television programmes. Most of the programmes in the mosaic are being transmitted currently but at least one of them may be a Pay-Per-View (PPV) programme scheduled at a later time (see e.g. figure 34). E5 thus teaches that a mosaic of programmes can also include a video clip for a PPV programme, as opposed to only currently transmitted programmes as in E3. The appellant argued that by applying this teaching to the receiver of E3 the skilled person would arrive at the receiver of claim 1.

The board is not convinced by this argument. Firstly, it should be noted that in E5 the mosaic is generated by the receiver with the help of two tuners, whereas in E3 it is generated by the broadcaster and displayed as such by the receiver. This difference might already deter the skilled person from combining the teachings of E3 and E5. Secondly, even assuming that it does not, the skilled person would still not have arrived at the subject-matter of claim 1 for the following reasons. In E5, it seems that the PPV programme has no scheduled start and end times. Rather, the PPV programme appears

to be a Video-On-Demand programme which does not start at a scheduled time but some time ("X number of minutes"; see page 66, lines 5 to 8) after the programme was selected by the user in the mosaic. There is, in any case, no indication in E5 that the receiver, in response to a user's selection, stores data which cause the receiver to receive the PPV programme at the time it will be transmitted. The receiver only provides a first indication of when the PPV programme will start (figure 42) once the order is confirmed, several screens after the PPV programme was selected in the mosaic by the user. There is no hint in E5 of establishing a temporal condition between video clips displayed in respective areas on a television screen and programmes which correspond to these clips.

For the above reasons, the appellant has not convinced the board that the subject-matter of claim 1 of the patent was rendered obvious by the combination of E3 and E5.

11. Since claims 2 to 6 of the patent as granted are dependent on claim 1, the same conclusion regarding inventive step applies to these claims.

Conclusions

12. Since the board confirms the decision under appeal regarding the claims of the patent as granted, the appeal must be dismissed. Therefore the claims according to the respondent's first to third auxiliary requests need not be considered.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

G. Rauh F. Edlinger