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**Datasheet for the decision
of 17 September 2007**

Case Number: T 0259/07 - 3.5.04

Application Number: 98938998.6

Publication Number: 0932980

IPC: H04N 7/30

Language of the proceedings: EN

Title of invention:

Video transmission apparatus employing intra-frame-only video compression that is MPEG-2 compatible

Respondent:

(Patent proprietor)

SAMSUNG ELECTRONICS CO., LTD

Appellant:

(Opponent)

Interessengemeinschaft für Rundfunkschutzrechte e.V. (IGR e.V.)

Headword:

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Relevant legal provisions:

EPC Art. 113(2) Basis of decisions - patentee (agreement of)

Keyword:

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Decisions cited:

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Catchword:

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Case Number: T 0259/07 - 3.5.04

D E C I S I O N
of the Technical Board of Appeal 3.5.04
of 17 September 2007

Appellant: Interessengemeinschaft
(Opponent) für Rundfunkschutzrechte e.V. (IGR e.V.)
Bahnstraße 62
DE-40210 Düsseldorf (DE)

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

Respondent: SAMSUNG ELECTRONICS CO., LTD.
(Patent proprietor) 416 Maetan-dong
Paldal-gu
Suwon City
Kyungki-do 442-370 (KR)

Representative: Mertens, Hans Victor
van Exter Polak & Charlouis B.V.
P.O. Box 3241
NL-2280 GE Rijswijk (NL)

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
11 December 2006 concerning maintenance of the
European Patent No. 0932980 in amended form.

Composition of the Board:

Chairman: F. Edlinger
Members: A. Teale
T. Karamanli

Summary of Facts and Submissions

- I. In an interlocutory decision announced orally at the oral proceedings held on 24 October 2006 and issued in writing on 11 December 2006 the opposition division decided that European patent No. 0 932 980 in the form as amended in opposition proceedings satisfied the requirements of the EPC.
- II. On 8 February 2007 a notice of appeal against this decision was received from the opponent (appellant), the appeal fee being paid on the same day. A statement of grounds of appeal was received on 10 April 2007. The appellant requested that the decision under appeal be set aside and the patent revoked. He also made an auxiliary request for oral proceedings.
- III. In reply thereto the patent proprietor (respondent) stated in a letter dated 13 August 2007: "Pursuant to Art. 113(2) EPC, the respondent in the present appeal hereby withdraws his consent given to the (text of the) patent as maintained in amended form during opposition. The Board of Appeal is requested to take a decision on the basis of the above". An amended text of the patent was not submitted.

Reasons for the Decision

1. The appeal is admissible.
2. In accordance with Article 113(2) EPC, the EPO can only consider and decide upon the patent in the text submitted or agreed by the patent proprietor. In the

present case the proprietor has expressly stated that he no longer agrees to the text of the patent maintained by the opposition division and has not submitted a replacement text for the patent.

3. In such a situation a substantive requirement for maintaining the patent is lacking. It is established case law that in these circumstances the proceedings are to be terminated by a decision ordering revocation, without going into the substantive issues (see for example T 73/84 (OJ EPO 1985, 241) and Case Law of the Boards of Appeal of the European Patent Office, 5th edition 2006, VII.D.11.3, page 634 of the English version).

Order

For these reasons it is decided that:

1. The appealed decision is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:

D. Sauter

F. Edlinger