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**Datasheet for the decision
of 25 June 2008**

Case Number: T 1505/07 - 3.5.03

Application Number: 94900642.3

Publication Number: 0671103

IPC: H04H 1/00

Language of the proceedings: EN

Title of invention:

Distributed database system and database receiver therefor

Applicant:

IO Research PTY. LIMITED

Headword:

Distributed database system/IO RESEARCH PTY.

Relevant legal provisions:

EPC Art. 56, 113(1)

EPC R. 115(2)

RPBA Art. 15(3)

Relevant legal provisions (EPC 1973):

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Keyword:

"Inventive step - no"

"Oral proceedings held in absence of appellant"

Decisions cited:

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Catchword:

-



Case Number: T 1505/07 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 25 June 2008

Appellant: IO Research PTY. LIMITED
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Decision under appeal: Decision of the examining division of the
European Patent Office posted 15 March 2007
refusing European application No. 94900642.3
pursuant to Article 97(1) EPC 1973.

Composition of the Board:

Chairman: A. S. Clelland
Members: F. van der Voort
R. Menapace

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division refusing European patent application No. 94900642.3 (publication number EP 0671103), which was originally filed as international application PCT/AU93/00607 (publication number WO 94/13102 A).
- II. The reason given for the refusal was that the subject-matter of the independent claims 1 and 12 to 14 lacked an inventive step (Articles 52(1) and 56 EPC).
- III. The following document which was referred to in the decision under appeal is relevant to the present decision:
- D6: US 4 845 658 A (Gifford).
- IV. In the statement of grounds of appeal the appellant submitted the following arguments in support of novelty and inventive step, in which "US-Patent 5,737,595" is a US patent which is based on the same international application as the application in suit:

"In the refusing Decision the Examining Division mainly relied on D6 (US-A-4 845 658) as closest prior art, but acknowledged in reason # 1, that D6 does not disclose the feature of "that the data is embedded in a television signal;" In addition to this novel feature, D6 does not show the feature of "transmission means for encoding and transmitting said sequential data stream;" in claim 1 and in a similar way in claims 13/14, as already indicated in the letter of 28.01.2005. Thus,

there are at least two distinguishing features, rendering claim 1 novel over D6.

As regards Art. 56 EPC, it might well be that granted US-Patent 5,737,595 is not relevant for the EPO-procedure. Nevertheless, issuance thereof is a strong indication of inventiveness of the present application, even if there are some additional references in the EPC-proceedings. Further, there this [*sic*] no hint in the cited prior art for embedding such data in a television signal. Thus, the claimed subject matter is not obvious."

The appellant stated that "the present claim wording is defended", which the board interprets as a request that a patent be granted on the basis of the claims on file. Further, oral proceedings were requested.

V. The appellant was summoned to oral proceedings. In a communication accompanying the summons, the board raised, without prejudice to its final decision, objections *inter alia* under Articles 52(1) and 56 EPC in respect of the subject-matter of claim 1. Reference was made to the following document which is referred to in D6:

D7: David K. Gifford *et al*, "The Application of Digital Broadcast Communication to Large Scale Information Systems", IEEE Journal on Selected Areas in Communications, May 1985, Vol. SAC-3, No. 3, pages 457 to 467.

VI. Two days before the scheduled date for the oral proceedings, in a letter in response to the board's

communication, the appellant requested that the proceedings be continued in writing. No reasons were given.

VII. In a subsequent communication the board informed the appellant that the request that the proceedings be continued in writing and, hence, that the oral proceedings be cancelled, could not be granted and that the date fixed for the oral proceedings was maintained. Reasons were given.

VIII. Oral proceedings were held on 25 June 2008 in the absence of the appellant. At the end of the oral proceedings, after deliberation, the board's decision was announced.

IX. Claim 1 reads as follows:

"A distributed database system comprising:
a central station (11) for accumulating and distributing data on a database;
a plurality of receiver stations (13) for receiving said data and selectively making available at least portions of said data in accordance with the demands of a user of a said receiver station (13); and
wherein said central station (11) comprises: a data store (17) for storing accumulated data from said database, ready for distribution; processing means (19) for extracting said data from said data store and generating a sequential data stream therewith for distribution; and transmission means (21) for encoding and transmitting said sequential data stream;
characterized by transmission means (21) for encoding and transmitting said sequential data stream,

which is delivered embedded within [sic] television signal, and in that

a said receiver station (13) comprises: decoder means (25) to receive and decode transmitted data so as to reconstitute said database data therefrom; input means (31) for a user of said receiver station (13) to input user commands in respect of the demands of the user to said receiver station (13); receiver processing means (27) for constituting a database from said data having regard to said user commands; memory means (29) for storing data for constituting said database; and means (33) for communicating selected data to the user in direct response to said user commands."

Reasons for the Decision

1. *Procedural matters*

- 1.1 The board considered it to be expedient to hold oral proceedings for reasons of procedural economy (Article 116(1) EPC). The appellant, which was duly summoned, did not appear. The oral proceedings were therefore held without the appellant (Rule 115(2) EPC).
- 1.2 In view of the above and for the reasons set out below, the board was in a position to give at the oral proceedings a decision which complied with the requirements of Article 113(1) EPC (see also Article 15(3) RPBA). The appellant's request that the procedure be continued in writing was therefore not granted.

2. *Inventive step - Articles 52(1) and 56 EPC*

2.1 The examining division held that D6 represented the closest prior art and that it disclosed all the features of claim 1 with the exception of the feature that the data transmission is embedded in a television signal.

2.2 In the statement of grounds of appeal the appellant argued that, in addition, D6 did not disclose the transmission means for encoding and transmitting the sequential data stream.

2.3 In the board's view, D6 does not, at least not explicitly, disclose transmission means for encoding and transmitting the data stream embedded within a television signal. More specifically, see col. 3, lines 58 to 60, and col. 4, lines 19 to 21, it is merely stated that a radio transmitter 24 (see Fig. 1) is provided for transmitting the data from the central site 10 to the remote terminals 12-22 using a broadcast packet radio system. However, for an example of this broadcast packet radio system, explicit reference is made to an article by the inventor cited in D6 (see D6, col. 4, lines 19 to 28).

2.4 This article, referred to here as D7, discloses a distributed database system which includes means for encoding and transmitting a sequential data stream using broadcast communication, see the abstract, page 459, right-hand col., second paragraph ("a single stream of data") and page 464, left-hand col., fourth paragraph ("compact encoding"). Further, in addition to an explicit reference to both Teletext and Viewdata (see page 457, section I), D7 explicitly mentions as an example of the digital broadcast medium the employment of the vertical

blanking interval of TV transmissions, resulting in TV plus data transmissions, see page 460, left-hand col., section III, second paragraph.

2.5 Hence, when faced with the problem of implementing the distributed database system of D6 and, in particular, the radio transmitter of the system, a person skilled in the art would consider, as taught in D7, the use of a transmission means for encoding and transmitting the sequential data stream, in which the data stream is embedded within a television signal. The skilled person would thereby arrive at a distributed database system including all the features of claim 1 without the exercise of inventive skill.

2.6 The board does not accept the appellant's arguments in support of inventive step (see point IV above) for the following reasons:

The argument based on the corresponding US patent (US 5 737 595 A) is not convincing, since, apart from the fact that the European patent grant procedure is fully independent of the patent grant procedure before the USPTO, it is noted that D6 and D7 are not mentioned as cited references (see US 5 737 595 A, the cover sheet).

Further, the argument that there is no hint in the cited prior art for embedding the data in a television signal is merely an assertion and therefore not convincing either.

2.7 The board therefore concludes that the subject-matter of claim 1 does not involve an inventive step (Articles 52(1) and 56 EPC).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Magliano

A. S. Clelland