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**Datasheet for the decision
of 20 May 2010**

Case Number: T 1829/07 - 3.5.05

Application Number: 98307353.7

Publication Number: 1003313

IPC: H04L 29/06

Language of the proceedings: EN

Title of invention:

Delivering interactive applications

Patentee:

ZH Interactive Systems LLC

Opponent:

Lind, Robert
SysMedia Ltd
British Broadcasting Corporation

Headword:

Interactive applications/ZH INTERACTIVE SYSTEMS

Relevant legal provisions:

EPC Art. 54, 123(2), 123(3)

Relevant legal provisions (EPC 1973):

EPC Art. 56, 84, 106, 107, 108

Keyword:

"Novelty - no (main request, auxiliary requests 1a, 1b, 1c, 2, 4)"

"Inventive step - no (auxiliary requests 2a, 2b, 2c, 4a, 4b, 4c)"

"Clarity - no (auxiliary requests 3, 3a, 3b, 3c)"

Decisions cited:

T 0003/90

Catchword:

-



Case Number: T 1829/07 - 3.5.05

D E C I S I O N
of the Technical Board of Appeal 3.5.05
of 20 May 2010

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Decision under appeal: Decision of the Opposition Division of the European Patent Office posted 31 July 2007 revoking European patent No. 1003313 pursuant to Article 102(1) EPC 1973.

Composition of the Board:

Chairman: D. H. Rees
Members: A. Ritzka
P. Schmitz

Summary of Facts and Submissions

I. This appeal is against the decision of the opposition division dispatched 31 July 2007 to revoke the European patent 1 003 313. The patent was revoked for added subject matter as to the main request and for lack of novelty as to the first, second and third auxiliary requests having regard to the disclosure of

D1: WO 96/34486 A (first auxiliary request) and
D2: US 5 559 549 A (second and third auxiliary request).

II. Notice of appeal was submitted on 2 October 2007. The appeal fee was paid on 4 October 2007. The statement setting out the grounds of appeal was submitted on 6 December 2007.

The appellant (patentee) requested that the decision under appeal be set aside and the patent be maintained in amended form according to the main request or one of auxiliary requests 1a, 1b, 1c, 2, 2a, 2b, 2c, 3, 3a, 3b, 3c, 4, 4a, 4b, or 4c filed with the statement setting out the grounds of appeal. The main request, auxiliary request 2 and auxiliary request 4 corresponded substantially to the first, second and third auxiliary requests, respectively, on which the decision under appeal was based. An auxiliary request for oral proceedings was made.

III. In its letter dated 18 March 2008 respondent I (opponent I) requested that the appeal be dismissed. In its letter dated 24 April 2008 respondent II (opponent II) requested that the appeal be dismissed

and made an auxiliary request for oral proceedings. Respondent III commented in its submission also dated 24 April 2008 on the statement setting out the grounds of appeal without making specific requests.

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

"A method of delivering an interactive application to a plurality of target platforms (2) constituted by respective different broadcast networks (3), the method comprising:

providing a set of application components;

converting the set of application components into a plurality of streams of broadcast data, each stream of broadcast data conforming with a respective target platform; and

delivering each stream of broadcast data to its respective broadcast network (3) for subsequent delivery to user interfaces (4)."

Claim 1 of auxiliary request 2 adds to claim 1 of the main request that each target platform includes an application processor and the steps of interrogating the application processor (28) to determine the data capabilities of the application processor; and downloading data from the stream of broadcast data in accordance with the determined data capabilities of the application processor.

Claim 1 of auxiliary request 3 corresponds to claim 1 of auxiliary request 2, replacing in the preamble of the claim "a plurality of target platforms (2) constituted by respective different broadcast networks (3), wherein each target platform includes an

application processor" by "a plurality of target platforms (2) constituted by respective different broadcast networks (3), wherein each user interface includes an application processor" (emphasise added by the board).

Claim 1 of auxiliary request 4 adds to claim 1 of the main request that each target platform includes an application processor and that the converting step compensates for timing differences between the broadcast networks (3) in handling the broadcast data so as to temporally synchronise the broadcast data at each application processor.

Claim 1 of each of auxiliary requests 1a, 2a, 3a and 4a adds to claim 1 of the main request and auxiliary requests 2 to 4, respectively, that each broadcast network has a different protocol.

Claim 1 of each of auxiliary requests 1b, 2b, 3b and 4b adds to claim 1 of the main request and auxiliary requests 2 to 4, respectively, that the application is provided as a set of application components.

Claim 1 of each of auxiliary requests 1c, 2c, 3c and 4c is a combination of the features of claim 1 of auxiliary request 1a, 2a, 3a and 4a and auxiliary request 1b, 2b, 3b and 4b, respectively.

Claim 14 of each of the main request and auxiliary requests 1a to 1c is directed to an apparatus adapted to the method of claim 1 of the respective request.

Claim 12 of each of auxiliary requests 2, 2a to 2c, 3, 3a to 3c, and 4, 4a to 4c is directed to an apparatus adapted to the method of claim 1 of the respective request.

V. The appellant argued inter alia as follows:

The delivery of data as disclosed by D1 was not equivalent to the delivery of an interactive application as claimed. Although brief references to delivery of interactive applications could be found in D1, they did not provide any insight onto how such a task might be performed.

With respect to the main request in particular, D1 described the delivery of the data to populate an EPG application, not the delivery of the application itself. Moreover, the claimed feature of "a set of application components" required all of the application components sufficient to provide an application. Further, D1 failed to disclose the necessary "conversion" of an application. In this context, the appellant considered the decision under appeal to be unclear since it included the statements, "no conversion of application components is described in D1" and, "the process disclosed in D1 indeed constitutes a conversion", contradicting each other.

With respect to auxiliary request 1a the appellant asserted that D1 failed to disclose that the application was transmitted across networks that have different broadcast protocols.

The amendment of claim 1 of auxiliary request 1b was intended to clarify the difference between the claimed subject-matter and D1 that the set of applications constituted an entire set forming the application rather than merely a sub-set.

The combination of additional features according to auxiliary requests 1a and 1b constituting auxiliary request 1c was asserted to be clearly unique and innovative.

Further, D2 gave some indication that interactive content was forwarded, however D2 did not teach that it was provided as a set of components nor that the same interactive content was delivered to a plurality of target platforms nor that it was transmitted over a broadcast network.

With respect to auxiliary request 2 the appellant stated that D2 disclosed neither the provision of a set of application components nor that data was downloaded from the stream in accordance with determined data capabilities.

Auxiliary request 3, which was said to be based on the second auxiliary request, specified "that the application processors are located at the user interfaces (rather than the target platforms more generally)". This limitation was said to clarify that the decision about downloading data from the stream was clearly taken in response to the capabilities of the user interface, resulting in the end-point of the system defining the data received but not necessarily

the data sent. This additional step was neither taught nor suggested in the prior art.

The additional feature of auxiliary request 4 that the broadcast data are converted so as to temporally synchronise the broadcast data at each application processor was not disclosed by the prior art, in particular not in D2, column 8, lines 34 to 38, to which the decision under appeal referred. This passage was extremely vague and did not appear to teach anything about synchronisation at the application processor, but rather to transmissions from the control centres.

As to auxiliary requests 2a, 2b, 2c, 3a, 3b, 3c, 4a, 4b and 4c the appellant referred to the arguments presented with respect to auxiliary requests 1a, 1b and 1c.

VI. Respondent I argued inter alia as follows:

With respect to the main request, respondent I challenged the appellant's assertion that "application components" were "not simple data" and argued that the distribution of content data disclosed in D1 corresponded to "application components" as claimed. Moreover, according to pages 17 and 18 of D1 the distribution of software was handled in the same manner as all other data.

With respect to the term "conversion" respondent I pointed to claim 4 of the patent, which showed that selection alone was one possibility for the conversion.

As to the allegedly contradicting statements in the decision under appeal, it was argued that, "Only a selection but no conversion of application components is disclosed in D1" appeared to be a summary of the argument put forward by the patentee. This argument was rejected by the opposition division by the following statement "the process disclosed in D1 indeed constitutes a conversion, which may consist of a selection only."

Further, claim 1 of the main request did not fulfil the requirements of Article 123(3) EPC.

As to auxiliary request 1a, D1 disclosed the provision of different EPG formats to different "EPG providers" via different transmission protocols.

With respect to auxiliary request 1b, respondent I argued that in the software distribution system of D1 software and the data populating it were all distributed in the same fashion. D1, page 10, lines 24 to 29 and page 17, lines 27 to 29 provided further examples of applications split up into components.

As to auxiliary request 1c, the combination of the features of auxiliary requests 1a and 1b did not appear to provide any synergistic effect.

Auxiliary request 2 lacked novelty having regard to the disclosure of D2 for the reasons of the decision under appeal.

Claim 1 of auxiliary request 3 was anticipated by D2, column 9, lines 42 to 56 and thus lacked novelty for the same reasons as auxiliary request 2.

Auxiliary request 4, which corresponded to the third auxiliary request on which the decision was based, lacked novelty for the reasons set out in the decision under appeal.

VII. Respondent II argued inter alia as follows:

Objections under Article 123(2) and (3) EPC were raised with respect to all the requests.

As to the main request, claim 1 lacked novelty having regard to the disclosure of D1 for the reasons set out in paragraph 3.5 of the decision under appeal.

The additional feature of claim 1 of auxiliary request 1a was disclosed in D1, page 4, lines 6 to 8 and page 5, first two paragraphs.

Respondent II did not consider that the amendment of claim 1 of auxiliary request 1b defined the term "application components" and "interactive applications" more precisely than claim 1 of the main request. Therefore, the objections raised with respect to the main request applied equally.

Auxiliary request 1c was considered to be a mere combination of auxiliary requests 1a and 1b, thus also lacking novelty.

As to auxiliary request 2, claim 1 lacked novelty having regard to the disclosure of D2 for reasons set out in paragraph 4.1 of the decision under appeal.

As to auxiliary requests 2a to 2c respondent II referred to the objections made with respect to auxiliary requests 2 and 1a to 1c.

As to auxiliary requests 3 to 3c respondent II argued that the requirement in the preamble of claim 1 that "each user interface includes an application processor" rendered the claim unclear since "each user interface" lacked an antecedent basis and since later in the claim the delivery step did not deliver to the user interface, but only delivered to the broadcast network for subsequent delivery to the user interface.

As to auxiliary request 4, claim 1 lacked novelty having regard to the disclosure of D2 for the reasons set out in paragraph 5.1 of the decision under appeal.

As to auxiliary requests 4a to 4c respondent II referred to the objections made with respect to auxiliary requests 4 and 1a to 1c.

VIII. Respondent III mainly referred to the reasons of the decision under appeal and their arguments presented in the grounds of opposition and at the oral proceedings.

IX. The board issued summons to oral proceedings accompanied by a communication. In the communication the board inter alia presented its preliminary view that claim 1 of the main request and auxiliary request 1a lacked novelty having regard to the

disclosure of D1, that claim 1 of auxiliary requests 2 and 4 lacked novelty having regard to the disclosure of D2, that it was not clear whether the additional features of auxiliary requests 1b, 1c, 2a-c and 4a-c added novel or inventive matter and that claim 1 of auxiliary requests 3 to 3c lacked clarity.

- X. On the appellant's request dated 8 February 2010, based on the fact that its representative was summoned to another oral proceedings on the same day, the date for oral proceedings was postponed to 20 May 2010.

- XI. In a further letter dated 1 April 2010 the appellant announced that it would not be represented at oral proceedings and requested that a decision be based upon the written submissions already made in the statement setting out the grounds of appeal.

- XII. By letter of 19 April 2010 Respondent II announced that it would not attend the oral proceedings and withdrew its request for oral proceedings.

- XIII. The board cancelled the oral proceedings.

Reasons

1. *Procedural matter*

1.1 Admissibility

The appeal complies with the provisions of Articles 106 to 108 EPC 1973, (see Facts and Submissions, point II above). Therefore, it is admissible.

1.2 Oral proceedings

The appellant requested oral proceedings as a subsidiary request if the patent was not maintained in the amended form according to the main request. Respondent II requested oral proceedings if the appeal was not dismissed.

In reaction to the board's summons to oral proceedings the appellant announced that they would not be represented at oral proceedings and requested that a decision be based upon the written submissions already made in the statement setting out the grounds of appeal.

In accordance with established case law of the Boards of Appeal, (see e.g. T 0003/90), under these circumstances, the statement that they would not be represented at oral proceedings is equivalent to a withdrawal of the appellant's request for oral proceedings, previously made in the statement setting out the grounds of appeal.

By its letter of 19 April 2010 respondent II withdrew its request for oral proceedings and requested a decision based on the written proceedings.

As both requests for oral proceedings were withdrawn and the board did not consider oral proceedings to be expedient in the circumstances, the oral proceedings were cancelled.

2. *Article 123 EPC*

The issue of compliance with the provisions of Article 123(2) and (3) EPC raised by respondents I and II and in the summons do not need to be decided as the appeal has to be dismissed for other reasons, see points 3 to 13 below.

3. *Main request*

Claim 1 of the main request corresponds to claim 1 of the first auxiliary request on which the decision under appeal was based.

D1 discloses an EPG data management system which permits an EPG distributor to provide the data, e.g. an interactive edition of the EPG, in the appropriate format to a large number of EPG providers (see page 5, lines 22 to 25 and page 6, lines 3 to 13), thus a method of delivering an interactive application to a plurality of target platforms.

The particular target environments supported by the data management and distribution system of D1 are advanced analogue settop converters for interactive EPG, having unique transmission protocols and other target-unique parameters, (see D1, page 13, lines 22 to 29). This implies that the target platforms are constituted by respective different broadcast networks.

The main database includes content data and context data, on which the generation of editions and feeds by the data distribution system is based (see page 7, lines 7 to 21). Moreover, the system may comprise a

video management subsystem for distributing videos and a subsystem for the distribution of software (see page 17, line 24 to page 18, line 2). Thus, D1 discloses providing a set of application components.

D1 discloses that the EPG data management and distribution system permits an EPG distributor to provide the data in the appropriate format to a large number of EPG providers (see page 5, lines 22 to 25), implying that the set of application components is converted into a plurality of streams of broadcast data, each stream of broadcast data conforming with a respective target platform.

D1 discloses that the feed generation subsystem generates a continuous stream of data which is repeatedly distributed in a cyclic fashion to the settop boxes, see page 15, lines 9 to 15. Utilizing the target environment context data and data from the distribution parameters in the configuration database, an edition is composed and transported to the target device, see page 12, lines 1 to 3. For interactive guides, the target device is a specific type of data processor, located in the settop box at the subscriber location, running a specific application, see page 5, line 31 to page 6, line 2. This implies that each stream of broadcast data is delivered to its respective broadcast network for subsequent delivery to user interfaces.

The appellant's argument that D1 only disclosed the delivery of data to populate an EPG application, but did not disclose the delivery of the application itself, does not convince the board since D1 discloses

a subsystem for distribution of software corresponding to a set of application components, see page 17, line 24 to page 18, line 2. Further, D1 discloses the subsystem for distribution of software components with reference to the video management subsystem for handling promotional and other types of videos (see page 18, lines 7 to 9). Contrary to the appellant's argument the board considers this disclosure to be sufficient to give an insight into how such a task is performed. D1 suggests that the delivery of interactive applications is carried out in the same manner as the delivery of data.

The subsystems for video management and software distribution are said to be additional to the further subsystems of the data management and distribution system. Therefore, the appellant's objection that the disclosure of delivery of an application in passing did not anticipate the rest of the features of claim 1, (see grounds of appeal, page 4, last paragraph), is not convincing.

The appellant asserts that D1 fails to describe the necessary "conversion" of an application, referring to paragraph 3.5.2 of the reasons for the decision under appeal. In that paragraph the decision under appeal summarises the arguments put forward by the patentee in the phrase, "Only a selection but no conversion of application components is disclosed in D1". Subsequently, it comments on this argument in the next statement, "the process disclosed in D1 indeed constitutes a conversion, which may consist of a selection only." Indeed, according to the patent in suit "conversion" may include translation,

substitution, selection, time management, or adaptation for different data transmission mechanisms, (see patent specification, paragraph [0014]). The patent specification does not provide a basis for an interpretation of "converting" that would require more than one of these features, e.g. selection. D1 discloses that the target devices receive and store the EPG data furnished by the EPG distributor and create the individual editions of the guide as required, (see page 5, lines 27 to 31). These individual editions are based on the EPG data and imply a selection of data, i.e. data conversion.

Thus, the board confirms the finding of the decision under appeal that the subject-matter of claim 1 lacks novelty having regard to the disclosure of D1.

4. *Auxiliary request 1a*

Claim 1 of auxiliary request 1a adds to claim 1 of the main request the requirement that each broadcast network has a different broadcast protocol.

As to the common features of both claims the arguments presented in point 3 above apply.

D1 discloses the provision of different EPG formats to different EPG providers via different transmission protocols, (see page 2, line 32 to page 3, line 4). The use of different transmission protocols is further anticipated by page 3, lines 24 and 25, page 4, lines 6 to 8 and page 5, lines 1 to 21 of D1.

The subject-matter of claim 1 lacks novelty,
(Article 54 EPC).

5. *Auxiliary request 1b*

Claim 1 of auxiliary request 1b differs from claim 1 of the main request in specifying the application as a set of application components.

According to the appellant, this amendment was intended to emphasize that the set of application components provided and converted in the method according to the main request was the entire set forming an application, clarifying the distinction with respect to D1.

D1 discloses that the software and the data populating it are all distributed in the same fashion and that the EPG data may comprise various components such as a PPV movie and a corresponding promotional video clip, (see page 10, lines 24 to 29 and page 17, lines 27 to 29). Thus, D1 discloses providing the application as a set of application components.

As to the common features of claim 1 of both requests the arguments presented in point 3 above apply.

The subject-matter of claim 1 thus lacks novelty having regard to the disclosure of D1, (Article 54 EPC).

6. *Auxiliary request 1c*

Claim 1 of auxiliary request 1c includes the amendments of auxiliary requests 1a and 1b in claim 1 of the main request. For the reasons set out in points 4 and 5

above, the subject-matter of claim 1 lacks novelty having regard to the disclosure of D1, (Article 54 EPC).

7. *Auxiliary request 2*

Claim 1 of auxiliary request 2 corresponds to claim 1 of the second auxiliary request on which the decision under appeal was based.

D2 discloses a television delivery system with an operations centre comprising a computer assisted packaging (CAP) system, controlling and transmitting programming signals. The CAP creates a packaging of programs and a packaging of menu and control information. Once the programming signals have been packaged, compressed and processed for digital transmission, they are sent along with control information to the cable headend. Each cable headend includes signal processing hardware and software capable of receiving, repacking/combining and routing program signals to the subscriber homes. (See column 2, line 61 to column 3, line 50, Fig. 2, Fig. 3). Thus, D2 discloses a method of delivering an interactive application to a plurality of target platforms constituted by different broadcast networks, wherein each target platform includes an application processor, the target platforms corresponding to the cable headends and the application processor to the processing hardware and software.

The packaged program signal includes programs, menu and control information, which may be used to change the allocation of programs across physical channels, update

menu information, reprogram menu formats and menu flow, and to reprogram the graphics memory of a subscriber's set top terminal, (see column 3, lines 36 to 43 and column 24, lines 31 to 33). This implies providing a set of application components.

The operations centre may send different groups of programs to different cable headends and/or set top terminals. The signal may be multiplexed with other signals, modulated, upconverted and amplified for transmission over a satellite. (See column 7, line 44 to column 8, line 28). Thus, D2 discloses converting the set of application components into a plurality of streams of broadcast data, each stream of broadcast data conforming with a respective target platform and delivering each stream of broadcast data to its respective broadcast network for subsequent delivery to user interfaces.

The network controller, which is part of the cable headend, enables the delivery system to adapt to specific requirements of individual set top terminals when the requirements cannot be provided to the operations centre in advance, (see column 9, lines 42 to 56). Further, the cable headend acts as a network controller by receiving information from each set top terminal and passing such information on to an information gathering site such as the operations centre, (see column 8, lines 54 to 57). This implies interrogating the application processor to determine the data capabilities of the application processor and downloading data from the stream of broadcast data in accordance with the determined data capabilities of the application processor.

The appellant argued that D2, column 3, lines 32 to 50 did not teach that data is downloaded from the stream in accordance with the determined data capabilities of the application processor, as held by the opposition division. However, the decision quotes this passage in the context of "a method of delivering an interaction application", which is considered to be correct. In the context referred to by the appellant column 9, lines 42 to 56 is quoted. This passage discloses that the network controller enables the delivery system to adapt to the specific requirements of the individual set top terminals when the requirements cannot be provided to the operations centre in advance. This passage is relevant to downloading data from the stream in accordance with the determined data capabilities of the application processor.

Further, the appellant challenged the assertion that column 24, lines 31 to 39 disclosed the provision of a set of application components. However, this passage discloses that the network controller of the operations centre instructs the graphics memory of the set top terminal to be erased and reprogrammed with new menu templates, implying the provision of a set of application components.

Therefore, the board finds the reasoning in section 4.1 of the reasons for the decision under appeal convincing.

Claim 1 thus lacks novelty having regard to the disclosure of D2, (Article 54 EPC).

8. *Auxiliary request 2a*

Claim 1 of auxiliary request 2a adds to claim 1 of auxiliary request 2 the requirement that each broadcast network has a different broadcast protocol, which is identical to the added feature of auxiliary request 1a.

As to the common features of claim 1 of both requests the arguments presented in point 7 above apply.

D2, column 8, lines 44 to 47 discloses that the cable headend site is equipped with multiple satellite receiver dishes. Each dish may be capable of handling multiple transponder signals from multiple satellites.

D1 lies in the same technological field and deals with a similar technical problem as D2. As already set out in point 4 above, D1 discloses the provision of different EPG formats to different EPG providers via different transmission protocols, (see page 2, line 32 to page 3, line 4).

The skilled person would understand that the provision of receiver dishes capable of handling multiple transponder signals enables the use of broadcast networks having different broadcast protocols, if the specific application needs to use them. Accordingly, the requirement that each broadcast network has a different broadcast protocol is considered to be obvious.

Thus, claim 1 does not involve an inventive step, (Article 56 EPC 1973).

9. *Auxiliary request 2b*

Claim 1 of auxiliary request 2b differs from claim 1 of auxiliary request 2 in specifying the application as a set of application components, which is identical to the added feature of auxiliary request 1b.

As to the common features of claim 1 of both requests the arguments presented in point 7 above apply.

D2 discloses that the packaged program signal includes programs, menu and control information, which may be used to change the allocation of programs across physical channels, update menu information, reprogram menu formats and menu flow, and reprogram the graphics memory of a subscriber's set top terminal, (see column 3, lines 36 to 43 and column 24, lines 31 to 33). Consequently, the packaged program signal includes various components. D2 further discloses that the network controller of the operations centre instructs the graphics memory of the set top terminal to be erased and reprogrammed with new menu templates, (see column 24, lines 31 to 39), implying the provision of a set of application components. The skilled person would understand that this instruction is based on control information which is included in the packaged signal referred to in column 3, lines 36 to 43, since the instruction has to be transmitted from the operations centre to the cable headend.

Thus, the subject-matter of claim 1 does not involve an inventive step, (Article 56 EPC 1973).

10. *Auxiliary request 2c*

Claim 1 of auxiliary request 2c includes the amendments of auxiliary requests 2a and 2b in claim 1 of the auxiliary request 2. These amendments do not have an effect on each other. For the reasons set out in points 8 and 9 above, the subject-matter of claim 1 presents an aggregation of obvious features and does not involve an inventive step having regard to the disclosure of D2 combined with D1, (Article 56 EPC 1973).

11. *Auxiliary requests 3, 3a, 3b and 3c*

Claim 1 of auxiliary requests 3, 3a, 3b and 3c corresponds to claim 1 of auxiliary request 2, 2a, 2b and 2c, respectively, replacing in the preamble of the claim "a plurality of target platforms (2) constituted by respective different broadcast networks (3), wherein each target platform includes an application processor" by "a plurality of target platforms (2) constituted by respective different broadcast networks (3), wherein each user interface includes an application processor" (emphasise added by the board).

This amendment renders the claim in all these requests unclear, since "each user interface" lacks an antecedent basis in the claim. Moreover, later in the claim the delivery step does not deliver each stream of broadcast data to the user interface, but only delivers it to the broadcast network for subsequent delivery to the user interface. It is not clear in which manner the target platform, the broadcast networks and the user interface correlate.

Therefore, claim 1 of each of auxiliary requests 3, 3a, 3b and 3c does not comply with the provisions of Article 84 EPC 1973.

12. *Auxiliary request 4*

Claim 1 of auxiliary request 4, which corresponds to claim 1 of the third auxiliary request of the decision under appeal, adds to claim 1 of the main request that each target platform includes an application processor and that the converting step compensates for timing differences between the broadcast networks in handling the broadcast data so as to temporally synchronise the broadcast data at each application processor.

D2 discloses a television delivery system with an operations centre comprising a computer assisted packaging (CAP) system, controlling and transmitting programming signals. The CAP creates a packaging of programs and a packaging of menu and control information. Once the programming signals have been packaged, compressed and processed for digital transmission, they are sent along with the control information to the cable headend. Each cable headend includes signal processing hardware and software capable of receiving, repacking/combining and routing program signals to the subscriber homes. (See column 2, line 61 to column 3, line 50, Fig. 2, Fig. 3). Thus, D2 discloses a method of delivering an interactive application to a plurality of target platforms constituted by different broadcast networks, wherein each target platform includes an application processor, the target platforms corresponding to the cable

headends and the application processor to the processing hardware and software.

The packaged program signal includes programs, menu and control information, which may be used to change the allocation of programs across physical channels, update menu information, reprogram menu formats and menu flow, and reprogram the graphics memory of a subscriber's set top terminal, (see column 3, lines 36 to 43 and column 24, lines 31 to 33). This implies providing a set of application components.

The operations centre may send different groups of programs to different cable headends and/or set top terminals. The signal may be multiplexed with other signals, modulated, upconverted and amplified for transmission over a satellite. (See column 7, line 44 to column 8, line 28). Thus, D2 discloses converting the set of application components into a plurality of streams of broadcast data, each stream of broadcast data conforming with a respective target platform and delivering each stream of broadcast data to its respective broadcast network for subsequent delivery to user interfaces.

In a system using multiple operation centres, one of the operation centres acts as a master operations centre. This master operations centre coordinates various functions such as synchronization of simultaneous transmissions, (see column 8, lines 29 to 38).

Claim 1 does not specify at which component the timing differences are compensated. It is merely specified

that the data is synchronised. Therefore the appellant's argument that in D2 synchronisation is performed at the operations centre rather than at the application processor as claimed is not convincing. The board considers that D2 discloses that the converting step compensates for timing differences between the broadcast networks in handling the broadcast data so as to temporally synchronise the broadcast data at each application processor.

Thus, claim 1 lacks novelty having regard to the disclosure of D2, (Article 54 EPC).

13. *Auxiliary requests 4a, 4b and 4c*

Claim 1 of auxiliary requests 4a, 4b and 4c differs from claim 1 of auxiliary request 4 by the same features as claim 1 of auxiliary requests 2a, 2b and 2c from claim 1 of auxiliary request 2, respectively. Claim 1 of auxiliary requests 2 and 4 were both found to lack novelty having regard to the disclosure of D2.

Therefore, the arguments presented with respect to claim 1 of auxiliary requests 2a, 2b and 2c in points 8, 9 and 10 above apply to auxiliary requests 4a, 4b and 4c, respectively. Accordingly, claim 1 of auxiliary requests 4a, 4b and 4c does not involve an inventive step, (Article 56 EPC 1973).

14. There being no further requests, the appeal must be dismissed.

Order

For these reasons, it is decided that:

The appeal is dismissed.

Registrar:

Chairman:

K. Götz

D. H. Rees