Internal distribution code:
(A) [-] Publication in OJ
(B) [-] To Chairmen and Members
(C) [-] To Chairmen
(D) [X] No distribution

Datasheet for the decision of 21 December 2011

Case Number: T 0134/08 - 3.5.04

Application Number: 98932520.4

Publication Number: 949614

IPC: G11B20/10, G11B20/12, G11B27/32, G11B27/11, H04N5/765, H04N9/804

Language of the proceedings: EN

Title of invention:
DATA MANAGEMENT APPARATUS

Patentee:
Panasonic Corporation

Opponent:
Interessengemeinschaft für Rundfunkschutz-Rechte e.V.

Headword:

Relevant legal provisions:
EPC 1973 Art. 54(1), 56, 100(a)

Keyword:
Novelty (yes)
Inventive step (yes)

Decisions cited:

Catchword:

Europäisches Patentamt | European Patent Office | Office européen des brevets

Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T0134/08 - 3.5.04

D E C I S I O N
of the Technical Board of Appeal 3.5.04
of 21 December 2011

Appellant: (Opponent)	Interessengemeinschaft für Rundfunkschutz-Rechte e.V. Bahnstr. 62 40210 Düsseldorf (DE)
Representative:	Kinnstätter, Klaus Maryniok & Eichstädt Patentanwälte GbR Kuhbergstraße 23 96317 Kronach (DE)
Respondent: (Patent Proprietor)	Panasonic Corporation 1006, Oaza Kadoma Kadoma-shi Osaka 571-8501 (JP)
Representative:	Grünecker, Kinkeldey, Stockmair & Schwanhäusser Anwaltssozietät Leopoldstraße 4 80802 München (DE)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted 13 November 2007 rejecting the opposition filed against European patent No. 949614 pursuant to Article 102(2) EPC 1973.**

Composition of the Board:

Chairman: F. Edlinger
Members: C. Kunzelmann
T. Karamanli

Summary of Facts and Submissions

I. The appeal is against the decision of the opposition division to reject the opposition filed against European patent No. 0 949 614.

II. The opposition was based on the grounds for opposition of lack of novelty (Article 100(a) EPC 1973 in conjunction with Article 54(1) EPC 1973) and/or lack of inventive step (Article 100(a) EPC 1973 in conjunction with Article 56 EPC 1973) of the subject-matter of all claims (*i.e.* claims 1 to 9) of the opposed patent, having regard to document

D1: EP 0 612 157 A2.

III. The appellant/opponent requested that the decision under appeal be set aside and that the patent be revoked. In the statement of grounds of appeal the appellant submitted arguments as to why, in its view, the finding in the decision of the opposition division was incorrect.

IV. The respondent/patentee requested that the appeal be dismissed. With a letter dated 4 August 2008 it submitted arguments as to why, in its view, the claimed invention was new and involved an inventive step over D1.

V. Oral proceedings were held before the board on 21 December 2011. At the end of the oral proceedings the chairman announced the board's decision.

VI. Claim 1 of the opposed patent reads as follows:

"A data management apparatus comprising:

a data management means (3);
an operation means (4) for generating an operation signal (5) for instructing the operation of said data management means (3);
a transmission/reception means (12) for transmitting/receiving command signals (8) from a transmission line (2); and
a control means (13) for controlling said data management means (3),
characterized in that
said data management apparatus comprises a switching signal generation means (14) for outputting a switching signal (16) for indicating whether said operation signal (5) is valid or invalid to said control means (13), wherein
said switching signal (16) being an operation means valid signal for validating said operation signal to said control means (13) in the case when a command (15) received from said transmission/reception means (12) is a first command, and
said switching signal (16) being an operation means invalid signal for invalidating said operation signal (5) to said control means (13) in the case when a command (15) received from said transmission/reception means (12) is a second command, and
said control means (13) does not control said data management means (3) based on said operation signal (5) outputted from said operation means (4), but controls said data management means (3) based on said command signal (8) in the case of said switching signal (16) indicating that said operation signal (5) is invalid."

Claim 5 of the opposed patent reads as follows:

"A data management apparatus, comprising
a data management means (3);

an operation means (4) for generating an operation signal (5) for instructing the operation of said data management means (3);
a transmission/reception means (42) for transmitting/receiving command signals (8) from a transmission line (2);
a control means (43) for controlling said data management means (3), and
a binary switch (45) for outputting a binary signal (46),
characterized by
a switching signal generation means (44) for outputting a switching signal (47) for indicating whether said operation signal (5) is valid or invalid to said control means (13), and in that
said switching signal (47) being an operation means invalid signal only when said binary signal (46) is a predetermined value, and
said control means (43) does not control said data management means (3) based on said operation signal (5) outputted from said operation means (4), but controls said data management means (3) based on said command signal (8) in the case of said switching signal (47) indicating that said operation signal (5) is invalid."

Claims 2 to 4 and 6 to 9 are dependent claims.

VII. The reasons given in the decision under appeal may be summarised as follows:

D1 disclosed in the embodiment illustrated in figure 1 a data management apparatus having all the features of the precharacterising portion of claim 1. However, D1 did not disclose a switching signal generation means as specified in claim 1. Instead, D1 disclosed the sending of a command having the effect that the remote

controller receiver sections of audio/visual equipment were caused not to function. Even if this implied the generation of a signal deactivating the remote controller receiver sections, such a deactivation signal could not be considered a switching signal "for indicating whether said operation signal is valid or invalid" as specified in claim 1 of the opposed patent. A signal deactivating a remote controller receiver section did not perform the functions of validating or invalidating an operation signal to the control means. Hence the subject-matter of claim 1 was new.

Both the invention and D1 solved the problem of avoiding conflicting operations from two operation means provided for the same device. However, D1 and the opposed patent provided alternative solutions. There was no indication in the prior art that it was possible to arrive at the claimed invention by invalidating one of the operation signals instead of deactivating the receiver sections (as taught in D1). No such indication had been asserted by the opponent or was apparent to the opposition division. Hence there was no indication that a person skilled in the art would have modified D1 in this manner. Furthermore, even though the opponent had submitted that the two solutions were equivalent, it had not given any reasons for this allegation. Hence the subject-matter of claim 1 involved an inventive step.

The same arguments applied to independent claim 5 and the dependent claims of the opposed patent.

VIII. The appellant/opponent's arguments may be summarised as follows:

Claim 1 of the opposed patent defined the invention in broad terms such as validating or invalidating an operation signal, and there was no relevant difference between validating/invalidating a signal and passing/ blocking a signal. Also the patent specification did not disclose any details and advantages of validation or invalidation of a specific operation signal as compared with the generation (or non-generation) of operation signals. An operation signal which did not cause an operation was an invalid operation signal. It did not matter whether the operation signal was rendered invalid at the source, during communication, or at the receiver.

Based on this understanding of the technical meaning of the wording of claim 1 the novelty of the subject-matter of claim 1 was destroyed by the disclosure of D1 because of the following correspondences between features of claim 1 and features of D1:

- The "data management apparatus comprising: a data management means (3)" in claim 1 corresponded for instance to the video tape recorder VTR 12 or to the multi-disk player MDP 14 in the embodiments of figures 1 or 5 of D1.
- The "operation means (4) for generating an operation signal (5) for instructing the operation of said data management means (3)" in claim 1 corresponded, for instance, to a part of the remote controller receiver sections (r12 in VTR 12, r14 in MDP 14) in the embodiments of figures 1 or 5 of D1.
- Both the "transmission/reception means (12) for transmitting/receiving command signals (8) from a transmission line (2)" as well as the "control means (13) for controlling said data management means (3)" in claim 1 corresponded, for instance, to

respective parts of the control circuits (12CT in VTR 12, 14CT in MDP 14) in the embodiments of figures 1 or 5 of D1, with the transmission line corresponding to the buses B4 to B7.

- The "switching signal generation means (14) for outputting a switching signal (16) for indicating whether said operation signal (5) is valid or invalid" in claim 1 also corresponded to respective parts of these control circuits, but additionally included the remote controller receiver sections (r12 in VTR 12, r14 in MDP 14).

D1 disclosed that central equipment sent a command to turn off the remote controller receiver section r12 of VTR 12. This command caused VTR 12 to generate a signal stopping, for instance, the supply of power to the remote controller receiver section r12. This stopping signal constituted a switching signal for indicating whether an operation signal (originating from the remote controller of the VTR 12) was valid or invalid because, if no stopping signal was generated, the remote controller receiver section r12 was operative and the (remote controller's) operation signals were valid, whereas if the stopping signal was generated, the remote controller receiver section r12 was turned off and the (remote controller's) operation signals were invalid. In this case the control circuit 12CT did not control the VTR 12 based on the signal originating from the remote controller but rather on a control signal transmitted over buses B4 to B6.

There was no essential difference between the subject-matter of claim 5 and that of claim 1. Neither of these claims specified a particular implementation of the validation or invalidation of an operation signal.

For the assessment of inventive step D1 was the closest prior art. A person skilled in the art would realise, on the basis of his common general knowledge, that it was a matter of arbitrary choice whether the operation signal was rendered invalid at the source, during communication, or at the receiver. Also D1 disclosed in column 6, lines 42 to 48, that the validation or invalidation of operation signals was a binary function which only depended on whether or not the remote control was able to control the controlled electronic equipment. For instance, D1 disclosed in column 10, lines 28 to 35, that the remote controller receiver section was automatically set in a non-functioning mode when the controlled equipment was connected to the central equipment. This was a binary on/off switching functionality which implemented the broad features of validation and invalidation of operation signals as specified in claim 1 of the oppposed patent.

The embodiment illustrated in figures 5 to 7 of D1 also showed such a binary on/off switching functionality. In this embodiment central control (using a remote controller for the central equipment) or alternatively local control (using a key of the VTR 12 or a remote controller for the VTR 12) was available to start a synchronous dubbing process in which a source signal from a multi-disk player was recorded to the VTR 12. During this synchronous dubbing process a protection flag was set such that the process could not be interrupted by pressing a stop key of the multi-disk player or a key operation input of the VTR 12. This protection was performed by ignoring key inputs. However, the VTR 12's stop key input was accepted. Hence this key input was validated while others were invalidated. It was implicit that local control could be switched on and off using central control. Hence

operating signals generated by pressing keys of the VTR 12 could be validated or invalidated, for instance by the central equipment. It did not matter where the command to ignore key inputs was generated.

IX. The respondent/patentee's arguments may be summarised as follows:

The opposed patent and D1 solved similar problems in a technically different manner. According to the patent, an operation signal from a local operation panel was invalidated. The devices envisaged in the opposed patent always had multiple controllable functions. Hence logic was required which discriminated between different operation signals which had been received. In D1 the operation signals were no longer generated when the remote controller receiver section was turned off. Thus the operation signals were not received and there were also no means for instructing the control circuits about validation or invalidation of the operation signals. In particular, there was no transmission of a first command leading to the generation of an operation valid signal as specified in claim 1. Thus D1 did not disclose a switching signal generation means within the meaning of claims 1 or 5 of the opposed patent.

The validation and invalidation of individual operation signals increased flexibility as compared with the situation in which operation signals were not generated when a receiver was turned off but were generated when a receiver was turned on.

Reasons for the Decision

1. Novelty (Articles 100(a) and 54(1) EPC 1973)

1.1 The appellant challenges the opposition division's finding that D1 does not disclose a switching signal generation means as specified in claims 1 and 5 of the opposed patent.

1.2 Both claims 1 and 5 specify a switching signal generation means for outputting a switching signal for indicating whether an operation signal is valid or invalid to the control means. The operation signal is a signal generated by an operation means and is for instructing the operation of the data management means. Thus both claims 1 and 5 specify that the operation signal under consideration is generated and subsequently validated. The validation or invalidation of the operation signal implies a logic operation linking the operation signal with the switching signal to produce an output signal which is dependent on both input signals. The indication provided by the switching signal depends on a first or second command received (claim 1) or on a predetermined value of a binary signal of a binary switch (claim 5).

The description of the opposed patent is consistent with this construction of these features of claims 1 and 5. In particular, the switching signal generation unit outputs an operation panel invalid (or valid) signal as a switching signal to a processor (13) and an operation panel (4) outputs an operation signal to the processor. The processor then validates or invalidates the operation signal on the basis of the switching

signal (see figures 1 and 4 and paragraphs [0021], [0027], [0033] and [0039] of the patent specification).

1.3 In the embodiment of figure 1 of D1, there is no disclosure of a logic operation linking an operation signal (as received by the receiver section r12 of VTR 12) with another signal to produce an output signal. Instead the reception of any operation signal is prevented by a deactivation signal. Thus the board agrees with the opposition division's finding in the decision under appeal that this deactivation signal does not perform the functions of invalidating or validating an operation signal to control means.

1.4 Nor does any validation of operation signals take place in the embodiment of figures 5 to 7 of D1. In this embodiment a synchronous dubbing process is started by activating a synchronous dubbing key KS and synchronous dubbing protection is performed in that "even if there is an operation input of the stop key Kst of the multi-disk player 14 or a key operation input of the video tape recorder 12, such input is ignored" (D1, column 20, lines 11 to 18). But D1 does not disclose whether this ignoring of inputs is carried out by analogy with the embodiment of figure 1 (for instance by deactivating the input keys K1 to K4), by validation of operation signals or in some other way. In particular, D1 does not disclose that the stop key K4 may be activated and subsequently the stop key input invalidated while the synchronous dubbing protection is performed. According to D1, column 20, lines 33 to 38, the stop key K4 may be activated, but only after having temporarily stopped the synchronous dubbing process by activating the synchronous dubbing key KS again.

1.5 The argument that the feature of validating/ invalidating a signal encompasses the turning on/off of a signal receiver (a non-received signal then being an invalid signal) does not convince the board. This argument focuses only on a binary result of the validation (valid or invalid) but does not take into account that a process of signal validation has taken place before the validation produces a result (see point 1.2 above). Details of the process of signal validation are not specified in claims 1 and 5, but it is implicit in both these claims that a process of signal validation has taken place before the control means controls the data management means based on either the operation signal (generated by the operation means) or the command signal (transmitted from a transmission line) as specified in these claims.

1.6 Similarly, the argument that there is no relevant difference between validating/invalidating and passing/ blocking a signal does not convince the board. The passing/blocking of a signal may be the consequence of a preceding validation/invalidation of a signal, but it may also be, for instance, the result of a signal-independent opening/closing of a signal transmission channel. Thus passing/blocking a signal is a more general concept than validating/invalidating a signal. In the particular case of D1, this difference is reflected in the fact that the operation signals originating from a remote controller are not received when the corresponding receiver section is turned off. Since the operation signals are not received, they cannot be validated.

1.7 In view of the above the board finds that D1 does not disclose a switching signal generation means as specified in claims 1 and 5 of the opposed patent.

Thus, the ground for opposition of lack of novelty does not prejudice the maintenance of the opposed patent.

2. Inventive step (Articles 100(a) and 56 EPC 1973)

2.1 It is undisputed that D1 can be regarded as the closest prior art for the assessment of inventive step.

2.2 It follows from point 1.7 above that the data management apparatus according to claims 1 and 5 of the opposed patent differ from the disclosure in D1 at least in that they comprise a switching signal generation means as specified in claims 1 and 5.

2.3 The appellant's main argument was that switching signal generation means and validating operation signals instead of deactivating the receiver section as in D1 had the same effect (see also points 1.5 and 1.6 above) and that therefore it would have been a matter of arbitrary choice and thus obvious to a person skilled in the art to implement a process of validating operation signals in D1.

2.4 The board is not convinced by this argument. As analysed in points 1.5 and 1.6 above, this argument only takes into account the result of the validation but not the process of signal validation. As specified in claims 1 and 5 of the opposed patent, the control means controls the data management means based on the operation signal (generated by the operation means) or the command signal (transmitted from a transmission line). This binary choice is made on the basis of considering the validity/invalidity of the operation signal. Deactivating the remote controller receiver section in D1 does not provide the same technical effect, *inter alia* for the following reason:

It is implied in D1 that the remote controller is able to produce a number of different operation signals. A validation of these operation signals would allow the above binary choice to be made at the level of the individual operation signal, whereas the deactivation of the remote controller receiver section allows this binary choice only indiscrimately for all operation signals collectively and for as long as the receiver section remains deactivated (e.g. the power supply is stopped).

2.5 The appellant's argument that the increased flexibility resulting from the validation and invalidation of individual operation signals was not disclosed in the opposed patent does not change the board's assessment regarding inventive step. It is correct that the problem underlying the opposed patent is not that of increasing flexibility, but this is due to the fact that the teaching of the opposed patent does not consider D1 at all. Instead it is based on prior art in which conflicting operation signals from two operation means provided for the same device cause problems. The opposed patent discloses a solution to this problem, while D1 discloses a different solution to the same problem.

Furthermore, a skilled person can infer from the disclosure of the opposed patent that the validation/ invalidation of operation signals originating from operation means offers more flexibility than the indiscriminate passing/blocking of all these operations signals (see also point 2.4 above).

2.6 Hence the appellant's arguments do not convince the board that the ground for opposition of lack of

inventive step prejudices the maintenance of the opposed patent.

3. Since the appellant has not convinced the board that the finding in the decision under appeal is incorrect, the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

K. Boelicke F. Edlinger

Decision electronically authenticated