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Datasheet for the decision of 26 October 2012

Case Number: T 1805/08 - 3.5.06

Application Number: 98938449.0

Publication Number: 1002274

IPC: G06F 13/00, G06F 17/30, G06F 17/60

Language of the proceedings: EN

Title of invention:
DIGITAL DEPARTMENT SYSTEM

Applicant:
Thomson Licensing

Opponent:
-

Headword:
Digital department system/THOMSON

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step (yes)

Decisions cited:
-

Catchword:
-

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Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T 1805/08 - 3.5.06

D E C I S I O N
of the Technical Board of Appeal 3.5.06
of 26 October 2012

Appellant: (Applicant)
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Decision under appeal:
Decision of the Examining Division of the European Patent Office posted 12 March 2008 refusing European patent application No. 98938449.0 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: D. H. Rees
Members: S. Krischer
M.-B. Tardo-Dino

Summary of Facts and Submissions

I. The appeal is directed against the decision of the examining division, posted on 12 March 2008, to refuse the application 98938449 for lack of inventive step over the following document:

D7 US 5 418 713 A, 23 May 1995.

II. A notice of appeal was received on 21 May 2008. The fee was paid on the same day. A statement of the grounds of appeal was received on 11 July 2008. New claims were filed. Oral proceedings were requested.

The board issued a summons to oral proceedings raising minor clarity objections and a (detailed) objection for lack of inventive step over D7.

III. In a letter dated 26 September 2012, the appellant filed an auxiliary request.

IV. Oral proceedings were held on 26 October 2012 during which the appellant filed an amended request, and withdrew all other requests.

The appellant requests to set the decision aside and to grant a patent on the basis of claims 1-6 filed during oral proceedings, description pages 1-139 as originally filed and drawing sheets 1-5 as originally filed.

V. The sole independent claim of the sole request reads as follows:

"1. A method of creating and distributing of content to a user in a commercial sales outlet, comprising the steps of:

- digitizing audio and/or visual content to provide digitized representations
— providing in a network management center (110) group identification information for each audio and/or video contents for associating the digitized representations with commercial sales outlets (130) and for determining which digitized representations are to be included in a distribution file;
- using the group identification information to select to which commercial sales outlets (130) the distribution file is to be distributed;

- assembling the digitized representations into the distribution file;
— transmitting the distribution tile to the selected commercial sales outlets (130);
— receiving the distribution file at a plurality of commercial sales outlets (130);
— disassembling the distribution file into at least one digitized component at one or more site of the plurality of commercial sales outlets (130);
- storing the at least one digitized component on a multimedia server (160) in the commercial sales outlet (130); and
— transferring the at least one digitized component to a node on a network in the commercial sales outlet (130) upon receipt of a request from the user, the node being capable of communicating information represented by the digitized component to the user."

Reasons for the Decision

1. *Original disclosure*

1.1 The examining division did not raise any objections under Article 123(2) EPC in its decision and the board concurs that there was no reason to do so with respect to the claims as refused.

1.2 Claim 1 of the present sole request has been significantly rewritten. As to the various amendments over refused independent claim 9, the board finds that they satisfy the requirements of Article 123(2) EPC:

- "promotional material" has been omitted; instead, "audio and/or visual content" is used; see refused system claim 1;
- "commercial sales outlet (130)" instead of "site (130)": see figure 1A;
- "a distribution file" instead of "a single digital file": see original description page 12, line 14 (see also lines 7,8 for the synonymous "distribution pack");
- the second step of providing in a network management center (110) group identification information and the third step of using this group information to select to which commercial sales outlets the distribution file is to be distributed: see page 10, lines 11-14; page 15, lines 36, 37 - both passages relate to a network management center; see also page 102, section "Cataloging Module"; page 109, section "Detail";
- the fourth step of assembling: page 8, lines 6, 7; page 9, line 9 "Unix tar";

- the multimedia server (160) and the nodes being *in the commercial sales outlet (130)* see figure 1B and page 27, lines 10-18.

1.3 Dependent claims 2-6 correspond to refused claims 10-14 with some amendments analogous to those of claim 1.

1.4 Therefore, the claim set satisfies the requirements of Article 123(2) EPC.

2. *Clarity and support by the description*

The passages objected to in the summons (4.1, 4.2) are no more present in the claims.

3. *Inventiveness*

3.1 The invention relates to a method for transmitting digital files with audio/video content from a "network management center" to a "multimedia server" in commercial sales outlet. A user at the center provides group IDs to the content files which are used to build a distribution file with content files having the same group ID. This distribution file is transmitted to the outlets with that group ID. The server in an outlet extracts the content files from the distribution file and stores them. On a request of a node in the outlet (e.g. a listening post or an audio/video endcap), the server transfers a content file to the node which is able to reproduce the content.

3.2 In the appealed refusal decision, claim 1 of the then sole request was refused for lack of inventive step. The closest prior art was considered to be an assumed "data processing system comprising a plurality of

terminals which are connected via a communications network and which are adapted to perform the data processing steps as defined in claim 1 ... (see e.g. D7)" (section 3.2 a)), or in other words "a data processing system as exemplified in D7" (section 3.2. a), paragraph 2, last sentence).

Passages in D7 were given for the steps of digitising, compressing, transmitting, receiving, storing, decompressing, previewing and selecting audio/visual content.

The difference between claim 1 and D7 was identified to be the business entities and the distribution scheme as defined in the business scheme of section 3.1 of the decision. In this section (3.1), the interplay between a so-called "network management center", a "network operating center" and a "client site (sales outlet)" in distributing audio/visual content was described.

In section 3.2 d), the objective technical problem was considered as how to automate and implement the business scheme described in section 3.1. The claimed solution was said not to go beyond mere automation of constraints imposed by the business procedure.

3.3 The board disagrees with the appealed decision in the determination of the objective problem. In order to be able to consider automation as the technical problem, the business scheme to be automated (section 3.1) would have to contain only features which do not contribute to the technical character of the invention. This is not the case.

3.4 While the board agrees that the division of functions of a "network management center" and a "network operating center" does not seem to be technically necessary and might be commercially motivated, the feature of "provid[ing] a designated file/dossier containing said content for distribution to the client site" (decision, page 4, first paragraph) contributes to the technical character, since it discloses a specific technical implementation for distributing electronic content. One can imagine several technical alternatives, having different technical effects, as for example an on-demand delivery according to a concrete request from the node. Or one might omit the client-side caching in the multimedia server at the shop. Or one might distribute all available advertisements to all shops in advance, maybe with a file indicating which files were allowed to be displayed in a certain shop. These alternatives would all have effects on bandwidth, storage needs and response time.

3.5 The business aim, which one could take into account when defining the objective technical problem, is rather to provide, for shops, advertising relating to individual products which can be selected by customers. There are many technical solutions to this problem.

3.6 This being the case, the board has made its own analysis of the question of inventive step with respect to D7 as closest prior art.

Document D7 discloses an on demand delivery system for audio/video files from a network management center (called "central host server" in D7) to a multimedia server (called "remote server") in an outlet (see

abstract; figure 1; for the outlet see "retail store" or "remote location" in column 5, line 34). A user at a node (called "consumer interface terminal") in the outlet can select a content to be previewed (called "title": column 5, lines 32-42; figure 1 (160)). This request is transmitted to the multimedia server at the outlet which itself has a cache of the mostly requested content files. (column 3, lines 54-68). If the requested content file (called "item data file": column 5, line 49) is in the cache of the multimedia server at the outlet, it is directly transferred from the cache to the node, otherwise it is transferred from the network management server via the multimedia server (at the outlet) to the node (also at the outlet; see column 10, lines 35-43). New "hit" content files can be given predetermined statistical weight, so that apparently they will be preferentially put in the caches (column 4, lines 11-15).

3.7 Thus, claim 1 differs from D7 in:

- *group IDs* for each content file instead of statistical data indicating the high use content files for a given outlet;
- *packaging* several content files in a distribution file and transmitting the distribution file instead of transmitting single content files;
- transmitting the distribution file *to several outlets* selected with the help of the group IDs instead of on-demand transmission to each outlet;
- storing *every* content file on the multimedia server at the outlet instead of only high use content files (whereby the high use measuring is possibly

manipulated by predetermined statistical weights of "hit" content files).

3.8 The objective technical problem resulting from this difference is how to reduce the download time for a content file requested from a node in an outlet.

3.9 One straightforward solution is to increase the number of content files in the cache. The maximal possible number are all content files stored at the network management center. However, that might be too much data to be transmitted to and stored on a (relatively) small multimedia server at the outlet. One solution would be to transmit and store as many content files as there is storage space at the multimedia server. However, the solution chosen by the invention is to target the content files to the outlets: only those content files from the network management server are transmitted and stored at the multimedia server which are expected to be requested in a specific store. An example given in the grounds of appeal (page 5, first paragraph) is the group of Spanish speaking areas (e.g. in the USA). Spanish content is only sent to outlets in Spanish speaking areas - and *every* Spanish content file is is transmitted in advance to the selected outlets, and not only the high use files. The selection is done by group IDs, given in advance to any content file. Later on, when the transmission is prepared, the group IDs are also assigned to the outlets, so that the attribution of the content files to the outlets does not need the user to select each single content file per outlet. This reduces the necessary input. Then the invention chose to build the subset in a single distribution file. An alternative would be to sent each content file of a

specific outlet separately. However, a single distribution file has the advantage that it is prepared only once for any outlet with the same group IDs.

3.10 It results from the above that, unlike previous claim 1, claim 1 as it stands now, cannot be dismissed on the general ground that a mere automation of a business scheme does not involve any inventive step because the technical choices made in this claim compared to the prior art or the technical possibilities precisely cannot be reduced to a process of a mere automation.

3.11 Indeed, the invention has chosen a specific solution (grouping and packaging) with specific effects to reduce the download time for content files which avoids transmitting too many files in advance to the multimedia server at an outlet. The board does not consider that it would have been obvious to modify D7 to incorporate this chosen solution. Nor do the other documents in the procedure give any hint of this approach. The board also has no reason to think that the search carried out was incomplete. Therefore, claim 1 is inventive in the sense of Article 56 EPC.

4. *Adaptations*

There are a number of amendments of the description which will have to be made before a patent can be granted: e.g. the missing "Paten Application No." on page 1, or the figures dispersed in the "APPENDIX" (pages 57-139).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the department of first instance with the order to grant a patent on the basis of claims 1-6 of the request filed during the oral proceedings with description and drawings to be adapted as necessary.

The Registrar: The Chairman:

G. Nachtigall D. H. Rees