

Internal distribution code:

- (A) Publication in OJ
(B) To Chairmen and Members
(C) To Chairmen
(D) No distribution

**Datasheet for the decision
of 23 July 2013**

Case Number: T 0510/09 - 3.4.01

Application Number: 05254305.5

Publication Number: 1617413

IPC: G10L 19/00, H04S 3/00

Language of the proceedings: EN

Title of invention:

Multichannel audio data encoding/decoding method and apparatus

Applicant:

Samsung Electronics Co., Ltd.

Headword:

-

Relevant legal provisions:

EPC R. 99(1)(c)

RPBA Art. 15(3)

Relevant legal provisions (EPC 1973):

EPC Art. 84

Keyword:

"Clarity (no)"

Decisions cited:

T 0689/09, T 1704/06

Catchword:

-



Case Number: T 0510/09 - 3.4.01

D E C I S I O N
of the Technical Board of Appeal 3.4.01
of 23 July 2013

Appellant: Samsung Electronics Co., Ltd.
(Applicant) 129, Samsung-ro
Yeongtong-gu
Suwon-si, Gyeonggi-do, 443-742 (KR)

Representative: Greene, Simon Kenneth
Elkington and Fife LLP
Prospect House
8 Pembroke Road
Sevenoaks
Kent TN13 1XR (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 23 July 2008
refusing European patent application
No. 05254305.5 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: G. Assi
Members: F. Neumann
M. J. Vogel

Summary of Facts and Submissions

I. European patent application 05 254 305.5 was refused by a decision of the examining division dispatched on 23 July 2008, pursuant to Article 97(2) EPC.

The examining division refused the application for failure to comply with Article 123(2) EPC, Article 54(1), (2) EPC 1973 and Article 56 EPC 1973.

II. The applicant (appellant) lodged an appeal against the decision on 2 October 2008 and paid the appeal fee on the same day. The statement setting out the grounds of appeal was filed on 2 December 2008.

III. With the statement setting out the grounds of appeal, dated 2 December 2008, the appellant filed a set of claims 1-35 to replace the claims on which the contested decision was based.

It was held that the new claims overcame the objection of added subject-matter. Moreover, arguments were filed addressing the issues of novelty and inventive step.

IV. On 11 April 2013, the Board summonsed the appellant to oral proceedings, scheduled to take place on 23 July 2013.

V. In a communication dated 16 April 2013, the Board made some provisional remarks with regard to novelty.

VI. In response to this communication, by letter of 24 June 2013, the appellant filed a replacement set of claims forming the basis of a single request. It was requested

that the decision under appeal be set aside and that a patent be granted on the basis of claims 1-33 filed with the letter of 24 June 2013.

Arguments were submitted in support of the novelty and inventive step of these amended claims.

VII. With letter dated 10 July 2013, the appellant informed the Board that he would not attend the oral proceedings, which nevertheless took place as scheduled.

VIII. Independent claim 1 reads:

*"A multichannel audio signal encoding method comprising:
encoding mono and/or stereo audio data; and
encoding extended multi-channel audio data other than the mono and/or stereo audio data,
and characterized in that the extended multi-channel audio data includes type information corresponding to the extended channel expressed as one of a plurality of channel configuration indices indicating the configuration of an audio channel, the channel configuration index specifying both the number of channels and a channel to speaker mapping relation and audio data of a channel being not transmitted from the channel configuration index."*

Independent claim 7 is the corresponding apparatus claim and reads:

"A multichannel audio signal encoding apparatus comprising:

*a mono/stereo encoding unit (300) for encoding mono and/or stereo audio data; and
and extended data encoding unit (350) for encoding extended multi-channel audio data other than the mono and/or stereo audio data,
and characterised in that the extended multi-channel audio data of the extended data encoding unit (350) includes type information corresponding to the extended channel expressed as one of a plurality of channel configuration indices indicating the configuration of an audio channel, the channel configuration index specifying both the number of channels and a channel to speaker mapping relation and audio data of a channel being not transmitted from the channel configuration index."*

Independent claims 14 and 21 are directed to the corresponding decoding method and apparatus respectively.

Claims 2-6, 8-13, 15-20, 22-32 are dependent claims.

Claim 33 is directed to "A computer readable recording medium having embodied thereon a computer program for executing the method of any one of claims 1 through 6, 14 through 20, and 29 through 32."

Reasons for the Decision

1. Admissibility of the appeal
 - 1.1 In accordance with Rule 99(1)(c) EPC, the notice of appeal shall contain "*a request defining the subject of the appeal*".
 - 1.2 In the present case, the notice of appeal, filed on 2 October 2008, did not contain such a request but merely stated that "*In response to the Decision dated 23 July 2008, we hereby give notice of appeal on behalf of Samsung Electronics Co., Ltd.*"
 - 1.3 In line with the findings of decision T 689/09 (not published), the Board interprets the "*subject of the appeal*" to pertain to the substantive legal effects that are sought to be eliminated or achieved through the appeal (see T 689/09, reasons, 1.7).

In the present case, the legal effect of the contested decision is to refuse the application under Article 97(2) EPC. Thus, although the applicant did not formally identify the subject of the appeal, the indication that "*notice of appeal*" is given "*in response the Decision dated 23 July 2008*" necessarily implies that the subject of appeal is the cancellation of the contested decision. The Board is therefore satisfied that the subject of the appeal has been properly identified in that the substantive legal effect sought to be eliminated through the appeal is evident - albeit only implicitly - in the notice of appeal.

1.4 As all of the other requirements of Article 108 EPC and Rule 99 EPC have been satisfied, the Board considers that the appeal is admissible.

2. Article 84 EPC 1973

2.1 Claim 1 sets out that *"the extended multi-channel audio data includes type information corresponding to the extended channel expressed as one of a plurality of channel configuration indices indicating the configuration of an audio channel, the channel configuration index specifying both the number of channels and a channel to speaker mapping relation and audio data of a channel being not transmitted from the channel configuration index."*

2.2 Firstly, it is not clear from the claim read *per se* how *"the extended channel"* and *"an audio channel"* are related and how these channels are related to *"the number of channels"* specified by the channel configuration index.

It is only from Table 1 and the corresponding portions of the description of the published application that it becomes apparent that for each extended channel, the audio signal will be output to a specific speaker or speaker combination via a number of output audio channels. The specific channel to speaker mapping and the number of output audio channels are identified by the channel configuration index.

2.3 Furthermore, it is not clear what is meant by *"audio data of a channel being not transmitted from the channel configuration index"*. The channel configuration

index is a label which serves to identify which audio output channels are to be used for the transmission of the audio data and which speakers are to be mapped to which channel. Thus it is inaccurate to refer to data being transmitted or not transmitted "*from the channel configuration index*".

It would appear that this expression is intended to refer to audio data of a channel other than that identified by the channel configuration index.

- 2.4 Moreover, it is not clear from the wording of claim 1 whether the "*audio data of a channel being not transmitted from the channel configuration index*" is included in "*the extended multi-channel audio data*" or whether the "*channel configuration index*" serves to specify this audio data.

Paragraph [0042] of the description of the published application states: "*If audio data to be encoded for another channel exists, the audio data for the channel is encoded. This process is performed for all extended channels.*" According to paragraph [0043] of the description, the audio data encoding for an extended channel involves encoding the length of the extended data, the type of the extended channel, side information and extended channel audio data for that channel. So if extended audio data exists for a plurality of extended channels, then the (encoded) extended multi-channel audio data will include, *inter alia*, type information and audio information of each extended channel.

With reference to this passage of the description, it would appear that claim 1 should be interpreted to mean that the extended multi-channel audio data includes not only type information of a first extended channel but also audio data for an additional extended channel. However, due to the failure to enclose the clause "*the channel configuration index specifying both the number of channels and a channel to speaker mapping relation*" in commas, this interpretation does not derive in an unambiguous manner from the wording of claim 1.

2.5 As a result, independent claim 1 lacks clarity (Article 84 EPC 1973). Since the same terminology appears in all of the independent claims, the above objections apply with equal effect to claims 7, 14 and 21.

3. Non-appearance at the oral proceedings

3.1 The Board stresses that due to the absence of the appellant at the oral proceedings, it was not possible to verify that the Board has in fact interpreted claim 1 correctly. Moreover, even if the Board has understood the claim as it is intended, it was not possible to derive this meaning from the wording of the claim alone. Article 84 EPC requires that the claims shall be clear. As is apparent from the above, the Board has had to rely on the description of the present application to understand what is meant by the wording of claim 1. This fact alone demonstrates that claim 1 lacks clarity.

The Board also notes that a consequence of the appellant's decision not to attend oral proceedings is

that the necessary clarifying amendments could not be made to the claims and the clarity objection must be upheld.

- 3.2 The Board is not obliged to delay any step in the proceedings, including its decision, by reason only of the absence at the oral proceedings of the duly summonsed appellant (Article 15(3) RPBA).

The Board decided on the present case at the oral proceedings. Prior to the oral proceedings, the appellant had not been made aware of the objections leading to the Board's decision since the claims forming the basis of the sole request had been filed only in response to the communication of the Board issued in preparation of the oral proceedings.

In this respect, the Board follows the line taken in decision T 1704/06 (point 7 of the reasons) in which it was held that in the situation where an appellant submits new claims after oral proceedings have been arranged but does not attend these proceedings, the new claims can be refused for substantive reasons even if, despite being filed in good time before the oral proceedings, the claims have not been discussed before.

In the present case, the Board considers that the appellant must expect that the clarity of the amended claims will be addressed at the oral proceedings. By choosing not to be present at the oral proceedings, the appellant gives up the opportunity to discuss the issue of clarity.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Meyfarth

G. Assi