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**Datasheet for the decision
of 9 October 2013**

Case Number: T 0398/10 - 3.5.06

Application Number: 06710774.8

Publication Number: 1846864

IPC: G06F 21/00

Language of the proceedings: EN

Title of invention:

Method, device, system, token creating authorized domains

Applicant:

Koninklijke Philips N.V.

Headword:

Sharing digital rights/PHILIPS

Relevant legal provisions:

EPC Art. 123(2)

Relevant legal provisions (EPC 1973):

EPC Art. 56, 84

Keyword:

"Original disclosure - yes (after amendment)"

"Clarity - yes (after amendment)"

"Inventive step - 'first' and 'third auxiliary requests' (no),
'fourth auxiliary request' (yes, after amendment)"

Decisions cited:

T 0641/00

Catchword:

-



Case Number: T 0398/10 - 3.5.06

D E C I S I O N
of the Technical Board of Appeal 3.5.06
of 9 October 2013

Appellant:
(Applicant)

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Decision under appeal:

**Decision of the Examining Division of the
European Patent Office posted 27 November 2009
refusing European patent application
No. 06710774.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

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

Summary of Facts and Submissions

- I. The appeal lies against the decision of the examining division, with written reasons dated 27 November 2009, to refuse the European patent application no. 06710774.8 for lack of an inventive step without reference to any specific prior art document.
- II. An appeal was lodged on 15 January 2010 and the appeal fee was paid on the same day. A statement of grounds of appeal was filed on 3 February 2010. It was requested that the decision be set aside and a patent be granted based on the claims according to a main request as then on file or according to first or second auxiliary requests as filed with the grounds of appeal. For the auxiliary requests, amended description pages were also filed.
- III. With a summons to oral proceedings, the board informed the appellant about its preliminary opinion. The board raised a number of clarity objections, Article 84 EPC 1973. It also cited two documents that had been referred to during the examination procedure, namely:
- D1: WO 2004/038568 A2, and
D3: van den Heuvel S *et al.*, "Secure Content Management in Authorised Domains", Philips Research; published in the Proceedings of the IBC Conference, September 2002, pages 467-474,
- and argued that the independent claims of all three pending requests lacked an inventive step over D1 and D3, Article 56 EPC 1973.

IV. In response to the summons, with letter dated 6 September 2013, the appellant withdrew the main and second auxiliary requests, filed amended claims according to the first auxiliary request and new claims according to a third and a fourth auxiliary request. The labels "first", "third" and "fourth" were kept for the three remaining requests. Amended description pages for each of the three requests were also filed.

V. Oral proceedings were held as summoned on 9 October 2013 during which the appellant filed amended claims according to each of the pending requests. For the "fourth" auxiliary request amended description pages were also filed. The appellant requested the grant of a patent based on the following application documents:

"First auxiliary request"

claims, no.

1-9 as filed during the oral proceedings;

description, pages

1, 11-24 as originally filed;

2,3 filed on 14 August 2009;

4-10 filed on 6 September 2013; and

drawings, sheets

1-8 as originally filed

"Third auxiliary request"

claims, no.

1-9 as filed during the oral proceedings;

description, pages

1, 11-24 as originally filed;

2,3 filed on 14 August 2009;

4-8 filed on 6 September 2013; and
drawings, sheets
1-8 as originally filed

"Fourth auxiliary request"

claims, no.

1-6 as filed during the oral proceedings;
description, pages
1, 12-24 as originally filed;
2,3 filed on 14 August 2009;
5,6,8 filed on 6 September 2013;
4, 7, 11 filed during the oral proceedings; and
drawings, sheets
1-8 as originally filed.

VI. Independent claim 1 of the first auxiliary request
reads as follows:

"A method (100) for creating, on a device (200)
comprising a digital rights management system, a
controlled device environment within which a content
item (104) can be used by a limited number of persons
based on a right (103) bound only to a first person,
the right allowing the first person to perform said
actions on the content item (104), the controlled
device environment arranged for enabling a second
person to exercise the right (103) on the device, the
device being bound (108) to the first person (105),
wherein the device binding the first person (105)
comprises the first person being authenticated or
identified by the device, the method (100) comprising:
- the device (200) binding to the second person
(106) wherein the binding comprises the device (200)

identifying or authenticating (119) the second person, whereby the second person (106) is added to the controlled device environment on the device (200); and - the device (200) granting (110) the second person (106) to perform said actions on the content item (104) in response to the first person and the second person being bound to the device, without requiring the digital rights management system to transfer the right (103) bound only to the first person to the second person (106)."

Independent claim 1 of the third auxiliary request reads as follows:

"A method (100) for creating, on a device (200) comprising a digital rights management system (400), a controlled device environment within which an encrypted content item can be used by a limited number of persons based on a digital content license bound only to a first person, the digital content license allowing the first person to decrypt the encrypted content item using a decryption key and to perform certain actions on the decrypted content item (104), the controlled device environment arranged for enabling a second person to exercise the digital content license (103) on the device, provided that the device is bound (108) to the first person (105), wherein the device (200) being bound to the first person (105) comprises the first person being authenticated or identified by the device and the device having added a first identifier of the first person (105) to a user identifier list, the method (100) comprising:

- the device (200) binding to the second person (106) wherein the binding comprises the device (200)

identifying or authenticating (119) the second person and adding a second identifier of the second person (106) to the user identifier list provided that the number of persons on the user identifier list is below a predetermined threshold, whereby the second person (106) is added to the controlled device environment on the device (200);

- the device (200) granting (110) the second person (106) to decrypt the encrypted content item using a decryption key associated with the encrypted content item and exercise one of said actions on the decrypted content item based on the digital content license (103) bound only to the first person, provided that the first identifier and the second identifier are in the user identifier list, the granting without requiring the digital rights management system to transfer the digital content license (103) to the second person (106); and

- the device (200) subject to the granting (110) decrypting the encrypted content item and exercising the one of said actions on the decrypted content item for the second person."

The first and third auxiliary requests each comprise an independent device claim formulated in terms closely corresponding to the respective claim 1.

Independent claim 1 of the fourth auxiliary request coincides with claim 1 of the third auxiliary request except that the word "limited" was discarded and at the end the following features are added:

"- the device unbinding the first person on user request or after a predetermined time interval

following the device binding the first person, the unbinding comprising removal of the first identifier from the user identifier list,

- the device (200) subject to the unbinding of the first person no longer granting the second person to decrypt the encrypted content item using a decryption key associated with the encrypted content item and to exercise the one of said actions on the decrypted content item based on the digital content license."

Independent claim 5 of the fourth auxiliary reads as follows:

"A device (200) for creating, on the device (200) comprising a digital rights management system (400), a controlled device environment within which an encrypted content item can be used by a number of persons based on a digital content license bound only to a first person, the digital content license allowing the first person to decrypt the encrypted content item using a decryption key and to perform certain actions on the decrypted content item (104), the controlled device environment arranged for enabling a second person to exercise the digital content license (103) on the device, provided that the device is bound to the first person,

the device (200) comprising:

- means arranged for binding the device (200) to the first person (105) wherein the binding comprises the device identifying or authenticating the first person and adding a first identifier of the first person to the user identifier list;

- means arranged for binding the device (200) to the second person (106) wherein the binding comprises the

device (200) identifying or authenticating (119) the second person and adding a second identifier of the second person (106) to the user identifier list provided that the number of persons on the user identifier list is below a predetermined threshold, whereby the second person (106) is added to the controlled device environment on the device (200);

- means arranged for granting (110) the second person (106) to decrypt the encrypted content item using a decryption key associated with the encrypted content item and exercise one of said actions on the decrypted content item based on the digital content license (103) bound only to the first person, provided that the first identifier and the second identifier are in the user identifier list, the granting without requiring the digital rights management system to transfer the digital content license (103) to the second person (106),
- means arranged for, subject to the granting (110), decrypting the encrypted content item and exercising the one of said actions on the decrypted content item for the second person
- means arranged for unbinding the first person on user request or after a predetermined time interval following the device binding the first person, the unbinding comprising removal of the first identifier from the user identifier list, and
- means arranged for, subject to the unbinding of the first person, no longer granting the second person to decrypt the encrypted content item using a decryption key associated with the encrypted content item and to exercise the one of said actions on the decrypted content item based on the digital content license."

VII. At the end of the oral proceedings, the chairman announced the decision of the board.

Reasons for the Decision

The invention

1. The application relates to digital rights management (DRM). Such systems limit what users may do with digital content or, depending on perspective, enable users to use content (only) in certain ways. This is primarily in the interest of the digital content providers and may be a nuisance for users, e.g. when it hinders free exchange of purchased content on and between devices of the user's home network. The application is concerned with the balance between the interests of the content providers and the users.
 - 1.1 As a solution to this problem the appellant has introduced the concept of "authorized domains" in previous publications (*inter alia*, see D1, page 1, lines 23-24; D3, paragraph bridging pages 1-2; and the other documents cited in the original description, page 2, line 11 - page 4, line 2). The "basic principle" of authorized domains is stated as "hav[ing] a controlled network environment in which content can be used relatively freely as long as it does not cross [its] border" (see original description, page 2, lines 1-3).
 - 1.2 In this context, the application is specifically concerned with enabling users to share content with others, for instance when watching a video at a friend's place.

- 1.3 In a nutshell, the description proposes as a solution that a user of a given device shall be allowed to use content acquired by another user provided that and as long as the latter has enabled this sharing by an explicit action such as logging on to the device. This gives rise to a notion of an "authorized domain" which consists, at any point in time, of all the users which have actively enabled the sharing of their content, for instance of all users which are logged-on at the same time (see page 15, lines 29-30). Users may leave an authorized domain on request (e.g. by logging off) or be removed after a fixed period of time (see e.g. page 20, lines 7 and 8).
- 1.4 The independent claims of the first auxiliary request relate to "creating", on a "device comprising a digital rights management system", a "controlled device environment" for "enabling a second person to exercise [a] right" relating to a "content item" even though the right is "bound only to a first person", provided that the device is "bound" to the first person, i.e. the first person has been "identified or authenticated" by the device (e.g. by way of a log-on procedure; see page 5, lines 21-22 and 30-33). If, then, the device also "bind[s] to the second person", it will grant the second person to exercise the right (or license) "without requiring the transfer of the right to the second person".
- 1.5 The independent claims of the third auxiliary request refer to a "digital content license" instead of a "right". They also specify that content items are held in encrypted form and are decrypted when access is granted. Furthermore, they specify a "user identifier

list" of limited size to which identifiers of the first and second persons are added when they are bound by the device and to which the granting refers: The second person is granted access to a content item belonging to the first person only if the identifiers of both persons are on the list.

- 1.6 The independent claims of the fourth auxiliary request further specify an operation of "unbinding" the first person from the device according to which the first identifier is removed from the user identifier list and the second person is no longer allowed to use the content item based on the digital content license bound to the first person.

Article 123 (2)

2. The board is of the opinion that the independent claims according to all three requests conform with Article 123 (2) EPC - except for a deficiency of claim 3 of the third auxiliary request which the appellant was prepared to overcome by amendment (see point 2.6 below).
 - 2.1 The independent claims of all requests refer to a "controlled device environment" instead of an "authorized domain" as originally claimed. On page 2 of the original description, the term "controlled network environment" is used to explain authorized domains. It is also disclosed, however, that the environment may be limited to a single device (see e.g. page 4, lines 24-25 and fig. 7; see also the original claims). The board is thus of the opinion that the notion of a "controlled device environment" is disclosed in the application as

- originally filed as a special case of a "controlled network environment".
- 2.2 It is specified in all requests (if in slightly different words) that within the controlled device environment "a content item can be used by a number of persons based on a right bound only to a first person". The invention as described is concerned with granting a second person - and further persons, possibly up to a limit (see e.g. page 15, lines 29-30, and page 17, lines 13-14) - a right which is bound to a first person (see original page 4, lines 17-19; page 6, lines 15-17) and, in view of the fact that "[r]ights are always bound to a single person" (see page 17, line 13), indeed *only* bound to the first person.
- 2.3 The description discloses that granting of the right to the second person requires the device to be "associated to the second person" (page 6, line 1) which may "comprise the device binding to the second person". It is thus originally disclosed that the sharing of rights may require both persons to be bound to the device. Furthermore, the description discloses that a device may "bind to a person" by the person "identifying or authenticating at the device" (page 5, lines 30-33).
- 2.4 That the "right" might be a "content license" (see the third and fourth auxiliary requests) is disclosed on pages 15 (lines 11-12) and 17 (line 14). It is implicit in the given context that content, rights and licenses are all "digital" objects. That "[t]he granting does not require the right to be transferred" is disclosed on page 6 (lines 17-19).

2.5 The original description discloses that "[t]he content item may be encrypted and the right may comprise access to a decryption key for decrypting the content" (page 10, lines 29-30). For many operations on the digital content, such as playing a tune or a video or rendering an image, decryption is an implicit precondition: The description discloses that the ability to exercise a right may include the ability to decrypt content; rights to decrypt are also disclosed (page 4, lines 27-28 and 33-34). The board therefore concludes that both the "allowing", resp. "granting", the first or second person "to decrypt the encrypted content" and the actual "decrypting the encrypted content item" in response to the granting, as required in the third and fourth auxiliary requests, is disclosed in the original application documents.

2.6 Claim 3 of the third auxiliary request specifies that the digital content license "comprises the decryption key" whereas the description merely discloses that the right may "comprise access to a decryption key" which does not imply that the decryption itself is comprised in the right or license. Claim 3 of the third auxiliary requests thus infringes Article 123 (2) EPC. Claim 2 of the fourth auxiliary request specifies that the license merely "comprises access to the decryption key" which is in line with the description and hence not deficient in this respect. During oral proceedings, the appellant expressed its willingness to amend claim 3 of the third auxiliary request accordingly.

2.7 The description discloses the use of a "list of UserIDs" to which a user ID may be added whenever a person logs on and from which a user ID may be deleted

after expiry. The description also discloses that the expiry time may be "reset" by a log-on, *i.e.* that the expiry time starts with the log-on operation (see page 20, lines 1-8). Elsewhere, the description discusses the "adding and removing [of] sharing possibilities" by expiry of a log-on or "by explicit removal triggered by the user" (page 17, lines 26-28). In the board's view, the skilled person would thus understand, directly and unambiguously, that "unbinding on user request" may "comprise removal of the" respective user ID "from the user identifier list" as specified in claims 1 and 5 of the fourth auxiliary request. Furthermore, the description discloses that the "process" of binding a device to a person "is also referred to as log-on in this text" (see page 13, lines 28-29). This is unfortunate in view of the fact that the description also discloses "log-on" as only one instance of "binding" (see page 5, lines 30-33). Nevertheless, the skilled person would, in the board's view, directly and unambiguously understand the term "log-on" as a synonym to "binding" in at least what follows the express statement on page 13. Therefore, even though the discussion on page 20 literally refers only to persons logging on to a device, the skilled person would take this to disclose that the list of user IDs may also be maintained in response to other forms of "binding" a device to a person, in particular in response to a device "identifying or authenticating" a person as claimed. That the number of users that can be simultaneously bound by a device is limited by a threshold is disclosed, *inter alia*, on page 22, line 28-29 or page 23, lines 10-11. In summary, the features relating to the user list in the independent claims of the fourth auxiliary request do not, in the board's

judgment, go beyond the content of the application as originally filed.

Claim construction and clarity, Article 84 EPC 1973

3. The board is of the opinion that the claims according to the pending requests are clear in the sense of Article 84 EPC 1973. Some of the terms and phrases used in the claims must however be properly construed.

4. The description uses the term "binding" for three rather different relations, between devices and persons, between persons and content, and between persons and rights (see page 13, lines 5-9 and page 17, 13-14). the board takes the language *an item X binding another item Y* as meaning that X has a reference to Y but not necessarily vice versa. The appellant confirmed this interpretation during the oral proceedings.
 - 4.1 Even though the description stresses that the "direction of these relations is of importance" (page 13, line 10) it uses the term "binding" rather sloppily. The description explains that "a person binds to content by means of rights" (page 13, lines 10-11) but the role of the rights in this indirect relation is neither explicitly described nor depicted (see fig. 1 and 2). Specifically, it is not explicated how a right bound to a person can mediate the relation between a person and content which has the inverse direction. Also, while the original description discloses that rights are bound to persons (*loc. cit.*), original claim 1 referred to a person bound to a right. Furthermore, the description talks about a "person hold[ing] rights" without explaining the relation of "holding" and "binding".

4.2 The description, in order to explain the importance of the direction of the binding relations, states that "[t]here is no direct relation from content ... to person ..., meaning that a content ... may be bound ... to many persons" (page 13, lines 11-12). A similar statement is made about devices and persons (page 13, lines 16-17). The board considers this explanation to be misleading: A content item may "be bound to" many persons, independent of the direction of the relation. For illustration it is noted that the description appears not to have problem with a directed relation from person to content even though persons would normally "be bound to" several content items.

4.3 The board is of the opinion that the description in this respect is deficient. However, the board also considers that these deficiencies would be apparent to the skilled person desirous of understanding the application and therefore do not cause a lack of clarity of the claims. Rather, the board considers that the skilled person would interpret the term "binding" in the claims as follows:

- A device "bound" to a person holds - *i.e.* stores - the identity of the person.
- A right, by nature, relates a content item with a person and thus refers to - *i.e.* "binds to" - both the person and content item.
- All rights relating to - *i.e.* held by - the same person must be retrievable when the person and the desired content item are known. This is possible for instance by a trivial (albeit impractical) iteration over all rights existing on the device.

In this sense, a person "binds to content by means of rights".

4.4 The crucial element of the invention as claimed is that the second person is granted a first person's rights only on the condition that the latter is bound to the same device.

5. The claims of all requests require that the second person is granted access to desired digital content only on the condition that the first and the second person are "bound to the device", meaning that both have been "authenticated or identified" by the device. It is therefore necessary to interpret the operation of "identifying or authenticating" and to assess whether the mentioned condition implies any limitation on the claimed "digital rights management system" or "controlled device environment".

5.1 The board is of the opinion that it is consistent with the claims of the first auxiliary request to consider all users to have been "authenticated or identified" by the device if they have undergone an initial registration procedure, in particular one which requires users to identify (e.g. by giving their name and address) and/or authenticate themselves (by providing an access code they may have bought or by confirming a password they may have chosen themselves). In the board's judgment it is further consistent with the claims to assume that a user registration will normally not expire so that a user, once registered, will remain "authenticated or identified" for an unlimited period of time. From this perspective, the independent claims of the first auxiliary request allow the reading that any

registered user can exercise the rights of all other registered users. Furthermore, the claimed controlled device environment, relying on the fact that any content on the device belongs to a registered user, may give any "second person" access to rights "bound only to a first person" without having to perform any additional check. This interpretation is central for the board's assessment of inventive step (see below).

- 5.2 With regard to the claims of the third auxiliary request the board notes that the maintenance of a "users list" does not contradict this interpretation if one assumes that the registration procedure maintains a list of registered users.
- 5.3 In contrast, the independent claims of the fourth auxiliary request specify that the first person may be unbound from the device and that, as a consequence, the second person is no longer granted the pertinent right. In the board's view this implies that the claimed controlled device environment has to perform a check to establish whether the first and second persons are bound to the device before the second person is granted the desired right.

The prior art

6. DRM systems are, *per se*, widely known in the art, which is conceded by the description itself (see page 1, lines 17-20). As commonly understood, DRM systems control users' access to digital content by reference to some form of digital rights which define whether, under which conditions, at what price, and to what extent a

user can use the content - e.g. play a tune, watch a movie, run a program.

7. D1, cited in the application (see page 3, line 2), also discloses a form of authorized domains. As the present application, the systems according to D1 are based on content, persons, and rights linking individual users to pieces of content (see page 6, last paragraph, and page 7, lines 21-22). Content is encrypted and must be decrypted before use (see e.g. page 7, lines 21-25). Normally, a person is granted access to a piece of content only if there is a right directly authorizing this person accordingly (see page 8, last paragraph). Beyond that, D1 discloses the definition of groups of users by way of a suitable "domain certificates" within which content may be shared. That is, two users of the system may share content provided that there is a "domain certificate" which "connects" them (see page 4, lines 26-28; see e.g. page 9, last paragraph - page 10, 1st paragraph; page 11, lines 21-26).
8. In D3, also cited in the application (page 2, lines 11-14), "authorised domains" are defined as a set of compliant units (see page 2, 3rd paragraph), i.e. devices. Rights belong to a domain: That is, they may be exercised at all devices within the domain but not outside of it (see e.g. page 6, penult. line; page 7, lines 5-6). Consequently, content is shared between the users if they operate devices within a common authorized domain. According to D3, rights are encrypted with a domain-specific key accessible by all devices within that domain (page 6, item "1" in section "AD device management" and on top of page 7).

Inventive step

First auxiliary request

9. The board considers that its perspective on inventive step can most clearly be presented without specific reference to either D1 or D3.
- 9.1 Rather, the board starts from any given multi-user computer - say, a conventional PC - running some DRM system which grants access to digital content only to the user having a respective right. The board deems such systems to be well-known in the art. D1 and D3 show such devices, but the additional details of the DRM systems according to D1 or D3 are not relevant for the board's argument.
- 9.2 The board considers that, in this context, it would naturally happen that one legitimate user of the device may want to access a protected piece of digital content that another user has validly acquired.
- 9.3 In the board's judgment it would be an obvious solution to this problem to allow all users of a given device to share content as a matter of policy. To implement this policy the board sees two straightforward alternatives:
 - (i) The DRM system might simply *reinterpret the existing digital rights*, thereby taking a right relating to some content as extending over all users of the device.
 - (ii) New digital rights might be issued which express *verbatim* that they may be shared by others.

In the latter case (ii), the existing DRM system would not have to be changed at all: It would suffice if it continued to interpret all rights according to its literal meaning. In the former case (i), the DRM system would merely have to ignore the person mentioned in an existing right, which the board considers as an immediate and obvious implementation of the above policy.

- 9.4 The board tends to consider the choice of policy as a non-technical issue which *ipso facto* could, according to established jurisprudence of the boards of appeal, appear in the formulation of the technical problem to be solved (see T 641/00, OJ EPO 2003, 352; headnote 2).
- 9.5 In the present case, however, this question may be left open because the board anyway considers the above policy as an obvious solution to a problem that naturally arises.
- 9.6 The board stresses that this argument also remains valid when starting from D1. It will, in the board's view, naturally occur that a legitimate user of a device according to D1 wants to access a piece of content even though this user is not mentioned in any relevant domain certificate. This may happen, say, to a temporary guest of a family whose domain certificate only lists the family members (see D1, p. 11, lines 21-22). The immediate solution, to give the guest access to the account of some family member may appear inappropriate for security reasons. As argued above, however, this problem can be solved in a straightforward manner by allowing all users of a single device to share content freely.

- 9.7 As a consequence, the board concludes that the independent claims of the first auxiliary request lack an inventive step both over common knowledge and over D1, Article 56 EPC 1973.

Third auxiliary request

10. The additional features of the independent claims of the third auxiliary request relate to

- (a) the maintenance of a user list holding identifiers persons having been "authenticated or identified" and thus "being bound" by the device, up to a predetermined threshold, and the condition that the second person is granted the desired right "provided that the first identifier [of the first person] and the second identifier [of the second person] are in the user identifier list", and to
- (b) the fact that content is provided in encrypted form and that a content item is decrypted when access to it has been granted.
- (c) Furthermore, the third auxiliary requests refers to a "digital content license" instead of a "right".

- 10.1 *Re. difference (a)*: The board considers it obvious for a device to maintain a list of all validly registered users. As argued above (point 5.2) such a list qualifies as the claimed user identifier list. It is common practice that such lists may only grow up to a limit defined by some predetermined system constant. The board further considers it obvious that, in the situa-

tion addressed by the claims, the identifier of both the "first" and the "second person" are on this list and that, hence, this precondition of the claimed granting is trivially satisfied and need not be checked. The scenario considered for the inventive step assessment of the first auxiliary request therefore remains consistent with the independent claims of the third auxiliary request.

- 10.2 *Re. difference (b)*: The use of encryption to regulate access to protected digital content is, in the board's view, standard practice in the field of DRM. This opinion, when presented by the board during oral proceedings, was not challenged by the appellant. Moreover, at least D1 discloses the use of encryption and decryption in the context of DRM (see e.g. page 7, lines 21-25).
- 10.3 *Re difference (c)*: In the given context, the skilled person would understand both the terms "digital content license" and "right" to refer to some kind of digital object linking a person and a content item. From a technical perspective, the board does not see any difference between them.
- 10.4 The board thus considers that the additional features are insufficient to overcome the assessment given above for the first auxiliary request and concludes that the independent claims of the third auxiliary request also lack an inventive step, Article 56 EPC 1973.

Fourth auxiliary request

11. The additional features of the independent claims of the fourth auxiliary request relate to
 - (c) the operation of "unbinding the first person", be it "on user request or a after a predetermined time interval following the device binding the first person" , and
 - (d) the fact that, as a consequence, the "device no longer granting the second person" the desired access.
- 11.1 In the board's judgment these additional features are sufficient to distinguish the initial registration of users at a device from the claimed "binding" of persons to devices. Specifically, the claims now invalidate the assumption made above that registered users will remain on the list for an unlimited period of time and that, therefore, the first and second persons can, without a dedicated check, be assumed to be on the list.
- 11.2 Rather, due to the additional features the board considers that the independent claims now imply that the claimed device must check, before granting the desired right the second person, whether the first person is presently "bound to" the device.
- 11.3 The claimed invention therefore does not merely implement the policy that all registered users at the device can share content amongst themselves. Rather, any holder of a right retains some control over whether and when it wants to share its content with other users.

- 11.4 The claimed subject matter thus provides a simple and secure manner in which users of a device can share digital content - *i.e.* without the need to transfer rights between users and without affecting the separation between user accounts - while, at the same time, retaining some control about the use of their content.
- 11.5 The provision of such a control mechanism by which users may actively enter or leave a sharing "state" goes beyond a mere policy issue but, rather, solves the above problem (point 11.4) with technical means.
- 11.6 These means are neither disclosed in nor, in the board's judgment, suggested by documents D1 or D3 or the common general knowledge in the art. The board therefore concludes that the independent claims of the fourth auxiliary request show the required inventive step, Article 56 EPC 1973.

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, no.
1-6 of the fourth auxiliary request as filed during the oral proceedings;

description, pages
1, 12-24 as originally filed;
2, 3 filed on 14 August 2009;
5, 6, 8 filed on 6 September 2013;
4, 7, 11 filed during the oral proceedings; and

drawings, sheets
1-8 as originally filed.

The Registrar:

The Chairman:

B. Atienza Vivancos

D. H. Rees