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**Datasheet for the decision
of 19 November 2014**

Case Number: T 0558/10 - 3.5.04

Application Number: 03252078.5

Publication Number: 1361752

IPC: H04N5/445

Language of the proceedings: EN

Title of invention:

Television receiving apparatus with the capability of receiving text via the web

Patent Proprietor:

Samsung Electronics Co., Ltd.

Opponent:

Interessengemeinschaft für
Rundfunkschutzrechte e.V.

Headword:

Relevant legal provisions:

EPC 1973 Art. 100(a)

Keyword:

Novelty - (yes)
Inventive step - (yes)
Appeal decision - appeal allowable (no)

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 0558/10 - 3.5.04

**D E C I S I O N
of Technical Board of Appeal 3.5.04
of 19 November 2014**

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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 14 January 2010
rejecting the opposition filed against European
patent No. 1361752 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman F. Edlinger
Members: R. Gerdes
B. Müller

Summary of Facts and Submissions

- I. The appeal is against the decision of the opposition division rejecting the opposition against European patent No. 1 361 752, which had been filed as application No. 03 252 078.5.
- II. The opposition was based on the grounds of lack of novelty and inventive step (Articles 100(a) EPC 1973 in conjunction with Article 54 and 56 EPC 1973). The opposition division rejected it holding that the subject-matter of independent claims 1 and 8 of the patent as granted was novel and involved an inventive step over the available prior-art documents. The opposition division based its detailed reasoning on the following documents:

D1: EP 0 818 925 A2

D6: Brückner, W.: "TeleWeb - teletext with internet connection", EBU Technical Review, April 2002 (2002-04), pages 1/8 - 8/8, XP002258604, and

D8: DE 42 40 187 A1.

- III. The opponent (appellant) filed an appeal against this decision. The appellant requested that the decision under appeal be set aside and that the patent be revoked in its entirety. The appellant argued that the subject-matter of claims 1 and 8 lacked an inventive step in view of D8 and common general knowledge. As evidence of the common general knowledge the appellant newly cited:

D12: Periodical Review Elektronik, Number 25/1998, page 30.

The appellant also argued that the subject-matter of claim 1 lacked novelty and inventive step over

D2: WO 99/18718 A1.

- IV. In its letter of reply dated 28 September 2010, the patent proprietor (respondent) submitted arguments in favour of novelty and inventive step of the patent as granted. It requested as a main request that the patent be maintained unamended and also filed claims of first to fourth auxiliary requests.
- V. The appellant filed a response with a letter dated 28 July 2011 and provided further arguments.
- VI. In a communication annexed to a summons to oral proceedings, the board indicated that it tended to share the opposition division's analysis of the differences of claim 1 of the opposed patent over D8. It noted that these differences and the alleged disclosure in D2 of a "teleweb capability" and of a second tuner would need to be discussed in the oral proceedings.
- VII. In a letter of 29 September 2014 the appellant announced that it would not be attending the oral proceedings and withdrew its request for them. With a letter dated 17 October 2014 the appellant maintained its objections of lack of inventive step of claim 1 of all requests over D8 and lack of novelty and lack of inventive step over D2.
- VIII. Oral proceedings were held on 19 November 2014. As announced beforehand, the appellant was not represented at the oral proceedings. The chairman noted that the appellant had requested in writing that the decision

under appeal be set aside and that the patent be revoked in its entirety. The respondent requested that the appeal be dismissed and, if this request could not be granted, that the patent be maintained on the basis of the claims of one of the first through fourth auxiliary requests, in that order.

IX. The independent claims of the main request (patent as granted) read as follows:

"1. A television receiving apparatus having an information service capability, the apparatus comprising first and second tuners (205, 210) for receiving television broadcasts, decoder means (245) for detecting and decoding information service signals, user input means (215, 220) and a controller (225), characterised by:
the information service capability being a teleweb capability,
the presence of OSD means, and
the controller (225) being responsive to a signal from the user input means (215, 220) to cause the second tuner (210) to scan a plurality of channels to search for teleweb information and cause the OSD means (255) to display information relating to said scanning."

and

"8. A method of operation of a television apparatus, the method comprising receiving a first television channel using a first tuner (205),
receiving a user input,
responding to the user input by sequentially tuning to each of a plurality of channels for a predetermined time interval using a second tuner (210);

and being characterised by:
while said second tuner is tuned to each of said plurality of channels, determining whether teleweb information is present; and
generating as an OSD display including the numbers of the channels among said plurality of channels in which teleweb information was detected."

The further claims 2 to 7 and 9 to 12 are dependent on claims 1 and 8, respectively. The wording of the claims according to the first to fourth auxiliary requests has no bearing on the present decision.

X. In the decision under appeal the opposition division held that D8 constituted the closest prior art with respect to the claimed subject-matter. However, the videotext capability of D8 could not be equated with the teleweb capability as claimed. In addition, D8 did not disclose OSD means and user-initiated scanning of the plurality of channels. Therefore, D8 did not disclose the features of the characterising portion of claim 1 as granted. The opponent had failed to demonstrate how a combination of D8 and common general knowledge about teleweb (as illustrated by D6) or D8 and D1 could lead to the claimed subject-matter and why the person skilled in the art would have been led to make such a combination.

XI. The appellant's arguments may be summarised as follows.

The appellant referred to D8, column 4, lines 36 to 50, claim 5 and figures 2 to 5 in support of its argument that OSD means were disclosed in D8. D8 also disclosed user-initiated scanning for teletext information (see column 4, lines 17 to 29). Hence, the only feature distinguishing the subject-matter of claim 1 from D8

was the teleweb capability. Teleweb was a successor system of teletext, which was well-known at the priority date of the disputed patent, see for example D6. Hence, the skilled person would have considered replacing the teletext capability of D8 by teleweb.

The appellant additionally argued that D2 disclosed the subject-matter of claim 1. In particular, a teleweb capability was disclosed in claim 1, lines 11 to 14. A controller displaying information relating to the scanning was disclosed on page 9, line 32 to page 10, line 26. If the board considered a feature of claim 1 to establish novelty, then the subject-matter of claim 1 in any event did not involve an inventive step.

XII. The respondent essentially argued as follows.

The present invention allowed a viewer to continue watching a programme, and simply to be informed of the scanning process of the other channels, until he decided to download the teleweb information relating to those channels. The user input means both caused the second tuner to scan a plurality of channels to search for teleweb information and the OSD means to display information relating to said scanning. The OSD involved the display of information in addition to the video image being displayed on the screen.

D8 disclosed a receiver with a second tuner which simply searched and assembled teletext pages for display. In D8 the scanning of the plurality of channels was necessarily carried out as a background operation and not in response to a specific user command. D8 did not show the result of the scanning but waited until an additional button was pressed to show the results. In D8, teletext information defining the

programme schedule was being searched for, not channels that were associated with teleweb information.

D2 did not disclose a teleweb system. It was in the nature of teleweb that web data was "associated with a broadcast channel rather than web data sent separately". In D8, only a single tuner for receiving television broadcasts was disclosed. The second tuner was arranged to deal with the internet protocol data channel, not the broadcast channel. There was no disclosure of causing the second tuner to scan a plurality of channels to search for teleweb or any other information.

Reasons for the Decision

1. The appeal is admissible.

The present invention

2. The present invention relates to a television receiver having a teleweb information service capability and a method of operating a corresponding television receiver.
 - 2.1 As set out in the patent in suit, conventional teleweb-enabled television receivers take a long time to search for a channel in which teleweb information is present or to download teleweb information. During the time required for searching and downloading teleweb information, the user cannot continue watching the broadcasting programme, since the television receiver has been switched to teleweb mode (see paragraphs [0008] to [0010] of the patent publication).

2.2 Hence, in order to allow the user to continue watching a television programme while the receiver performs a teleweb scanning or downloading operation on other channels, a television receiver according to the present invention comprises a second tuner. Using the second tuner, a user-initiated scanning or downloading operation can be performed in the background. To keep the user informed about the progress or results of the scanning operation or the progress of downloading teleweb information, information relating to the scanning is displayed by on-screen display (OSD) means in addition to the currently selected television programme (paragraphs [0012], [0013], [0027], [0032], [0033], and [0037]). The displayed information relates to the scanning process and can, for example, include the teleweb information channel search progress status, the numbers of channels in which teleweb information was detected, or the download progress status (see paragraphs [0041], [0042], [0049] and figures 4A to 4D).

Novelty and inventive step in view of D8

3. It is common ground that D8 may be considered as the closest prior art with respect to the subject-matter of claim 1 according to the respondent's main request.

3.1 D8 discloses a television receiver having a teletext decoder. Furthermore, the receiver comprises two tuners, one of which may be used to continue watching a particular channel while the other performs background scanning of the remaining channels to search for teletext information. The retrieved teletext information is stored and may be re-arranged to display information sorted according to time or theme. In reaction to a user command, the information can be

- displayed as teletext pages (see column 2, lines 26 to 46; column 3, lines 31 to 62; column 4, lines 27 to 46; and figure 1).
- 3.2 Teleweb is an information service capability which was intended to be a successor system of teletext (see for instance D6, page 2/8, paragraph 2). Hence, already this different information service capability distinguishes the subject-matter of claim 1 from D8. In addition, according to claim 1 the teleweb scanning process and the display of information "relating to said scanning" by the OSD means are specified to be "responsive to a signal from the user input means". D8 does not provide information on the event or action triggering a teletext background scanning operation. Furthermore, D8 does not disclose OSD means provided to display scanning-related information in response to the signal from the user input means.
- 3.3 The subject-matter of apparatus claim 1 of the main request is therefore new in view of document D8 (Article 54(1) and (2) EPC 1973).
- 3.4 The subject-matter of independent method claim 8 of the main request is novel for analogous reasons. In addition to the method steps corresponding to the distinguishing features of claim 1, claim 8 specifies that the OSD display includes "the numbers of the channels among said plurality of channels in which teleweb information was detected." This feature is also not disclosed in D8.
- 3.5 The appellant's arguments did not convince the board for the following reasons.

The appellant argued that the passage in column 4, lines 17 to 29, of D8 disclosed a user-initiated background scanning for teletext information. The board agrees that the passage refers to a background scanning process for teletext information. However, there is no unambiguous disclosure that the background scanning process is started in response to a signal from the user input means.

More importantly, the appellant's argumentation is based on a comparison of features of claim 1 against the disclosure of D8, with each feature being considered in isolation. The wording of claim 1 implies that the controller is responsive to a signal from the user input means both "to cause the second tuner (210) to scan a plurality of channels to search for teleweb information" and to "cause the OSD means (255) to display information relating to said scanning". The board agrees with the respondent that the last feature essentially serves the purpose of informing the user of the progress or status of the scanning. This understanding of the claim derives from an unbiased construction of its features in combination and is supported by the description of the patent in suit (see point 2.2 above). In this context it is also noted that figures 4A to 4D are designated as "views for showing the displayed images during searching for teleweb information channels and downloading of teleweb information" (see paragraph [0015] of the patent publication, underlining added by the board). The further independent claim 8 is restricted to one particular embodiment of the patent (see figure 4C) by specifying that the OSD display includes the numbers of the channels among said plurality of channels in which teleweb information was detected.

4. The appellant also argued that the subject-matter of claims 1 and 8 did not involve an inventive step in view of D8 and the common general knowledge represented by one of documents D6 or D12.
- 4.1 As outlined above (see point 2.2), one purpose of the present invention is to keep the user informed about the progress or results of the channel scanning operation (e. g. the numbers of the relevant channels found) or the progress of downloading teleweb information while users can continue watching a television programme. This derives from a user-initiated background scanning operation which may take considerable time to finish. Hence, apart from the provision of a more advanced information service capability (teleweb instead of teletext), the present invention provides the technical effect of providing information about a user-initiated scanning operation while users can continue watching a television programme.
- 4.2 Scanning channels for teleweb information in response to a user input was conventional at the effective date of the patent under dispute (see patent publication, paragraphs [0009] and [0010]). The technical problem corresponding to the above-mentioned technical effect can therefore be regarded as how to modify the television receiver of D8 if a user-initiated scanning operation was desired.
- 4.3 D8 does not provide a hint to the solution of this technical problem. Even if a person skilled in the art had replaced the teletext capability of D8 by teleweb, such a modified apparatus would merely have assembled information found in teleweb pages; it would not have provided information on a user-initiated scanning. D6

and D12 were cited to prove that teleweb was intended to be the successor information service capability of teletext. However, these documents do not concern user-initiated scanning operations. In view of the facts already established in the first-instance proceedings, D12 is of no relevance to this decision and its admissibility into the appeal proceedings need not be discussed.

- 4.4 Hence, the subject-matter of claim 1 and, by analogy, that of further independent claim 8 involves an inventive step in view of D8 and the common general knowledge (Article 56 EPC 1973).

Novelty and inventive step in view of D2

5. The appellant challenged the novelty and inventive step of the subject-matter of the independent claims according to the main request also on the basis of D2.

- 5.1 D2 relates to a television receiver supporting bi-directional communication with an Internet service provider as well as reception of broadcast video data (see page 1, lines 11 to 36; page 2, lines 15 to 23; page 5, lines 12 to 37; and page 11, lines 8 to 29). A first tuner is provided to receive a first carrier modulated with MPEG compatible video data, whilst a separate second tuner receives Internet protocol data. Due to the provision of two tuners, concurrent processing of Internet protocol data and MPEG compatible data is possible (see page 6, lines 7 to 16; page 7, line 38 to page 8, line 12 and claim 1). In addition, the Internet data may be displayed as an overlay on the broadcast video data, and user commands can be entered via a remote control unit (page 9, lines 32 to page 10, line 26 and figure 1).

- 5.2 According to D2, broadcast data are exclusively handled by the first tuner, whereas the second tuner is dedicated to receiving Internet protocol data. As specified in the patent in suit, teleweb data are transmitted either in the vertical blanking interval (VBI) of an analogue television signal or in MPEG-2 packets for digital television (see patent publication, paragraph [0003]). In this respect the board agrees with the respondent. Hence, teleweb data can only be received via the first tuner. As a consequence, the second tuner of D2, without further modification, is not suitable for scanning a plurality of channels for teleweb data. Moreover, the board agrees with the respondent that there is no disclosure in D2 according to which the second tuner was caused to scan a plurality of channels to search for teleweb information and display information relating to that scanning.
- 5.3 It follows that the subject-matter of independent claims 1 and 8 according to the main request is novel in view of D2.
- 5.4 The appellant did not provide any detailed arguments as to why the subject-matter of the independent claims of the main request lacked an inventive step in view of D2. The board has found no indications to that effect either.
- 5.5 Hence, the subject-matter of the independent claims of the main request is new and involves an inventive step in view of D2.
6. The further claims 2 to 7 and 9 to 12 are dependent on claims 1 and 8, respectively. As a consequence, the

subject-matter of these claims is new and inventive as well.

Conclusion

7. It follows from the above that the appellant has not convinced the board that the decision under appeal was incorrect and should be set aside.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

F. Edlinger

Decision electronically authenticated