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Datasheet for the decision of 12 November 2014

Case Number: T 1193/10 - 3.5.04

Application Number: 99300421.7

Publication Number: 0932304

IPC: H04N5/232

Language of the proceedings: EN

Title of invention:
Method for transfering image information

Applicant:
Core Wireless Licensing S.à.r.l.

Headword:

Relevant legal provisions:
EPC 1973 Art. 56, 113(2)
EPC 1973 R. 71(2)
RPBA Art. 13(1), 13(3), 15(3), 15(5), 15(6)

Keyword:
Inventive step - (no) (main and 1st to 3rd auxiliary requests)
admissibility - (no) (4th auxiliary request)

Decisions cited:
T 0382/96

Catchword:

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Beschwerdekammern
Boards of Appeal
Chambres de recours

European Patent Office
D-80298 MUNICH
GERMANY
Tel. +49 (0) 89 2399-0
Fax +49 (0) 89 2399-4465

Case Number: T 1193/10 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 12 November 2014

Appellant: (Applicant)	Core Wireless Licensing S.à.r.l. 16, avenue Pasteur 2310 Luxembourg (LU)
Representative:	Espatent Oy Kaivokatu 10 D 00100 Helsinki (FI)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 25 January 2010 refusing European patent application No. 99300421.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	F. Edlinger
Members:	M. Paci
	T. Karamanli

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division refusing European patent application No. 99300421.7 published as EP 0 932 304 A2.

II. In the decision under appeal the following prior-art documents were considered:

D1: EP 0 659 017 A2 and
D2: WO 97/40621 A1.

The application was refused on the grounds that the subject-matter of claim 1 of the main request and first and second auxiliary requests did not involve an inventive step (Article 56 EPC) in view of document D1 alone or in combination with document D2.

III. With the statement of grounds of appeal the appellant filed amended claims according to a main request and first and second auxiliary requests, replacing the claims previously on file.

IV. In a communication under Article 15(1) RPBA (Rules of Procedure of the Boards of Appeal, OJ EPO 2007, 536), annexed to the summons to oral proceedings, the board expressed *inter alia* the preliminary opinion that

- the independent claims of all three requests did not meet the requirements of Article 84 EPC 1973,
- the subject-matter of claim 1 of the main request lacked novelty in view of D1 and
- the subject-matter of claim 1 of the first and second auxiliary requests did not involve an inventive step in view of D1.

V. With a letter of reply dated 8 October 2014, the appellant filed amended claims according to a main request and first to third auxiliary requests.

VI. In a letter dated 28 October 2014, the appellant informed the board that it would not be attending the oral proceedings.

VII. The board held oral proceedings on 12 November 2014. As announced, the duly summoned appellant did not attend. The chairman announced the board's decision at the end of the oral proceedings.

VIII. The appellant's final requests, filed in writing, are that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request or one of the first to third auxiliary requests, all claims filed with the letter dated 8 October 2014. In that letter, the appellant also requested as a fourth auxiliary request that a patent be granted on the basis of "a combination of at least two of the first, second and third auxiliary requests or a combination of an independent claim of one of the requests combined with one of the respective dependent claims, the exact combination depending on the opinions of the Appeal Board."

IX. Claim 1 according to the appellant's **main request** and **third auxiliary request** reads as follows:

"A mobile station (23) comprising:
- a camera module (1) integrated into the mobile station (23),
- a serial connection bus (28) for connecting to the camera module (1) of the mobile station (23), and for transferring digital image information formed by the

camera module (1) to the mobile station (23) in serial form,

- means (25) for controlling the transfer of the digital image information formed by the camera module (1), the means for controlling being configured to send control information from the mobile station to the camera module, wherein
the control information is configured to control the camera module
- to transfer the digital image information in a reduced form from the camera module (1) to the mobile station (23) via the serial connection bus (28) of the mobile station, if the control information concerns viewfinder mode, wherein the viewfinder mode is a mode in which image information is displayed on a display of the mobile station for directing the camera module to a desired photographic subject when preparing for taking a picture, and
- to transfer the digital image information in a higher resolution form than the reduced form from the camera module (1) to the mobile station (23) via the serial connection bus (28) of the mobile station, if the control information concerns photographic mode."

X. Claim 1 according to the appellant's **first auxiliary request** reads as follows (additions to claim 1 of the main request are underlined, deletions are ~~struck-through~~):

"A mobile station (23) comprising:

- a camera module (1) integrated into the mobile station (23),
- a serial connection bus (28) for connecting to the camera module (1) of the mobile station (23), and for transferring digital image information formed by the

camera module (1) to the mobile station (23) in serial form,

- means (25) for controlling the transfer of the digital image information formed by the camera module (1), the means for controlling being configured to send control information from the mobile station to the camera module, wherein

~~the control information is configured to control the camera module~~

- responsive to the mobile station being in viewfinder mode, the control information is configured to control the camera module to transfer the digital image information in a reduced form from the camera module (1) to the mobile station (23) via the serial connection bus (28) of the mobile station, ~~if the control information concerns viewfinder mode,~~ wherein the viewfinder mode is a mode in which image information is displayed on a display of the mobile station for directing the camera module to a desired photographic subject when preparing for taking a picture, and

- responsive to the mobile station being in photographic mode, the control information is configured to control the camera module to transfer the digital image information in a higher resolution form than the reduced form from the camera module (1) to the mobile station (23) via the serial connection bus (28) of the mobile station, ~~if the control information concerns photographic mode~~."

XI. Claim 1 according to the appellant's **second auxiliary request** reads as follows (additions to claim 1 of the main request are underlined, deletions are ~~struck-through~~):

"A mobile station (23) comprising:
- a camera module (1) integrated into the mobile station (23),
- a serial connection bus (28) for connecting to the camera module (1) of the mobile station (23), and for transferring digital image information formed by the camera module (1) to the mobile station (23) in serial form,
- means (25) for controlling the transfer of the digital image information formed by the camera module (1), the means for controlling being configured to send control information from the mobile station to the camera module, wherein
the control information is configured to control the camera module
- to transfer the digital image information in a reduced form from the camera module (1) to the mobile station (23) via the serial connection bus (28) of the mobile station, if the control information concerns viewfinder mode, wherein the viewfinder mode is a mode in which image information is displayed on a display of the mobile station for directing the camera module to a desired photographic subject when preparing for taking a picture, and
- to transfer the digital image information in a higher resolution form than the reduced form from the camera module (1) to the mobile station (23) via the serial connection bus (28) of the mobile station, if the control information concerns photographic mode, wherein the photographic mode is a mode in which mode a picture is taken."

XII. The examining division's reasoning in the decision under appeal, as far as it is relevant for the claims under consideration, can be summarised as follows:

D1 disclosed a method for transferring image information from a camera module (camera 10) to an electronic device (computer 12) via a serial connection bus. Furthermore, the electronic device could control the camera module to set it either in a normal photographic mode (single image) or in a teleconferencing mode (sequence of images). Since the "viewfinder mode" of claim 1 was not further defined, it corresponded to the teleconferencing mode of D1. Hence the only distinguishing feature of claim 1 was that in the viewfinder mode the image information was transferred "in a reduced form".

This feature, however, did not render the claimed method inventive, because reducing the quantity of information in order to avoid reaching the maximum bandwidth of the serial connection would have been a straightforward task for the skilled person, all the more so because D1 itself disclosed sending bursts (sequences) of images in low resolution.

Hence the method of claim 1 did not involve an inventive step in view of D1.

XIII. The appellant's arguments regarding the issues relevant to the present decision can be summarised as follows:

Admissibility of the amended claims

The amended claims according to the main request and the first to third auxiliary requests had been filed in

reaction to the objections under Article 84 EPC 1973 raised by the board in its communication annexed to the summons to oral proceedings, and overcame those objections.

Hence the board should admit these requests into the appeal proceedings.

Inventive step (main and first to third auxiliary requests)

D1 represented the closest prior art.

Claim 1 differed from D1 at least in that
- the camera module was integrated into a mobile station; and
- image information was transferred in reduced form when the mobile station was in viewfinder mode.

The objective technical problem solved by the second distinguishing feature could be formulated as how to optimise data transfer between a camera module and a mobile station.

In claim 1, the viewfinder mode was now defined as "a mode in which image information is displayed on a display of the mobile station for directing the camera module to a desired photographic subject when preparing for taking a picture". In the viewfinder mode, when the camera was directed to the desired target, a reduced transfer form was used, and in the photographic mode, when the picture was taken, a higher resolution transfer form was used. In this way, good quality pictures could be taken while the quantity of image information to be transferred could be minimised.

The definition of the viewfinder mode stated that this mode was for taking a picture. The teleconferencing application of D1 did not fit into this definition. The skilled person would not have learnt from the teleconferencing application to use a reduced transfer rate in viewfinder mode and to increase the transfer rate when a photograph was taken. In D1 the computer was used merely to control capture parameters and not the form in which the image information was transferred. D1 did not disclose changing between reduced and higher resolution forms depending on the operating mode of the mobile station. Nor did it disclose control information relating to a viewfinder mode and different control information for a photographic mode.

Even if there had been a viewfinder mode in D1, it would not have had any effect on the quantity of image information that was transferred from the camera to the computer. Only control parameters set by the user, not the operating mode of the computer, would have affected the images that were captured.

Hence the subject-matter of claim 1 according to each of the main request and first to third auxiliary requests involved an inventive step in view of D1.

Reasons for the Decision

1. The appeal is admissible.

Absence of the duly summoned appellant

2. The duly summoned appellant did not attend the oral proceedings. According to Rule 71(2) EPC 1973, the

proceedings could however continue without him. In accordance with Article 15(3) RPBA the board relied for its decision only on the appellant's written submissions. The board was in a position to decide at the conclusion of the oral proceedings, since the case was ready for decision (Article 15(5) and (6) RPBA), and the voluntary absence of the appellant was not a reason for delaying a decision (Article 15(3) RPBA).

Admissibility of the main and auxiliary requests

3. The board considers that the amended claims according to the main and first to third auxiliary requests addressed objections under Article 84 EPC 1973 raised in the board's communication annexed to the summons to oral proceedings, did not add complexity to the subject-matter and could reasonably be expected to be dealt with without adjournment of the oral proceedings. For these reasons, the board admitted them into the proceedings in accordance with the provisions of Article 13(1) and (3) RPBA.

Main request - inventive step

4. Closest prior art

The board concurs with the appellant and the examining division that D1 represents the **closest prior art** for the subject-matter of claim 1.

D1 discloses a camera (10) which is connected to a personal computer (12) via a RS-232 serial connection (see figure 1 and column 4, lines 4 to 22). The camera can be operated in two different modes: in a **camera control mode**, in which the camera is not connected to the computer and is operated as a conventional camera

(see figure 2 and column 7, lines 2 to 40), or in a **computer capture control mode**, in which the camera is connected to the computer and controlled from the computer (see figure 2; column 3, lines 33 to 44 and from column 7, line 41 to column 8, line 23).

In the **computer capture control mode** of D1, the user uses the computer to set various capture parameters in the camera, such as the image resolution (full or reduced: see column 6, lines 6 to 12, and from column 7, line 41 to column 8, line 5), the level of image compression and whether the camera takes a single image or a sequence of images (see column 7, lines 41 to 52). The computer sends control information to the camera for setting the capture parameters selected by the user (see column 6, lines 34 to 55, and column 8, lines 1 to 8). D1 also mentions that when the camera is set to the "burst mode" in order to capture a sequence of images, instead of a single image, these images are rapidly taken and stored in lower resolution (see column 5, lines 31 to 36) and that this burst mode is particularly useful in a computer teleconferencing application (see column 7, lines 52 to 57). In such a teleconferencing application the computer (12) would establish communication with a remote computer user (see column 7, lines 52 to 57). Thus images taken by the camera (10) would have to be transferred to the computer (12) in order to be sent to the remote user.

As to the "photographic mode" of claim 1, there is no difference between this mode and the camera mode obtained in D1 when the user sets the capture parameters to high resolution and single image. In that mode of D1 too, the captured image is transferred from the camera to the computer (see column 8, lines 11 to 23).

Regarding the feature that the claimed subject-matter is a "mobile station", D1 generally uses the term "computer". D1 (column 1, lines 35 to 52) is aimed at solving a problem which arises in certain situations when "a low cost electronic still camera may be tethered to a small, battery operated notebook or penpad personal computer". Hence the board considers that a mobile device is disclosed as one of the known computers to which the invention in D1 may be applied. Therefore, the expression "mobile station", which is not further defined in claim 1, does not distinguish from the computer of D1.

As to the feature that the "camera module is integrated into the mobile station", the camera (10) and computer (12) of D1 are separate elements connected together either by an interface cable or by a docking adaptor (16), and the latter "may comprise a module that plugs into the camera": see figure 1 and column 4, lines 4 to 22. Hence the board regards the feature that the "camera module is integrated into the mobile station" as **not** implicitly disclosed in D1.

As to the transfer of image information in reduced form and its display in the "viewfinder mode" defined in claim 1, the board concurs with the appellant that no such mode is disclosed in D1.

5. Distinguishing features

For the above reasons, the board considers that the mobile station of claim 1 **differs** from that of D1 by the following **distinguishing features**:

(a) the camera module is integrated into the mobile station, and

(b) the control information is configured to control the camera module to transfer the digital image information in a reduced form from the camera module to the mobile station via the serial connection bus of the mobile station, if the control information concerns viewfinder mode, wherein the viewfinder mode is a mode in which image information is displayed on a display of the mobile station for directing the camera module to a desired photographic subject when preparing for taking a picture.

6. Objective technical problem

The appellant submitted that the objective technical problem could be formulated as how to optimise data transfer between a camera module and a mobile station.

The board has no objection to this formulation of the objective technical problem.

The board does not see any contribution by distinguishing feature (a) in this context, and the appellant has not put forward any arguments to that effect. The contribution of distinguishing features (a) and (b) may thus be dealt with separately.

7. Obviousness

Re distinguishing feature (a)

As explained under point 3 *supra*, D1 discloses that the camera (10) and computer (12) of D1 can be connected together by a docking adaptor (16) which "may comprise

a module that plugs into the camera" (see figure 1 and column 4, lines 4 to 22).

In the board's view, it would have been an obvious design option for the skilled person to integrate the camera module in the computer, either directly or via a docking adaptor integral with the computer, in particular for the teleconferencing application.

Hence, the skilled person would have arrived at distinguishing feature (a) without inventive step.

Re distinguishing feature (b)

D1 teaches that the camera (10) can advantageously be used by a teleconferencing application running on the computer connected to the camera in order to send a sequence of images to a remote computer (see column 2, lines 46 to 56, column 3, lines 33 to 42, and column 7, lines 46 to 57). For the teleconferencing application, the computer sends control information to set the camera into a low-resolution "burst" mode in which several pictures are rapidly taken, as opposed to a single picture in the normal photographic mode (see switch 54 in figure 1, column 5, lines 31 to 36, and column 7, lines 46 to 57).

When the teleconferencing application is running on computer 12, the low-resolution images ("digital image information in reduced form") captured by camera 10 would have to be transferred to computer 12, and from there to a remote computer where they are displayed. The images received from the remote computer would be displayed on the computer, as is usual in a teleconference.

In the board's view, in a teleconference in D1 it would have been a straightforward measure for the skilled person to display the low-resolution images from the camera in a small portion (e.g. a corner) of the screen of the computer controlling the camera, in order to allow the user to check that the camera was working and in order to adjust the direction of the camera before and during the teleconference. Any adjustment of the direction of the camera in a teleconference would automatically take place "when preparing to take a picture" because in the "burst" mode of D1 the camera constantly prepares to take the next picture. The skilled person would thus have arrived at a mode in which "image information is displayed on a display of the mobile station for directing the camera module to a desired photographic subject when preparing to take a picture".

Hence, by making this straightforward improvement to the teleconferencing application of D1, the skilled person would have arrived at a mode having all the features of the "viewfinder mode" defined in claim 1 and in which mode "digital image information" is transferred in "a reduced form". In other words, the skilled person would have arrived at distinguishing feature (b).

For the above reasons, from D1 alone the skilled person would have arrived at the subject-matter of claim 1 without an inventive step.

8. The appellant's arguments

The appellant's arguments (see point XIII *supra*) did not convince the board, mostly because they rely on features which are not in claim 1, as explained below:

One argument was that the viewfinder mode was defined as a mode "when preparing for taking a picture", which did not happen in the teleconferencing application of D1.

The board is not convinced by this argument because in the teleconferencing mode (when the teleconferencing application is running) the camera takes pictures in rapid succession and thus constantly has to be "preparing for taking a picture". Claim 1 does not state who takes the picture or prepares to take it. The appellant appears to assume that it is the user, but claim 1 is not limited to this case only and thus also covers the case in which the mobile station (computer) or the camera does it, which is what happens in the teleconferencing mode of D1.

In another argument the appellant appears to assume that when a picture is taken (following a preparing stage) in the viewfinder mode, the mobile station controls the camera module to switch to the photographic mode so that the picture can be taken and transferred in high resolution. Claim 1, however, does not comprise such a limitation because it only states how image information is transferred in two different modes (viewfinder and photographic), but says nothing about switching from one to the other.

In a last argument the appellant submits that the control parameters in D1 are set by the user, whereas in claim 1 they are set by the operating mode of the mobile station. Here again, the argument is based on a feature which is not present in claim 1, as the claim also covers the case of the user manually setting the control information as in D1.

9. For the above reasons, the appellant's main request is not allowable because the subject-matter of claim 1 does not involve an inventive step in view of D1.

First auxiliary request - inventive step

10. Claim 1 of the first auxiliary request differs from claim 1 of the main request essentially in that "if the control information concerns viewfinder mode" has been replaced by "responsive to the mobile station being in viewfinder mode" and "if the control information concerns photographic mode" has been replaced by "responsive to the mobile station being in photographic mode".

The board is not convinced that these amendments further distinguish the subject-matter of claim 1, because according to D1 the operating mode of the computer is first selected by the user setting the various parameters (via the capture parameter screen 82 shown in figure 3) and then, responsive to this selection, the corresponding control information (the set parameter values) is sent to the camera to control the camera module in accordance with this control information (see column 8, lines 1 to 8). Following this setting in the camera module, the digital image information is transferred in a reduced form or in a higher resolution form, as the case may be.

Hence the subject-matter of claim 1 according to the first auxiliary request does not involve an inventive step in view of D1, and the first auxiliary request is not allowable.

Second auxiliary request - inventive step

11. Claim 1 of the second auxiliary request differs from claim 1 of the main request in that it specifies that the photographic mode is a mode in which a picture is taken.

As explained under point 4 *supra*, the photographic mode thus defined is indistinguishable from the high-resolution single picture mode of D1.

Hence the subject-matter of claim 1 according to the second auxiliary request does not involve an inventive step in view of D1, and the second auxiliary request is not allowable.

Third auxiliary request - inventive step

12. Claim 1 of the third auxiliary request is identical to claim 1 of the main request.

Hence the subject-matter of claim 1 according to the third auxiliary request does not involve an inventive step in view of D1 and the third auxiliary request is not allowable.

Admissibility of the fourth auxiliary request

13. On several occasions, the boards of appeal have acknowledged as a basic principle that it is the duty of any party to proceedings, in particular the appellant in appeal proceedings, to make its own case and to formulate its own requests (see for example decision T 382/96, point 5.2 of the Reasons). This principle is enshrined in Article 113(2) EPC 1973,

which provides that the European Patent Office shall only consider and decide upon a European patent application in the text submitted to it, or agreed, by the applicant. Therefore, the appellant cannot shift to the board the responsibility for formulating requests.

Thus, the appellant's fourth auxiliary request (see point VIII *supra*) requesting the grant of a patent on the basis of an unspecified combination of claims of one or more requests, the exact combination depending on the opinion of the board, is inadmissible.

Conclusion

14. Since all the appellant's requests are either unallowable or inadmissible, 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