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Datasheet for the decision of 17 March 2015

Case Number: T 1306/10 - 3.5.04

Application Number: 00971873.5

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Language of the proceedings: EN

Title of invention:
RADIO VOD SYSTEM

Applicant:
Samsung Electronics Co., Ltd.

Headword:

Relevant legal provisions:
EPC 1973 Art. 84
EPC Art. 123(2)
RPBA Art. 12(4), 13(1)

Keyword:
Late-filed request - admitted (no)
Late-filed auxiliary requests - admitted (no)
Amendments - extension beyond the content of the application as filed (yes)
Claims - clarity - auxiliary request (no)

Decisions cited:
G 0010/93, G 0002/10

Catchword:
See sections 2 and 5.

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Case Number: T 1306/10 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 17 March 2015

Appellant: (Applicant)	Samsung Electronics Co., Ltd. 129, Samsung-ro Yeongtong-gu Suwon-si, Gyeonggi-do, 443-742 (KR)
Representative:	Grünecker Patent- und Rechtsanwälte PartG mbB Leopoldstraße 4 80802 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 20 January 2010 refusing European patent application No. 00971873.5 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman F. Edlinger
Members: C. Kunzelmann
T. Karamanli

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division to refuse European patent application No. 00 971 873.5 under Article 97(2) of the European Patent Convention (EPC).

II. The application was refused on the grounds that the subject-matter of claim 1 of the sole request filed during the oral proceedings on 18 June 2009 before the examining division did not involve an inventive step (Article 56 EPC). According to the minutes of the oral proceedings, this sole request replaced the claim sets dated 12 May 2009 previously on file.

III. The applicant appealed and requested that the decision be set aside and that a patent be granted on the basis of the claims, description and drawings on file. With the statement of grounds of appeal, the appellant filed claims according to a main and first and second auxiliary requests. The appellant submitted that the claims of the main request corresponded to a claim set submitted on 3 February 2009 in the first-instance proceedings and that the claims of the first auxiliary request corresponded to those of the sole request filed during the oral proceedings before the examining division.

IV. Claim 1 of the main request reads as follows:

"A radio Video-On-Demand, VOD, system comprising:
a server means (10; 20) including a video server and an audio server for providing data comprising a video file and an associated audio file to at least one user;

a server manager (30) for managing the transmission of the video file and an audio file of the data requested by the at least one user;
an exchange means (60) for converting the video file and the audio file provided from the server through a network to provide at baseband separately a video signal and an associated audio signal for separate wireless transmission of the requested data,
wherein the video and audio signals output from the exchange means each comprise an ID field, and a data field, wherein the ID field comprises information for identifying the user that has requested the video file and the audio file; and
a mobile terminal means (80) for receiving through separate channels the separate wireless transmission of the video signal and the associated audio signal at baseband converted by the exchange means, and outputting only the requested data comprising the video file and the associated audio file to the at least one user."

V. Claim 1 of the first auxiliary request reads as follows:

"A radio Video-On-Demand, VOD, system for providing video and audio files to mobile terminals, said system comprising:
a server means (10; 20) including a video server and an audio server for providing data comprising a video file and an associated audio file to at least one user;
a server manager (30) for managing the transmission of the video file and the associated audio file of the data requested by the at least one user;
an exchange means (60) for converting the video file and the audio file provided from the server means through a network to transmit said video and associated

audio signals separate from each other over the air, wherein the video signal is in the form of an analogue television broadcasting signal, such as NTSC, wherein said video and audio signals each includes an ID field comprising information for identifying the user that has requested said video and associated audio file; and
a mobile terminal means (80) for receiving through separate tuners (82, 84) video and audio signals, said mobile terminal means comprising
signal processing means (86) for detecting the video and associated audio signals requested by the user by reading the ID fields of the video and audio signals as received by the first and second tuners;
first and second decoders (88, 90) for decoding the video and audio signals detected by the signal processing means, respectively;
a video display (92) for outputting the decoded video signal of the data selected by the user; and
an audio output device (94) for outputting the associated decoded audio signal of the data selected by the user."

VI. Claim 1 of the second auxiliary request corresponds to claim 1 of the first auxiliary request with the feature specifying the exchange means reading as follows:

"an exchange means (60) for converting the video file and the audio file provided from the server means through a network to transmit said video and associated audio signals separate from each other over the air, wherein the video signal is in the form of an analogue television broadcasting signal, such as NTSC, wherein said video and audio signals each includes an ID field comprising information for identifying the user that has requested said video and associated audio

file *and wherein one of the exchange means comprises means for receiving the data request transmitted by wireless communication from the mobile terminal means, wherein a frequency of the data request transmitted by the mobile terminal means to the exchange means is different than a frequency of the video signal and a frequency of the associated audio signal transmitted by the exchange means to the mobile terminal means;* and"

The amendment with respect to claim 1 of the first auxiliary request is set in *italics*.

VII. The board issued a communication pursuant to Article 15(1) of the Rules of Procedure of the Boards of Appeal (RPBA), annexed to a summons to oral proceedings dated 18 November 2014. In this communication the board raised doubts that the claims of the main request might be admitted into the appeal proceedings under Article 12(4) RPBA. The board also raised doubts that the feature "wherein the video signal is in the form of an analogue television broadcasting signal" in claim 1 of the first and second auxiliary requests was disclosed in the application as filed (Article 123(2) EPC). The board also raised the question of which technical limitations of the claimed VOD system were implied by this feature (Article 84 EPC 1973).

VIII. With a letter of reply dated 17 February 2015, the appellant filed claims according to third and fourth auxiliary requests, without commenting on the objections raised in the board's communication.

IX. Claim 1 of the third auxiliary request reads as follows:

"A radio Video-On-Demand, VOD, system for providing video and audio files to mobile terminals, said system comprising:
a server means (10, 20) including a video server and an audio server for providing data comprising a video file and an associated audio file to at least one user;
a server manager (30) for managing the transmission of the video file and the associated audio file of the data requested by the at least one user;
an exchange means (60) for converting the video file and the audio file provided from the server means through a network *to provide separately a video signal and an associated audio signal, and for wirelessly transmitting said video signal and said associated audio signal separate from each other over the air,* wherein the video signal is *transmitted as* an analogue television broadcasting signal, such as NTSC, *and wherein said video signal and said associated audio signal* each includes an ID field comprising information for identifying the user that has requested said video *file and said* associated audio file; and
a mobile terminal means (80) for receiving through separate tuners (82, 84) *a plurality of* video and audio signals, said mobile terminal means comprising
signal processing means (86) for detecting the video signal and *the* associated audio *signal which correspond to the data* requested by the user *from the plurality of received video and audio signals* by reading the ID fields of the video and audio signals as received by the first and second tuners;
first and second decoders (88, 90) for decoding the video signal and *the associated* audio signals detected by the signal processing means, respectively;
a video display (92) for outputting the decoded video signal *which corresponds to the data requested* by the user; and

an audio output device (94) for outputting the associated decoded audio signal *which corresponds to the data requested* by the user."

Amendments with respect to claim 1 of the first auxiliary request are set in *italics*.

X. Claim 1 of the fourth auxiliary request corresponds to claim 1 of the third auxiliary request with the feature specifying the exchange means reading as follows:

"an exchange means (60) for converting the video file and the audio file provided from the server means through a network to provide separately *at baseband* a video signal and an associated audio signal, and for wirelessly transmitting said video signal and said associated audio signal separate from each other over the air, wherein the video signal is transmitted as an analogue television broadcasting signal, such as NTSC, and wherein said video signal and said associated audio signal each includes an ID field comprising information for identifying the user that has requested said video file and said associated audio file; and"

The amendment with respect to claim 1 of the third auxiliary request is set in *italics*.

XI. Oral proceedings before the board were held on 17 March 2015. During the oral proceedings the appellant filed claims according to fifth and sixth auxiliary requests. The appellant's final request was 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 and second auxiliary requests, all filed with the statement of grounds of appeal, or one of the third and fourth auxiliary requests, both filed with

the letter of 17 February 2015, or one of the fifth and sixth auxiliary requests, both submitted in the oral proceedings before the board. At the end of the oral proceedings the chairman announced the board's decision.

XII. Claim 1 of the fifth auxiliary request corresponds to claim 1 of the third auxiliary request with the feature specifying the exchange means reading as follows:

"an exchange means (60) for converting the video file and the audio file provided from the server means through a network to provide separately a video signal and an associated audio signal, and for wirelessly transmitting said video signal and said associated audio signal separate from each other over the air, *wherein the video signal is transmitted as an NTSC television broadcasting signal*, and wherein said video signal and said associated audio signal each includes an ID field comprising information for identifying the user that has requested said video file and said associated audio file; and"

The amendment with respect to claim 1 of the third auxiliary request is set in *italics*.

XIII. Claim 1 of the sixth auxiliary request reads as follows:

"A radio Video-On-Demand, VOD, system for providing video and audio files to mobile terminals, said system comprising:
a server means (10, 20) including a video server and an audio server for providing data comprising a video file and an associated audio file to at least one user;

a server manager (30) for managing the transmission of the video file and the associated audio file of the data requested by the at least one user;
an exchange means (60) for *encoding* the video file and the audio file provided from the server means through a network *into corresponding baseband signals* to provide separately *an encoded* video signal and an associated *encoded* audio signal, and for wirelessly transmitting said video signal and said associated audio signal separate from each other *in the form of carriers*, wherein the *encoded* video signal *in the form of a carrier* is transmitted *as an NTSC television broadcasting signal*, and wherein said *encoded* video signal and said associated *encoded* audio signal each includes an ID field comprising information for identifying the user that has requested said video file and said associated audio file; and
a mobile terminal means (80) for receiving through separate tuners (82, 84) a plurality of video and audio signals, said mobile terminal means comprising
signal processing means (86) for detecting the *encoded* video signal and the associated *encoded* audio signal which correspond to the data requested by the user from the plurality of received video and audio signals by reading the ID fields of the video and audio signals as received by the first and second tuners;
first and second decoders (88, 90) for decoding the *encoded* video signal and the associated *encoded* audio signals detected by the signal processing means, respectively;
a video display (92) for outputting the decoded video signal which corresponds to the data requested by the user; and
an audio output device (94) for outputting the associated decoded audio signal which corresponds to the data requested by the user."

Amendments with respect to claim 1 of the third auxiliary request are set in *italics*.

XIV. The reasons for the decision under appeal, as far as they are of relevance for the present decision, may be summarised as follows:

The subject-matter of claim 1 of the then sole request (i. e. claim 1 of the present first auxiliary request) differed from the disclosure in the closest prior art document only in the feature "wherein the video signal is in the form of an analogue television broadcasting signal, such as NTSC". This feature defined very broadly a kind of signal property of the video signal. It could relate to merely one or up to a full set of television broadcast parameters. The reference to NTSC was not limiting at all. The feature did not specify whether "in the form" related to a modulation scheme in the physical layer or to properties of an application data structure. Nor did it specify whether the transmission signal was fully analogue or a digital representation of an analogue signal but still having the structural properties of the analogue signal.

Since the video-on-demand system of the closest prior art related to videos from television broadcast stations, it had to keep a number of the simple image properties such as line-wise structure and aspect ratio of the standard television signal. Implementing the known system with an analogue television broadcast signal transmission of this kind was thus obvious.

XV. The appellant's arguments may be summarised as follows:

The invention was based on the idea of providing video-on-demand (VOD) in the same way as analogue television broadcasting, as explained on pages 5 and 6 of the description. This provided great area coverage per base station and would allow VOD services to be provided in regions with small population density. In particular the prior art system discussed in the paragraph bridging pages 1 and 2 of the present application was not able to provide a large area coverage per base station. Moreover, with the present invention cheap transmitter and receiver technologies could be used. At the priority date, VOD was usually cable based and thus only available in densely populated areas. It used digital technology and hence was relatively expensive. Radio VOD (i. e. VOD over the air, for example using GSM base stations) was known but more of an exception.

In the present case, the reference to NTSC could be considered as limiting the claimed system. It was implicit that the transmitted video signal was an analogue television broadcasting signal, NTSC signals being analogue.

The different claim formulations in the auxiliary requests were all *bona fide* attempts to clearly formulate the above general idea. The third to sixth auxiliary requests in particular used as much as possible the exact wording of the application as filed to overcome the board's objections under Article 123(2) EPC. The fifth and sixth auxiliary requests were filed as a reaction when it became clear to the appellant that the board considered the third and fourth auxiliary requests to infringe Article 123(2) EPC.

In particular the sixth auxiliary request also made it clear that the exchange means specified in claim 1 produced a carrier signal for video and a carrier signal for audio as illustrated in figure 2. At least the video was then transmitted as an NTSC television broadcasting signal by an NTSC base station.

Reasons for the Decision

1. The appeal is admissible.

2. *Claims of the main request: admissibility (Article 12(4) RPBA)*

2.1 According to Article 12(4) RPBA, without prejudice to the power of the board to hold inadmissible facts, evidence or requests which could have been presented or were not admitted in the first instance proceedings, everything presented by the parties under Article 12(1) RPBA has to be taken into account by the board if and to the extent it relates to the case under appeal and meets the requirements in Article 12(2) RPBA .

According to established case law (see Case Law of the Boards of Appeal of the EPO, 7th edition 2013, IV.E. 4.3.3 c)), it is clear from the wording of Article 12(4) RPBA that the board in an *ex parte* case has discretion over whether or not to admit requests which could have been presented in first-instance proceedings, but were not. The board must exercise that discretion having regard to the particular circumstances of the individual case.

2.2 With a letter dated 12 May 2009 (see page 1), the applicant *inter alia* submitted in the first-instance proceedings claims 1 to 13 according to a main request. Claim 1 of this request had been amended with respect to claim 1 of the (sole) request filed with the letter of 3 February 2009 by introducing the feature "at baseband" and removing the feature "a null data field". The main request filed on 12 May 2009 was withdrawn in the oral proceedings before the examining division on 18 June 2009. According to the minutes, this request was ultimately replaced by the sole request on which the decision under appeal is based. In its statement of grounds of appeal the appellant submitted that the claims of the present main request corresponded to the claim set according to the request submitted on 3 February 2009. This is not correct, because claim 1 of the present main request comprises the above amendments and is identical to claim 1 of the request filed with the letter dated 12 May 2009 except for two further amendments which had been made in this claim 1 for improving the intelligibility (see letter dated 12 May 2009, page 2, first paragraph), but which seem to have been overlooked in claim 1 of the main request filed with the statement of grounds of appeal.

2.3 Thus it is clear from the above that a request comprising a set of claims corresponding in substance to the set of claims of the present main request was actually presented in the course of the first-instance proceedings and could have been maintained for the examining division to take a decision thereon. However, the applicant, in the oral proceedings before the examining division, withdrew the main request filed on 12 May 2009 and filed instead new claims of a sole request which correspond to those of the present first auxiliary request (see point IV of the statement

of grounds of appeal). By the withdrawal of its former request, the appellant prevented the examining division from giving a reasoned decision on the subject-matter of the claims of that request.

2.4 By returning, with the statement of grounds of appeal, to a request which in substance corresponds to that dated 12 May 2009, the appellant confronts the board with subject-matter on which no decision could have been taken by the department of first instance (see point 2.3 above).

2.5 Thus, if the board of appeal admitted and considered the present main request, it would have to go beyond its primary role, namely the examining of the contested decision (see point 4 of the Reasons of decision G 10/93 of the Enlarged Board of Appeal, OJ EPO 1995, 172). On the other hand, a remittal to the department of first instance for further prosecution would be contrary to the need for procedural economy, as it would lead to the examining division having to take a decision on issues which could have been decided in the oral proceedings of 18 June 2009 had the applicant not withdrawn its request in the oral proceedings (see point 2.2 above).

2.6 In view of the above, the board, exercising its discretion under Article 12(4) RPBA, decided not to admit the present main request into the appeal proceedings.

3. First and second auxiliary requests: added subject-matter (Article 123(2) EPC)

3.1 According to Article 123(2) EPC, a European patent application "may not be amended in such a way that it

contains subject-matter which extends beyond the content of the application as filed".

3.2 It is established case law that this means that any amendment to a European patent application can only be made within the limits of what a skilled person would derive directly and unambiguously, using common general knowledge, and seen objectively and relative to the date of filing, from the whole of these documents as filed (see, for instance the decision of the Enlarged Board of Appeal G 2/10, OJ EPO 2012, 376, point 4.3 of the Reasons).

3.3 Claim 1 of each of the first and second auxiliary requests comprises the feature "wherein the video signal is in the form of an analogue television broadcasting signal, such as NTSC". This wording specifies that the analogue television broadcasting signal may, but need not, be an NTSC television broadcasting signal.

3.4 Uncontestedly, there is no explicit reference to an **analogue** television broadcasting signal in the application as filed. Nor is there a discussion of alternatives to NTSC, such as PAL or SECAM. Moreover, there is only one sentence in the application as filed referring to a broadcasting signal, namely the sentence on page 6, lines 19 to 22, of the application as filed: "The video file in the form of the carrier is transmitted as an NTSC broadcasting signal." This sentence is part of the detailed description of the preferred embodiment.

3.5 Also, the general explanation of the invention on pages 1 to 4 does not indicate that an **analogue** television broadcasting signal (such as NTSC) may be of

importance for the invention. Instead, the general teaching of the invention on pages 1 to 4 gives the impression that the invention is based on the concept of providing video and audio signals from the exchange through separate channels (see page 2, lines 18 to 25). Whether the television broadcasting signal is analogue or digital is not decisive in this respect. Thus the reference to an **analogue** television broadcasting signal is not disclosed in the application as filed. It constitutes a generalisation of the original disclosure of an NTSC broadcasting signal.

3.6 The appellant argued that the disputed feature did not constitute a generalisation of the original disclosure to any analogue television broadcasting signal but expressed the implicit original disclosure that the invention used NTSC signals because of their analogue properties. However, there is no hint in the application as filed that NTSC is used in the example because of its analogue transmission of signals. For a person skilled in the art, the "NTSC broadcasting signal" referred to on page 6, line 20 of the application as filed is a particular analogue broadcasting signal. It must in some way comply with an NTSC standard. Even if the application does not give any details as to which properties of the transmitted video signal must be in conformity with an NTSC standard, this does not mean that it may be **any** analogue television broadcasting signal. Thus the appellant's argument that the reference to NTSC in claim 1 constituted a limitation of the claimed system to what was actually disclosed did not convince the board.

3.7 The appellant also argued that a person skilled in the art would have understood that with the invention

greater area coverage per base station was possible than with the prior-art radio VOD system described in the paragraph bridging pages 1 and 2 of the application as filed, because the transmitted signal was an analogue signal. However, the discussion of the digital prior-art wireless VOD system in the application as filed makes clear that "such wireless VOD systems using the high frequency band is extremely limited by the permissible distance between the base station and the mobile terminal" (see page 1, last paragraph to page 2, first complete paragraph). From this passage alone one might speculate that changing to a lower frequency band (than in the prior art) may allow the permissible distance between the base station and the mobile terminal to be increased. In such a case, other parameters would of course also play a role, such as the power of the signals. Transmitting the video files in the form of a carrier as an NTSC broadcasting signal may allow larger transmission distances than the 50 to 100 metres mentioned in the discussion of the prior-art wireless VOD system in the application. But this is due to the way television broadcasting over the air is typically carried out, using existing infrastructure with high power television signal transmitters arranged at large distances from each other. Whether the television broadcasting signal is analogue or digital is not decisive in this respect.

3.8 Also, the reference to a low-cost radio VOD system (page 2, lines 14 to 16) in connection with the discussion of the cost increase if the transmission distance in the prior-art wireless VOD system is increased (page 2, first complete paragraph) does not imply that the transmitted television broadcasting signal is analogue.

3.9 In view of the above the board finds that, upon correct interpretation, claim 1 of the first and second auxiliary requests specifies that the video signal is in the form of a general analogue television broadcasting signal, NTSC constituting merely an example of such an analogue signal. This is not directly and unambiguously derivable from the application as filed.

3.10 The appellant's further argument that, in the present case, the reference to NTSC in claim 1 actually defined a limitation of the claimed system to NTSC did not convince the board for the reasons as given in points 3.3 to 3.9 above.

3.11 In view of the above the board finds that claim 1 of the first and second auxiliary requests infringes Article 123(2) EPC.

4. Third and fourth auxiliary requests: added subject-matter (Article 123(2) EPC)

4.1 Claim 1 of each of the third and fourth auxiliary requests comprises the feature "wherein the video signal is transmitted as an analogue television broadcasting signal, such as NTSC".

4.2 The considerations in points 3.4 to 3.10 above also apply to this feature.

4.3 Hence the board finds that these claims infringe Article 123(2) EPC.

5. Fifth auxiliary request: admissibility (Article 13(1) RPBA)

5.1 According to Article 13(1) RPBA, "Any amendment to a party's case after it has filed its grounds of appeal .. may be admitted and considered at the board's discretion. The discretion shall be exercised in view of inter alia the complexity of the new subject matter submitted, the current state of the proceedings and the need for procedural economy."

5.2 The fifth auxiliary request was filed during the oral proceedings before the board, after the discussion of the higher-ranking requests, and long after the statement of grounds of appeal. Thus the board had to examine whether the request was admissible under Article 13(1) RPBA.

5.3 Claim 1 of the fifth auxiliary request is based on claim 1 of the third auxiliary request, the disputed feature (see point 4.1 above) being replaced by the feature "wherein the video signal is transmitted as an NTSC television broadcasting signal".

5.4 This limitation to the transmission of an NTSC television broadcasting signal is in substance a reaction to the board's communication expressing doubts as to whether the requirements of Article 123(2) EPC were met.

5.5 Thus the fifth auxiliary request could have been filed before the oral proceedings, as were the third and fourth auxiliary requests.

5.6 The appellant argued that the fifth auxiliary request was filed in reaction to the discussion of the

higher-ranking requests in the oral proceedings. However, the third and fourth auxiliary requests show the same added subject-matter problem as the first and second auxiliary requests (see sections 3 and 4 above). For this reason, the discussion of the third and fourth auxiliary requests in the oral proceedings did not involve any new issues on added subject-matter. Instead it concerned the added subject-matter problem already raised in the board's communication in relation to the first and second auxiliary requests. Thus the fifth auxiliary request is a further, even later, reaction of the appellant to the board's communication.

5.7 The appellant further argued that the fifth auxiliary request was filed when the board's opinion on the third and fourth auxiliary requests had become apparent in the course of the oral proceedings. However, becoming aware of the board's opinion during oral proceedings does not entail an unrestricted procedural right to file a new request. The board's discretion under Article 13(1) RPBA also applies to amendments filed during oral proceedings.

5.8 In view of the above, the board found that the fifth auxiliary request was a too-late reaction of the appellant to the board's communication. Moreover, the claims still did not limit the added feature to what is actually disclosed in the single passage of the application as filed from which this feature may be derivable (see point 3.4 above). Consequently, the board, exercising its discretion under Article 13(1) RPBA, decided not to admit the claims of the fifth auxiliary request into the appeal proceedings.

6. Sixth auxiliary request:
clarity and support by the description
(Article 84 EPC 1973)

6.1 The board admitted the sixth auxiliary request into the appeal proceedings as a reaction to objections by the board raised for the first time during the oral proceedings.

6.2 Claim 1 of the sixth request comprises a number of features which imply that the transmitted video and audio signals are digital signals. Examples are "**encoding** the video file and the audio file", and the reference to "an ID field comprising information for identifying the user that has requested said video file and said associated audio file". This is also consistent with the illustration of the data format of the video file Sv and the audio file Sa in figure 3 and the reference to a digital signal processor (DSP 86) in the receiving mobile terminal means (see figure 2 and page 6, lines 16 to 36).

6.3 On the other hand, claim 1 specifies that the encoded video and audio signals are transmitted "in the form of carriers", and the video signal in particular "as an NTSC television broadcasting signal". NTSC uses a number of (sub-)carriers at different frequencies. The carriers are modulated with analogue (luma, chroma, and audio) input signals. However, claim 1 does not make clear the relationship between the (digital) encoded signals and any carriers. Possibly the encoded signals are used to modulate carriers, but then the encoded signals would not be "in the form of carriers". Moreover, if the encoded video signal in particular is transmitted as an NTSC television broadcasting signal in the sense that it is modulated onto an NTSC carrier,

it would interfere with the normal television broadcasting signals on the same carrier unless there are safeguards which separate the encoded video signal channel from the already used channels. But claim 1 does not specify any such safeguards.

6.4 Nor does the description clarify these issues. In particular, the description does not indicate that the invention is based on the idea of providing video-on-demand (VOD) in the same way as analogue television broadcasting. General analogue television broadcasting is not discussed in the application (see sections 3 and 4 above), and an NTSC broadcasting signal is only briefly mentioned in one sentence on page 6. The general discussion of the invention on pages 1 to 4 instead gives the impression that the invention is based on the concept of providing the video and audio signals from the exchange through separate channels (see page 2, lines 18 to 25). This concept is reiterated in the discussion of the preferred embodiment (see the paragraph bridging pages 5 and 6) and is, according to the description, related to the problem of an increase in the relative amount of transmitted data. There is no indication in the description of how the transmission of the encoded signals "in the form of carriers" as specified in claim 1 is related to the problem of an increase in the relative amount of transmitted data.

6.5 In view of the above the board finds that claim 1 of the sixth auxiliary request is not clear and not supported by the description, contrary to Article 84 EPC 1973.

7. In summary, none of the appellant's admitted requests is allowable. Hence, the appeal is to 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