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**Datasheet for the decision
of 12 October 2016**

Case Number: T 1357/11 - 3.5.04

Application Number: 02758439.0

Publication Number: 1415475

IPC: H04N7/24, H04N5/00, H04N7/58

Language of the proceedings: EN

Title of invention:
MPEG-4 remote communication device

Applicant:
Thomson Licensing

Headword:

Relevant legal provisions:
EPC Art. 123(2)
EPC 1973 Art. 84
RPBA Art. 15(3)

Keyword:
Amendments - extension beyond the content of the application
as filed (yes)
Claims - clarity (no)

Decisions cited:

Catchword:



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Boards of Appeal
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Case Number: T 1357/11 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 12 October 2016

Appellant: Thomson Licensing
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92130 Issy-les-Moulineaux (FR)

Representative: Huchet, Anne
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 3 February 2011
refusing European patent application
No. 02758439.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman M. Paci
Members: R. Gerdes
B. Müller

Summary of Facts and Submissions

- I. The appeal is directed against the decision to refuse European patent application No. 02 758 439.0, published as international application WO 03/015414 A1.
- II. The decision under appeal was taken according to the state of the file, as requested by the applicant. The decision referred to two earlier communications dated 19 May 2010 and 27 December 2006 in which the examining division had raised objections of lack of clarity and lack of novelty and inventive step in view of each of prior-art documents
- D1: EP 1 089 566 A1 and
D2: EP 1 021 039 A2.
- III. The applicant appealed against this decision and with the statement of grounds of appeal submitted claims 1 to 10 of an amended main request.
- IV. The board sent a communication annexed to the summons to oral proceedings. In that communication, the board *inter alia* expressed doubts that independent claims 1 and 5 met the requirements of Article 84 EPC 1973 and Article 123(2) EPC. The board further expressed the provisional opinion that the subject-matter of claim 1 lacked novelty in view of D1.
- V. In response the appellant, with a letter of 12 September 2016, submitted amended claims 1 to 10 replacing the previous claims on file.
- VI. Oral proceedings were held before the board on 12 October 2016. As announced by a letter dated 11 October 2016, the appellant was not represented at

the oral proceedings. The chairman noted that the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 10 filed with a letter dated 12 September 2016.

VII. Claim 1 of the sole request reads as follows:

"Apparatus for providing digital services to a plurality of customers, the apparatus characterized in having:

means for providing a main audio/video stream (64) comprising audio/video data encoded in a first format representing a program event;

means for providing titles (68) in an additional data stream encoded in a second format different from the first format wherein each title is text or an icon that represents an availability of an additional object related to the program event of the main audio/video stream (64);

means for embedding (126) the additional data stream containing the titles into the main audio/video stream to produce a combined data stream, the titles being selectively usable by each customer for requesting one of the additional objects; and

means for transmitting (130) a selected additional object to a requesting customer having multiple individually addressable remote controllers such that the selected additional object is transmitted to a specific one of the multiple individually addressable remote controllers."

VIII. The appellant's arguments, as far as they are relevant for the present decision, may be summarised as follows:

The pending claims are supported by publication WO 03/015414 which includes a main audio/video stream and an additional data stream. The feature specifying that a "selected object is transmitted to a requesting customer that has multiple individually addressable remote controllers in a manner such that the selected additional object is transmitted to a specific one of the multiple individually addressable remote controllers" is supported by page 16, lines 21 to 27, and page 5, lines 5 to 7.

Reasons for the Decision

1. The appeal is admissible.

The invention

2. The present invention concerns an apparatus and a method for providing interactive digital television services to a plurality of customers. It aims at improving access to multimedia content and providing solutions to control modern multimedia equipment (see page 1, lines 13 to 31 and page 4, lines 3 to 10).

The invention distinguishes between a main event, for example a film that is broadcast to all customers by a service provider, and additional audio-visual information/objects, for example a short film relating to the content of the main program. Since the additional objects contain optional information, only some of the customers may be interested in receiving them. The service provider provides a "title" which is

a short text or an icon indicating the availability of an additional object and sends this title to all customers. The customer may select the title, thereby generating a request for the additional object. The request is transmitted via a return channel such as the Internet to the service provider. To save channel capacity, the additional objects are transmitted only to the customers interested.

The viewers may watch the main event on a colour television (CTV) which is directly attached to the customer's set-top box (STB), whereas the titles and the additional objects may be displayed on a remote control unit (RCU) providing bidirectional communication with the STB. Thus several viewers can watch the main event on the CTV and select and receive an additional object on the display of their RCUs. As a result, viewers at the same CTV who do not want to view the additional objects are not disturbed (see page 4, line 28 to page 6, line 10; page 9, line 9 to page 11, line 23).

Non-attendance of the appellant at the oral proceedings

3. The duly summoned appellant did not attend the oral proceedings. According to Rule 71(2) EPC 1973, the proceedings could however continue without it. In accordance with Article 15(3) of the Rules of Procedure of the Boards of Appeal (RPBA, OJ EPO 2007, 536) 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 the decision (Article 15(3) RPBA).

Added subject-matter, Article 123(2) EPC

4. 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.

4.1 The last feature of claim 1 specifies:

"... means for transmitting (130) a selected additional object to a requesting customer having multiple individually addressable remote controllers such that the selected additional object is transmitted to a specific one of the multiple individually addressable remote controllers."

4.2 As regards the destination of the selected additional object, this feature refers to a "requesting customer". The description uses the expression "customer" or "customer side" consistently to delimit an assembly containing an STB and several RCUs allocated to individual viewers or users from the service provider (see figures 1 and 3 as well as page 6, lines 21 and 22 and page 8, lines 18 and 19). Hence, the board concludes that the expression "customer" should be understood as relating to a "household" or to a room with a CTV, STB and several RCUs.

The last feature of claim 1 additionally specifies that an object is transmitted to "a specific one of the multiple individually addressable remote controllers". The reference to a "specific one" of the RCUs is construed in the sense that an RCU may be chosen according to some criterion which is not further specified. It follows that claim 1 should be understood

in the sense that the additional object is transmitted to an RCU in the household that generated the request.

4.3 In contrast, the application as filed discloses that the additional object selected is transmitted via a requesting customer's STB to the RCU at which the title of the additional object was selected (see page 5, lines 5 to 7; page 5, line 32 to page 6, line 29; page 10, lines 13 to 22 and page 12, lines 3 to 16).

4.4 Thus the disclosure of the original application is more restricted in the sense that the additional object is transmitted only to the requesting RCU and not to any other RCU in the same household. The specification in claim 1 is therefore to be considered as a generalisation of the original disclosure.

The board is not aware of any passage in the application as filed that provides a different teaching and which could serve as a direct and unambiguous disclosure supporting this generalisation. It is also noted that the application presents the purpose of the display of additional objects on RCUs as preventing viewers at the same CTV from being disturbed by additional objects that they did not request (see point 2 above and page 12, lines 12 to 19). This requires that additional objects be transmitted only to the requesting RCUs and not to an RCU chosen according to some unspecified criterion.

4.5 The appellant argued that the last feature of claim 1 was based on the disclosure on page 16, lines 21 to 27, and page 5, lines 5 to 7. The first cited passage only concerns components of the RCU, whereas the second passage relates to the transmission of titles and additional objects to the customers and does not refer

to the RCUs. Therefore, these passages do not support the generalised last feature of claim 1.

- 4.6 Hence, the claimed subject-matter extends beyond the content of the application as filed, contrary to Article 123(2) EPC.

Clarity, Article 84 EPC 1973

5. According to Article 84 EPC 1973, the claims shall be clear and concise and be supported by the description.

- 5.1 Claim 1 relates to an apparatus for providing digital services to a plurality of customers, which is embodied by the service provider 10 disclosed in the application (see figures 1 to 3 and 7).

The devices in the realm of the requesting customer, such as the remote controllers of the last feature of claim 1, are not part of the service provider. The feature can therefore be considered clear only if the restrictions to which it gives rise on the service provider can be unambiguously determined.

- 5.2 According to the description, the STB of the requesting customer maintains an "additional object table" including the object identification code of a title selected on an RCU and an identification code of the requesting RCU (see page 10, lines 1 to 2 and lines 13 to 22). The STB generates a request for the additional object and transmits this request to the service provider that returns the additional object requested. On receiving the additional object the STB retrieves the identification code of the RCU from the table and forwards the additional object to the requesting RCU

(see page 10, lines 26 to 32; page 11, lines 19 to 23 and page 12, lines 3 to 11).

Hence, the fact that the requesting customer has "multiple individually addressable remote controllers" is transparent for the service provider, which does not need to be informed - at least not necessarily - about the identification code of the requesting RCU. The service provider only needs the code of the requesting customer or his STB, which in turn handles the local distribution of the additional object to the requesting RCU based on the information in the additional object table. In other words, the fact that the customer has an STB and "multiple addressable remote controllers" is irrelevant for and also hidden from the service provider, at least if the communication is effected as described in the cited passages, using an additional object table in the STB.

- 5.3 Hence, it is unclear which limitations of the claim result from the last feature of claim 1. It follows that the last feature of claim 1 lacks clarity (Article 84 EPC 1973).

Conclusion

6. It follows from the above that the appellant's request is not allowable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

M. Paci

Decision electronically authenticated