

**Internal distribution code:**

- (A) [ - ] Publication in OJ
- (B) [ - ] To Chairmen and Members
- (C) [ - ] To Chairmen
- (D) [ X ] No distribution

**Datasheet for the decision  
of 7 December 2016**

**Case Number:** T 2154/11 - 3.5.04

**Application Number:** 03701704.3

**Publication Number:** 1481550

**IPC:** H04N7/173

**Language of the proceedings:** EN

**Title of invention:**

Method and system for retrieving information about television programs

**Applicant:**

Koninklijke Philips N.V.

**Headword:**

**Relevant legal provisions:**

EPC 1973 Art. 84, 54, 56  
EPC Art. 123(2)

**Keyword:**

Main and first auxiliary request - added subject-matter (yes)

Second auxiliary request - clarity (no)

Third auxiliary request - added subject-matter (no), clarity (yes)

Remittal to the department of first instance (yes)

**Decisions cited:**

**Catchword:**



**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 2154/11 - 3.5.04

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.04**  
**of 7 December 2016**

**Appellant:**  
(Applicant)

Koninklijke Philips N.V.  
High Tech Campus 5  
5656 AE Eindhoven (NL)

**Representative:**

Damen, Daniel Martijn  
Philips Intellectual Property & Standards  
High Tech Campus 5  
5656 AE Eindhoven (NL)

**Decision under appeal:**

**Decision of the Examining Division of the  
European Patent Office posted on 23 May 2011  
refusing European patent application  
No. 03701704.3 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** C. Kunzelmann  
**Members:** R. Gerdes  
B. Müller

## Summary of Facts and Submissions

- I. The appeal is directed against the decision to refuse European patent application No. 03 701 704.3, published as international application WO 03/071790 A2.
- II. The patent application was refused by the examining division on the grounds that the independent claims of the main and of the auxiliary request lacked clarity and support in the description. The examining division also held that the subject-matter of claim 1 of the main request was anticipated by

D5: WO 98/17064 A1.

In "Further remarks not forming part of the decision" the examining division referred to the following documents:

D1: WO 01/78401 A2

D2: EP 0 848 554 A2

D3: WO 97/48230 A1

D4: Takagi T. et al.: "Conceptual Matching and its Applications to Selection of TV Programs and BGMS", 1999 IEEE International Conference on Systems, Man and Cybernetics, SMC '99, Human Communication and Cybernetics, Tokyo, Japan, October 12-15, 1999, NY: IEEE, US, vol. 3/6, pages 269-273, XP002178872, ISBN: 0-7803-5732-9.

The examining division expressed the view that the general principle of the embodiments of the invention appeared to have been "well known or obvious based upon a skilled person's common general knowledge taken with any or all of the cited references: D1 to D5".

- III. The applicant appealed against this decision and with the statement of grounds of appeal submitted claims of a main and first to third auxiliary requests. The claims of the main and the first auxiliary request were identical to those of the main and auxiliary request underlying the decision under appeal.
- IV. The board indicated in a communication annexed to a summons to oral proceedings that the clarity of the claims would have to be discussed at the oral proceedings and, in addition, raised an objection under Article 123(2) EPC. It also expressed its intention to discuss novelty and inventive step of the claimed subject-matter at least to the extent that they were based on prior art which had been considered in the first-instance proceedings.
- V. In response with its letter dated 3 November 2016 the appellant submitted claims and amended description pages according to a main and first to eighth auxiliary requests.
- VI. Oral proceedings were held before the board on 7 December 2016. As announced beforehand, the appellant was not represented at them. The chairman noted that the appellant had requested that the decision under appeal be set aside and that a patent be granted with the claims and description pages according to the main or the first to eighth auxiliary requests filed with the letter dated 3 November 2016.
- VII. Claim 1 of the main request reads as follows:
- "A method for retrieving information about television programs, said method comprising the step of:

connecting to a website including information about a television program being watched (100); characterized in that it comprises the further steps of:  
according to a metadata describing an event in the television program being watched, identifying information on the website, which includes metadata matching to the metadata describing the event in the television program being watched;  
downloading the identified information from the website (200);  
processing the identified information (300)."

VIII. Claim 1 of the first auxiliary request reads as follows (amendments to claim 1 of the main request are underlined):

"A method for retrieving information about television programs, said method comprising the step of:

connecting to a website including information about a television program being watched (100); characterized in that it comprises the further steps of:  
according to a metadata describing an event in the television program being watched at the time of a user input, identifying information on the website, which includes metadata matching to the metadata describing the event in the television program being watched at the time of the user input;  
downloading the identified information from the website (200);  
processing the identified information (300)."

IX. Claim 1 of the second auxiliary request reads as follows (amendments to claim 1 of the first auxiliary request are underlined):

"A method for retrieving information about television programs, said method comprising the step of:

connecting to a website including information about a television program being an episode being watched (100); characterized in that it comprises the further steps of:

according to a metadata describing an event in the television program being watched at the time of a user input, identifying information of similar events of other episodes on the website, which includes metadata matching to the metadata describing the event in the television program being watched at the time of the user input;

downloading the identified information from the website (200);

processing the identified information (300)."

X. Claim 1 of the third auxiliary request differs from claim 1 of the second auxiliary request in that the following feature has been added at the end:

"; displaying the information about the television program along with the television program being watched (500)."

XI. The claims of the further auxiliary requests are not relevant for the purposes of this decision.

XII. In the decision under appeal the examining division held that the claims of both requests did not contain clear technical features. The expression "metadata describing an event" was vague and did not exclude the embedding of a uniform resource locator (URL) into e.g. the vertical blanking interval (VBI) of a video signal. An event could be the appearance of a market product in

the video and embraced all aspects of the intellectual content of the program as well as technical features of the received signal itself. It was not clear "by whom, what or where" the steps of "watching" and "connecting" took place. These and other steps could be regarded as human activities or mental acts which were technically unlinked to any other aspect of the claim. The lack of a clearly defined technical inter-relationship between the television system and the website network rendered the claim's intended scope obscure. The term "metadata" embraced all information (audio, video, textual, etc.) with any bearing on the program. The claims left open any technically relevant source or technique for acquiring the metadata.

Due to the breadth of the terms used in the claims their subject-matter was anticipated by well-known systems relating to the use of URLs in the VBI of video signals which allowed the user to download additional information related to the video being watched. It also included watching a video clip on the Internet. One example of such a well-known system was shown in D5.

XIII. The appellant's arguments addressing clarity of the claims may be summarised as follows.

Several of the examining division's objections appeared to address breadth rather than clarity. However, broadness of a claim feature per se was not a ground for lack of clarity. The examining division had not explained why features specifying "by whom, what or where" were essential for the invention. Some of the examining division's objections indicated that the claims might cover implementations that lacked technical character, which was not an objection under



Article 84 EPC (see statement of grounds, points 4.1 and 4.2).

Displaying the identified and downloaded information was not an essential feature of the invention. The aim of claim 1 was to provide information about a certain event, but this information did not need to be immediately and directly displayed. Instead, it could be stored, analysed and condensed so as to be stored or displayed subsequently (see letter of 3 November 2016, point 2.1.10).

The appellant further argued that claim 1 of the main request did not contain added subject-matter. In claim 1 the identification of the information on the website was based on a comparison of first metadata describing an event in the television program being watched and second metadata included on the connected website for finding second metadata matching the first metadata. Hence, in claim 1 the identified information related to a similar event. It was clear for the skilled person from page 6, lines 27 and 28 of the application that metadata capable of identifying specific events were used. It followed also from page 6, line 24 to page 7, line 5 of the application that the metadata describing the event in the television program being watched, i.e. the first metadata, and the metadata on the website corresponded to similar events, if they matched. This applied independently of whether the event occurred in a past episode, in the present episode being watched, or in a future episode. For a person skilled in the art reading this text passage it was therefore directly and unambiguously disclosed that information relating to similar events was identified not only in other

episodes but also in a present episode currently being watched (see letter of 3 November 2016, point 2.2).

Concerning novelty and inventive step of the claimed subject-matter in view of D5 the appellant essentially argued as follows. D5 disclosed encoding a URL in a website so that a user might link to the website by clicking an icon. It seemed that the examining division identified the URL of D5 with the "metadata" of claim 1 of the main request. However, claim 1 required a step of connecting to a website and a further step of identifying information on the website using matching metadata. This two-step identification distinguished claim 1 from D5.

The present invention solved the problem of providing a way to retrieve more specific information on the basis of TV programs. The solution to this problem involved first connecting to a website and then using metadata to search in that website. D5 did not suggest such a solution. Based on D5, the skilled person, faced with the problem of accessing more specific information, would simply add more URLs to the TV program (see statement of grounds, point 4.3).

### **Reasons for the Decision**

1. The appeal is admissible.
2. *The present application*

The present application relates to a method and system for retrieving information about television programs.

The invention aims at providing more significant information about the program such as its history or background. Information about a particular character's role in the program, a description of a particular program in a series, a history of a series or a summary of other episodes may be retrieved using one or more tags that provide links to dedicated websites (see page 1, lines 1 and 2; page 1, line 23 to page 2, line 2; page 4, lines 10 to 18; page 5, lines 1 to 29).

In particular and as elucidated in an embodiment of the invention, the application aims at providing information about events in other episodes of a program which are similar to a specific event in a currently watched episode. In the limited domain of soap operas or sitcoms, events may be a limited number of activities such as break-up, get engaged, marry, divorce, fire, hire, etc. The identification of such events is accomplished using metadata specifying the event e.g. as a data tuple "(Person 1, Person 2, event)" defining the interaction between two persons. As an example, the metadata identifying Joey's and Dawson's second break-up would be (Joey, Dawson, break-up #2), which can then be used to search for related events in other episodes (see page 1, line 23 to page 2, line 2 and page 6, line 17 to page 7, line 5).

3. *Main request and first auxiliary request: added subject-matter (Article 123(2) EPC)*

3.1 Compared to claim 1 as originally filed, claims 1 of the main request and of the first auxiliary request have been amended to include the feature of "... identifying information on the website, which includes metadata matching to the metadata describing the event in the television program being watched ...".

3.2 This feature was extracted from the embodiment presented on page 6, line 24 to page 7, line 5 of the application as originally filed. As set out under point 2 above, this passage relates to downloading information "of similar events in other episodes".

The board considers the reference to "other episodes", typically of a soap opera or a sitcom, essential for this embodiment. As set out on page 6, lines 20 to 23, only in this context or domain is the number of activities (e.g. break-up, get engaged, marry, divorce, fire, hire, etc.) limited such that "dedicated IE [information extraction] tasks can be defined that would match the domain."

The board also observes that in the application as originally filed, retrieval of information about similar events is always referred to in the context of episodes of a series. This is illustrated by the fact that two aims of the invention are described. The first aim of providing "more significant information about the program such as the history or the background of the program" applies generally to programs but does not refer to events. In contrast, the second aim of giving "information about similar events in other episodes of a program" refers to events in the context of episodes (see page 1, line 27 to page 2, line 2 or the passage on page 5, lines 1 to 9).

3.3 The appellant argued that the skilled person would understand the passage on page 6, line 24 to page 7, line 5 of the application to mean that information relating to similar events was identified not only in other episodes but also in a present episode currently being watched. This argument is not considered to

contradict the finding that the identification of similar events is restricted to episodes of a program being watched. Whether the present episode currently being watched is included in the search is a question that need not be answered in view of the lack of any limitation, in the independent claims, to a search in episodes of a program being watched.

3.4 The board concludes that the feature of "identifying information on the website, which includes metadata matching to the metadata describing the event in the television program being watched" in the application as filed is inextricably linked to the search for similar events in other episodes. However, claim 1 of the main request and claim 1 of the first auxiliary request lack a limitation to retrieving information of similar events in other episodes. As a result, the specification in claim 1 of the main request and claim 1 of the first auxiliary request is considered an intermediate generalisation by isolation of a feature from the specific disclosure in the embodiment of page 6, line 24 to page 7, line 5. This intermediate generalisation takes the above feature out of the context in which it was originally disclosed, and thus extends beyond the content of the application as filed, contrary to Article 123(2) EPC.

4. *Second auxiliary request: clarity (Article 84 EPC 1973)*

4.1 Claim 1 specifies a method for retrieving information about television programs. As explained on page 1, line 27 to page 2, line 2 of the application, the invention sets out to solve the problem of providing a viewer with more significant information about a program or similar events in other episodes of a program (see point 2 above). Similarly, the appellant

formulated the technical problem as how to provide a way to retrieve more specific information on the basis of TV programs (see statement of grounds, point 4.3). In order to solve this problem, information relating to the program being watched has to be downloaded and displayed to the viewer.

4.2 The appellant argued that displaying the identified and downloaded information was not necessary. The aim of claim 1 was to provide information about a certain event, but this information did not need to be immediately and directly displayed. Instead, it could be stored, analysed and condensed so as to be stored or displayed subsequently (see letter of 3 November 2016, point 2.1.10). The board agrees with the appellant that the downloaded information may be processed as specified in claim 1 or stored as described in the application (see page 5, lines 3 to 7 and page 8, lines 18 to 20 of the description pages filed together with the second auxiliary request). Nevertheless, as described in the application, ultimately the information is retrieved in order to be displayed to the viewer, possibly after some processing. This assessment is confirmed by the above passages stating that the information is stored "so that [the] user may play it back later".

4.3 Hence, claim 1 of the second auxiliary request lacks an essential feature, contrary to Article 84 EPC 1973 in conjunction with Rule 29(3) EPC 1973.

## 5. *Third auxiliary request*

5.1 The board holds that the independent claims of the appellant's third auxiliary request do not contain subject-matter which extends beyond the content of the

application as filed, and that they thus comply with Article 123(2) EPC.

- 5.1.1 Compared with the claims of the main request underlying the decision under appeal, the present set of claims has been restricted to "a television program being an episode". (The preceding and following amendments to claim 1 of the main request are underlined.) The second method step has been amended to read "according to a metadata describing an event in the television program being watched at the time of a user input, identifying information of similar events of other episodes on the website, which includes metadata matching to the metadata describing the event in the television program being watched at the time of the user input". Furthermore, claim 1 of the third auxiliary request contains the additional step of "displaying the information about the television program along with the television program being watched (500)."
- 5.1.2 A basis for these amendments can be found in the application as filed on page 6, lines 24 to 27; page 7, lines 1 to 3; page 7, lines 30 to 35 and claim 10 as originally filed. Similar amendments have been made to independent claim 8 of the third auxiliary request. These amendments also overcome the objection concerning the main request and the first auxiliary request (see point 3 above). Hence, the independent claims comply with Article 123(2) EPC.
- 5.2 The board also holds that these claims meet the requirements of Article 84 EPC 1973.
- 5.2.1 Claim 1 has been amended to include the additional step of "displaying the information about the television program along with the television program being

watched (500)." This amendment overcomes the objection under Article 84 EPC 1973 against claim 1 of the second auxiliary request (see point 4 above). Similar arguments apply for independent claim 8.

5.2.2 The decision under appeal (see point 17) relies on the finding that the claims of the main request do not comply with Article 84 EPC due to the "extreme breadth" of the claim wording.

5.2.3 It is established jurisprudence of the boards of appeal that the clarity of a claim is not diminished by the mere breadth of a term of art contained in it if the meaning of such term - either per se or in the light of the description - is unambiguous for a person skilled in the art (see Case Law of the Boards of Appeal of the European Patent Office, 8th edition, 2016, section II.A.3.3). Hence, the objections of the examining division that the expressions "metadata describing an event", "taking", "connecting" were broad and embraced well-known activities are not considered per se a valid reason for a lack of clarity. Similarly, the fact that some of these method steps may be understood to refer to "mental acts" or "normal human actions" is no valid reason for a finding of lack of clarity as long as these steps do not give rise to ambiguity, as in the case at hand. If a method step can be interpreted to refer to a normal human activity, then this assessment should be taken into account for novelty and inventive step.

Moreover, the fact that claim 1 of the third auxiliary request leaves it open by whom and where the steps of "connecting" and "watching" are carried out does not cause it to lack clarity. According to claim 1 the connecting, identifying and downloading steps all refer



to the same website, which includes information that is identified, downloaded, processed and displayed. It follows that the method of retrieving information is essentially specified in terms of its information processing steps which work together to achieve the goal of providing information to a viewer. Hence, the board considers the claim features to be linked by the information that is retrieved in a sequence of steps. Where and by whom these steps are performed is not essential for achieving this goal and the examination division has not provided arguments to the contrary.

The reference to "the television program being watched" is also considered clear without an explicit specification of where and by whom the television program is being watched. Firstly, claim 1 now specifies that the information about the television program is displayed along with the television program being watched. Hence, it can be inferred that the information about the television program is displayed to the viewer watching it. Secondly, the board sees no need to restrict the claim to embodiments in which the information is displayed to a particular user or to a user at a specific place.

Hence, in their context the specification of these steps fulfils the requirement to define the subject-matter for which protection is sought.

The examining division also argued that these steps could be regarded as human activities or mental acts which were technically unlinked to any other aspect of the claim. As set out above, the board considers the claim features to be linked by the information that is retrieved in a sequence of steps. These steps also imply the use of technical means for accessing the

website and are therefore not mere mental acts or normal human actions.

The board essentially accepts the appellant's argument that the term "metadata" has a well-known meaning which is "data that describes other data." Metadata summarises basic information about data, which can make finding and working with specific data easier. For instance, the data tuple "(Person 1, Person 2, event)" is an example of metadata.

It follows that the "metadata describing an event in the television program being watched" in claim 1 summarises data about the event described, allowing information about this event to be found more easily. Hence, for the person skilled in the art claim 1 defines metadata as data which are descriptive for and summarise basic information about the event in the television program being watched, so that information about this event may be found more easily. An event in the television program being watched could be a break-up between persons in a series or the appearance of a market product in the television program being watched (see letter of 3 November 2016, points 2.1.1 and 2.1.4).

5.3 The subject-matter of independent claims 1 and 8 of the third auxiliary request is new and involves an inventive step in view of D5.

5.3.1 D5 relates to an interactive television system aiming at enhancing television viewing and Internet browsing "by providing a more intimate interface between the viewer's television and the Internet access apparatus". In order to achieve this goal an Internet address and descriptive information may be embedded in the VBI. A

graphical icon is displayed to inform the user of the availability of Internet information providing more information about a displayed program. If the icon is selected, supplementary information concerning the television program may be retrieved from the Internet and may simultaneously be viewed in a picture-in-picture window. The supplementary information could be an Internet page with trivia about the show, merchandising and home shopping information or a link to a fan e-mail site. Internet information is retrieved by selecting an Internet site name or a link using a remote control (see D5, page 1, lines 13 to 15 and 32 to 36; page 4, line 36 to page 5, line 37; page 6, lines 10 to 25 and page 6, line 37 to page 7, line 11; page 8, lines 30 to 33; page 10, lines 7 to 20).

5.3.2 The examining division argued that a URL embedded in the VBI of a video signal corresponded to metadata describing an event. Even though the board agrees that a URL may be considered as metadata, this argument does not take into account the specific function of the metadata in the claim, according to which the metadata describe "an event in the television program being watched". Claim 1 also requires that the metadata are used to identify "information of similar events ... on the website, which includes metadata matching to the metadata describing the event in the television program being watched at the time of user input ...". D5 discloses URLs providing links to information about a television program, a commercial or a link to a fan email site (see D5, page 6, lines 13 to 18 and page 10, lines 7 to 14). The web pages may also provide further links "to other Internet addresses, which provide alternative or complementary data to that found in the originally displayed web page", see page 6, lines 37 and 38. The data on the websites are allocated to the

program as a whole and not to an event in the program. This is illustrated by the fact that the icon signalling the availability of Internet information is displayed at the start of the program or in the course of its entire duration (see D5, page 5, lines 8 to 10). A matching operation of URLs relating to events in the television program is also not disclosed in D5. Instead, the website being addressed by the URL is downloaded and displayed. Due to the amendments to claim 1 of the third auxiliary request, claim 1 is further distinguished from D5 in that it relates to episodes.

- 5.3.3 It follows that D5 fails to disclose the second method step of claim 1 "according to a metadata ...". Hence, the subject-matter of claim 1 is new over D5.
- 5.3.4 The technical effect of the distinguishing feature is that information about similar events in other episodes of the television program is retrieved from a website.
- 5.3.5 The corresponding technical problem is considered to be how to retrieve information about similar events in other episodes of a television program.
- 5.3.6 D5 neither discloses nor suggests using metadata describing an event in a television program. Nor does it hint at using metadata to identify similar events on a website which includes metadata matching to the metadata describing the event. The board also cannot see a convincing argument in the decision under appeal that these steps would be obvious for the skilled person.

- 5.3.7 As a result, the board concludes that the subject-matter of claim 1 is new and involves an inventive step over D5 (Articles 54(1) and (2) and 56 EPC 1973).
- 5.3.8 Analogous considerations apply to further independent claim 8, which specifies the corresponding video processing system.
- 5.4 At the end of the contested decision, the examining division added a chapter headed "Further remarks not forming part of the decision". This chapter contains short summaries of documents D1 to D5 and the statement that the general principle of the application "appears to have been well known or obvious based upon a skilled person's common general knowledge taken with any or all of the cited references: D1-D5". Without an appropriate indication of passages in the prior art that correspond to features of the independent claims, this statement fails to convince the board.
6. *Remittal (Article 111(1) EPC 1973)*
- 6.1 The decision under appeal was based on lack of clarity and novelty/inventive step, in view of D5, of the claims then on file. These grounds for refusal do not apply to the present claims and the decision under appeal must consequently be set aside. However, at this stage a patent cannot be granted without the application first being examined for compliance with the requirements of the Convention such as novelty and inventive step over the documents cited in the search report. The department of first instance has not yet carried out such an examination for the present set of claims.

7. Under these circumstances the board exercises its discretion under Article 111(1) EPC 1973 in remitting the case to the department of first instance for further prosecution.

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance for further prosecution.

The Registrar:

The Chairman:



K. Boelicke

C. Kunzelmann

Decision electronically authenticated