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**Datasheet for the decision
of 20 May 2016**

Case Number: T 1253/12 - 3.5.03

Application Number: 04704474.8

Publication Number: 1590896

IPC: H04B7/185

Language of the proceedings: EN

Title of invention:

SYSTEM AND METHOD FOR CONTROLLING BROADCAST MULTIMEDIA USING
PLURAL WIRELESS NETWORK CONNECTIONS

Applicant:

QUALCOMM INCORPORATED

Headword:

System for controlling broadcast multimedia/QUALCOMM

Relevant legal provisions:

EPC Art. 84

Keyword:

Clarity (all requests) - no

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 1253/12 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 20 May 2016

Appellant: QUALCOMM INCORPORATED
(Applicant) 5775 Morehouse Drive
San Diego, CA 92121 (US)

Representative: Heselberger, Johannes
Bardehle Pagenberg Partnerschaft mbB
Patentanwälte, Rechtsanwälte
Prinzregentenplatz 7
81675 München (DE)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 3 January 2012
refusing European patent application No.
04704474.8 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman F. van der Voort
Members: T. Snell
O. Loizou

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division refusing European patent application No. 04704474.8, with publication number WO 2004/066100.
- II. The refusal was, *inter alia*, based on the ground that the independent claims of a main request and an auxiliary request were not clear (Article 84 EPC).
- III. The appellant filed a notice of appeal against the above decision. New sets of claims of respectively a main request and an auxiliary request were filed together with the statement of grounds of appeal.

Oral proceedings were conditionally requested.
- IV. In a communication accompanying a summons to oral proceedings, the board gave a preliminary opinion in which, *inter alia*, objections under Article 84 EPC were raised against claim 1 of each request.
- V. With a letter of response to the board's communication dated 15 April 2016, the appellant submitted claims of a second auxiliary request. The appellant argued, *inter alia*, that claim 1 of each request was clear within the meaning of Article 84 EPC.
- VI. Oral proceedings were held on 20 May 2016.

The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims of a main request or, in the alternative, claims of an auxiliary request, both requests as filed with the statement of grounds of appeal, or on the

basis of claims of a second auxiliary request as filed with the letter dated 15 April 2016.

At the end of the oral proceedings, after due deliberation, the chairman announced the board's decision.

VII. Claim 1 of the **main request** reads as follows:

"A communication system (10), comprising:
at least a broadcast center (12) wirelessly broadcasting at least one multimedia stream; and
at least one wireless receiver (30) receiving the stream over a wireless broadcast link (14), the receiver (30) being provided with control data associated with the multimedia stream over a bidirectional wireless link (36);
wherein the control data includes at least one application useful in decoding the multimedia stream and data useful for de-interleaving, decompressing, and decoding the multimedia stream."

VIII. Claim 1 of the **[first] auxiliary request** reads as follows:

"A communication system (10), comprising:
at least a broadcast center (12) wirelessly broadcasting at least one multimedia stream; and
at least one wireless receiver (30) receiving the stream over a wireless broadcast link (14), the receiver (30) being provided with control data associated with the multimedia stream over a bidirectional wireless link (36);
wherein the control data includes at least one application useful in decoding the multimedia stream, data useful for de-interleaving, decompressing, and

decoding the multimedia stream, and data related to levels of service related to providing the multimedia stream."

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

"A communication system (10), comprising:
at least a broadcast center (12) wirelessly broadcasting at least one multimedia stream; and
at least one wireless receiver (30) receiving the stream over a wireless broadcast link (14), the receiver (30) being provided with control data associated with the multimedia stream over a bidirectional wireless link (36);
wherein the bidirectional wireless link (36) is not associated with the broadcast link, and
wherein the control data includes at least one application useful in decoding the multimedia stream."

Reasons for the Decision

1. *All requests - claim 1 - clarity (Article 84 EPC)*
- 1.1 Claim 1 of each request includes the feature "wherein the control data includes at least one application **useful in** decoding the multimedia stream" (board's emphasis).
- 1.2 The term "useful in" renders the matter for which protection is sought unclear. The term "useful in", in the board's view, is an ambiguous term which leads to the claim's embracing any application which is, in some

vague way, helpful in decoding the multimedia stream. An example of an application which would be useful in decoding the multimedia signal, although not directly involved in decoding the signal, could be software aimed at selecting the strongest signal for receiving the broadcast multimedia signal, analogous to an RDS system. The boundaries of what is embraced by the term "useful in" are however not easily drawn.

1.3 The appellant argued that, in the present context, the term "useful in" had the same meaning as "used in". These terms were interchangeable, and both reflected the meaning of the German expression "verwendbar [in]" [N.B. The term "verwendbar", in the board's view, is best translated as "usable"]. The same applied to the term "useful for" used elsewhere in claim 1 of the main request and the first auxiliary request. Consequently, claim 1 of each request was clear. The appellant also argued that even if the term "useful for" were considered to have a broader meaning, this clearly did not apply to the term "useful in". Consequently, at least claim 1 of the second auxiliary request was clear. As to the board's RDS-type example mentioned above, the appellant considered that this clearly fell outside the scope of "useful in".

1.4 The board however notes that expressions in a claim are to be given their normal meaning in the English language, except arguably in the rare case that the description gives a special meaning to a term, which is not the case here. In the English language, "useful in" has a different, and broader, meaning than "used in". The appellant produced no evidence that, in the present context, the term "useful in" would instead be understood by the skilled person in a narrower sense, clearly excluding such indirectly useful embodiments

such as the RDS-type example mentioned above. Further, the meaning of a German word or expression is irrelevant to defining the scope of an expression in English. Finally, the board considers that it essentially makes no difference what preposition follows the unclear term "useful". In this respect, the appellant has also produced no evidence which could lead to a different assessment. The board therefore finds the appellant's arguments unconvincing.

1.5 For the above reasons, claim 1 of each request lacks clarity, in contravention of Article 84 EPC. None of the requests are therefore allowable.

2. *Conclusion*

As there is no allowable request, it follows that the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



G. Rauh

F. van der Voort

Decision electronically authenticated