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Datasheet for the decision of 17 July 2013

Case Number: T 2237/12 - 3.5.04

Application Number: 04801531.7

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Language of the proceedings: EN

Title of invention:
Display apparatus

Applicant:
TP Vision Holding B.V.

Headword:

Relevant legal provisions:
EPC Art. 54(3)

Keyword:
Novelty - prior European application

Decisions cited:

Catchword:

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Case Number: T 2237/12 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 17 July 2013

Appellant: (Applicant)	TP Vision Holding B.V. High Tech Campus 5 5656 AE Eindhoven (NL)
Representative:	Nederlandsch Octrooibureau P.O. Box 29720 2502 LS The Hague (NL)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 2 March 2012 refusing European patent application No. 04801531.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: F. Edlinger
Members: R. Gerdes
B. Müller

Summary of Facts and Submissions

I. The appeal is directed against the decision to refuse European patent application No. 04 801 531.7, published as international application WO 2005/076602 A1.

II. The patent application was refused by the examining division on the ground that the subject-matter of claim 1 of the sole request was not new (Article 54(3) EPC) with respect to the European application:

D5: EP 1 379 082 A1.

III. The applicant appealed against this decision and requested that a patent be granted on the basis of the claims underlying the decision under appeal. With the statement setting out the grounds of appeal the appellant also supplied claims of first to third auxiliary requests.

IV. With a letter dated 11 June 2013 in reply to a communication annexed to a summons to oral proceedings the appellant submitted new claims 1 to 3 replacing the claims of the main request.

V. In reply to a telephone conversation with the rapporteur of the board, the appellant, by a letter dated 12 June 2013, filed amended description pages 1 to 6 replacing all description pages on file. The appellant also withdrew all auxiliary requests.

VI. The appellant's final requests are therefore that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 3 of the main request (now the sole request) submitted by a letter dated 11 June 2013.

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

"A display apparatus (1) with a display unit (11), comprising means for background lighting at a side or the back of the display apparatus (1), said means for background lighting comprise two illumination units (4) being provided at the right-hand and left-hand of the display apparatus (1), said illumination units (4) being formed as substantially vertically positioned, longitudinal light guides (6) comprising means for coupling out light, each of the light guides (6) being provided on both ends with a light source (9), wherein the display apparatus (1) further comprises means for controlling the colour of the background lighting, and a control circuit for controlling the colour of each of the light sources (9) in dependence of a colour of a part of the display screen (11) which is close to the light source (9), wherein the display screen (11) comprises four segments (12, 13, 14, 15) and the control circuit is configured to control the colour of each of the light sources (9) in dependence of a colour of the segment (12, 13, 14, 15), or of a part thereof, closest to the light source (9)."

VIII. The reasoning of the examining division in the decision under appeal - as far as it is relevant for the amended claims - can be summarised as follows:

D5 constituted a document that was comprised in the state of the art pursuant to Article 54(3) EPC. This earlier application disclosed all features of claim 1, in particular, "a control circuit for controlling the color of each of the light sources in dependence of a color of a part of the display unit which is close to the light source" (D5, paragraph [0009]: "the color of

the left-hand illumination unit depends on an average color at a left-hand part of a picture displayed on the display screen, while the color of the right-hand illumination unit depends on an average color of a right-hand part of the displayed picture"). D5 also disclosed that the light sources were individually controlled (paragraph [0008], lines 41 to 48) for outputting different colours at each end of the light guides so as to achieve a colour mixing in the light guides ("produce any color that matches the average color of the video signal").

Hence, the subject-matter of claim 1 then on file was not new.

Reasons for the Decision

1. The appeal is admissible.

2. Amendments (Article 123(2) EPC)

2.1 Independent claim 1 is based on claims 1, 4 and 5 as originally filed. The last feature of claim 1 reading "wherein the display screen (11) comprises four segments (12, 13, 14, 15) and the control circuit is configured to control the colour of each of the light sources (9) in dependence of a colour of the segment (12, 13, 14, 15), or of a part thereof, closest to the light source (9)" is derivable from the description, page 5, lines 25 to 34 in conjunction with figure 5.

2.2 Dependent claims 2 and 3 are based on claims 2 and 3 as originally filed.

2.3 Thus the amendments of the claims comply with Article 123(2) EPC.

3. Novelty (Article 54(1) EPC 1973 and 54(3) EPC)

3.1 D5 is a European patent application which was filed on 4 July 2002 and published on 7 January 2004. No priority was claimed for D5. The present application claims the priority of European application No. 04 100 024.1 filed on 7 January 2004. The priority claim of the present application is valid as far as the claimed subject-matter is concerned. According to Article 89 EPC 1973 the date of priority therefore counts as the date of filing of the present application for the purposes of Article 54(2) EPC 1973 and 54(3) EPC. Hence, the date of filing of D5 is prior to the effective date of filing of the present application, but D5 was published on the effective date of filing of the present application. D5 is therefore considered to be comprised only in the state of the art according to Article 54(3) EPC.

3.2 D5 discloses a display apparatus with a display unit such as a television set. Two illumination units are mounted at the right-hand and left-hand sides of the display apparatus so as to provide a background lighting at the sides of the apparatus (see paragraphs [0001],[0005] and figure 1). The illumination units contain vertically positioned, longitudinal light guides with "red, green and blue LED illumination cells R, G, B" forming light sources "at the top and bottom ends" of the light guides. A control circuit is employed to control the colour of each of the light sources in dependence on a colour of the

display screen which is close to the light source (see paragraphs [0007] and [0008]).

D5 discloses in a "further advantageous embodiment" that "the color of the light produced by the illumination unit depends on an average color of the video signal displayed on the display unit." According to another "advantageous embodiment" of D5 "the color of the left-hand illumination unit depends on an average color at a left-hand part of a picture displayed on the display screen, while the color of the right-hand illumination unit depends on an average color of a right-hand part of the displayed picture" (see paragraphs [0008] and [0009]).

3.3 Hence, D5 discloses a configuration of the control circuit such that the colour of each of the light sources may be controlled in dependence of a colour of the half of the display screen closest to it. However, D5 does not directly and unambiguously disclose the control of the colour of each of the light sources in dependence on that one (or of a part thereof) of four segments which is closest to the light source.

3.4 The examining division referred to paragraphs [0008] and [0009] as a basis for its finding that the light sources were individually controlled for outputting different colours at each end of the light guides (see decision under appeal, point II.1). However, neither the first nor the second advantageous embodiment referred to above (see point 3.2) excludes the top and bottom light sources of each illumination unit being commonly controlled using the same control signal. Hence, D5 does not show an independent or individual control of the upper and lower light sources of the illumination units. Present claim 1 is even more

specific in defining that each light source is controlled in dependence on a colour of one of four segments, or a part thereof, closest to the light source. Thus the wording of present claim 1 leaves no doubt that each light source is separately or individually controllable.

3.5 It follows from the above that the subject-matter of claim 1 according to the appellant's sole request is novel over D5. No other novelty objection was raised in the decision under appeal, and a previous objection under Article 56 EPC 1973 was dropped in the decision under appeal (see point II.2).

3.6 The same conclusion applies to dependent claims 2 and 3 by virtue of the direct or indirect reference in the claims to the device defined in claim 1.

4. The board is also satisfied that the application documents as presently amended and the invention to which they relate meet the remaining requirements of the EPC within the meaning of Article 97(1) EPC.

5. The board concludes that the decision under appeal is to be set aside and that a patent is to be granted (Article 97(1) EPC and Article 111(1) EPC 1973).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the first instance with the order to grant a patent in the following version:

Description:
pages 1 to 6 filed with a letter dated 12 June 2013,
Claims:
1 to 3 filed with a letter dated 11 June 2013,
Drawings:
sheets 1/3 to 3/3 as published.

The Registrar: The Chairman:

K. Boelicke F. Edlinger

Decision electronically authenticated