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**Datasheet for the decision  
of 11 October 2013**

**Case Number:** T 2272/12 - 3.5.04

**Application Number:** 05781973.2

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**IPC:** H04N5/74, G03B21/00, H04M1/00,  
H04N9/31

**Language of the proceedings:** EN

**Title of invention:**  
ELECTRONIC DEVICE

**Applicant:**  
NIKON CORPORATION

**Headword:**

**Relevant legal provisions:**  
EPC Art. 123(2)

**Keyword:**  
Amendments - added subject-matter (no - after amendment)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern  
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Case Number: T 2272/12 - 3.5.04

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.04**  
**of 11 October 2013**

**Appellant:** NIKON CORPORATION  
(Applicant) 12-1, Yurakucho 1-chome  
Chiyoda-ku  
Tokyo 100-8331 (JP)

**Representative:** Walaski, Jan Filip  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 24 May 2012  
refusing European patent application No.  
05781973.2 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman:** F. Edlinger  
**Members:** R. Gerdes  
C. Vallet

## **Summary of Facts and Submissions**

- I. The appeal is directed against the decision to refuse European patent application No. 05 781 973.2 and published as EP 1 793 599 A1.
- II. The patent application was refused by the examining division on the grounds that the subject-matter of claim 1 of the main request was not new (Article 54(1) and (2) EPC) and that the subject-matter of claim 1 of both the first and the second auxiliary requests extended beyond the content of the application as filed (Article 123(2) EPC).
- III. The applicant appealed against this decision and with the statement of grounds of appeal submitted a set of claims replacing the claims on file.
- IV. The appellant requested that the decision to refuse the application be reversed on the basis of the amended claims filed with the statement of grounds of appeal and that the application be granted. Oral proceedings were requested in the event that the board of appeal considered dismissing the appeal (see statement of grounds of appeal, page 3).
- V. Claim 1 of the replacement claim set reads as follows (underlined passages indicating additions to claim 1 of the first auxiliary request underlying the decision under appeal):

"An electronic device, comprising:  
an image-capturing device (200) that captures an image of a subject in an image-capturing region (51) and outputs an image signal;

a projector device (6) that projects a projection image (P) in a projection region on a screen that is remote from a body, the projection image corresponding to projection image data formed by an optical image formation element (61), and the projector device and the image-capturing device being housed integrally within a body (2);

a range change unit that changes one of a size of the image-capturing region during the projector device projecting the projection image and a size of a projection region during the projector device projecting the projection image so that the image-capturing region of the image-capturing device and the projection region of the projector device do not coincide with one another;

a calculation unit that calculates an amount of movement of the image signal with time by using the image signal output from an image signal extraction region corresponding to the image of the subject excluding the projection region of the projector device; and

a correction unit (208) that corrects a position of the projection image according to the calculated amount of movement in order to correct a vibration of the projection image,

wherein if the image signal is such that the amount of movement cannot be calculated by the calculation unit, and the image-capturing region includes the screen, the projector device narrows down the projection region, the image-capturing device widens the image-capturing region, and the calculation unit widens the image signal extraction region so as to calculate the amount of movement by using the widened image signal extraction region."

VI. The arguments of the examining division in the decision under appeal with respect to extended subject-matter (Article 123(2) EPC) of claim 1 according to the then first auxiliary request may be summarised as follows:

Claim 1 comprised the features "if the image signal is such that the amount of movement cannot be calculated by the calculation unit, the calculation unit widens the image signal extraction region so as to calculate the amount of movement by using the widened image signal extraction region." According to the applicant, these features were based on claims 5 and 6 of the claims as published. However, the further features of these claims that "the projector device narrows down the projection range" and that "the image-capturing device widens the image-capturing range" were omitted in claim 1. By isolating some of the features of claims 5 and 6 from the further features of these claims, new subject-matter was introduced.

### **Reasons for the Decision**

1. The appeal is admissible.

#### *Amendments (Article 123(2) EPC)*

2. The present set of claims corresponds to that of the first auxiliary request underlying the decision under appeal with present claim 1 being amended in its last part to include the following additional features indicated as underlined text:

"... wherein if the image signal is such that the amount of movement cannot be calculated by the calculation unit, and the image-capturing region

includes the screen, the projector device narrows down the projection region, the image-capturing device widens the image-capturing region, and the calculation unit widens the image signal extraction region so as to calculate the amount of movement by using the widened image signal extraction region."

In addition, claims 4 and 5 of the former first auxiliary request have been deleted. The numbering of the following claims was updated to account for the deletion of these claims.

- 2.1 A basis for the amendments to claim 1 can be found in claims 3, 5 and 6 of the application as filed and in the passages which correspond to paragraphs [0043], [0049], [0050] and [0060] of the application as published. In particular, the condition that the image-capturing region includes the screen was disclosed in paragraphs [0043] and [0049] together with figure 8(a). The feature that the projector device narrows down the projection region was disclosed in claim 5 as published, as well as in paragraphs [0049], [0050] and [0060]. Widening of the image-capturing region was disclosed in claim 6 as published as well as at the end of paragraph [0050].

Furthermore, claim 3 as published referred to "a range change unit that changes at least one of a size of an image-capturing range ... and a size of a projection range ..." (emphasis added by the board). As a consequence, the combined adjustment of the image-capturing region and the projection region was disclosed in the application as published.

- 2.2 Hence, the board finds that claim 1 of the appellant's sole request does not contain subject-matter which

extends beyond the content of the application as filed and that it thus complies with Article 123(2) EPC.

- 2.3 The additional features overcome the objection of the examining division against claim 1 of the first auxiliary request underlying the decision under appeal (see point VI above), since the amended claim 1 includes the features that were found to be inextricably linked to the remaining features of claim 1 (see decision under appeal, point 2.2).

*Remittal (Article 111(1) EPC 1973)*

3. As far as the claims of the first auxiliary request were concerned the decision under appeal was based solely on the extended subject-matter of claim 1 then on file. This reason does not apply to the present claims and the decision under appeal must consequently be set aside. However, a patent cannot be granted at the present stage of the proceedings since examination as to the other requirements of patentability has not yet been carried out for the present set of claims. This is the task of the examining division.
4. Under these circumstances the board does not allow the appellant's request for a grant of the patent at this stage, but 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

F. Edlinger

Decision electronically authenticated