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Datasheet for the decision of 10 July 2017

Case Number: T 2475/12 - 3.5.02

Application Number: 07867658.2

Publication Number: 2102835

IPC: G08B13/196

Language of the proceedings: EN

Title of invention:
Video surveillance system having communication acknowledgement nod

Applicant:
Sensormatic Electronics, LLC

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - (yes, after amendment)

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Case Number: T 2475/12 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 10 July 2017

Appellant: (Applicant)	Sensormatic Electronics, LLC 6600 Congress Avenue Boca Raton, FL 33487 (US)
Representative:	Kohl, Fabian Hanno Hafner & Kohl Schleiermacherstraße 25 90491 Nürnberg (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 4 July 2012 refusing European patent application No. 07867658.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	R. Lord
Members:	H. Bronold
	W. Ungler

Summary of Facts and Submissions

I. The appeal lies from the decision of the examining division refusing European patent application No. 07 867 658.2 based on objections under Articles 123(2) and 54(2) EPC.

II. The appellant requests that the decision under appeal be set aside and that a patent be granted on the basis of their sole request filed during the oral proceedings before the board.

III. The following documents were cited in the proceedings before the examining division:

D1: WO 01/41428 A1
D2: EP 1 381 003 A1

IV. In a communication under Article 15(1) RPBA accompanying summons to oral proceedings the board had indicated its preliminary opinion that a combination of the subject-matter of dependent claims 2 and 4 of the appellant's former main request filed together with the statement setting out the grounds of appeal was not rendered obvious by the available prior art.

V. During the oral proceedings, the appellant filed a new request directed to a combination of the subject-matter of dependent claims 2 and 4 of their former main request as their sole request.

VI. Claim 1 of the sole request reads:

"A video surveillance system (10), comprising:
- a video camera (40) being a surveillance dome camera installed in a network;
- a tilt motor (42b) operable to move the video camera (40) in a tilt direction;
- a pan motor (24b) operable to move the video camera (40) in a pan direction; and
- a controller (48) in electrical communication with the tilt and pan motors (24b, 42b), the controller (48) assesses an operational condition of the video surveillance system (10),
characterized in that
the controller (48) actuates at least one of the tilt motor (42b) and pan motor (24b) to visibly move the video camera (40) along a predetermined motion pattern based at least in part upon the assessment, the actuating occurring during at least one of an installation phase and a diagnostic phase to perform assessment of network connectivity and/or communications ability of a portion of the video surveillance system (10); wherein
the controller (48) actuates at least one of the tilt motor (42b) and pan motor (24b) to move the video camera (40) along the predetermined motion pattern if the assessment is successful, and
the controller (48) actuates at least one of the tilt motor (42b) and pan motor (24b) to move the video camera (40) along a different predetermined motion pattern if the assessment is unsuccessful."

Claim 2 is dependent on claim 1. Independent method claim 3 defines a corresponding method of operating a video camera surveillance system.

Reasons for the Decision

1. The appeal is admissible.

2. Amendments (Article 123(2) EPC)

The objections of the examining division under Article 123(2) EPC in the contested decision related to former dependent claim 3. The subject-matter of this claim no longer forms part of the claimed subject-matter. Therefore, the objections of the examining division under Article 123(2) EPC are moot.

3. Patentability (Articles 54(2) and 56 EPC)

3.1 The examining division had concluded that the subject-matter of claim 1 of the former main request was not novel over the disclosure of document D1 *inter alia* since the claimed installation phase and diagnostic phase did not result in a limitation of the subject-matter of then independent claims 1 and 6.

The board does not share this conclusion. The claimed feature "the actuating occurring during at least one of an installation phase and a diagnostic phase" refers back to the preceding feature "assesses an operational condition" and is defined as "based at least in part upon the assessment". The feature which the examining division ignored in its interpretation of the independent claims is thus clearly interlinked with the remainder of the claimed features such that it has to

be taken into account when assessing the subject-matter of claim 1.

Moreover, claim 1 according to the present request is directed to a video surveillance system including a surveillance dome camera and additionally includes the features of former claims 2 and 4, which the examining division considered disclosed in page 8, lines 8 to 11, 31 and 32 as well as page 9, lines 5 to 7 of document D1.

The board does not agree with this finding either. The passages cited by the examining division relate to an indication whether a command has been understood or not by the device of D1. In this respect, the device of D1 simulates human behaviour by nodding or shaking its head, respectively. On the one hand this does not qualify as specific camera movement and on the other hand does not occur during an installation phase or diagnostic phase but rather during communication of a user with the device of D1, i.e. during normal operation of the device of D1.

Therefore, the added features of claim 1 are not disclosed in document D1. Hence, the subject-matter of claim 1 is novel over the disclosure of document D1.

3.2 As already indicated in the communication under Article 15(1) RPBA, the subject-matter of claim 1 is also novel over the disclosure of document D2.

Document D2 is directed to operating a reset switch using the motion of the camera body to manipulate the switch and discloses:

A video surveillance system, comprising:

- a video camera being a surveillance dome camera installed in a network (column 6, line 34, wherein "dome camera" is implicitly disclosed in the type of mounting of the camera of D2);
- a tilt motor operable to move the video camera in a tilt direction (column 7, lines 42 to 44);
- a pan motor operable to move the video camera in a pan direction (column 7, lines 45 to 47); and
- a controller in electrical communication with the tilt and pan motors (column 8, lines 17 to 29), the controller assesses an operational condition of the video surveillance system (column 8, line 54 to column 9, line 7; determining whether the micro-computer 12 of the surveillance camera apparatus needs to be reset maybe regarded as assessing an operational condition),
- the controller actuates at least one of the tilt motor and pan motor to visibly move the video camera along a predetermined motion pattern based at least in part upon the assessment, the actuating occurring during at least one of an installation phase and a diagnostic phase (column 8, lines 35 to 38; moving the camera in order to actuate a reset switch maybe regarded as part of a diagnostic phase).

3.3 However, document D2 does not disclose distinguishing between successful and unsuccessful assessment and perform respective visible movements of the video camera along two distinct motion patterns for the purpose of assessment of network connectivity and/or communications ability. Therefore, the subject-matter of claim 1 differs from the disclosure of document D2 in that:

- the controller actuates at least one of the tilt motor and pan motor to move the video camera along the

predetermined motion pattern if the assessment is successful,
- the controller actuates at least one of the tilt motor and pan motor to move the video camera along a different predetermined motion pattern if the assessment is unsuccessful; and in
- the actuating occurring to perform assessment of network connectivity and/or communications ability of a portion of the video surveillance system.

3.4 The differences between the subject-matter of claim 1 and the disclosure of document D2 provide a distinct visual feedback about the result of the assessment of network connectivity and/or communications ability of a portion of the video surveillance system to a user.

The objective problem to be solved may therefore be regarded as providing a video camera system which enables a user to visually distinguish successful and unsuccessful assessment of network connectivity and/or communications ability of a portion of the video surveillance system.

3.5 Document D1 is directed to moving the head of a creature-like anthropomorphic device in order to simulate head nodding or head shaking for the expression of approval or denial of a command input to the device by a user. Shaking a head of a creature-like anthropomorphic device, which by coincidence also moves a video camera installed in such head, does not qualify as the dedicated movement of a video camera along a predetermined motion pattern as claimed in claim 1.

Document D2 discloses (visibly) moving a video camera in order to operate a reset switch. This movement can be regarded as actuating at least one of the tilt motor

and pan motor to move the video camera along a predetermined motion pattern in the sense of claim 1. However, document D2 does not disclose distinguishing between successful and unsuccessful assessment and performing respective visible movements of the video camera along two distinct motion patterns.

Moreover, neither document D1 nor document D2 discloses or suggests assessing the network connectivity and/or communications ability of a portion of the video surveillance system, wherein the assessment occurs during at least one of an installation phase or a diagnostic phase. Consequently, neither document D1 nor document D2 discloses or hints towards a solution of the objective problem underlying the subject-matter of claim 1.

3.6 The board therefore concludes that the subject-matter of claim 1 of the sole request involves an inventive step in the sense of Article 56 EPC.

The same applies to dependent claim 2, and *mutatis mutandis* to corresponding method claim 3.

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 with the order to grant a patent in the following version:
Claims: No. 1 to 3 filed on 10 July 2017
Description: Pages 1 to 12 filed on 10 July 2017
Figures: Sheets 1/5 to 5/5 as published

The Registrar: The Chairman:

U. Bultmann R. Lord

Decision electronically authenticated