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**Datasheet for the decision
of 27 September 2018**

Case Number: T 0758/13 - 3.5.04

Application Number: 09786635.4

Publication Number: 2308240

IPC: H04N13/02

Language of the proceedings: EN

Title of invention:
3D DISPLAY HANDLING OF SUBTITLES

Applicant:
Koninklijke Philips N.V.

Headword:

Relevant legal provisions:
EPC Art. 84

Keyword:
Claims - support in the description (no)

Decisions cited:

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 0758/13 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 27 September 2018

Appellant:
(Applicant)

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

Representative:

Kroeze, Johannes Antonius
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
22 November 2012 refusing European patent
application No. 09786635.4 pursuant to
Article 97(2) EPC**

Composition of the Board:

Chairman C. Kunzelmann
Members: B. Willems
B. Müller

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division dated 22 November 2012 refusing European patent application No. 09 786 635.4, which was published as international application WO 2010/010499 A1.
- II. The application was refused *inter alia* on the grounds that claim 1 of the main request and of the first and third auxiliary requests did not meet the requirements of Article 84 EPC.
- III. The applicant filed notice of appeal, requesting that the examining division's decision be set aside. With its statement of grounds of appeal, the appellant withdrew the main request and the first auxiliary request underlying the decision under appeal and requested that a European patent be granted on the basis of the claims of the second, third, fourth or fifth auxiliary request filed with that statement. It did not comment on the objection the examining division had raised under Article 84 EPC.
- IV. The board issued a summons to oral proceedings. In a communication under Article 15(1) RPBA (Rules of Procedure of the Boards of Appeal, OJ 2007, 536) annexed to the summons, the board gave its provisional opinion that claim 1 of the second, third, fourth and fifth auxiliary requests did not meet the requirements of Article 84 EPC.
- V. The appellant did not comment on the objections raised by the board and announced that it would not be attending the oral proceedings.

VI. On 27 September 2018, oral proceedings were held in the absence of the duly summoned appellant.

The chairman noted that the appellant had requested in writing that the decision under appeal be set aside and that a European patent be granted on the basis of the claims of the second, third, fourth or fifth auxiliary request filed with the statement of grounds of appeal.

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

VII. Claim 1 of the second and third auxiliary requests reads as follows (additions in claim 1 of the third auxiliary request are in *italics*):

"A method of rendering a three-dimensional image from a three-dimensional image signal comprising:

receiving the three-dimensional image signal by a three-dimensional display device, the three-dimensional image signal comprising:

a first image component *of a stereo pair*,

a second *image* component *of the stereo pair* for creating a three-dimensional image in combination with the first image component,

a text component embedded in the first image component, and

a data component comprising location information describing a two-dimensional region within the three-dimensional image that comprises part of the first image component and the rendered text component,

the method further comprising:

rendering the three-dimensional image from the first image component and the second *image* component, the rendering including adjusting three-dimensional parameters of the three-dimensional image in the region indicated by the location information, to treat the region of the three-dimensional image that contains part of the first image component and the rendered text component differently from the rest of the three-dimensional image by maintaining the disparity of the three-dimensional image below a predetermined threshold in the region."

- VIII. Claim 1 of the fourth auxiliary request differs from claim 1 of the second auxiliary request in that the part of the claim following "the method further comprising" reads (deletions from claim 1 of the second auxiliary request are ~~struck out~~ and additions in claim 1 of the fourth auxiliary request are in *italics*):

"rendering the three-dimensional image from the first image component and the second component, the rendering including adjusting three-dimensional parameters of the three-dimensional image in the region indicated by the location information, to treat the region of the three-dimensional image that contains part of the first image component and the rendered text component differently from the rest of the three-dimensional image by maintaining the disparity of the three-dimensional image below ~~a predetermined threshold~~ *one degree* in the region".

- IX. Claim 1 of the fifth auxiliary request differs from claim 1 of the third auxiliary request in that the part

of the claim following "the method further comprising" reads (deletions from claim 1 of the third auxiliary request are ~~struck-out~~ and additions in claim 1 of the fifth auxiliary requests are in *italics*):

"rendering the three-dimensional image from the first image component and the second image component, the rendering including adjusting three-dimensional parameters of the three-dimensional image in the region indicated by the location information, to treat the region of the three-dimensional image that contains part of the first image component and the rendered text component differently from the rest of the three-dimensional image by maintaining the disparity of the three-dimensional image below ~~a predetermined threshold~~ *one degree* in the region".

X. The examining division's objections where relevant to the present decision may be summarised as follows:

The examples described on page 13 and shown in figures 6 to 8 always required a depth map as a second component for image rendering and depth adjustment within the text regions. Therefore, it was not clear (Article 84 EPC) how the combination of stereo-pair images should be treated in the text regions (see decision under appeal, points 2.2.1 and 4).

Reasons for the Decision

1. The appeal is admissible.
2. *Support by the description - second, third, fourth and fifth auxiliary requests (Article 84 EPC)*

- 2.1 According to Article 84 EPC, the claims must be supported by the description. It is established case law that this means that the subject-matter of the claim must be taken from the description and it is not admissible to claim something which is not described (see Case Law of the Boards of Appeal of the European Patent Office, 8th edition 2016, II.A.5.1).

Purely formal support by the description through repetition of the mention of a claimed feature does not meet the requirements of Article 84 EPC (*ibid.*, at II.A.5.2).

- 2.2 Claim 1 of each request specifies:

"a text component embedded in the first image component".

The technical meaning of this feature is that the text is an integral part of the first image component.

- 2.3 The wording quoted in point 2.2 above is reflected in the description on page 6, lines 22 to 27:

"the step of creating a three-dimensional image signal comprises including the text component in the first image component. The text component (for example a subtitle) [...] does not need to be transferred as a separate component. The receiving apparatus that is

going to render the 3D image can still control the 3D display parameters in the region of the subtitle, even if that subtitle is embedded in the first image component of the signal".

According to the quoted passage, the rendering device receives the text component and the first image component as one single component.

- 2.4 However, in the detailed description of the embodiments, the rendering device consistently receives the first image component and the text component (typically the subtitles) as separate components.

In particular, Figure 3 and the passage of the description on page 11, lines 21 to 24, disclose that the *"playback device 18 provides the [first and second image] components 10 and 12, with the subtitles 30 and a data component 34 which comprises location information describing the location of the text component 30 within the ultimate 3D image 14, to the renderer 24"*.

The board notes that the reference in claim 1 to *"part of the first image component and the rendered text component"* (emphasis added) confirms that the text component is rendered separately from the first image component, i.e. the text component is not an integral part of the first image component.

- 2.5 Summarising, the wording quoted in point 2.2 above is partly repeated in the description, but the detailed description of the embodiments does not disclose the text component being an integral part of the first image component. Therefore, the board finds that this repetition of the wording of the claim does not provide

support for claim 1 of the second, third, fourth and fifth auxiliary requests.

- 2.6 Claim 1 of the third and fifth auxiliary requests additionally specifies "*a first image component of a stereo pair, a second image component of the stereo pair*" and that the disparity of the three-dimensional image thus created is maintained below a predetermined threshold (in particular, one degree) in the region comprising the text component.

The board agrees with the examining division that claim 1 does not make clear how in the absence of depth information the disparity is maintained below a threshold (see point X above).

- 2.7 In view of the above, the board concludes that claim 1 of the second, third, fourth and fifth auxiliary requests does not meet the requirements of Article 84 EPC.

3. Since none of the appellant's requests is allowable, the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

C. Kunzelmann

Decision electronically authenticated