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**Datasheet for the decision
of 21 September 2018**

Case Number: T 1185/13 - 3.5.04

Application Number: 02255213.7

Publication Number: 1282308

IPC: H04N5/445

Language of the proceedings: EN

Title of invention:

Television system

Applicant:

Pace Plc

Headword:

Relevant legal provisions:

EPC 1973 Art. 56

Keyword:

Inventive step - (no - presentation of information)
inventive step - (no - no credible technical effect)

Decisions cited:

T 0154/04, T 1143/06, T 0698/10, T 1802/13, T 0336/14

Catchword:



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Case Number: T 1185/13 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 21 September 2018

Appellant: Pace Plc
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Representative: Wood, Graham
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 11 December
2012 refusing European patent application
No. 02255213.7 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman R. Gerdes
Members: M. Paci
B. Müller

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division refusing European patent application No. 02 255 213.7, published as EP 1 282 308 A2.
- II. The documents cited in the decision under appeal included the following:

D1: US 6,133,912 A
D4: JP-A-2000350169 and
D4T: US 6,809,747 B1.
- III. The decision under appeal was based on the grounds that the subject-matter of claim 1 according to the sole request on file did not involve an inventive step (Article 56 EPC) in view of prior-art document D4 (assumed to have the same disclosure as post-published document D4T) alone or in combination with prior-art document D1.
- IV. With the statement of grounds of appeal the appellant filed two sets of amended claims according to a main and an auxiliary request replacing the claims of the sole request underlying the decision under appeal.
- V. The board issued a summons to oral proceedings, together with a communication under Article 15(1) of the Rules of Procedure of the Boards of Appeal (RPBA, OJ EPO 2007, 536). It gave its preliminary opinion that the closest prior art was not document D4 but the "typical" broadcast data receiver (BDR) described on pages 1 and 2 of the description of the application as filed and that, when due account was taken of the jurisprudence of the boards of appeal on features relating to presentations of information, the subject-

matter of the claims of the main and auxiliary requests did not involve an inventive step.

- VI. With a letter dated 21 August 2018, the appellant filed two sets of amended claims according to second and third auxiliary requests.
- VII. The board held oral proceedings on 21 September 2018.

The appellant's requests at the end of the oral proceedings were that the decision under appeal be set aside and that a European patent be granted on the basis of the claims according to the main request or the first auxiliary request, both filed with the statement of grounds of appeal, or the second or third auxiliary requests, both filed with the letter dated 21 August 2018.

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

- VIII. Claim 1 according to the appellant's **main request** reads as follows:

"A broadcast data receiver (BDR), said BDR receiving data from a broadcaster at a remote location and decoding said data to form video, audio and auxiliary data, at least part of said decoded data being used to generate at least first and second windows (4, 6, 8, 20, 22) on the display screen, one or more of said windows containing user selectable options, said first or second windows (4, 6, 8, 20, 22) can be resized, such that when resized a remaining part of said resized window and/or a part of said other window(s) are disabled, said resizing taking place to indicate to a user that other user selectable options have

temporarily been taken away and upon user selection of a particular option (24) from said first window at least part of said first or second window (4, 6, 8, 20, 22) will be resized if the user selected option in the first window results in a further user response being required thereby making it clear to the user that in order for them to continue to make further selections they need to respond to the query shown in the resized window and characterised in that the resizing of the first or second window is such as to allow at least part of the other of the first or second window to remain viewable on the display screen to allow information thereon to be displayed in conjunction with the resized first or second window and the said first or second window which is resized is an existing window on the display screen when the said user selection of a particular option (24) is made."

IX. Claim 1 according to the appellant's **first auxiliary request** reads as follows (additions to claim 1 of the **main request** are underlined, deletions are ~~struck-through~~):

"A broadcast data receiver (BDR), said BDR receiving data from a broadcaster at a remote location and decoding said data to form video, audio and auxiliary data, at least part of said decoded data being used to generate at least first and second windows (4, 6, 8, 20, 22) on the display screen, one or more of said windows containing user selectable options, said first or second windows (4, 6, 8, 20, 22) can be resized, such that when resized a remaining part of said resized window and/or a part of said other window(s) are disabled, said resizing taking place to indicate to a user that other user selectable options have temporarily been taken away and upon user selection of

a particular option (24) from said first window at least part of said first or second window (4, 6, 8, 20, 22) will be resized if the user selected option in the first window results in a further user response being required thereby making it clear to the user that in order for them to continue to make further selections they need to respond to the query shown in the resized window and characterised in that the resizing of the first or second window is such as to allow at least part of the other of the first or second window to remain viewable on the display screen to allow information thereon to be displayed in conjunction with the resized first or second window and cover non-selected options in said first or second windows and the said first or second window which is resized is an existing window on the display screen when the said user selection of a particular option (24) is made."

- X. Claim 1 according to the appellant's **second auxiliary request** reads as follows (additions to claim 1 of the **main request** are underlined, deletions are ~~struck-through~~):

"A broadcast data receiver (BDR), said BDR receiving data from a broadcaster at a remote location and decoding said data to form video, audio and auxiliary data, at least part of said decoded data being used to generate at least first and second windows (4, 6, 8, 20, 22) on the display screen as a graphical display layer thereon, one or more of said windows containing user selectable options, said first or second windows (4, 6, 8, 20, 22) can be resized, such that when resized a remaining part of said resized window and/or a part of said other window(s) are disabled, said resizing taking place to indicate to a user that other user selectable options have temporarily been taken

away and upon user selection of a particular option (24) from said first window at least part of said first or second window (4, 6, 8, 20, 22) will be resized if the user selected option in the first window results in a further user response being required thereby making it clear to the user that in order for them to continue to make further selections they need to respond to the query shown in the resized window and ~~characterised in that~~ the resizing of the first or second window is such as to allow at least part of the other of the first or second window to remain viewable on the display screen to allow information thereon to be displayed in conjunction with the resized first or second window and the said first or second window which is resized is an existing window on the display screen when the said user selection of a particular option (24) is made and characterised in that the said resizing of the first or second window is performed on the same said graphical layer to change the appearance of the same."

XI. Claim 1 according to the appellant's **third auxiliary request** reads as follows (additions to claim 1 of the **main request** are underlined, deletions are ~~struck-through~~):

"A broadcast data receiver (BDR), said BDR receiving data from a broadcaster at a remote location and decoding said data to form video, audio and auxiliary data, at least part of said decoded data being used to generate at least first and second windows (4, 6, 8, 20, 22) on the display screen as a graphical display layer thereon, one or more of said windows containing user selectable options, said first or second windows (4, 6, 8, 20, 22) can be resized, such that when resized a remaining part of said resized window and/or a part of said other window(s) are disabled, said

resizing taking place to indicate to a user that other user selectable options have temporarily been taken away and upon user selection of a particular option (24) from said first window at least part of said first or second window (4, 6, 8, 20, 22) will be resized if the user selected option in the first window results in a further user response being required thereby making it clear to the user that in order for them to continue to make further selections they need to respond to the query shown in the resized window and ~~characterised in that~~ the resizing of the first or second window is such as to allow at least part of the other of the first or second window to remain viewable on the display screen to allow information thereon to be displayed in conjunction with the resized first or second window and cover non-selected options in said first or second windows and the said first or second window which is resized is an existing window on the display screen when the said user selection of a particular option (24) is made and characterised in that the said resizing of the first or second window is performed on the same said graphical layer to change the appearance of the same."

- XII. The appellant's arguments regarding its amended claims, where relevant to the present decision, are summarised and addressed by the board in the "Reasons for the Decision" below.

Reasons for the Decision

1. The appeal is admissible.

Main request - inventive step (Article 56 EPC 1973)

2. Closest prior art

- 2.1 The board considers that the closest prior art for the subject-matter of claim 1 is not the broadcast data receiver (BDR) of document D4, as held by the examining division, but the "typical" prior-art BDR described on pages 1 and 2 of the application as filed. The board arrives at this finding essentially because the latter solves the same problem as the broadcast data receiver of the invention defined in claim 1, i.e. how to guarantee a user response on a display screen of a television system (as acknowledged in the second full paragraph on page 2 of the application as filed), and provides the skilled person with the most promising starting point - i.e. the most promising springboard to the invention - for the assessment of inventive step (see Case Law of the Boards of Appeal of the European Patent Office, 8th edition 2016 (henceforth abbreviated to CLBoA), I.D.3.4 and decision T 698/10, Reasons 3). In contrast, prior-art document D4 (assumed to have the same disclosure as post-published document D4T) does not explicitly address this problem.

- 2.2 The BDR of the closest prior art comprises means for displaying an electronic programme guide (EPG) in the form of a plurality of windows substantially simultaneously viewable on a single display, with at least one of these windows having user-selectable options. User selection of one of these options results

in the BDR generating a message on the display screen which requires a user response thereto. The message is typically displayed in a pop-up window superimposed on the existing windows. The user is unable to make any further selection(s) from the windows in the original display layer until the user responds to the message in the pop-up window. Thus the pop-up window acts to guarantee a user response to a query or message generated by the BDR.

2.3 The appellant did not dispute that the above "typical" BDR represented the closest prior art and that it disclosed the above features.

3. Distinguishing features

3.1 The board considers that the BDR of claim 1 according to the main request differs from the closest prior art by distinguishing features which may be summarised as follows:

(a) upon selection by the user in one of the windows of a user-selectable option requiring a further response by the user, one or more of the windows are resized and a part of the window(s) is disabled so as to make clear that a user response is required before making further selections; and

(b) the resized window(s) does (do) not hide all of the other windows so that information in those other windows remains viewable.

It is noted that only the aspect regarding the resizing of an (existing) window is considered to distinguish feature (a) from the closest prior art, whereas the aspect of user-selectable options and disabling a part

of the windows are known from the closest prior art (see page 1, last paragraph and page 2, second paragraph of the application as filed).

- 3.2 The appellant did not dispute the above findings regarding the distinguishing features.
4. Assessment of features relating to a presentation of information
 - 4.1 According to the established jurisprudence of the boards of appeal, only those features which contribute to a technical effect are considered for inventive step (see CLBoA, I.D.9.1, in particular I.D.9.1.6, and decision T 154/04, OJ 2008, 46). Graphical user interfaces (GUI) generally relate to the manner in which cognitive content is conveyed to the user on a screen and thus do not contribute to a technical solution to a technical problem. An exception would be if the manner of presentation could be shown to have a **credible** technical effect i.e. if the GUI together with the content presented credibly assists the user in performing a technical task by means of a continued and/or guided human-machine interaction process (see CLBoA, I.D.9.1.5 and I.D.9.1.6, decision T 1143/06, Reasons 5.4, T 336/14, Headnote and Reasons 1.2, and decision T 1802/13, Reasons 2.1).
 - 4.2 In the present case, it must thus be assessed whether the above distinguishing features (a) and (b) achieve a credible technical effect.
5. Technical effect
 - 5.1 The description of the application as filed mentions the following advantages of the invention over the

closest prior art disclosed on pages 1 and 2 of the description:

(1) it provides an alternative means of guaranteeing a user response on a display screen of a television system (see description as filed, page 2, second full paragraph); and

(2) it allows other windows to be viewed at the same time as viewing the expanded window, which is not typically allowed with conventional pop-up windows (see description as filed, page 6, second paragraph).

5.2 The board is of the view that distinguishing features (a) and (b) do not contribute to a credible technical effect for the following reasons:

Re advantage (1), forcing the user to respond to a message on a display screen could be regarded as technical if the user response were essential to the operation of the BDR; however, there is no indication in claim 1 that the message conveys functional data, essential to the operation of the BDR, rather than cognitive data, exclusively aimed at the mental activities of the user (see decision T 336/14, Reasons 1.2.4). Moreover, the alternative solution of resizing a window instead of using a pop-up window (distinguishing feature (a)) essentially amounts to using a different layout of windows, which relates to a presentation of information.

Re advantage (2), leaving some of the windows visible has an effect only on the user's mind, which is not technical (see CLBoA, I.D.9.1.6(a) and decision T 336/14, Reasons 1.2.4).

- 5.3 The appellant argued that the subject-matter of claim 1 achieved a credible technical effect essentially for the following reasons:

The resizing of an existing window in the same graphical display layer as the other existing windows, instead of generating a pop-up window in an additional graphical display layer, achieved the technical effect of **preventing invalid options from being selected** while requiring **less programming** and **less data processing**. This technical effect was achieved because a second graphical layer did not have to be generated. Moreover, after resizing, the windows in the single graphical layer did not overlap, which reduced the computing power required because the BDR did not have to calculate which parts of the overlapping windows should be displayed and which should be hidden. Furthermore, the resizing of an existing window meant that the content of the window did not have to be changed, which also reduced the required processing power.

- 5.4 The board is not persuaded by these arguments for the reasons set out below:

Re less processing power

The board regards the appellant's assumption that the resizing of an existing window requires less processing power than the display of a pop-up window as speculative and unproven. There is no mention of this advantage in the application as filed even though the invention is described as an improvement over the closest prior art of the present decision. The board cannot see any convincing technical reason based on common general knowledge either; indeed, whenever two windows are overlapping, data processing must be

performed in order to determine which one of the two windows should be visible in the overlapping area. Hence, the same processing must be done irrespective of whether the two windows are in the same graphical display layer or in two graphical display layers.

The appellant submitted that the data processing was reduced because the windows were not overlapping after the resizing.

The board cannot share this argument because there is no feature in claim 1 implying that the windows are non-overlapping after the resizing. Indeed, claim 1 states *inter alia* that "the resizing of the first or second window is such as to allow at least part of the other of the first or second window to remain viewable on the display screen", which implies that the resized window(s) overlap(s) with other windows. Moreover, the description of the application as filed also states on page 5, lines 17 to 19, that the windows in the first display layer may be overlapping.

As to the argument that the reduced data processing would come from the fact that the content of the window would remain unchanged during the resizing, the board notes that there is no such limitation in claim 1 and that the only two resized windows shown in the figures of the application (22' in figure 2 and 22" in figure 3) have a content completely different from the content of the same window before resizing (22 in figure 1).

For the above reasons, the appellant's alleged technical effect that the BDR of claim 1 of the main request requires **less data processing power** than that of the closest prior art is not credible.

Re preventing invalid options from being selected

Since this effect is also achieved by the closest prior art using a pop-up window (see first full paragraph on page 2 of the application as filed), it is not a technical effect achieved over the closest prior art.

Re less programming

For similar reasons as those given above regarding the alleged reduced data processing, the board cannot see any convincing argument as to why resizing a window would involve less programming than generating a pop-up window. Moreover, programming is a mental activity of the programming person, not a feature of the BDR. In support of its arguments, the appellant specifically referred to page 3, lines 10 to 14, in which it is stated that "the only additional software programming required for the present invention is that for allowing reconfiguration of at least a part of the window in question rather than the actual disablement of any other window on the display screen". The board, however, understands this sentence only as an indication of the kind of additional software programming required, but not as an indication that the resizing of a window requires less programming than generating a pop-up window in the closest prior art.

Hence the appellant's alleged technical effect that the BDR of claim 1 of the main request requires **less programming** than that of the closest prior art is not a credible technical effect.

6. Conclusion on inventive step

Since, for the above reasons, the distinguishing features of the BDR of claim 1 of the main request do not contribute to achieving a credible technical effect, they cannot render the claimed subject-matter inventive (Article 56 EPC 1973).

7. Conclusion on the main request

Accordingly, the appellant's main request is not allowable.

First auxiliary request - inventive step (Article 56 EPC 1973)

8. Claim 1 according to the first auxiliary request differs from claim 1 of the main request by the additional feature that the resized window(s) "cover non-selected options in said first or second windows".

9. In the board's view, this additional feature does not add anything inventive already for the reason that covering the options which should not be selected by the user is what is done by the pop-up window of the closest prior art (see page 2, first full paragraph of the application as filed).

10. The appellant's arguments were essentially the same as those submitted regarding the main request and refuted by the board *supra*.

11. Accordingly, the appellant's first auxiliary request is not allowable.

Second auxiliary request - inventive step (Article 56 EPC 1973)

12. Claim 1 according to the second auxiliary request differs from claim 1 of the main request by the additional features that the first and second windows are in the same graphical display layer and that the resizing of the first or second window is performed on this graphical display layer.
13. Since the board considered these features to be implicitly present in the subject-matter of claim 1 of the main request in its above assessment of inventive step, making these features explicit does not change the board's assessment that the subject-matter of claim 1 does not involve an inventive step.
14. Accordingly, the appellant's second auxiliary request is not allowable.

Third auxiliary request - inventive step (Article 56 EPC 1973)

15. Claim 1 according to third auxiliary request differs from claim 1 of the main request by the additional features of both claim 1 of the first auxiliary request and claim 1 of the second auxiliary request.

Since, for the reasons given above, these additional features do not add anything inventive, the subject-matter of claim 1 according to the third auxiliary request does not involve an inventive step either.
16. Accordingly, the appellant's third auxiliary request is not allowable.

Conclusion

17. Since none of the appellant's requests is allowable, the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

R. Gerdes

Decision electronically authenticated