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**Datasheet for the decision
of 8 June 2018**

Case Number: T 1045/14 - 3.5.03

Application Number: 07734844.9

Publication Number: 2036231

IPC: H04H20/00

Language of the proceedings: EN

Title of invention:

Broadcast channel identification

Applicant:

Core Wireless Licensing S.à.r.l.

Headword:

Broadcast channel identification/CORE WIRELESS Licensing

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - all requests (no)



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Case Number: T 1045/14 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 8 June 2018

Appellant: Core Wireless Licensing S.à.r.l.
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 17 December
2013 refusing European patent application
No. 07734844.9 pursuant to Article 97(2) EPC

Composition of the Board:

Chairman F. van der Voort
Members: K. Schenkel
O. Loizou

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division refusing European patent application No. 07734844.9, international publication number WO 2007/144761 A.

The refusal was based *inter alia* on the ground that the subject-matter of claim 1 of the main request and of the first and second auxiliary requests did not involve an inventive step, having regard to the disclosure of document

D1: EP 1 465 361 A2

and taking into account the common general knowledge of a person skilled in the art.

- II. In its statement of grounds of appeal, the appellant requested that the decision be set aside and that a patent be granted on the basis of the claims of the main request or, in the alternative, of the first or the second auxiliary request, all requests as on file and decided on by the examining division.

The appellant conditionally requested oral proceedings.

- III. In a communication accompanying a summons to oral proceedings, the board, without prejudice to its final decision, raised objections under Articles 84 and 123(2) EPC against claims 1, 7 and 8 of the main request and against claims 1 and 7 of the first and second auxiliary requests, as well as objections under Article 52(1) EPC in conjunction with Article 54 EPC in respect of the subject-matter of claims 1 and 8 of all requests and objections under Article 52(1) EPC in

conjunction with Article 56 EPC in respect of the subject-matter of claim 7 of all requests.

IV. In response to the summons, the appellant with a letter dated 29 May 2018 filed a substantive response together with further sets of claims in the form of a third, a fourth and a fifth auxiliary request and informed the board that it would not be attending the oral proceedings.

V. Oral proceedings were held on 8 June 2018 in the absence of the appellant.

The appellant requested in writing that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request or, in the alternative, of the first or the second auxiliary request, all as decided on by the examining division, or on the basis of the claims of the third, the fourth or the fifth auxiliary request as filed with the letter dated 29 May 2018.

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

VI. Claim 1 of the main request reads as follows:

"An apparatus (100) comprising:
a memory (130) for associating selection items (610, 710, 810) of at least one set of channel presets with radio, television, and/or internet broadcast channels, and for associating at least one selection item (610, 710, 810) with a user defined channel identifier (670) wherein each user defined channel identifier (670) is selected by a user independently

from the selection items (610, 710, 810) and is user-configurable; and

a control unit (140) configured to cause an associated user defined channel identifier (670) to play when a corresponding one of the selection items (620, 720) is activated by the user."

VII. Claim 1 of the first auxiliary request differs from claim 1 of the main request in that

the wording "wherein each user defined channel identifier (670) is selected by a user independently from the selection items (610, 710, 810) and is user-configurable" in the second paragraph and the reference signs "(610, 710, 810)", "(670)" and "(620, 720)" have been **deleted**, and in that

in the third paragraph, after the wording "a control unit (140)", the following wording has been inserted:

"coupled to the memory (130), the control unit being (140) [*sic*]".

VIII. Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in that after the first paragraph ("An apparatus (100) comprising:") the following wording has been inserted:

"selection items in the form of keys and/or menu items,".

IX. Claim 1 of the third auxiliary request is identical to claim 1 of the second auxiliary request.

X. Claim 1 of the fourth auxiliary request differs from claim 1 of the second auxiliary request in that in the third paragraph the wording

"associating selection items of at least one set of channel presets with radio, television, and/or internet broadcast channels, and for associating at least one selection item with a user defined channel identifier;"

has been replaced by (underlining added by the board):

"defining selection items of at least one set of user preset selection items to correspond to radio, television, and/or internet broadcast channels, and for linking at least one selection item to a user defined channel identifier", and in that

in the last paragraph the wording

"an associated user defined channel identifier"

has been replaced by the wording

"a linked user defined channel identifier".

XI. Claim 1 of the fifth auxiliary request differs from claim 1 of the fourth auxiliary request in that the following wording has been added at the end:

"said user defined channel identifier not being defined, linked to a selection item, or caused to play by signals received from a broadcast station on said broadcast channel".

Reasons for the Decision

1. *Main request - claim 1 - inventive step*

1.1 D1 is taken as representing the closest prior art, since it also relates to an apparatus ("digital radio receiver") for receiving audio broadcasts, the receiver being adapted to reproduce a channel identifier in the form of sound clips in response to user operations (see the summary). The apparatus of D1 includes "user operable means" for selecting a specific program (column 1, lines 46 to 48) or, in other words, a specific broadcast channel ("... from which the user can select a desired program such as Radio 4 using the control panel ...", column 3, lines 37 to 39). The control panel provides user inputs to a central processing unit, i.e. a control unit (column 2, lines 36 to 40).

Since the receiver is digital and comprises a central processing unit, it implicitly comprises a memory coupled to the central processing unit for storing instructions and the settings required for the operation of the digital receiver.

1.1.1 The appellant argued that D1 did not disclose any selection items because it did not further describe the user interface or the control panel and gave no details of the channel selection procedure.

The board understands the term "selection item" in claim 1 as being a key or a menu item, in line with the description of the application at hand (see page 9, lines 14 to 26: "In alternate embodiments, a user may access the memory locations by scrolling through and activating/selecting menu items of the mobile device

100. The menu items may be any suitable items such as, for example, numbers, letters or symbols. These selection items (e.g. the keys or menu items) associated with the memory locations for identifying an internet, radio or television channel may allow a user to directly access an internet, radio or television channel without scanning or scrolling through, for example, each and every internet, radio or television broadcast channel/frequency available to be received by the mobile device 100."). Further, the board notes that D1 discloses a menu system used for receiving the user inputs (column 2, lines 47 to 51). In the board's view, a menu system implicitly comprises menu items or, in other words, selection items to be activated by a user to select the desired function.

- 1.1.2 The appellant further argued that D1 did not disclose the feature of claim 1 of associating a channel identifier with a selection item and the feature whereby the channel identifier was played when a particular selection item was activated by the user, since a selection item could not be derived directly and unambiguously from D1.

With respect to whether D1 discloses selection items, the board refers to the previous point. Further, upon operation of the user-operable means of D1, the control unit causes the desired function to be selected and an appropriate audio clip to be played (column 2, line 56, to column 3, line 4). The desired function may be the selection of a specific broadcast channel, in which case the audio clip can be considered as a channel identifier (column 3, lines 9 to 13). Since activating a specific selection item results both in the desired broadcast channel being played and in the audio clip linked to this broadcast channel being reproduced, it

follows that there is an association between the selection item, the selected broadcast channel and the sound clip corresponding to this broadcast channel. Hence, the selection item is also associated with the audio clip.

1.1.3 D1 further discloses that the audio clips can be pre-recorded and loaded into the receiver during manufacture (column 3, lines 5 and 6). D1 does not disclose limitations with respect to the functions with which these audio clips are associated. The audio clips can be updated by a broadcaster (column 3, lines 6 to 9).

1.2 D1 thus discloses, using the language of claim 1, an apparatus ("digital radio receiver", summary, column 2, lines 26 to 28) comprising:

a memory for associating selection items (menu items of the "menu system") with radio broadcast channels and for associating at least one selection item with a channel identifier ("audio clip"); and
a control unit configured to cause an associated channel identifier to play when a corresponding one of the selection items is activated by the user.

1.3 The subject-matter of claim 1 thus differs from the receiver disclosed in D1 in that according to claim 1:

(a) the selection items are selection items of at least one set of channel presets; and

(b) the channel identifier which is associated with a selection item is user-defined, is selectable by the user independently of the selection items and is user-configurable.

- 1.4 The arrangement of the selection items in a set of channel presets according to feature (a) gives a user direct access to a specific selection item and, hence, a radio channel.

Since in D1 the menu system includes menu items which can be activated by a user in order to select a desired function, e.g. a desired radio channel, in the board's view, it would be obvious, if not implicit, to the skilled reader that the menu items represent radio channels the user may select from. These menu items would thus constitute a set of radio channel presets the user may select from. This interpretation of the term "channel presets" is also in line with the description, stating that: "These keys and menu items associated with the radio, television or internet broadcasts are referred to herein as channel presets." (page 9, lines 26 to 28). Feature (a) thus does not contribute to an inventive step.

- 1.5 A technical effect of feature (b) is that the user is given the possibility to associate one of the audio clips loaded into the receiver during manufacture with a specific broadcast channel.

With respect to this feature (b), the underlying problem may be seen as how to implement the apparatus disclosed in D1 such that an audio clip loaded into the receiver during manufacture can be associated with a broadcast channel.

- 1.6 The board notes that at the time of manufacture of the receiver of D1 it cannot be fully known which broadcast channels will eventually be receivable at the time and place where the receiver will be used. Clearly,

therefore, the need to associate new broadcast channels with audio clips may arise after manufacture.

The board further notes that D1 already discloses user-defined associations between an audio clip and a broadcast channel, namely in respect of the audio clips provided by a broadcaster (paragraph [0015]: "In one possible refinement of the invention, the broadcaster could send a collection of audio clips including more than one for each function, and the receiver could be equipped to enable the user to choose which is to be used, for example by cycling through the options. Thus the user could choose between alternative voices and/or alternative languages."). The skilled person, starting out from D1 and faced with the above-mentioned problem, would therefore in a similar way give the user the possibility also to create an association between an audio clip loaded into the receiver during manufacture and a broadcast channel, resulting in a user-defined channel identifier. Since the audio clips preloaded into the receiver during manufacture are not limited with respect to the functions they can be associated with, the channel identifier would therefore be selectable by the user independently of the selection items. The board further notes that the term "user-configurable" in feature (b), according to paragraph [0032] of the description of the present application, includes the meaning that the channel identifier may be turned on and off and that this property is inherently included when a user has the possibility of associating a channel identifier with a broadcast channel or of changing this association.

- 1.7 The appellant argued that D1 did not disclose channel presets and that without such channel presets it would be impossible to associate a selection item with a

channel identifier or audio clip, since a user, without channel presets, could only scroll through the entire range of available broadcast channels.

The board is not convinced by this argument. D1 discloses that a specific broadcast channel may be selected ("Capital Radio", column 3, lines 9 to 13). Even if this were done by scrolling through a list of channels and finally selecting one, it is implicit that at least at the time of the selection the broadcast channel to be selected is associated with the corresponding selection item. Since selecting this specific selection item not only causes the channel "Capital Radio" to be selected but also the appropriate audio clip to be played, there is an association between that specific selection item and that audio clip.

The appellant further argued that the subject-matter of claim 1 allowed the channel identifier to be played upon selection of an associated broadcast channel, independently of the signal strength of the selected broadcast channel. The board understands this argument to concern the embodiment in D1 in which the audio clips are reproduced in response to a broadcast signal (summary). D1, however, also discloses a further embodiment in which the audio clip is reproduced in response to user operations (summary).

1.8 The board therefore concludes that the subject-matter of claim 1 of the main request does not involve an inventive step (Articles 52(1) and 56 EPC).

2. *First auxiliary request - claim 1 - inventive step*

- 2.1 The only limitation added to claim 1 of the first auxiliary request is that the control unit is coupled to the memory. This feature is, however, implicitly disclosed in D1 (see point 1.1 above). The above considerations in respect of claim 1 of the main request therefore apply *mutatis mutandis*.
- 2.2 The board therefore concludes that the subject-matter of claim 1 of the first auxiliary request does not involve an inventive step (Articles 52(1) and 56 EPC).
3. *Second and third auxiliary requests - claim 1 - inventive step*
 - 3.1 Compared to claim 1 of the first auxiliary request, claim 1 of the second auxiliary request includes the additional wording "selection items in the form of keys and/or menu items". Selection items in the form of menu items are, however, implicitly disclosed in D1 (see point 1.1.1 above). The above considerations in respect of claim 1 of the first auxiliary request therefore apply *mutatis mutandis*.
 - 3.2 Claim 1 of the third auxiliary request is identical to claim 1 of the second auxiliary request.
 - 3.3 The board therefore concludes that the subject-matter of claim 1 of each of the second and third auxiliary requests does not involve an inventive step (Articles 52(1) and 56 EPC).
4. *Fourth auxiliary request - claim 1 - inventive step*
 - 4.1 In the board's view, the wording "defining selection items to correspond with broadcast channels" has the same meaning as "associating selection items with

broadcast channels" used in claim 1 of each of the higher-ranking requests. The same applies to the wording "for linking ... to" and "for associating ... with" used in claim 1 of each of the higher-ranking requests. Further, in the board's view, the term "user preset selection items" has the same meaning as "channel presets" used in claim 1 of each of the higher-ranking requests. The board notes that paragraph [00031], to which the appellant referred in respect of this amendment, does not give these terms any different meaning.

The amendments in claim 1 of the fourth auxiliary request therefore do not change the subject-matter of claim 1 of the second auxiliary request. The above considerations in respect of claim 1 of the second auxiliary request thus apply *mutatis mutandis*.

4.2 The board therefore concludes that the subject-matter of claim 1 of the fourth auxiliary request does not involve an inventive step (Articles 52(1) and 56 EPC).

5. *Fifth auxiliary request - claim 1 - inventive step*

5.1 Compared to claim 1 of the fourth auxiliary request, claim 1 of the fifth auxiliary request includes the additional feature "said user defined channel identifier not being defined, linked to a selection item, or caused to play by signals received from a broadcast station on said broadcast channel".

5.2 The board notes that in the embodiment of the receiver of D1, in which the audio clips are loaded into the receiver at the time of manufacture and reproduced in response to user operations, the channel identifier is not defined, linked to a selection item or caused to

play by signals received from a broadcast station on said broadcast channel. The above considerations in respect of claim 1 of the fourth auxiliary request thus apply *mutatis mutandis*.

5.3 The board therefore concludes that the subject-matter of claim 1 of the fifth auxiliary request does not involve an inventive step (Articles 52(1) and 56 EPC).

6. Conclusion

As there is no allowable request, it follows that the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



G. Rauh

F. van der Voort

Decision electronically authenticated