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Datasheet for the decision of 12 December 2019

Case Number: T 1214/14 - 3.5.04

Application Number: 09170818.0

Publication Number: 2227009

IPC: H04N5/445, H04H60/43

Language of the proceedings: EN

Title of invention:
Channel registering apparatus and channel registering method

Applicant:
Toshiba Visual Solutions Corporation

Headword:

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - main and auxiliary request (no)

Decisions cited:

Catchword:

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Case Number: T 1214/14 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 12 December 2019

Appellant: (Applicant)	Toshiba Visual Solutions Corporation 3-31-2776, Minami-cho, Misawa-shi, Aomori (JP)
Representative:	Henkel & Partner mbB Patentanwaltskanzlei, Rechtsanwaltskanzlei Maximiliansplatz 21 80333 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 3 January 2014 refusing European patent application No. 09170818.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	C. Kunzelmann
Members:	B. Willems
	G. Decker

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division dated 3 January 2014 refusing European patent application No. 09170818.0, which was published as EP 2 227 009 A2.

II. The documents cited in the decision under appeal included the following:

D1: US 2004/0040039 A1;

D2: WO 98/37694 A1;

D3: US 6,198,513 B1.

III. The application was refused on the grounds that the subject-matter of claim 1 of the main and the auxiliary request filed during the oral proceedings of 10 December 2013 lacked inventive step over the combined disclosures of D2 and D1 or D2 and D3 and the common general knowledge of the person skilled in the art (Article 56 EPC). In the section "*Further remarks*", the examining division objected that claim 3 of the main and the auxiliary request did not meet the requirements of Article 84 EPC and that, in both requests, the additional features of dependent claims 2 to 4 could not make any contribution to inventive step (Article 56 EPC).

IV. The applicant filed notice of appeal. With the statement of grounds of appeal, the appellant filed claims according to an auxiliary request. It requested that the decision under appeal be set aside and that a European patent be granted on the basis of the claims of the main request forming the basis for the decision

under appeal or the claims of the auxiliary request submitted with the grounds of appeal. It provided arguments to show why the claims of both requests met the requirements of Articles 56 and 84 EPC.

V. 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 introduced document D4 (EP 0 721 253 A2) into the appeal proceedings and gave *inter alia* the provisional opinion that claim 1 of neither the main nor the auxiliary request met the requirements of Article 56 EPC because the claimed subject-matter lacked inventive step over the combined disclosures of D2 and D3 and the common general knowledge of the person skilled in the art.

VI. The appellant did not file any amendments or comments in response to the board's communication, but announced that it would not be attending the oral proceedings scheduled for 12 December 2019 (see letter dated 11 December 2019).

VII. On 12 December 2019, the board held oral proceedings in the absence of the appellant.

The chairman noted that it appeared from the file that the appellant requested that the decision under appeal be set aside and that a European patent be granted on the basis of the claims of the main request filed during the oral proceedings of 10 December 2013 before the examining division or the claims of the auxiliary request filed with the statement of grounds of appeal.

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

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

"A channel registering apparatus comprising:

a presentation module which is configured to present channel information (610, 720, 810) of only one channel indicating a channel number (CH008 etc.) or a broadcast station name (television CCC) of the channel which is selected from receivable channels as a subject to be registered into a plurality of favorite groups (A, B, C, D), and

a graphic user interface component (610, 720, 810) for performing a plurality of settings which include a registration of the subject single channel into each of the favorite groups (A, B, C, D); and

a registration module which is configured to allow a user to register the subject channel into at least one of favorite groups (A, B, C, D) through an input operation of the user on the graphic user interface component (610, 720, 810); and

wherein the presentation module is configured to present the graphic user interface component (610, 720, 810) so that the graphic user interface component (610, 720, 810) is superposed on a part of an image presented by the presentation module so that said image can be viewed easily."

IX. Claim 1 of the auxiliary request differs from claim 1 of the main request in that the "*wherein*" clause reads as follows:

"wherein the presentation module is configured to present the graphic user interface

component (610, 720, 810) so that the graphic user interface component (610, 720, 810) is superposed on a part of a program image (600) at a position so as not to hide the center portion of the program image".

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

(a) D2 was the closest prior art for the assessment of inventive step (see decision under appeal, point 2.1.2).

(b) D3, first paragraph of column 4, disclosed a graphical user interface (GUI) allowing a user to allocate a channel to plural sets of favourite channels (see decision under appeal, page 4, fourth paragraph).

(c) D2 addressed the problem of the visibility of the background image by displaying banners or menus which only partly overlapped the background image (see decision under appeal, point 2.1.4).

XI. The appellant's arguments, where relevant to the present decision, may be summarised as follows:

(a) D2 could be considered to represent the closest prior art for the assessment of inventive step (see statement of grounds of appeal, page 3, first sentence).

(b) D2 did not disclose registering the channel in a plurality of groups. The selection of an option to block a channel was not a selection of a group corresponding to a favourite group. Once a channel had been selected as a favourite channel it would

be impossible to select this channel for blocking (see statement of grounds of appeal, page 3, fourth to sixth paragraphs).

(c) The prior art did not disclose that the GUI was superposed on a part of the image presented by the presentation module so that said image could be easily viewed (see statement of grounds of appeal, page 3, eighth paragraph).

(d) The technical problem to be solved was to present the GUI so that a background display image could be viewed easily while allowing a more flexible use of the device (see statement of grounds of appeal, page 3, last full paragraph).

Reasons for the Decision

1. The appeal is admissible.

2. *Claim 1 of the main and the auxiliary request - inventive step (Article 56 EPC)*

2.1 The appellant did not dispute the examining division's view that document D2 is the closest prior art for the assessment of inventive step (see points X(a) and XI(a) above). The board shares this view.

2.2 D2 discloses a channel registering apparatus comprising:

a presentation module which is configured to present channel information of only one channel indicating a channel number or a broadcast station name of the channel which is selected from receivable channels as a subject to be registered into a plurality of groups

(see "KCBS" in Figure 9; page 41 lines 31 to page 42, line 7: "*The user enables channel settings menu 190 by pressing a settings key [...] Within channel settings menu 190, settings may be provided which allow the user to add the current channel (i.e., KCBS) to the favorite channel list (setting 200), block the current channel (setting 202), and recording the current channel (setting 204)*"),

a graphic user interface (GUI) component for performing a plurality of settings which include the registration of the channel into each of the groups (see Figure 9 and the corresponding description); and

a registration module configured to allow a user to register the channel into a group through an input operation on the graphic user interface component (see page 42, lines 3 to 11).

2.3 The board agrees with the appellant that D2 does not disclose registering the channel in a plurality of groups (see point XI(b) above) or superposing the GUI on part of the image so that said image could be easily viewed (see point XI(c) above).

2.4 Thus, the subject-matter of claim 1 of the main request differs from the disclosure of D2 in that:

(a) D2 does not disclose registering the channel in plural favourite groups;

(b) D2 does not disclose that the GUI is displayed such that the image can be easily viewed.

2.5 Allocating a channel to a plurality of (favourite) groups and displaying the GUI as specified in claim 1

do not mutually influence each other to achieve a technical success over and above the sum of their respective individual effects. The allocating primarily concerns the question of which options the GUI displays (and enables the viewer to select) and the easy viewing concerns the question of where on the screen the GUI is positioned. Consequently, it has to be established whether the features mentioned under points 2.4(a) and 2.4(b) are separately obvious in the light of the prior art (see Case Law of the Boards of Appeal of the European Patent Office, 9th edition 2019, I.D.9.2.2).

2.6 The board is of the opinion that the technical problem identified by the appellant consists of two partial problems: enhancing the flexibility of the channel allocation and maintaining the visibility of the background image (see point XI(d) above). These partial problems each correspond to the features mentioned under points 2.4(a) and 2.4(b) above, respectively.

2.7 In respect of the first partial problem, the board agrees with the examining division that document D3, in particular the first paragraph of column 4 (see also corresponding Figures 2A, 2B and 2C), discloses a GUI allowing a user to allocate a channel to plural sets of favourite channels (SURF1, SURF2) (see point X(b) above).

The person skilled in the art trying to enhance the flexibility of the channel allocation would incorporate the allocation to multiple sets known from D3 in the GUI known from D2. This would result in a GUI with settings for multiple sets of favourite channels (rather than one favourite channel), for blocking a channel and for recording a channel.

2.8 In respect of the second partial problem, the board again shares the examining division's view (see point X(c) above) that D2 addresses the problem of the visibility of the background image by displaying banners or menus which only partly overlap the background image (see Figures 6, 7, 8 and 34). The person skilled in the art would readily balance the need for visibility of the background image and the need for legibility of the channel settings menu by finding an appropriate size and position for displaying the settings menu.

2.9 Thus, starting from document D2, by solving the two partial problems identified in point 2.6 above using measures known from documents D3 and D2, respectively, the person skilled in the art would arrive at the subject-matter of claim 1 of the main request in an obvious manner.

2.10 The reasoning set out in points 2.1 to 2.9 above is equally applicable to claim 1 of the auxiliary request.

2.11 In view of the above, in both the main and the auxiliary request, claim 1 does not meet the requirements of Article 56 EPC, because the claimed subject-matter lacks inventive step over the combined disclosures of D2 and D3 and the common general knowledge of the person skilled in the art.

3. Since neither 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