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Datasheet for the decision of 22 June 2020

Case Number: T 0891/15 - 3.5.04

Application Number: 04780741.7

Publication Number: 1661392

IPC: H04N5/00, H04N5/222

Language of the proceedings: EN

Title of invention:
DIGITAL MEDIA DISTRIBUTION DEVICE

Applicant:
Warner Bros. Entertainment Inc.

Headword:

Relevant legal provisions:
EPC 1973 Art. 56

Keyword:
Inventive step - (yes)

Decisions cited:

Catchword:

Europäisches Patentamt
European Patent Office
Office européen des brevets

Beschwerdekammern

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Case Number: T 0891/15 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 22 June 2020

Appellant: (Applicant)	Warner Bros. Entertainment Inc. 4000 Warner Boulevard Burbank, CA 91522 (US)
Representative:	Latham, Stuart Alexander Withers & Rogers LLP 4 More London Riverside London SE1 2AU (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 9 December 2014 refusing European patent application No. 04780741.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	C. Kunzelmann
Members:	A. Seeger
	G. Decker

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division to refuse European patent application No. 04 780 741.7, published as international patent application WO 2005/020565 A1.

The decision under appeal is, as requested by the applicant by letter dated 28 November 2014, a decision according to the state of the file referring *inter alia* to a previous communication dated 11 November 2014 for its grounds.

II. The document cited in the decision under appeal is the following:

D1: Video Raptor. Product brochure[online]. Tiesseci Broadcast International, 2002 [retrieved on 2004-11-24]. Retrieved from <http://www.tiesseci.com/English/vr5000engweb.pdf> XP002307593.

III. The decision under appeal was based on the grounds that claim 1 of all requests then on file did not meet the requirements of Article 123(2) EPC and that the subject-matter of claim 1 of all the requests then on file lacked an inventive step over the disclosure of document D1 combined with common general knowledge of a person skilled in the art.

IV. The applicant filed notice of appeal. With the statement of grounds of appeal, the appellant filed a main request comprising a set of claims that was identical to the set of claims of the first auxiliary request forming the basis for the decision under

appeal. In addition, the appellant filed a first auxiliary request comprising a set of claims that was identical to the set of claims of the second auxiliary request forming the basis for the decision under appeal. Finally, the appellant filed a second auxiliary request comprising a new set of claims. The appellant requested that the decision under appeal be set aside and a European patent be granted on the basis of the claims of the main request, or in the alternative, on the basis of the claims of either the first or second auxiliary requests.

V. The board issued a summons to oral proceedings. In a communication under Article 15(1) RPBA annexed to the summons the board expressed its preliminary opinion on the then pending requests.

VI. By letter dated 19 February 2020 the appellant filed amended claims according to a main request and first to third auxiliary requests. The appellant maintained the previous main request and the previous first and second auxiliary requests as fourth, fifth and sixth auxiliary requests, respectively.

VII. By registered letter dated 17 March 2020 the board informed the appellant that the oral proceedings had been rescheduled to 22 June 2020.

VIII. In a communication of the registry dated 18 May 2020 the appellant was asked whether it would agree to holding the oral proceedings by videoconference.

IX. With a submission dated 3 June 2020 the appellant agreed to holding the oral proceedings by videoconference.

X. On 22 June 2020 the board held oral proceedings by videoconference. During the oral proceedings the appellant filed further auxiliary requests, including an auxiliary request labelled "AUXILIARY REQUEST 6B". The appellant then withdrew all other requests and made this request labelled "AUXILIARY REQUEST 6B" its main request. In addition, the appellant filed replacement pages 1 and 3 of the description. The appellant's final requests were that the decision under appeal be set aside and a European patent be granted in the following version:
Description: Pages 1 and 3 received during oral proceedings of 22 June 2020 and pages 2 and 4 to 9 as originally filed;
Claims: Nos. 1 to 9 of the main request, received as "Auxiliary Request 6B" during oral proceedings of 22 June 2020;
Drawings: Sheet 1/1 as originally filed.

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

XI. Claim 1 of the main request (labelled "AUXILIARY REQUEST 6B") reads as follows:

"A system comprising:
(i) a digital media distribution device (10), the digital media distribution device comprising:
an encoder (12) comprising a first RS-232 port, the encoder configured to encode input data that is received by the digital media distribution device into a first data format under control from a computer terminal unit (26); and
a decoder (14) comprising a second RS-232 port, coupled to the encoder (12), that is configured to decode output data to be output by the digital

media distribution device under control from the computer terminal unit (26); and
(ii) a transcoder (16), coupled to the decoder (14), that is configured to convert the encoded input data from the first data format into a second data format; wherein coupling between the encoder (12), decoder (14) and transcoder (16) is by means of a computer network (24) and
characterised in that the computer terminal unit (26) is coupled to both the encoder and the decoder via RS-232 lines (28) that couple to the RS-232 ports on the encoder and decoder."

Claims 2 to 9 are dependent claims.

XII. The appellant's arguments, where relevant to the present decision, may be summarised as follows:
starting from document D1 and faced with the problem of connecting a control terminal to a video server in an alternative manner, a person skilled in the art would not use individual RS-232 lines to individual components within the video server, namely the encoder and the decoder.

Reasons for the Decision

1. The appeal is admissible.

2. *Main request - amendments (Article 123(2) EPC)*

2.1 Compared with claim 1 of the main request forming the basis of the decision under appeal, claim 1 of the main request has been amended as follows:

(a) specifying a system comprising a digital media distribution device (comprising an encoder and a decoder) and a transcoder;

(b) coupling between the encoder (12), decoder (14) and transcoder (16) is by means of a computer network (24);

(c) the encoder comprises a first RS-232 port and the decoder comprises a second RS-232 port;

(d) the computer terminal unit (26) is coupled to both the encoder and the decoder via RS-232 lines (28) that couple to the RS-232 ports on the encoder and decoder.

2.2 A basis for feature (a) can be found in Figure 1 of the application as filed, which shows a dotted outline labelled "10", referred to in line 6 of page 3 as the "digital media distribution device ("DMD device") 10", which demonstrates that the encoder and the decoder form the DMD device. This is further supported by line 21 of page 6, which reads "The transcoder 16 is housed within a personal computer 38", which indicates that the transcoder is separate from the DMD device comprising the encoder and the decoder.

Feature (b) is disclosed on page 3, lines 15 to 18.

Features (c) and (d) are disclosed on page 3, lines 18 to 20.

2.3 In the decision under appeal (see point 1 of the communication dated 11 November 2014) the examining division raised an objection, in relation to the feature in claim 1 of the then main request which read

"via one of a serial connection or", that the application only disclosed RS-232 lines and that a generalisation to any serial connection infringed Article 123(2) EPC.

The general feature of a "serial connection" was amended to "RS-232 lines" in claim 1 of the main request, thereby resolving this objection.

2.4 In said communication the examining division also raised an objection, in relation to the feature in claim 1 of the then main request which read "the encoder is coupled to the decoder solely by the computer network", that there was no basis in the application as filed for this coupling to be the sole one between the encoder and the decoder.

The feature in claim 1 of the main request which reads "coupling between the encoder (12), decoder (14) and transcoder (16) is by means of a computer network (24)" does not contain the word "solely". As a consequence, this objection no longer applies.

2.5 Dependent claims 2 to 9 of the main request correspond to dependent claims 3 to 10 of the main request forming the basis of the decision under appeal.

2.6 Hence, the board finds that the claims of the appellant's main request do not contain subject-matter which extends beyond the content of the application as filed, and that they thus comply with Article 123(2) EPC.

3. *Main request - inventive step (Article 56 EPC 1973)*

3.1 According to Article 56 EPC 1973, "[a]n invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art". It is established case law that the "problem and solution approach" is an appropriate tool for assessing whether claimed subject-matter fulfils the requirements of Article 56 EPC 1973 (see Case Law of the Boards of Appeal of the European Patent Office, 9th edition 2019, I.D.2).

3.2 It is common ground that document D1 may be considered the prior art closest to the subject-matter of claim 1.

3.3 Document D1 discloses a media distribution device (D1, page 2, first section: "The VideoRaptor 5000 is a Third-Generation MPEG2, multi-channel video server") comprising an encoder and a decoder (D1, page 5, second section: "Multiple video boards/channels may be installed in the same subsystem each configurable either as Encoder, Decoder or codec").

Document D1 further discloses that multiple "VideoRaptor" devices may be coupled by means of a computer network (D1, page 3, first section: "Eventual Server Clustering is also performed by the system by connecting 3 or more VideoRaptor servers on the same network").

One of these connected "VideoRaptor" devices may act as transcoder (D1, page 4, second section: "VideoRaptor 5000 optionally offers unique real-time transcoding features").

A "VideoRaptor" device according to document D1 can be controlled by a computer terminal unit (D1, figure on page 4: "Consolle"; figure at the bottom of page 5:

"Remote control + Monitor"; lower figure on page 6: "Control Stations" and figure on page 7: "Control").

The board finds that since document D1 is a sales brochure describing a specific equipment, the various sections of document D1 are not to be considered to be separate embodiments but to describe individual features of one or more "VideoRaptor" devices that will all be included at least in a fully fledged device.

3.4 The subject-matter of claim 1 thus differs from the disclosure of document D1 in that the computer terminal unit is coupled to both the encoder and the decoder within the media distribution device via RS-232 lines that couple to RS-232 ports on the encoder and decoder.

3.5 Document D1 discloses that a computer terminal unit may be connected to a "VideoRaptor" device via a TCP-IP Gigabit network (see D1, figure at the bottom of page 5). In other parts of document D1 the manner in which a computer terminal unit is connected to a "VideoRaptor" device is left unspecified (see D1, lower figure on page 6: "Control Stations" and figure on page 7: "Control").

The objective technical problem may thus be considered that of finding an alternative way of connecting a computer terminal unit to the digital media distribution device.

3.6 Faced with this problem a person skilled in the art would consider that document D1 teaches that the "VideoRaptor" device can control a further device via an RS-232 connection (see D1, page 6, second section: "any rs232/422 controlled device may be connected to

the VideoRaptor control ports" and figure on page 7: "RS232/422 controls for any external device").

In view of this teaching of D1 it would be straightforward for a person skilled in the art to apply the same kind of link, namely an RS-232 connection, to the control of the "VideoRaptor" device by a computer terminal unit.

As a result, a person skilled in the art would arrive at a system in which a computer terminal unit is connected to a "VideoRaptor" device as a whole via an RS-232 connection.

3.7 However, a person skilled in the art would not arrive at the configuration specified in claim 1, according to which a computer terminal unit is configured to control individual components inside a digital media distribution device, namely an encoder and a decoder, via respective RS-232 links that couple to individual RS-232 ports on these components. This modification to the system known from D1 is not obvious to a person skilled in the art on the basis of common general knowledge either, since the system known from D1 is designed to have a flexible configuration with multiple video boards in one device (see D1, page 5, second section) without the need for individual physical control lines from the computer terminal unit to each video board.

3.8 Hence, the board finds that the subject-matter of claim 1 is not obvious starting from document D1 as the closest prior art.

3.9 The other documents cited during the examination proceedings are less pertinent than document D1 because

they only disclose general video transcoding servers on the internet without specifying how such a server may be controlled by a computer terminal unit.

3.10 It follows that the subject-matter of claim 1 involves an inventive step (Article 56 EPC 1973).

3.11 Claims 2 to 9 are dependent claims. Therefore, their subject-matter also involves an inventive step.

4. *Main request - clarity (Article 84 EPC 1973)*

4.1 In the communication annexed to the summons the board expressed doubts as to whether the feature that an encoder or decoder is configured to operate under control from a computer terminal unit limits the encoder or decoder in a clear manner. The board noted in particular that claim 1 according to all the then pending requests did not contain specific features enabling this control, such as the presence of RS-232 ports on the encoder or decoder.

The board finds that claim 1 of the main request resolves this objection by specifying that the encoder and decoder both comprise an RS-232 port.

4.2 In said communication the board raised an objection, in relation to claim 1 according to all the then pending requests, that it was not clear whether protection was sought for a digital media distribution device as a single device or for a distributed system.

The board finds that this objection is resolved in claim 1 of the main request because the category of this claim has been changed from device to system.

4.3 The board does not consider there to be any other clarity objection.

4.4 In view of the amendments to the description on pages 1 and 3 the board holds that the claims of the main request are supported by the description.

4.5 Hence, the board arrives at the conclusion that the requirements of Article 84 EPC 1973 are met.

5. Claim 1 of the main request is drafted in the two-part form, thus complying with the provisions of Rule 29(1) (a) and (b) EPC 1973.

6. Amended page 1 of the description cites the closest prior art, document D1, thus meeting the requirements of Rule 27(1)(b) EPC 1973.

7. Conclusion

In view of the above, the board finds that a patent can be granted with the application documents according to the appellant's main request.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the examining division with the order to grant a patent in the following version:

Description:
- pages 1 and 3 received during oral proceedings of 22 June 2020
- pages 2 and 4 to 9 as originally filed

Claims:
Nos. 1 to 9 of the main request, received as "Auxiliary Request 6B" during oral proceedings of 22 June 2020

Drawings:
Sheet 1/1 as originally filed.

The Registrar: The Chairman:

K. Boelicke G. Decker on behalf of C. Kunzelmann (unable to act)

Decision electronically authenticated