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**Datasheet for the decision  
of 19 June 2017**

**Case Number:** T 0985/15 - 3.5.07

**Application Number:** 00310327.2

**Publication Number:** 1130594

**IPC:** G11B27/028, G11B27/032,  
H04N5/765

**Language of the proceedings:** EN

**Title of invention:**

Method of generating audio and/or video signals and apparatus  
therefore

**Applicant:**

Sony Corporation

**Headword:**

Metadata generation tool/SONY

**Relevant legal provisions:**

EPC Art. 56  
EPC R. 99(2)

**Keyword:**

Admissibility of appeal - appeal sufficiently substantiated  
(yes)

Inventive step - all requests (no)

**Decisions cited:**

T 1266/07, T 1768/11, T 1942/12

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

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Case Number: T 0985/15 - 3.5.07

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.07**  
**of 19 June 2017**

**Appellant:** Sony Corporation  
(Applicant) 1-7-1 Konan  
Minato-ku  
Tokyo 108-0075 (JP)

**Representative:** D Young & Co LLP  
120 Holborn  
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**Decision under appeal:** **Decision of the Examining Division of the European Patent Office posted on 1 December 2014 refusing European patent application No. 00310327.2 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** R. Moufang  
**Members:** R. de Man  
M. Jaedicke

### **Summary of Facts and Submissions**

- I. The applicant (appellant), which at the time was Sony United Kingdom Limited, appealed against the decision of the Examining Division refusing European patent application No. 00310327.2.
- II. In the course of the appeal proceedings, a transfer of the application to Sony Corporation was registered.
- III. The decision cites the following document:  
  
D1: US 5 910 825 A, 8 June 1999.  
  
The Examining Division decided that dependent claims 4, 8 and 14 of the then main request and of the then first auxiliary request and claims 2, 4 and 8 of the then second auxiliary request were not clear within the meaning of Article 84 EPC. The subject-matter of the independent claims of the main request and of the first and second auxiliary requests lacked inventive step in view of document D1.
- IV. With the statement of grounds of appeal, the appellant filed an amended main request and amended first and second auxiliary requests.
- V. In a communication accompanying a summons to oral proceedings, the Board raised the issue of the admissibility of the appeal. It expressed the preliminary view that the subject-matter of claim 1 of each request lacked inventive step in view of document D1 and that claim 1 of the second auxiliary request was not clear and lacked support in the description.

- VI. By letter of 19 April 2017, the appellant requested oral proceedings by video conference "before the Examining Division". In a communication issued on 26 April 2017, the Board informed the appellant that the oral proceedings would be conducted in the conventional manner.
- VII. By letter of 16 May 2017, the appellant replaced its request with an amended main request and amended first and second auxiliary requests.
- VIII. Oral proceedings were held on 19 June 2017. At the end of the oral proceedings, the chairman pronounced the Board's decision.
- IX. The appellant requested 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, on the basis of the claims of one of the first and second auxiliary requests.
- X. Claim 1 of the main request reads as follows:
- "A meta data generation tool (110) for use in generating metadata in association with an audio and/or visual generation apparatus (1), said generation tool being arranged in operation to generate meta data associated with audio and/or video signals representative of visual images, wherein a type of meta data generated by said tool is user selectable, and said meta data generation tool is arranged to generate meta data of a default type in absence of a user selecting from a plurality of meta data types."

XI. Claim 1 of the first auxiliary request differs from claim 1 of the main request in that the following text has been added:

" , wherein said plurality of meta data types comprises at least one of a time at which the audio and/or video signals are generated, a date at which the audio and/or video signals are generated, a location at which the audio and/or video signals are generated, an aperture setting used to capture the audio and/or video signals, or a point at which recording of the audio and/or video signals starts and stops."

XII. Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in that the following text has been inserted before "wherein said plurality of meta data types ...":

"said meta data generation tool comprising a user interface which is arranged to provide a facility for selecting the at least one of a plurality of different types of meta data, said meta data being generated in operation in accordance with content of said audio and/or video signals in accordance with said user selected meta data types, wherein said tool is arranged to generate meta data in accordance with one of a plurality of predetermined meta data selections, each of which has at least one of said plurality of meta data types, said selection of the at least one of the plurality of different types of meta data comprising selecting one of said meta data selections for generating said meta data, and the default meta data comprising at least one metadata type,"

XIII. The appellant's arguments as relevant to the decision are discussed in detail below.

## **Reasons for the Decision**

### 1. *The request for oral proceedings via video conference*

Since the "general framework" that would be required as a prerequisite for holding oral proceedings by video conference before a board of appeal, as set out in decision T 1266/07 of 26 November 2009, reasons 1.2, is currently not in place, the appellant's request that oral proceedings be held by video conference was refused (see also decision T 1942/12 of 3 September 2015, reasons 2).

### 2. *Admissibility of the appeal*

2.1 In the contested decision, the Examining Division decided that dependent claims 4, 8 and 14 of the then main request and of the then first auxiliary request and claims 2, 4 and 8 of the then second auxiliary request lacked clarity because they referred to "a standard defining the type and format of meta data associated with said audio and/or video information". It was not clear how that unspecified standard limited the claims.

2.2 In the statement of grounds of appeal, the appellant addressed this objection only by stating that it had excised the claims that related to "a standard" and that therefore the clarity objection was moot. But this statement did not correspond to the amendments actually made: only claim 8 of the previous main request and of the previous first auxiliary request and claim 4 of the previous second auxiliary request had been excised; claims 4 and 13 of the amended main request and first auxiliary request and claims 2 and 7 of the amended

second auxiliary request still contained the feature objected to.

2.3 After the Board had pointed out the discrepancy between the appellant's argument and the amendments made, the appellant confirmed that it had erroneously not excised all the claims relating to "a standard" and filed amendments correcting the omission.

2.4 Thus, it is evident from the statement of grounds of appeal how the appellant intended to overcome the lack-of-clarity objection raised against the various dependent claims. The Board considers, therefore, that the statement of grounds of appeal is sufficiently substantiated in respect of the grounds for refusal based on Article 84 EPC, as required by Rule 99(2) EPC (see also decision T 1768/11, reasons 1).

2.5 As the statement of grounds of appeal also addresses the remaining grounds for refusal and the appeal complies with the other provisions referred to in Rule 101 EPC, the appeal is admissible.

### 3. *The invention*

The invention as claimed relates to a metadata generation tool. It is based primarily on the "third example embodiment" set forth in the description on page 14, line 28, to page 17, line 9. This embodiment describes a metadata generation tool 110 provided with a user interface 112 having a screen 114 and a keypad 116. It is coupled to four "metadata generation sensors 122, 124, 126, 128". The signals received from these sensors are generated "in association with the audio/video signals" generated by, for example, video camera 1 of which the tool forms part or to which the



tool is coupled. Examples of possible metadata types are "Time" (the time at which the audio/video signals are generated), "Date" (the date on which the audio/video signals are generated), "GPS" (the location at which the audio/video signals are generated), "F Stop" (the aperture setting of the video camera when the audio/video signals were generated), "Rec" (a point at which recording starts and stops) and "Text" (a text value input by the user via the keypad 116).

By means of the keypad 116, the user may enter commands indicating which of the metadata types he wishes to generate. Although the user is free to select any of the available metadata types, he may also select one of four predetermined "metadata selections" SELT1, SELT2, SELT3 and DEFLT as shown in the table of Figure 10:

	TIME	DATE	GPS	FSTOP	REC	TEXT
SELT1	X	X				X
SELT2			X		X	
SELT3		X		X	X	X
DEFLT		X			X	

FIG. 10

If the user makes no selection, the metadata selection DEFLT is used as the default setting.

4. *Main request - inventive step*

4.1 Document D1 discloses in Figure 4 a video data transmitting unit 11 comprising a television camera 21 and a composite transmitting unit 23. The composite transmitting unit 23 inserts "attendant information" into the video signal (column 4, lines 6 to 16; column 5, lines 7 to 23).

Attendant information includes "title", "shooting date and time", "cameraman" and "shooting scene" (column 4, lines 29 to 38). This data is received by a CPU 24 from a personal computer 26, a calendar/clock input unit 27, an IC card read unit 28 and a keyboard 29 (column 4, lines 39 to 46). The CPU 24 selectively uses one or more of the input units 26 to 29 to collect the attendant information "in accordance with the situation at the scene where the news materials are being shot" (column 5, lines 1 to 6).

4.2 The Board considers the video data transmitting unit 11 to include a metadata generation tool suitable for generating metadata in the form of "attendant information" in association with an audio/video generation apparatus. The video transmitting unit 11 generates metadata associated with audio/video signals recorded by the television camera 21, the video signals being representative of visual images. Document D1 is therefore a suitable starting point for assessing inventive step.

4.3 The appellant argued that the metadata generation tool of document D1 allowed no user selection of the "type of meta data" generated by the tool. Document D1 consistently disclosed that the generated attendant information included title, shooting date and time, cameraman and shooting scene. The passage in column 5, lines 1 to 6, stating that the CPU 24 "selectively uses" one or some of the attendant-information input units 26, 27, 28 and 29, was to be understood as meaning that, depending on the situation at the scene, metadata of the various types could be input from different input units; but the types of the generated metadata were always the same.

4.4 The Board agrees with the appellant that document D1 does not disclose that the types of the generated metadata (or attendant information) are selected by the user or in some other way. The subject-matter of claim 1 therefore differs from the metadata generation tool of document D1 in that:

- a type of metadata generated by the tool is user selectable; and
- a default type of metadata is generated if the user makes no selection.

4.5 The appellant's main argument in support of inventive step is that the claimed user selectability of the types of generated metadata is incompatible with the teaching of document D1. The video data transmitting unit 11 of document D1 is part of a broadcasting system which also includes a database storing unit 44 for storing the generated attendant information as well as editing units 45A to 45N (Figure 3; column 5, line 24, to column 6, line 3). The operators of the editing units use the database to retrieve desired items of video material by keyword (column 5, line 66, to column 6, line 3; column 7, lines 24 to 30). According to the appellant, if not all metadata types were generated, the database would lose its integrity and the broadcasting system could no longer serve its purpose of allowing video material to be stored and retrieved in an efficient manner. Efficiency was important, because the broadcasting system of document D1 was designed to handle urgent news data (column 6, lines 59 to 63). Starting from document D1, the skilled person would therefore not consider allowing the user to select the types of generated metadata.

4.6 The Board does not agree with this argument for the following reasons.

First, there is no statement in document D1 to the effect that for the database to be usable, it must necessarily contain, for each item of video material, title, shooting date and time, cameraman and shooting scene attribute information. In the Board's view, the skilled person reading document D1 would understand it to be desirable that the information stored in the database is as complete as possible, but he would have no reason to assume that a broadcasting system based on document D1 could not work if, for example, cameraman attribute information were not consistently present. In particular, in case of urgent news that has to be broadcast rapidly, there is no reason why less important items of attribute information cannot be left blank.

Second, even if it were accepted that title, shooting date and time, cameraman and shooting scene were indispensable elements of attribute information in the specific context of document D1, i.e. the recording and broadcasting of news materials, many additional attribute-information types for news materials may be envisaged, and some examples are given in document D1 in column 9, line 65, to column 10, line 8. Although document D1 does not state that these further attribute-information types are selectable, they are at least optional in the sense that a news broadcasting system like the one disclosed in document D1 could function both with such types and without them.

Third, the Board takes the view that the skilled person reading document D1 would not consider its technical teaching to be limited to broadcasting systems for news

materials. Rather, he would realise that it could be applied to other types of video material, which would naturally be associated with other metadata types.

- 4.7 At the oral proceedings, the appellant acknowledged that the teaching of document D1 was not tied to the specific set of attribute-information types consisting of title, shooting date and time, cameraman and shooting scene. But the appellant argued that a selection of types of generated metadata would be made not by the user operating the video data transmitting unit 11, but by the person designing the broadcasting system.

However, if the types of metadata generated by the video data transmitting unit 11 were inflexible, then either a different video data transmitting unit would have to be manufactured for each different set of generated-metadata types or the video data transmitting unit would have to be reprogrammed for a different set of metadata types in some manner that does not qualify as "user-selectable". While such options are possible, the Board sees no reason why the skilled person would dismiss the idea of allowing user selection of the metadata types.

- 4.8 In summary, the Board holds that the teaching of document D1 is not incompatible with user selectability of the types of metadata generated by the video data transmitting unit 11. But this does not mean that the skilled person not just could, but actually would add such user selectability to the video data transmitting unit of document D1. To answer the "would" question, first the objective technical problem solved by the distinguishing features has to be identified.

- 4.9 At the oral proceedings, the appellant argued that the features solved the technical problem of improving flexibility in the type of generated metadata while maintaining the ability to efficiently retrieve video content.

The Board understands the condition "while maintaining the ability to efficiently retrieve video content" to refer to the feature specifying that a default type of metadata is generated if the user fails to make a selection, which avoids the situation that no metadata is generated at all.

- 4.10 Since document D1 in column 9, line 65, to column 10, line 8, mentions a variety of attribute-information types which are both useful and non-essential, the skilled person would naturally be led to desiring flexibility in the metadata types generated by the video data transmitting unit. The Board therefore accepts the appellant's problem formulation.
- 4.11 Starting from document D1 and faced with the problem as formulated by the appellant, the skilled person would, in the Board's view, immediately realise that the type of generated metadata can be made more flexible by allowing the user to select it. Indeed, increasing the flexibility of a device by making it user-configurable is well known in the art. As explained above, the skilled person would not be dissuaded from adding user selectability of metadata types by any suggestion in document D1 that the resulting system would no longer have the ability to efficiently retrieve video content.

As to the "default type" feature, the Board considers that the skilled person at the priority date of the application was familiar with the concept of "default"

settings to be activated in the absence of explicit user selections; indeed, the application as filed uses the term "default" in exactly this sense.

Hence, the conclusion is that the skilled person would adapt the video data transmitting unit 11 of document D1 to arrive at a metadata generation tool as claimed without the exercise of any inventive skill.

4.12 For these reasons, the subject-matter of claim 1 of the main request lacks inventive step (Article 56 EPC).

5. *First auxiliary request - inventive step*

5.1 Claim 1 of the first auxiliary request adds to claim 1 of the main request features specifying that the set of metadata types from which the user selection is made includes at least one of *inter alia* "a time at which the audio and/or video signals are generated" and "a date at which the audio and/or video signals are generated".

5.2 Since the metadata types mentioned in document D1 include "shooting date and time", these features do not further distinguish the claimed subject-matter from what is disclosed in document D1.

5.3 Hence, the subject-matter of claim 1 of the first auxiliary request likewise lacks inventive step (Article 56 EPC).

6. *Second auxiliary request - inventive step*

6.1 Claim 1 of the second auxiliary request adds to claim 1 of the first auxiliary request essentially that:

- the metadata generation tool comprises a user interface;
- the user interface allows selection of one of a plurality of predetermined metadata selections, each selection including at least one of the plurality of metadata types; and
- metadata is generated "in operation in accordance with content of said audio and/or video signals in accordance with said user selected meta data types".

6.2 The third feature does not further distinguish the subject-matter of claim 1 from what is disclosed in document D1, as metadata such as "title", "shooting scene" and "brief description" is related to the content of the audio/video signal (see document D1, column 9, line 65, to column 10, line 7).

6.3 As to the first feature, to allow the user to make a selection it is obvious to provide him with some kind of "user interface", for example a GUI or some arrangement of buttons.

6.4 As to the second feature, the Board considers that predetermined selections of settings have been long known, for example from familiar household appliances such as washing machines. To allow user selection from a larger number of metadata types, it is obvious to provide the user with a choice from a number of predetermined selections, each selection determining a subset of the plurality of metadata types.

The appellant did not contest that such predetermined setting selections had been known, but it submitted that they had not been applied to the selection of metadata types. However, the application of a well-



known measure for its normal purpose is normally obvious when, as here, it is not accompanied by a surprising technical effect, even if the resulting combination is new.

6.5 The subject-matter of claim 1 of the second auxiliary request therefore lacks inventive step, too (Article 56 EPC).

7. *Conclusion*

Since none of the requests on file is allowable, the appeal is to be dismissed.

## **Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:



I. Aperribay

R. Moufang

Decision electronically authenticated