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**Datasheet for the decision  
of 24 November 2021**

**Case Number:** T 1822/18 - 3.5.07

**Application Number:** 13718436.2

**Publication Number:** 2842130

**IPC:** G11B27/34, G11B27/10,  
H04N21/254, H04N21/854,  
H04N21/431, H04N21/488,  
H04N21/478, H04N21/4722,  
G06F17/30

**Language of the proceedings:** EN

**Title of invention:**  
Method and device for augmenting user-input information  
related to media content

**Applicant:**  
ARRIS Enterprises LLC

**Headword:**  
Augmenting user-input information/ARRIS ENTERPRISES

**Relevant legal provisions:**  
EPC Art. 56  
RPBA Art. 12(4)

**Keyword:**

Inventive step - main request and first auxiliary request (no)  
Amended claims filed with the statement of grounds of appeal -  
second auxiliary request - not admitted

**Decisions cited:**

G 0003/08, G 0001/19, T 1173/97, T 1741/08, T 1834/10



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Case Number: T 1822/18 - 3.5.07

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.07**  
**of 24 November 2021**

**Appellant:** ARRIS Enterprises LLC  
(Applicant) 3871 Lakefield Drive  
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**Representative:** Openshaw & Co.  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 12 February  
2018 refusing European patent application No.  
13718436.2 pursuant to Article 97(2) EPC**

**Composition of the Board:**

**Chair** J. Geschwind  
**Members:** M. Jaedicke  
C. Barel-Faucheux

## **Summary of Facts and Submissions**

- I. The appellant (applicant) filed an appeal against the decision of the examining division refusing European patent application No. 13718436.2, filed as international application PCT/US2013/035714 (published as WO 2013/162870).
- II. The documents cited in the contested decision included:  
D1: US 2011/0126105 A1, published on 26 May 2011.
- III. The examining division refused the application for lack of inventive step in the subject-matter of independent claim 1 of the main request and of each of the first to third auxiliary requests over the prior art disclosed in document D1. The examining division considered some of the claimed features to be non-technical aspects relating to the content of information ("what") to be presented. It also held that claim 1 of the second auxiliary request was not clear.
- IV. With its statement of grounds of appeal, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the main request considered in the contested decision or either of the first or second auxiliary requests filed with the statement of grounds of appeal. The board understood from the statement of grounds of appeal that the auxiliary requests considered in the contested decision had been withdrawn.
- V. In a communication under Article 15(1) RPBA 2020 accompanying the summons to oral proceedings, the board stated its provisional opinion: the subject-matter of claim 1 of each of the main request and the first and

second auxiliary requests lacked an inventive step in view of document D1, and the second auxiliary request appeared to be inadmissible under Article 12(4) RPBA 2007.

- VI. Oral proceedings were held as scheduled. The appellant, who had not replied in substance to the board's communication, confirmed that the auxiliary requests considered in the contested decision were no longer in the proceedings. The appellant was heard on inventive step for the main request and the first auxiliary request and on the admissibility of the second auxiliary request. At the end of the oral proceedings, the Chair announced the board's decision.
- VII. The appellant's final requests were that the decision under appeal be set aside and that a patent be granted on the basis of any of: the main request considered in the decision under appeal and the first and second auxiliary requests filed with the statement of grounds of appeal.
- VIII. Claim 1 of the main request reads as follows (itemisation of the features added by the board):  
"[F1] A method of augmenting user-input information (109), the method comprising:  
[F2] associating (302) a first secondary device (108) with a primary media device (104), the primary media device (104) for displaying primary media content (101);  
[F3] receiving (304), in the first secondary device (108), user-input information (109) that is input at the first secondary device (108) by a user of the first secondary device (108), wherein the input is during a display of the primary media content (101) on the primary media device (104);

- [F4] analyzing (306) the user-input information (109) to automatically generate user-content metadata (111),
- [F4a] wherein the user-input information comprises a user comment responsive to the display of the primary media content,
- [F4b] the analyzing comprises parsing the user comment to extract one or more of a keyword from the user comment and a key phrase from the user comment, and the user-content metadata (111) comprises the extracted one or more of the keyword and the key phrase;
- [F5] at least one of: receiving (310) primary-content metadata (107) related to the primary media content (101) and deriving (310) primary-content metadata (107) from the primary media content (101); and
- [F6] in one or more devices, using the user-content metadata and the primary-content metadata to automatically generate an identified association between the user comment and the primary-content metadata,
- [F6a] the generating comprising analyzing the user-content metadata and the primary-content metadata to identify (314) one or more associations between the user-content metadata (111) and the primary-content metadata (107);
- [F7] wherein the primary-content metadata comprises information relating to a specific viewable object displayed in a scene in the primary media content, and
- [F7a] wherein the identified association includes information that relates the user-input information to the specific viewable object displayed by the primary media device during the

receiving of the user-input information by the first secondary device;

[F8] the method further comprising displaying an augmented user comment (117), wherein the augmented user comment (117) includes the automatically generated association that relates the user-input information to the specific viewable object."

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

- features F3 and F4 have been amended as follows:  
"receiving (304), in the first secondary device (108), a user comment that is input at the first secondary device (108) by a user of the first secondary device (108), wherein the user comment is responsive to a display of the primary media content (101) on the primary media device (104);";  
"analyzing (306) the user comment to automatically generate user-content metadata (111),";
- feature F4a has been deleted;
- the first occurrence of the text "user-input information" in each of the features F7a and F8 has been replaced by "user comment".

X. Claim 1 according to the second auxiliary request is derived from claim 1 of the first auxiliary request by replacing the text "wherein the primary-content metadata comprises [...] during the receiving of the user-input information by the first secondary device" by "wherein the primary-content metadata comprises a listing of specific viewable objects displayed in a scene in the primary media content and their locations, and wherein the identified association includes

information that relates the user comment to one of the specific viewable object [sic] displayed by the primary media device during the receiving of the user-input information by the first secondary device;".

XI. The appellant's arguments, where relevant to the present decision, are discussed in detail below.

## **Reasons for the Decision**

### **The invention**

1. The application relates to augmenting user-input information associated with a media source such as a movie (description as published, paragraph [0002]). According to the background of the invention (description, paragraph [0003]), various devices exist that provide a source of viewable media content, such as televisions, computers and mobile devices. Viewers of such media sources may wish to provide some type of commentary related to what is being viewed.

Some services offer a viewer the opportunity to provide a comment that is then viewable by others who follow the viewer or who visit the web page hosting the comment. The comment is often general and easily assigned to the media content as a whole. In other cases, however, the comment is specific to a single portion of the content. This can be confusing, since a comment directed to a specific portion, for example, can lack relevance to a user outside the context of that specific portion of the content. A user may often wish to obtain additional information about a specific portion of content, people or objects viewed in the content, and this can be challenging.



**Main request**

2. *Inventive step*

- 2.1 The examining division considered document D1 to be a suitable starting point for assessing inventive step and this was not contested by the appellant.
- 2.2 The examining division identified feature F4b (see itemisation in point VIII. above) of claim 1 as the sole distinguishing feature over document D1.
- 2.3 In its statement of grounds of appeal, the appellant argued that features F6, F6a and F7 were further distinguishing features (statement of grounds of appeal, page 4, third paragraph).
- 2.4 Regarding the alleged differences from document D1, the board analyses document D1 in detail below.
- 2.5 D1 discloses a method of inputting user comments while a movie is displayed on a screen of a computer device (see D1, Figures 2, 3A and 3B; paragraphs [0044], [0045], [0075] to [0116]; claims 1 and 2). For commenting, the user uses a "point and click" operation to select an object of the movie content on a display (D1, paragraphs [0077] to [0079]). The method then uses the click coordinates and the elapsed time of the movie (movie metadata) to determine the selected display subject (D1, paragraphs [0051] and [0081] to [0084]). The user can then write an arbitrary comment regarding the selected display subject using a thumbnail image corresponding to the elapsed time of the movie and the display position selected by the "point and click" operation (D1, Figure 3B, paragraphs [0086] to [0088]).

- 2.5.1 In view of the above analysis of the disclosure of document D1, the board agrees with the examining division (see also the contested decision, point 13.2) that document D1 discloses features F1 to F4a, F5 and F8. The board also agrees with the appellant and the examining division that D1 does not disclose feature F4b.
  
- 2.5.2 The board agrees with the examining division that the method disclosed in document D1 automatically creates an association between the user comment and the primary-content metadata, this metadata comprising, for example, the content ID and point in time (D1, paragraphs [0084], [0085], [0088], [0104], [0109] and [0114]). However, the board agrees with the appellant that features F6a and F7 are not disclosed in document D1. Consequently, the board concludes that the distinguishing features are the features F4b, F6a and F7. In the oral proceedings, the appellant agreed that these features were distinguishing features over the prior art D1 and submitted its further arguments on inventive step on that basis.
  
- 2.6 According to the appellant a technical effect of the distinguishing features was that an association between the user-input information and a specific viewable object in the primary media content could be generated automatically using only the user's comment and the primary-content metadata. In other words, the only user-input information that was used to generate the association was the user's comment (statement of grounds of appeal, page 3).
  
- 2.6.1 Consequently, the distinguishing features solved the technical problem of lowering a burden on a user who was commenting on media content by avoiding the need

for mouse input for a "point and click" operation. Thus the user's attention was diverted away from the primary media content to a lesser extent. This improved user experience and reduced the likelihood of the user missing key story/plot points. Moreover, the distinguishing features solved the further technical problem of reducing the requirement for hardware support for "point and click" operations on user devices.

Furthermore, in the oral proceedings, the appellant argued that the distinguishing features had the technical effects set out below.

- According to the method disclosed in document D1 it was necessary to provide a "point and click" operation on the device on which the movie was playing. This meant that it was necessary to configure the primary media device with appropriate input possibilities. That limited the kind of devices in which the method disclosed in D1 could be used. In particular, it could not be used on all media devices such as when playing the movie on a television without a touch screen or mouse, or on a cinema screen.
- In the case of multiple viewers, the "point and click" operation used in the method disclosed in document D1 was very disruptive when a user wished to input a comment.
- The "point and click" operation of the prior-art method could lead to a wrong association if the displayed objects on which the user wished to comment were small and/or fast-moving (such as cars or aeroplanes), since these objects were difficult to select with a mouse pointer. This applied all the more in the case of users with special needs.

2.6.2 The appellant argued that in the light of the aforementioned technical effects the objective technical problems solved were: (i) how to adapt the method of document D1 to work with different devices, (ii) how to reduce or eliminate the disruption to viewers due to interaction with the primary device, and (iii) how to remove the possibility of incorrect "point and click" operations.

2.7 Regarding the alleged effects of the distinguishing features with respect to avoiding the "point and click" operations used in the method disclosed in D1, there is nothing in claim 1 which precludes the use of "point and click" operations for user input, including for inputting the text of a user comment (for example by using a pointing device to select letters on a displayed keyboard). Moreover, according to the established case law, lowering the cognitive burden for a user is not a technical effect (see, for example, T 1741/08, Reasons 2.1; T 1834/10, Reasons 5). This applies also with respect to diverting the user's attention as well as in the case of multiple viewers.

2.7.1 Furthermore, the board does not see that lowering a burden for the user is derivable from the distinguishing features over substantially the whole range claimed (see G 1/19, Reasons 82). Indeed, the claimed subject-matter is broad, and it is not limited to: a particular form of human-machine interaction, the case of multiple viewers, or a commenting user with special needs.

2.7.2 Regarding the possible generation of a wrong association in the method disclosed in document D1, the board informed the appellant during the oral proceedings that it was not convinced that the

association created by the claimed method was necessarily one that was intended by the user. Indeed, the association created depends, among other things, on the availability of suitable primary-content metadata and the time period for receiving a comment after a user has viewed a specific media content on the display.

Furthermore, the method of claim 1 is not limited to receiving user comments or user input regarding small or fast-moving objects. Consequently, the board does not see that any effect with respect to avoiding unintended associations between user comments and specific objects in the media content is derivable over the whole scope of claim 1.

- 2.7.3 The appellant argued that the claimed method would overcome limitations of the prior-art method to certain kinds of devices. However, the board notes that the claimed method is not limited to devices such as a cinema screen or a television without a touch screen. Moreover, the appellant could not provide, during the oral proceedings, any evidence where any details concerning the use of a cinema screen were disclosed in the application as filed. Instead, it stated that it was not necessary for the application to provide examples of all possible primary media devices.

The board notes that according to claim 1 user-input information is received in the first secondary device, but how exactly that input is provided is not specified. Consequently, no conclusions can be drawn as to the user-friendliness of the manner of providing input. According to the description of the application as filed, paragraphs [0015] and [0016], the primary media device includes a device allowing the viewing of

the primary media content such as a television, and the first secondary device may be a laptop or desktop computer. Document D1 discloses in paragraphs [0045], [0078] and [0079] that the information processing device used may include various types of computer devices with an input device and a display screen. Consequently, the board considers that claim 1 covers methods implemented using substantially the same devices as those disclosed for implementing the method disclosed in document D1.

In view of the above, the appellant's arguments that the claimed method had the effect of overcoming the limitations to certain kinds of devices are not convincing. Indeed, this effect is not derivable from the wording of claim 1 over substantially the whole scope claimed.

- 2.8 Contrary to the appellant's submissions, the board considers - in line with the examining division's opinion (see the contested decision, point 13.4; see also the annex to the summons of 10 May 2017, point 4.3) - that the distinguishing features are aimed at the presentation of information to the user for a non-technical purpose (for informational and commercial applications, for example; see the description, paragraph [0035], for an example application). In particular, the relationship between a user's comment and a specific viewable object displayed serves only for the purpose of displaying this relationship with the aim of enhancing ("augmented user comment") the informational content presented to a user.

In view of the above, the distinguishing features do not contribute to a "further" technical effect (see decision T 1173/97, OJ EPO 1999, 609). Moreover, the

board does not see that the distinguishing features involve any "further technical considerations" (see opinion G 3/08, OJ EPO 2011, 10, Reasons 13.5.1). Instead, the generation of the association between the parsed user-input metadata and the primary-content metadata by means of analysing the metadata can only be seen as a non-technical algorithm underlying the claimed method. Claim 1 does not specify how this non-technical algorithm underlying the distinguishing features is specifically implemented by exploiting particular computer hardware characteristics, for example, which may, at least in certain circumstances, allow a specific technical effect to be derived within the computer system in the sense of a "further" technical effect (see decision G 1/19, Reasons 51).

- 2.9 Consequently, the distinguishing features do not go beyond the mere automation of a non-technical algorithm underlying these features. It follows that the method of claim 1 lacks an inventive step in view of document D1 (Article 56 EPC).

### **First auxiliary request**

#### 3. *Admissibility*

The board considers that the first auxiliary request consists in essence of a minor clarification of the appellant's main request. It thus admits this request into the appeal proceedings.

#### 4. *Inventive step*

- 4.1 Claim 1 of the first auxiliary request differs from claim 1 of the main request in that it specifies that the user-input information is a user comment.

4.2 The appellant argued that the skilled person would not consider modifying the method disclosed in document D1 to analyse arbitrary user comments. In the oral proceedings, it also argued that the generation of the association between the user comment and the primary-content metadata relied on the content of the user comment and not on a "point and click" operation as in the method disclosed in document D1. Consequently, the appellant's arguments for the main request were equally applicable for the first auxiliary request.

4.3 The board agrees with the appellant that the method according to the first auxiliary request generates the association between the user comment and the primary-content metadata based on the user's comment and not based on a "point and click" operation as disclosed in D1. Nevertheless, for substantially the same reasons as for the appellant's main request, the features distinguishing the subject-matter of claim 1 of the first auxiliary request from D1 do not contribute to solving a technical problem, as they neither bring about a "further" technical effect nor involve any "further technical considerations". Instead, as in the case of the main request, the distinguishing features of claim 1 of the first auxiliary request represent a mere automation of a non-technical algorithm.

Consequently, the subject-matter of claim 1 of the first auxiliary request lacks an inventive step over document D1 (Article 56 EPC).



## **Second auxiliary request**

### 5. *Admissibility under Article 12(4) RPBA 2007*

5.1 The second auxiliary request limits claim 1 by adding, for the first time in the proceedings, the feature that the primary-content metadata comprises a listing of specific viewable objects displayed in a scene in the primary media content and their locations. This particular feature is based on paragraph [0031] of the description.

5.2 The appellant argued that the amended second auxiliary request was admissible as it was filed in direct response to the contested decision in order to further differentiate the claimed subject-matter from the disclosure of document D1.

5.3 The board does not see any reason why the amendment made in the second auxiliary request could be regarded as a reaction to a fresh objection in the contested decision. The appellant did not argue along these lines either.

Consequently, the specific limitation of the claimed subject-matter made in the second auxiliary request could and should have been made earlier in the proceedings before the department of first instance (Article 12(4) RPBA 2007). Moreover, by not attending the oral proceedings before the examining division the appellant waived an opportunity to file such an amendment in the first-instance proceedings. Consequently, the board does not admit the second auxiliary request into the appeal proceedings (Article 12(4) RPBA 2007).

**Order**

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

The appeal is dismissed.

The Registrar:

The Chair:



S. Lichtenvort

J. Geschwind

Decision electronically authenticated