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**Datasheet for the decision
of 5 May 2021**

Case Number: T 2950/18 - 3.5.07

Application Number: 09728073.9

Publication Number: 2266050

IPC: G06F17/30

Language of the proceedings: EN

Title of invention:

System and method for managing, controlling and/or rendering
media in a network

Applicant:

III Holdings 2, LLC

Headword:

Managing media in a network/III HOLDINGS 2

Relevant legal provisions:

EPC Art. 56

RPBA Art. 12(4)

Keyword:

Inventive step - main request (no)

Amended claims filed with the statement of grounds of appeal -
first and second auxiliary requests - not admitted

Decisions cited:

T 0003/90, T 1143/06, T 1178/08, T 1741/08



Beschwerdekammern

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Case Number: T 2950/18 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 5 May 2021

Appellant: III Holdings 2, LLC
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 31 July 2018
refusing European patent application No.
09728073.9 pursuant to Article 97(2) EPC**

Composition of the Board:

Chair M. Jaedicke
Members: C. Barel-Faucheux
E. Mille

Summary of Facts and Submissions

- I. The applicant (appellant) appealed against the decision of the examining division refusing European patent application No. 09728073.9, filed as international application PCT/US2009/001964 (published as WO 2009/123694). The application claims a priority date of 31 March 2008.

- II. The documents cited in the contested decision included:
D1: US 2004/117845 A1, published on 17 June 2004
D4: Anonymous: "How To Use Colasoft Capsa Troubleshoot ARP Spoofing Attacks", pages 1-4, <http://networkpacketsniffer.blogspot.nl/2007/11/how-to-use-colasoft-capsa-troubleshoot.html>, published on 5 November 2007

- III. The examining division refused the application for lack of inventive step regarding the subject-matter of the independent claims of the then sole request over the prior art disclosed in document D1 in combination with document D4. The examining division considered some of the claimed features to be non-technical aspects (see the contested decision, point 3.2.2, last paragraph).

- IV. 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 main request considered in the contested decision and resubmitted with the grounds of appeal, or one of the first and second auxiliary requests, both submitted with the grounds of appeal.

- V. In a communication under Article 15(1) RPBA 2020 accompanying the summons to oral proceedings, the board

expressed its provisional opinion that the admissibility of the auxiliary requests was questionable, that the subject-matter of claim 1 of all requests lacked inventive step in view of document D1, and that the independent claims according to the second auxiliary request did not comply with Article 84 EPC.

VI. By letter of 20 April 2021 the appellant informed the board that it would not be attending the oral proceedings on 5 May 2021. The board then informed the appellant that it had cancelled the oral proceedings.

VII. Claim 1 of the main request reads as follows (itemisation by the board):

"[A] A method for managing media in a network (10), wherein a first terminal (30), a first rendering device (21), a second rendering device (22), a first server (11) and a second server (12) are connected to the network (10), and further wherein the first server (11) stores a first plurality of media files, wherein the second server (12) stores a second plurality of media files, and further wherein the first server (11) and the second server (12) are different servers, wherein the first rendering device (21) and the second rendering device (22) are different rendering devices, the method comprising the steps of:

[B] displaying (810) a first list of icons which represent available servers connected to the network (10) and accessible through the network (10), wherein the first list of icons includes a first icon (461) which corresponds to the first server (11) and a second icon (462) which corresponds to the second server (12);

- [C] displaying (810) a second list of icons which represent available rendering devices connected to the network (10) and accessible through the network (10), wherein the second list of icons includes a third icon (464) which corresponds to the first rendering device (21) and a fourth icon (465) which corresponds to the second rendering device (22), and further wherein the first terminal (30) displays the first list of icons and the second list of icons simultaneously;
- [D] selecting the third icon (464) using the first terminal (30);
- [E] transmitting a first media file of the first plurality of media files from the first server (11) to the first rendering device (21), wherein the first media file was selected from a search result, wherein the first media file is transmitted in response to selection of the third icon (464);
- [F] displaying a graphic representation which connects the first icon (461) to the third icon (464), wherein the graphic representation indicates transmission of the first media file from the first server (11) to the first rendering device (21); and
- [G] rendering the first media file on the first rendering device (21)."

VIII. Claim 1 of the first auxiliary request differs from claim 1 of the main request in that the word "and" at the end of step F has been omitted and the following text has been added at the end of the claim (itemisation by the board):

"[A1] modifying the graphic representation to connect the first icon (461) to the fourth icon (465)

wherein user input modifies the graphic representation;

[A2] stopping transmission of the first media file from the first server (11) to the first rendering device (21), wherein the transmission is stopped in response to modification of the graphic representation; and

[A3] transmitting the first media file from the first server (11) to the second rendering device (22), wherein the first media file is transmitted to the second rendering device (22) in response to the modification of the graphic representation."

IX. Claim 1 of the second auxiliary request differs from claim 1 of the main request in that the word "and" at the end of step F has been omitted and the following text has been added at the end of the claim:

"[A4] associating the fourth icon (465) with the third icon (464) based on user input;

[A5] transmitting the first media file from the first server (11) to the second rendering device (22) in response to association of the fourth icon (465) with the third icon (464); and

[A6] rendering the first media file on the second rendering device (22), wherein the rendering of the first media file on the second rendering device (22) is synchronized with rendering of the first media file on the first rendering device (21)."

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

Reasons for the Decision

1. The appellant's statement that it would not be attending the oral proceedings is, without indication to the contrary, to be understood as a withdrawal of its request for oral proceedings (see T 3/90, Reasons 1, and the further decisions cited in Case Law of the Boards of Appeal, 9th edition 2019, III.C.4.3.2). The decision can therefore be taken without holding oral proceedings.

2. *The invention*

The application relates to utilising a media management application to manage, control and/or render media from a collection of digital media files in a network. The proposed invention allows a user to browse, search, manage or render content from multiple servers in the network. The user may view a visual representation of active media connections between the available servers and the available rendering devices connected to the network (description as published, page 1, lines 8 to 18).

Figure 6 illustrates a connections sub-view of a media management application disclosed in the application and is further described in the description, page 37, line 8, to page 39, line 30. The connections sub-view displays a graphic representation of media flowing between the servers and the rendering devices. The user may interact with this graphic representation to control the media flow between devices.

Main request

3. *Inventive step*

- 3.1 The examining division started its assessment of inventive step from document D1, and this was not contested by the appellant.
- 3.2 Document D1 discloses a method for exchanging media between friends, family members and third party media providers over a closed and secure media exchange network (abstract).
- 3.2.1 Figure 1 of D1 illustrates an embodiment of a media exchange network supporting the exchange of media. The various types of media may include digital video, digital audio, digital images and any other type of digital information. A media exchange network is a communication network comprising, for example, a broadband network infrastructure, a first media processing system (MPS) in a first private home comprising a set-top-box (STB) incorporating a media management system (MMS) and a television (TV) screen. The functionality provided by the MMS in the STB is controlled by a user control device such as a remote control. The media exchange network further comprises a home network, a media network attached storage (NAS) unit, a first home PC and a second home PC all in the first private home (D1, description, paragraph [0035]).

The media exchange network further comprises an MPS comprising a TV incorporating an MMS at a second private home. The functionality provided by the MMS in the MPS is controlled by a remote control. The media exchange network also comprises a media NAS unit and a plurality of media peripheral devices at the second private home (description, paragraph [0036]).

- 3.3 In its decision, the examining division mapped the first terminal according to claim 1 to the first MPS in

the first private home, the first rendering device to the MPS comprising a TV in the second private home, the second rendering device to a TV screen in the first private home, the first server to the media NAS in the first private home, and the second server to the first home PC also in the first private home. Furthermore, the examining division found that the first and second server each stores a plurality of media files (D1, description, paragraphs [0052] and [0054]). The examining division thus concluded that document D1 disclosed feature A of claim 1. The board agrees, noting further that this was not contested.

- 3.4 Figure 4 of D1 illustrates a method for performing media exchange. In step 401, a representative icon of media content is displayed on a TV screen of an MPS using a user control device such as a remote control. For example, a title of a media content file may be displayed in a scheduled time slot of a channel in a channel view (media guide). In step 402, the icon of the media content is selected on the TV screen using the user control device. In step 403, a list of destination locations (e.g. other MPS's on a media exchange network) is displayed on the TV screen using the user control device. In step 404, a destination location is selected on the TV screen from the list of destination locations using the user control device. In step 405, sending of the selected media content to the selected destination location is initiated using the user control device. In step 406, the media content is consumed at the selected destination location (D1, description, paragraph [0050]).

According to the contested decision, Figure 4, step 403, of D1 discloses feature C except for displaying the list of destination locations (i.e. the second list

according to feature C) as icons and simultaneously to a first list of icons. Moreover, step 404 of Figure 4 disclosed selecting a destination as in feature D of claim 1, with the exception that the destination is not displayed as an icon. Step 405 of Figure 4 and the description, paragraph [0050], disclosed feature E, which refers to a file that "was selected from a search result". The examining division considered that, according to document D1, paragraph [0067], a file was selected from a media guide/channel view and that view represented a search result. Finally, step 406 of Figure 4 corresponded to feature G of claim 1. The board agrees with this feature mapping.

- 3.4.1 In its statement of grounds of appeal (page 4, second paragraph), the appellant essentially agrees that the distinguishing features over document D1 relate to the graphic representation displaying a first list of icons according to feature B and a second list of items that is, according to the last part of feature C, displayed as icons simultaneously with the first list of icons and wherein a connection between an icon of the first and the second list of icons indicates the selected transmission of a media file from a server to a destination (feature F of claim 1).

The board agrees that the claimed invention differs from the method of document D1 by the distinguishing features mentioned by the appellant.

- 3.5 In its statement of grounds of appeal (last paragraph of page 4, first paragraph of page 5), the appellant submitted that the display of a graphic representation as specified in claim 1 provided users with feedback on their selection of the rendering device to which the media file is to be transmitted. Displaying graphic

indications provided a representation of media flowing between the servers and the rendering devices (see description, page 37, lines 27 to 29) and allowed a user to monitor how media was transmitted between devices. This made it easier for the user to track transmission of media, envision a functional picture of the network, and manage and/or troubleshoot the network (see description, page 6, lines 10 to 21).

According to the appellant, the objective technical problem could be considered to be how to enable the user to more effectively and efficiently manage media transmissions in the network (statement of grounds, page 5, third full paragraph). The distinguishing features were not obvious in view of document D4, as argued by the examining division. Rather, the appellant doubted that the skilled person would consult document D4 (statement of grounds, page 7). Even if they did, the graphic display of D4 was not equivalent to that of the invention. Hence, D4 did not teach the claimed invention, which was not obvious.

- 3.6 The board considers that the distinguishing features do not contribute to solving a technical problem. It agrees with the examining division that the particular manner of presenting the network and the transmission (displaying two lists of icons representing servers and rendering devices simultaneously and displaying connections between servers and rendering devices) concern aspects that are directed to graphical representations of information in a manner particularly appealing to some users ("intuitive"). The board considers that these particular aspects concern merely the manner in which the information is presented and do not contribute to the technical character of the claimed invention.

According to claim 1, feature F, the displayed graphic "indicates" transmission of a media file, but claim 1 is silent in relation to any further interaction with this graphic. Consequently, the claim does not support the appellant's alleged effect of more effectively and efficiently managing media transmissions. Rather, feature F provides the user with a specific manner of presentation of information which is non-technical (see for example T 1143/06, Reasons 5.4, and T 1741/08, Reasons 2.1).

Furthermore, the board does not consider that feature F specifies that the graphic represents the current state of the network, as claim 1 does not specify that the connection is presented only during the transmission, i.e. claim 1 does not specify that the displayed graphic changes when the transmission ends. Moreover, claim 1 is entirely silent with respect to other transmissions on the network. Hence, in the board's opinion, the display does not show the internal state of the network but rather visualises the received instruction for transmission.

However, assuming, for the sake of argument, that the effect is to represent the current state of the network in a "clear, centralised and intuitive view" (see description, page 6, lines 19 to 21) and the objective technical problem is how to provide such a view, the solution is a straightforward use of per se well-known graphical elements, such as icons, lists and connections.

In sum, the board is not convinced by the appellant's arguments in favour of an inventive step.

3.7 Consequently, the subject-matter of claim 1 of the main request lacks inventive step (Article 56 EPC).

First and second auxiliary requests

4. Claim 1 according to each of the first and second auxiliary requests differs from claim 1 according to the main request essentially in that it adds features A1 to A3 and A4 to A6, respectively (see above, points VIII. and IX.).

5. *Admission of the auxiliary requests*

5.1 According to Article 12(4) RPBA 2007, the board has the power to hold inadmissible facts, evidence or requests which could have been presented in the first-instance proceedings (see decision T 1178/08, Reasons 2.1 to 2.5, and Case Law of the Boards of Appeal of the EPO, 9th edition 2019, V.A.4.11.4 b)).

5.2 In the proceedings before the department of first instance, the appellant did not react to the examining division's communication accompanying its summons by filing new requests or arguments and chose not to attend the oral proceedings. The examining division essentially copied its objection to inventive step of claim 1 of the present main request (then the appellant's sole request) from the communication accompanying its summons as reasoning for its inventive-step objection in the contested decision. The appellant then filed the first and second auxiliary requests with its statement of grounds of appeal.

5.3 The board, having regard to the particular circumstances of the present case, considers that the auxiliary requests could and should have been presented

earlier, for example in reply to the communication accompanying the summons to oral proceedings before the examining division or, at the latest, in the oral proceedings before the examining division, where, however, the appellant chose not to be represented.

In the particular circumstances of the present case, the board sees no reason why the appellant could have filed the auxiliary requests only in reaction to the contested decision, as the reasoning for this decision had been communicated earlier.

5.4 The appellant argued in favour of an admission of its auxiliary requests that the amendments made were convergent and included additional features closely related to and further supporting the central technical purpose of effectively and efficiently managing media transmissions in the network.

5.4.1 However, the alleged convergence is not supported by the auxiliary requests. The first auxiliary request adds a modification of the transmission from the first server to the second rendering device by manipulating the graphic representation of the transmission, while the transmission to the first rendering device is stopped (see features A1 to A3). By contrast, the second auxiliary request adds a transmission, initiated by interacting with the graphical user interface, to the second rendering device for synchronous rendering of the first media file on the first and second rendering devices (see features A4 to A6).

Consequently, the first auxiliary request is directed to control the transmission of the media file to an alternative destination, whereas the second auxiliary request is directed to duplicating the transmission

with the aim of a synchronous rendering on two devices. The board concludes that the first and second auxiliary requests are diverging and represent different alternatives rather than a converging development.

5.5 In view of the above, the board is not convinced by the appellant's arguments in favour of admitting the auxiliary requests and does not admit the first and second auxiliary requests into the appeal proceedings (Article 12(4) RPBA 2007).

Conclusion

6. Since the sole request admitted into the appeal proceedings is not allowable, the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



S. Lichtenvort

M. Jaedicke

Decision electronically authenticated