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**Datasheet for the decision
of 8 September 2022**

Case Number: T 1956/19 - 3.5.05

Application Number: 14843870.8

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Language of the proceedings: EN

Title of invention:
TERMINAL DEVICE, SERVER DEVICE, DATA MANAGEMENT SYSTEM, AND
RECORDING MEDIUM ON WHICH PROGRAM IS RECORDED

Applicant:
Soliton Systems K.K.

Headword:
Audiovisual management system / Soliton Systems

Relevant legal provisions:

EPC Art. 84, 123(2)

RPBA Art. 12(4)

RPBA 2020 Art. 13(1), 13(2)

Keyword:

Claims - clarity - main request (no)

Amendment after summons - exceptional circumstances (no) -
taken into account (no)

Amendment to appeal case - amendment gives rise to new
objections (yes)



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Case Number: T 1956/19 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 8 September 2022

Appellant: Soliton Systems K.K.
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 19 February
2019 refusing European patent application No.
14843870.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: N. H. Uhlmann
F. Blumer

Summary of Facts and Submissions

- I. The appellant appealed against the examining division's decision refusing the European patent application in suit.
- II. The examining division decided that the independent claims of the main request and the auxiliary request did not meet the requirements of Article 84 EPC. In the decision under appeal, the examining division also commented on the inventive step of the claimed subject-matter.
- III. The examining division made reference, *inter alia*, to the following documents:

D1 US 2010/088311
D2 US 2010/050080
D3 US 2006/161604
- IV. With the statement setting out the grounds of appeal, the appellant submitted a main request, which is the same as the request filed on 14 December 2018, and auxiliary requests 1 to 4. Additionally, the appellant referred to further, unformulated auxiliary requests.
- V. The board summoned the appellant to oral proceedings.

In a communication under Article 15(1) RPBA 2020, the board set out its provisional opinion on the case.
- VI. With a letter dated 15 February 2022, the appellant submitted two further auxiliary requests AUX1-1 and AUX1-2, without specifying their positions in the order of the auxiliary requests.
- VII. By letter received on 1 March 2022, the appellant declared that it would not attend oral proceedings and

requested a decision according to the state of the file.

VIII. The oral proceedings were cancelled.

IX. The appellant's final requests were that the decision under appeal be set aside and that a patent be granted based on the claims of:

- the main request
- alternatively, auxiliary requests 1 to 4, all submitted with the statement of grounds
- alternatively, auxiliary requests AUX1-1 and AUX1-2, submitted with the letter dated 15 February 2022
- alternatively, unformulated auxiliary requests

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

"A terminal device (10), comprising:

- transmitting means configured to transmit, when one or more pieces of stored data each being an entity at storage of a bitstream are respectively stored in different states, such as stored in different data compression schemes, file formats or the like, in one or more data storage devices (40;50;60;70), identification data uniquely identifying the bitstream to a server device (30); and
- receiving means configured to receive, from the server device (30), bitstream use feature information indicating a feature during use of the bitstream uniquely identified by the identification data transmitted by the transmitting means, wherein the bitstream use feature information includes quality information during use of the bitstream, such as one of the information of the duration, display

width and height, frame rate, frame aspect ratio, pixel sample depth, pixel layout, color subsampling and the number of audio channels or the like quality information, and stored data entity information indicating an entitative feature of each of the one or more pieces of stored data each being an entity at storage of the bitstream uniquely identified by the identification data, wherein the stored data entity information includes data compression scheme information of the bitstream, wherein the terminal device further comprises

- determining means configured to determine, from the data storage device (40;50;60;70), stored data corresponding to the stored data entity information including prescribed data compression scheme information, to be acquired when the quality information included in the bitstream use feature information received by the receiving means is within a prescribed range and, at the same time, when the data compression scheme information included in the stored data entity information received by the receiving means matches prescribed data compression scheme information."

XI. Claim 1 of auxiliary requests 1 and 2 reads as follows:

"A terminal device (10), comprising:

- transmitting means configured to transmit a Unique Material Identifier (UMID), when one or more material files each being an entity at storage of a bitstream when playout of the material file is performed such as a media file storing a bitstream at playout having been compressed by a prescribed data compression scheme or may be a media file storing the bitstream at playout without modification, wherein the material files are respectively stored in different states, such as stored

in different data compression schemes, file formats or the like, in one or more data storage devices (40;50;60;70), wherein the material files having a same bitstream at playout are assigned a same Unique Material Identifier if the bitstream at playout is the same, the same UMID is assigned to a plurality of material files even with respectively different data compression schemes and wherein a Unique Material Identifier is generated assigned to the bitstream to uniquely identify the bitstream at a creation of the bitstream to be stored and included in the material files to uniquely identify all of the material files capable of restoring bitstreams identical with the stream, to a server device (30); and

- receiving means configured to receive, from the server device (30), feature information at file playout indicating a feature of the bitstream at playout uniquely identified by the Unique Material Identifier transmitted by the transmitting means, wherein the feature information at file playout includes quality information of the bitstream, such as one of the information of the duration, display width and height, frame rate, frame aspect ratio, pixel sample depth, pixel layout, color subsampling and the number of audio channels or the like quality information; and file entity information indicating an entitative feature of each of the one or more material files each being an entity at storage of the bitstream uniquely identified by the Unique Material Identifier, wherein the file entity information includes data compression scheme information of the bitstream, wherein the terminal device further comprises

- determining means configured to determine, from the data storage device (40;50;60;70), stored material

files corresponding to the stored file entity information including prescribed data compression scheme information, to be acquired when the quality information of the bitstream included in the feature information at file playout received by the receiving means is within a prescribed range and, at the same time, when the data compression scheme information included in the file entity information received by the receiving means matches prescribed data compression scheme information."

XII. Claim 1 of auxiliary request 3 reads as follows:

"A client terminal (10) configured to use material files created by a media production system, wherein a material file refers to stored data that is an entity at storage of a bitstream at playout of the material file and being a media file storing a bitstream at playout having been compressed by a prescribed data compression scheme or being a media file storing the bitstream at playout without modification, in communication with:

a metadata storage device (20) configured to store metadata related to contents of a desired material file and which are used when retrieving the material file ,

a Unique Material Identifier (UMID) name server (30) configured to manage identification data corresponding to each material file and basic technical properties related to the respective material file, wherein the basic technical properties include feature information at file playout indicating a feature of a bitstream at playout of a material file, and file entity information indicating an entitative feature of a material file being an entity at storage of the bitstream at playout , wherein a Unique Material Identifier (UMID) is assigned to all material files in order to uniquely

identify a bitstream at playout of each material file and wherein material files having a same bitstream at playout are assigned a same Unique Material Identifier (UMID) and

an acquiring unit in the client terminal (10) which acquires material files corresponding to the file entity information satisfying the prescribed conditions, when feature information at file playout and file entity information received by a receiving unit in the client terminal (10) respectively satisfy prescribed conditions , further comprising

a data presenting unit in the client terminal (10) which presents the one or more pieces of the file entity information satisfying the prescribed conditions to a user, when the feature information at file playout and one or more pieces of the file entity information received by the receiving unit respectively satisfy prescribed conditions, wherein the acquiring unit is configured to acquire from a data storage device, a material file corresponding to the file entity information selected by the user among the one or more pieces of the file entity information presented by the data presenting unit."

XIII. Claim 1 of auxiliary request 4 reads as follows:

"A material file management system (1) configured to use material files created by a media production system, wherein a material file refers to stored data that is an entity at storage of a bitstream when playout of the material file is performed and being a media file storing a bitstream at playout having been compressed by a prescribed data compression scheme or being a media file storing the bitstream at playout without modification, wherein the material file management system (1) includes:

a client terminal (10) configured to query a presence or absence of a desired material file and obtain the material file in response to a user's operation during video editing or the like,

a metadata storage device (20) configured to store metadata related to contents of a desired material file and which are used when retrieving the material file:

a Unique Material IDentifier (UMID) name server (30) configured to manage identification data corresponding to each material file and basic technical properties related to the respective material file, wherein the basic technical properties include feature information at file playout indicating a feature of a bitstream at playout of a material file, and file entity information indicating an entitative feature of a material file being an entity at storage of the bitstream at playout, wherein a Unique Material IDentifier (UMID) is assigned to all material files in order to uniquely identify a bitstream at playout of each material file and wherein material files having a same bitstream at playout are assigned a same Unique Material IDentifier (UMID) and

an acquiring unit in the client terminal (10) which acquires material files corresponding to the file entity information satisfying the prescribed conditions, when feature information at file playout and file entity information received by a receiving unit in the client terminal (10) respectively satisfy prescribed conditions, further comprising

a data presenting unit in the client terminal (10) which presents the one or more pieces of the file entity information satisfying the prescribed conditions to a user, when the feature information at file playout and one or more pieces of the file entity information received by the receiving unit respectively satisfy

prescribed conditions, wherein the acquiring unit is configured to acquire from a data storage device, a material file corresponding to the file entity information selected by the user among the one or more pieces of the file entity information presented by the data presenting unit."

XIV. Claim 1 of auxiliary request AUX1-1 reads as follows:

"A terminal device (10), comprising:

- transmitting means configured to transmit, when one or more material files each being an entity at storage of a bitstream restored at playout of the material files being performed are respectively stored in different states, such as the bitstream having been compressed by a prescribed data compression scheme, the bitstream being stored without modification or the material file based on MXF (Material Exchange Format), in one or more data storage devices (40 ;50 ;60;70), UMID (Unique Material IDentifier) uniquely identifying the bitstream to a server device (30);

- receiving means configured to receive, from the server device (30),

feature information at file playout indicating features of the bitstream restored at playout of the material files being performed and uniquely identified by the UMID transmitted by the transmitting means, wherein the feature information at file playout includes

quality information of the bitstream, such as one of the information of a duration, display width and height, a frame rate, a frame aspect ratio, a pixel sample depth, a pixel layout, colour subsampling and the number of audio channels or the like quality information, and

file entity information indicating entitative features of each of the material files each being an entity at storage of the bitstream uniquely identified by the UMID, wherein the file entity information includes data compression scheme information of the bitstream; and

- determining means configured to determine, from the data storage device (40;50;60;70), material files corresponding to the file entity information including data compression scheme information, to be acquired when the quality information included in the feature information at file playout received by the receiving means is within a prescribed range and, at the same time, when the data compression scheme information included in the file entity information received by the receiving means matches prescribed data compression scheme information."

XV. Claim 1 of auxiliary request AUX1-2 is based on claim 1 of auxiliary request AUX1-1; the following wording has been added to the definition of the transmitting means:

"wherein the UMID is newly generated and assigned to an original material file restoring the bitstream at a generation of the original material file and shared with the material files restoring the bitstream, which are generated based on the original material file by using a copy operation, a lossless data compression or the like;"

Reasons for the Decision

1. The application pertains to techniques for dealing with audiovisual material, e.g. video data. In general, identification data uniquely identifying video data, quality information (e.g. frame rate) and data

compression information are used for accessing files comprising video data.

2. The appellant did not fully specify the order of the auxiliary requests. This, however, does not play any role in the present decision.

Main request

3. The main request on appeal is the same as the main request underlying the contested decision.

4. Article 84 EPC

- 4.1 The decision under appeal sets out that it was not clear what "quality information during use of the bitstream" means and that it was not clear how the "identification data uniquely identifying the bitstream" was defined.

- 4.2 The board agrees with the decision that it is not clear how the "identification data uniquely identifying the bitstream" is defined.

- 4.3 The appellant's arguments are not convincing.

The section of the grounds of appeal on pages 3 and 4 entitled "Additional comments to the main request" is a close-to-verbatim repetition of the applicant's submission dated 14 December 2018, chapter 2.1. This section does not address the reasons for the decision under appeal.

- 4.4 In its arguments, the appellant referred to "unique material identifiers (UMID)" and "bitstreams at playout".

However, claim 1 of the main request does not recite a UMID or bitstreams at playout.

4.5 It argued that "lossy compression" was beyond the scope of the invention and that "material files with lossless compression or without any modification" were meant. In which case, claim 1 was clear.

The board disagrees. Claim 1 does not specify the compression in any detail. According to paragraph 72 of the description, both MPEG and JPEG2000 compression schemes may be supported. Those are lossy compression schemes. They are clearly not beyond the scope of the invention as disclosed in the original application documents.

4.6 Hence, claim 1 does not meet the requirements of Article 84 EPC.

5. Consequently, the main request is not allowable.

Auxiliary request 1

6. Admission

6.1 This request was only filed with the statement setting out the grounds of appeal. It comprises extensive amendments. Regarding the basis for the amendments, the appellant submitted:

"The basis for the amendments in the claims can be either found in the working copies of the claims (indicated in parentheses) and for auxiliary request 3 (the same as for auxiliary request 2)."

The board observes that the working copy does not mark all amendments vis-a-vis the original claims or the claims of the main request or the claims of the auxiliary request underlying the contested decision. Furthermore, for most of the amendments, no basis is given, and it is not explained how the skilled person would be able to derive, directly and unambiguously,

the combination of features in claim 1, stemming, *inter alia*, from different passages of the description.

Hence, contrary to the requirements of Article 12(2) RPBA 2020, the statement of grounds does not contain the appellant's complete case.

- 6.2 Subject-matter corresponding to claim 1 was not presented for examination in the first-instance proceedings.

The purpose of the appeal proceedings is not to examine subject-matter substantially different from that considered by the department of first instance. On the contrary, the primary object of the appeal proceedings is to review the decision under appeal in a judicial manner (Article 12(2) RPBA 2020). In the case at hand, the appellant could and should have presented amended claims during the examining proceedings if it wanted to have the amended subject-matter examined and the outcome reviewed.

7. For these reasons, the board does not admit auxiliary request 1, pursuant to Article 12(4) RPBA 2007.

Auxiliary request 2

8. Claim 1 of auxiliary request 2 is the same as claim 1 of auxiliary request 1. Therefore, the board does not admit auxiliary request 2 for the same reasons.

Auxiliary requests 3 and 4

9. Admission

- 9.1 The claims of these requests have apparently been completely redrafted. For claim 1, the appellant pointed to not less than four paragraphs of the description, without giving any explanation how a skilled person would come up with the claimed combination of features. Furthermore, the amendments

carried out were not marked in the working copies provided by the appellant. The dependent claims were also amended.

9.2 The board considers that the amended claims of both auxiliary requests 3 and 4 amount to a fresh case on appeal. Dealing with these requests would mean that the newly added subject-matter should be examined and decided on for the first time on appeal. However, it is established case law that proceedings before the boards of appeal are primarily concerned with examining contested decisions.

9.3 Therefore, the board holds auxiliary requests 3 and 4 inadmissible (Article 12(4) RPBA 2007).

Auxiliary request AUX1-1

10. Admission

This auxiliary request includes substantially amended claims and was filed after notification of the summons to oral proceedings. Hence, the provisions of Article 13(2) RPBA 2020 are applicable.

10.1 Under them, any amendment to a party's appeal case made after notification of the summons to oral proceedings shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party.

10.2 The board referred to these provisions in point 19 of the communication under Article 15(1) RPBA 2020.

10.3 The appellant submitted that auxiliary request AUX1-1 was "based on auxiliary request 1 rejected by the first instance, with slightly [sic] revised to overcome the objections raised in the decision of the first instance" and that the working copy showed the amendments "vis-a-vis the claims of the main request".

These statements clearly demonstrate that the filing of this request was not caused by any circumstances which took place after notification of the summons.

Furthermore, in the communication under Article 15(1) RPBA 2020, the board essentially confirmed the analysis in the decision under appeal and did not raise any new issues with regard to the main request. Finally, the auxiliary request underlying the decision under appeal included claim 1 pertaining to a material file management system, whereas claim 1 of auxiliary request AUX1-1 pertains to a terminal device.

- 10.4 The appellant argued that the subject-matter of auxiliary request AUX1-1 was the same as that of the main request examined in the first-instance proceedings.

The board disagrees because the claims have been extensively amended: in addition to renaming a number of terms, the wording relating to data compression and file formats has been amended.

- 10.5 For these reasons, the board holds that no exceptional circumstances are present. Consequently, auxiliary request AUX1-1 is not taken into account under Article 13(2) RPBA 2020.

Auxiliary request AUX1-2

11. Admission

- 11.1 This auxiliary request was filed after notification of the summons to oral proceedings. Hence, the provisions of Article 13, paragraphs 1 and 2 RPBA 2020 are applicable.

- 11.2 Under Article 13(1) RPBA 2020, one criterion which might be considered for admissibility is whether the

party has demonstrated that the amendments *prima facie* do not give rise to new objections.

11.3 The board holds that this criterion is not fulfilled.

11.4 The following features have been added to claim 1:

"wherein the UMID is newly generated and assigned to an original material file restoring the bitstream at a generation of the original material file

and shared with

the material files restoring the bitstream, which are generated based on the original material file by using a copy operation, a lossless data compression or the like;"

The appellant argued that this amendment was based on paragraphs 42, 48 and 95 of the application as translated, respectively paragraphs 44, 50 and 112 of the EP A1 publication.

11.5 Paragraph 42 clearly discloses that an ingest **server** receives a **video** stream from a **video camera** and generates a UMID for globally identifying a material file. Additionally, the material file in which the video stream is stored is a **MXF file**.

No basis is apparent for the much broader wording in claim 1.

11.6 Paragraph 48 discloses a copy operation, performed by the ingest server, in the context of editing the material file in the near future.

Claim 1 does not relate to this context.

11.7 Paragraph 95 discloses specific data compression schemas (ZIP, LZH) and does not disclose the broader notion of a lossless data compression. Additionally,

this paragraph refers to "ordinary document files, instead of material files".

11.8 The features added to claim 1 stem from different embodiments, and it is not apparent how the skilled person would, directly and unambiguously, select and combine this set of features without any prompt in the application documents. The appellant did not provide any arguments in this regard. Hence, it did not demonstrate that the amendments do not give rise to an objection under Article 123(2) EPC .

11.9 Consequently, auxiliary request AUX1-2 is not admitted into the proceedings under Article 13(1) RPBA 2020.

Further requests by the appellant

12. The appellant requested further that a patent be granted on the basis of at least one or more amended auxiliary requests based on the main request or one of the above auxiliary requests if the board of appeal raised objections or had a different opinion to the appellant so that it could make the wording of the claims allowable (grounds of appeal, page 2).

The appellant also requested to further amend or simply delete claims to bring the set of pending requests into conformity with the formal and material requirements, especially if the board of appeal found that the claims contravened Article 83, 84 or 123(2) EPC (grounds of appeal, page 2).

The appellant did not provide any wording for the application documents of these (auxiliary) requests. Such unspecified requests cannot be considered in appeal proceedings.

13. Conclusion

None of the requests on file meets the requirements of the EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated