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D E C I S I O N
of 10 November 1999

Case Number: T 0620/98 - 3.5.1

Application Number: 91104106.9

Publication Number: 0438185

IPC: H04N 7/087

Language of the proceedings: EN

Title of invention:
Improved teletext receiver

Patentee:
EDICO S.r.l.

Opponent:
Interessengemeinschaft für Rundfunkschutzrechte E.V.

Headword:
-

Relevant legal provisions:
EPC Art. 56

Keyword:
"Inventive step (yes)"

Decisions cited:
-

Catchword:
-



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Boards of Appeal

Chambres de recours

Case Number: T 0620/98 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 10 November 1999

Appellant: EDICO S.r.l.
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Respondent: Interessengemeinschaft
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 17 April 1998
revoking European patent No. 0 438 185 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: P. K. J. van den Berg
Members: R. S. Wibergh
V. Di Cerbo

Summary of Facts and Submissions

I. This is an appeal by the proprietor of European Patent No. 0 438 185 against the decision of the Opposition Division to revoke the patent.

II. Claim 1 as granted reads as follows (omitting the reference signs):

Television signal receiver, comprising a teletext type decoding circuit, capable of receiving, selecting, processing and reproducing a plurality of text pages, each one selectable by the user among all receivable pages, by sending to the decoding circuit, by means of control keys located on a relevant control device, in particular represented by a remote control device, a corresponding sequence of data specifying the selected page, said receiver comprising a data processor circuit, coupled to said decoding circuit, to said control device and to a memory device, said data processor circuit being provided for memorizing in said memory device the sequence of data specifying the selected page, characterised in that said data processor circuit provides for performing, as a consequence of the depressing of a memory key of said control device, the memorization in said memory device of the sequence of data corresponding to the page displayed at the moment when the said key has been depressed, at an address determined by the user by the depression of one of the numbered keys comprised in the control device.

III. The respondent had opposed the patent on the ground that the invention did not involve an inventive step

having regard to, in particular, the document

D3: J. Chambers, "Enhanced UK teletext moves towards still pictures", IEEE Trans. on Consumer Electronics, Vol. CE-26, August 1980, pages 527 to 532.

IV. The Opposition Division held that the subject-matter of claim 1 as granted did not involve an inventive step with respect to the teaching in D3.

V. The patentee lodged an appeal against this decision. Together with the statement setting out the grounds of appeal filed on 19 August 1998, the appellant filed claims according to a first auxiliary request.

VI. In a communication pursuant to Article 11(2) of the Rules of Procedure of the Boards of Appeal, the Rapporteur introduced a new document:

D7: US-A-4 277 651.

D7 was used to prove what was meant in D3 by the expression "repertory telephone dialler". The document furthermore disclosed that for abbreviated dialling purposes a telephone keyboard may be provided with repertory keys, or else the digit keys are given a secondary function.

VII. On 11 October 1999 the appellant filed sets of claims according to auxiliary requests 2 to 6.

VIII. Oral proceedings before the Board were held on 10 November 1999.

The appellant argued that there were a number of differences between the invention and the prior art shown in D3. As to D7, this document was in the field of telecommunications and could not be combined with D3 in spite of the reference in D3 to a repertory telephone dialler.

The respondent argued that the invention according to the main request was obvious in view of D3 alone or a combination of D3 and D7.

IX. The appellant requested that the decision under appeal be set aside and that the patent be maintained as granted or in accordance with auxiliary requests 1 to 6.

X. The respondent requested that the appeal be dismissed.

Reasons for the Decision

The appellant's main request

1. *The invention*

The invention is a television receiver with teletext facilities. It permits a viewer to store the number of a selected teletext page such that the page can be easily accessed later without the viewer having to remember and tip in the number of the page. In order to store a number the viewer must first select the desired teletext page. When the page is displayed he presses a memory key followed by a digit key (0...9). The digit

defines the address under which the page number is stored.

2. *The prior art*

It is not in dispute that the closest prior art is disclosed in D3. This document suggests on p.527, section "Linked Pages", to give the viewer the facility to preprogram a popular selection into the teletext decoder. Preprogrammed pages can be accessed using a single keystroke "as in a repertory telephone dialler".

3. *Novelty*

The appellant has pointed out in particular two differences between the invention and D3. First, according to the invention the viewer stores the page which is being displayed. This is not mentioned in D3. Second, the invention employs the digit keys to store pages whereas D3 proposes repertory keys. Repertory keys are keys provided separately on a telephone keyboard and which are used for abbreviated dialling. They are distinct from the digit keys.

The Board agrees that both these differences exist and that therefore the invention is new.

4. *Inventive step*

4.1 The first new feature is that the claimed TV receiver permits the viewer to store the number of the teletext page being displayed by pressing the memory key.

4.2 According to the appellant, this feature is not

suggested in D3. Nor is it inevitable since it would be possible to enter the number of the desired page on an input screen designed for this purpose. Compared with such a system the invention has the advantage that the viewer need not know the page number in advance. Instead he locates the page he is interested in and, when he has found it, stores its number simply by pressing two keys. He need in fact pay no attention at all to the page numbers since the storage is performed automatically by the receiver. Therefore also keystroke errors can be avoided.

4.3 The respondent argues that any storage operation necessarily contains three steps: it must be specified **that** something shall be stored, **what** is to be stored, and **where**. These steps must also be performed to implement the programming mentioned in D3. Therefore a memory key must be foreseen, the page number must be entered and a memory location must be indicated. It is of no importance whether the page is displayed or not when the storage takes place. This feature is moreover formulated in a technically incorrect way in claim 1 since some 20 seconds may elapse before a selected page has been captured and is displayed on the screen (this was at least the situation at the time the patent application was filed). It is therefore perfectly possible that the storage operation according to the invention has been completed before the page is displayed.

4.4 The Board finds that this feature indeed involves an inventive step. The reasons for this view are set out in the following paragraphs.

- 4.5 Although D3 clearly discloses the idea to preprogramme teletext page numbers, nothing is said about the way the programming should be performed. It is in particular not said that it should take place as the selected page is being displayed. The question is therefore whether the skilled person would have arrived at this feature by using his normal skills and general knowledge of teletext techniques.
- 4.6 First it should be noted that the feature "the page displayed at the moment when the said key has been depressed" expresses a temporal relationship which, in a device claim, would normally be interpreted as the receiver's **capability** of storing the page number while the page is being displayed. This appears to weaken the respondent's argument that it may happen that the page has not yet been captured when the storage is effected, since what matters is only whether the receiver is able to store the number of a **displayed** page. Other cases are not claimed.
- 4.7 Considering now a single storage operation in detail, whether the page whose number is to be stored is being displayed or not are two mutually exclusive alternatives. A receiver according to D3 must be capable of performing in accordance with at least one of them. Therefore, had the two possibilities been equivalent there would in all probability have been no inventive step. However, the appellant's main argument is that they are not equivalent: the claimed option has clear advantages.
- 4.8 That certain advantages exist has in fact not been denied by the respondent. He is however of the opinion

that exactly these advantages made the invention particularly obvious. A viewer normally does not know the number of the page he desires to store and would therefore have to display the page first (the number is conventionally displayed in a corner of the page). This would be the logical moment to press the memory key.

4.9 The Board can understand that at the present time the above considerations may indeed appear self-evident. It should however be remembered that the invention dates from 1983. To avoid an *ex post facto* analysis it is necessary to disregard later developments which come close to the invention, such as the nowadays common technique of storing Internet page addresses while the page is displayed. The basis for the considerations must be the documents on file. D3 is not said to be a description of an existing device. If a functioning device had been known it could perhaps have been argued that the advantages mentioned by the respondent would have become evident on using that device. As it is, the teaching of D3 is limited to the basic idea of storing **somehow** a popular selection of page numbers. Therefore, in order to arrive at the present claim 1 from D3, the skilled person had to formulate a new problem and solve that problem without any supplementary hints in the teletext area. It seems to the Board that, all things considered, this may have been too much for the average worker in the art.

4.10 It is therefore decided that the subject-matter of claim 1 involves an inventive step.

5. It follows that the appellant's main request should be granted and the respondent's request for rejection of

the appeal must be refused.

The appellant's auxiliary requests

6. Since the appellant's main request is granted, his auxiliary requests need not be considered.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is maintained as granted.

The Registrar:

The Chairman:

M. Kiehl

P. K. J. van den Berg