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D E C I S I O N
of 21 June 2000

Case Number: T 0702/98 - 3.5.1

Application Number: 91108403.6

Publication Number: 0458344

IPC: H04N 5/445

Language of the proceedings: EN

Title of invention:

Television receiver

Patentee:

MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.

Opponent:

Interessengemeinschaft für Rundfunkschutzrechte GmbH
Schutzrechtsverwertung Co. KG

Headword:

-

Relevant legal provisions:

EPC Art. 56

Keyword:

"Inventive step (no)"

Decisions cited:

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Catchword:

-



Case Number: T 0702/98 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 21 June 2000

Appellant: MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.
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Respondent: Interessengemeinschaft
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 28 May 1998
revoking European patent No. 0 458 344 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. 0 458 344 against the decision of the Opposition Division to revoke the patent.

II. The respondent had opposed the patent on the grounds that the invention was not new over the document

D1: DE-C-3815071.

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

A television receiver comprising

- a microcomputer for controlling the operation of the television receiver and
- an on screen means for displaying control information on the television screen,

characterised in that the microcomputer is a programmable multi purpose microcomputer adapted for use in various kinds of television receivers having different modes of operation, - the television receiver comprises a type switch setting portion connected to said microcomputer for entering and storing data corresponding to the actual specific type of television receiver and specifying those functions the microcomputer shall be capable to carry out, and

- the on screen means is capable of displaying the set contents of said type switch setting portion.

IV. During the proceedings before the Opposition Division, an amended claim 1 was filed (with letter dated 24 January 1997). This claim differed from the granted claim in specifying that the microcomputer was for

controlling the operation of the television receiver **during reception of a TV-program in response to control instructions inputted by the user**, and that the on-screen means was for displaying **the related** control information. The expression "characterised in that the microcomputer..." was replaced by "characterised in that **said** microcomputer". Finally, the reference to "functions" the microcomputer should "carry out" was amended to **operations** the microcomputer should **control**.

- V. The Opposition Division held that the invention as defined in claim 1 as granted (main request) was completely known from D1. The amended claim 1 (auxiliary request) was regarded as fulfilling Article 123(2),(3) EPC but its subject-matter was found either to lack novelty over D1 or not to involve an inventive step.
- VI. The patentee lodged an appeal against this decision.
- VII. During oral proceedings held before the Board on 21 June 2000 the parties argued basically in the following way.

The appellant stated that Figure 1 of the patent specification, although said to represent a conventional TV receiver, in fact showed a device which at the relevant date was known only to the appellant and thus was not prior art in the meaning of Article 54(2) EPC. The invention aimed at facilitating the manufacturing process of a TV receiver, a problem with which D1 was not at all concerned. The purpose of the invention was to display certain switch settings which determined the function of the controlling microcomputer of the TV receiver in order to check

whether these settings were correct. D1, on the other hand, disclosed an entirely different technique of downloading software using a BTX ("Bildschirmtext") decoder.

The respondent argued that the invention in fact concerned the display of a receiver type name which had been stored in memory. A similar feature was already known from D1, which disclosed a TV receiver equipped with a BTX decoder in which a BTX page had been stored containing information about the functionalities of the receiver.

VIII. The appellant requested that the decision under appeal be set aside and that the patent be maintained as granted (main request) or as amended (auxiliary request).

IX. The respondent requested that the appeal be dismissed.

Reasons for the Decision

1. *The invention*

The invention concerns a TV receiver. Different types of receivers may be manufactured using the same basic components, such as a controlling microcomputer. According to claim 1, data corresponding to a specific type of receiver are stored in a "type switch setting portion" within the receiver. The stored data can be displayed. It can in this way be easily checked what functions the microcomputer in a particular receiver should be able to carry out.

How this claim is to be interpreted in detail was a matter on which the appellant and the respondent disagreed. This central question will be discussed further below.

2. *The prior art*

D1 describes a TV receiver equipped with a BTX ("Bildschirmtext" - similar to Prestel) decoder. The receiver contains in non-volatile memory a BTX page ("Identifikationsseite") listing the characteristics of the particular receiver, for example the presence of an optional printer interface. If the characteristics change (eg an interface is added) this page must be correspondingly amended. It is not expressly said in D1 how this can be done. Nor is it said that the "Identifikationsseite" is displayed on the associated TV screen. It is only mentioned that the information it contains is sent to a central computer. Based on these data, the central computer offers a selection of suitable software for downloading.

3. *Interpretation of claim 1*

- 3.1 The appellant has argued that the "type switch setting portion" should in principle be understood as a switch, although it might possibly also be a ROM or a PROM. The stored data corresponded to the specific type of television receiver and specified the functions the controlling microcomputer should be able to carry out, which meant that these data enabled or disabled the functions of the microcomputer. They were thus not merely indicative of these functions but actually determined them. This interpretation was supported by the feature in claim 1 stating that the type switch

setting portion is "connected" to the microcomputer, implying a direct influence of the data on the computer.

3.2 The respondent, on the other hand, is of the opinion that the type switch setting portion is rather a ROM or a PROM than a switch. Figure 2 of the patent suggested a PROM. Furthermore, there was no indication anywhere in the patent that the set data actually controlled the microcomputer. In the wording of claim 1, the data "corresponded" to the actual specific type of television receiver and "specified" those functions the microcomputer should be capable of carrying out. This meant that the data merely reflected the capabilities of the microcomputer. According to the description of the patent (the sentence bridging columns 5 and 6), the data could for example simply be the type name of the receiver. A type name might imply certain functions but could not directly control such functions.

3.3 As to this important point, the Board finds that the respondent has presented the more convincing arguments. In the Board's view, there is indeed no clear indication in claim 1 that the data stored in the type switch setting portion not just give information about the type of receiver but actually control the microcomputer as to the functions it should be able to carry out. Moreover, there seems to be no unambiguous disclosure of such a feature in the whole patent. On the contrary, as the respondent has observed, the description rather suggests that there is no such direct influence since the stored data may be just a type name.

The appellant has cited a passage in the description

stating that "the set contents read from the type switch setting portion 2, which are the inputs of the microcomputer 1 are displayed" (column 5, lines 3 to 5). This sentence, however, is also not regarded as an unambiguous disclosure that these data actually control the microcomputer since the kind of input is not specified. The quotation could be understood in the way that the computer is able to read the type name from memory for subsequent display.

As to the "type switch setting portion", the Board takes the view that this feature could indeed be a PROM. This interpretation is consistent with the relevant drawing (Figure 2). It is noted that the description in fact never refers to any component as a "switch".

4. *Novelty (main request)*

4.1 With the above understanding of how the features in claim 1 should be interpreted, the Board finds that the closest prior art document D1 describes a television receiver comprising a microcomputer for controlling the operation of the receiver. This computer is programmable and of a multi-purpose kind. The TV receiver has different modes of operation, not only because it can be provided with different kinds of software which are downloaded from a central computer but also because hardware units (a printer interface is mentioned) can be added to it. Such optional units necessarily imply further modes of operation. A PROM is used to store data about the functionalities of the receiver (column 2, lines 33 to 50). One such functionality is the control of a printer, which would involve the central microcomputer. Therefore, the type

switch setting portion in claim 1 is identified with this PROM, and the control of the printer (direct or indirect) is seen as a function which the microcomputer would be capable of carrying out.

4.2 Claim 1 further requires that on-screen means be provided for displaying control information on the television screen. If the control information is understood as relating to the TV receiver proper, ie to the conventional TV functions, then such on-screen means are not clearly disclosed in D1 since this document is concerned only with the BTX aspects. Furthermore, it is not explicitly said in D1 that the contents of the PROM, ie the "Identifikationsseite", can be displayed.

4.3 The invention is thus new

5. *Inventive step (main request)*

5.1 The BTX decoder described in D1 is part of an otherwise conventional TV receiver. Since most TV receivers have on-screen means for displaying control information (eg tone and picture settings), the addition of such means were clearly obvious.

5.2 In D1 the purpose of storing data about the receiver is to be able to inform the central computer what programs the receiver can handle. Therefore it might appear that the receiver itself need not be capable of displaying these data. However, since the data are stored in the form of a BTX page it appears very likely that the receiver would indeed be capable of displaying this page just like any other BTX page. Moreover, as the respondent has pointed out, at least during a process

of updating the page (referred to in D1, column 4, lines 49 to 52), the page would normally be displayed. This feature was therefore also obvious.

- 5.3 The appellant has argued that D1 does not suggest to use the same on-screen means for displaying (receiver) control data and the data relating to the functionalities of the receiver, the TV functions and BTX functions being described as separate. In fact, according to Webster's dictionary an "on-screen" means had to do with "television programs" and not for example with BTX data.

The Board, however, finds that the term "on-screen means" is so general that no distinction between different on-screen means in D1 is possible. There is after all only one screen, and irrespective of the source of the information to be displayed there will be some common means in the end of the chain for presenting the information on the screen. In D1, for example, the display processor 21 is common for both the TV part and the BTX part of the apparatus. The Webster definition of "on-screen" is not regarded as excluding the display of data which do not represent a television program. Moreover, even if it were understood in such a way, it would apparently also exclude the display of switch settings.

- 5.4 Furthermore, according to the appellant, the technical problem addressed in the present patent has to do with the manufacturing process whereas D1 is mainly concerned with the downloading of software using BTX. As can be seen from the preceding paragraphs, however, the differences between the invention and D1 as identified by the Board are such that the manufacturing

process of the receiver becomes irrelevant.

5.5 It follows that the invention according to claim 1 of the main request does not involve an inventive step.

6. *Inventive step (auxiliary request)*

6.1 Claim 1 of the auxiliary request first clarifies what kind of control information is displayed on the screen. This feature has already been considered above.

Second, it is stressed that a **single** microcomputer is claimed. The Board can however see no inventive difference between a microcomputer configuration with a single computer and a configuration comprising a main processor and sub-processors. Nor does the application as filed suggest that the problem underlying the invention has anything to do with computer configurations.

Third, the substitution of "operations to control" for "functions to be carried out" seems to imply no further restriction, and indeed the appellant has explained that the amendment should be seen as a clarification rather than a limitation.

6.2 Thus this claim is not acceptable because of lack of inventive step and the appellant's auxiliary request must also be refused.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

M. Kiehl

P. K. J. van den Berg