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D E C I S I O N
of 5 December 2000

Case Number: T 0846/99 - 3.5.1

Application Number: 95302127.6

Publication Number: 0676894

IPC: H04N 5/926

Language of the proceedings: EN

Title of invention:
Reproducing recording media

Applicant:
SONY CORPORATION

Opponent:
-

Headword:
Reproducing recording medium/SONY

Relevant legal provisions:
EPC Art. 56, 52(1)

Keyword:
"Inventive step (yes)"

Decisions cited:
-

Catchword:



Case Number: T 0846/99 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 5 December 2000

Appellant: SONY CORPORATION
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 22 March 1999
refusing European patent application
No. 95 302 127.6 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: R. Randes
Members: R. R. K. Zimmermann
S. C. Perryman

Summary of facts and submissions

I. This is an appeal against the decision by the Examining Division to refuse European patent application No. 95 302 127.6 because *inter alia* the subject-matter of claim 1 lacked novelty in view of the disclosure of the following document:

D1: Funkschau, vol. 65, no. 18, 20 August 1993, Munich, DE, pages 120-125, M. Matuszak, "Video von der CD".

II. In an annex to a summons to oral proceedings before the Board the Rapporteur introduced the following prior art document into the proceedings under Article 114(1) EPC, since it was at least as relevant as document D1:

D2: IEEE Transactions on Consumer Electronics, vol. 38, no. 4, November 1992, New York, US, pages 910-920, J. van der Meer, "The Full Motion System for CD-I".

III. Oral proceedings were held on 5 December 2000 before the Board at the end of which the Appellant (Applicant) requested grant of a patent on the basis of claims 1-7 submitted during the oral proceedings on 5 December 2000.

IV. The independent claims read as follows:

"1. A method of reproducing from a recording medium (30; 61) on which image data and associated audio data are recorded, the image data including first image data (I) where all image information for one frame is compressed and second image data (P, B) where

information on a change in image information for frames before and after said one frame is compressed, said method being characterised in that, when reproduction is to be started at an access position which is not a position at which said first image data (I) is recorded, the reproduction of audio data is started from the access position, and the reproduction of image data is started from the first image data (I) that is temporally in the vicinity of the access position.

6. An apparatus for reproducing from a recording medium (30; 61) on which image data and associated audio data are recorded, the image data including first image data (I) where all image information for one frame is compressed and second image data (P, B) where information on a change in image information for frames before and after said one frame is compressed, said apparatus comprising:

reading means (34; 62) for reading data recorded on said recording medium (30; 61);

decoding means (38 etc.; 72 etc.) for decoding data outputted from said reading means; and

control means (53; 75) for controlling said reading means and said decoding means;

characterised in that said control means (53; 75), when reproduction is to be started at an access position which is not a position at which said first image data (I) is recorded, is operative to control said reading means and said decoding means (38 etc.; 72 etc.) to start the reproduction of audio data from the access position, and to start the reproduction of image data from the first image data (I) that is temporally in the vicinity of the access position."

V. The Appellant argued in the oral proceedings that the

revised independent claims were based on originally filed claim 8, the expression in the independent claims "temporally in the vicinity of" being derivable from the originally filed claims which used the expressions "upstream" and "downstream".

VI. Turning to inventive step, the Applicant argued during the oral proceedings that in D1 and D2 primacy of decoding was given to video data, the audio data merely following. This meant that an I-picture was sought and playback of audio and video started from that I-picture.

A problem arose where the user did not wish to start playback from an I-picture. For example, users of Karaoke machines only wished to reproduce particular "impressive" portions of data recorded on the recording medium. The impressive portions did not necessarily start at an I-picture.

The solution, as set out in the claims, was to reproduce audio data from the access point selected by the user and to start video reproduction either from the I-picture preceding the access point or the I-picture following the access point. The prior art gave no hint at giving primacy to audio data over video data in this way.

Reasons for the decision

1. *Amendments*

The revised independent claims have corresponding features and result from editorial amendments to

claim 8 as originally filed. The new expression in the independent claims "temporally in the vicinity of" derives from the expression in original claim 9 "a direction upstream of time information on image data recorded on said recording medium" and the expression in original claim 10 "a direction in which time information on image data recorded on said recording medium is elapsed".

The Board is therefore satisfied that the revised claims do not contain added subject-matter, thus satisfying Article 123(2) EPC. In addition, the Board finds that the claims are clear and supported by the description, Article 84 EPC.

2. *The prior art*

Of the documents cited in the European Search Report, the Board finds that documents D1 and D2 come equally close to the subject-matter of the claims. The remaining documents merely form background art of little relevance to the assessment of novelty and inventive step.

In particular, the only document in the European Search Report concerning Karaoke machines, EP-A-0 587 416, is concerned with indicating the contents of a Karaoke laser disc in the form of still images with title information. The term "I-picture" is not even mentioned.

Documents D1 and D2 mention reproduction of a video-CD started from the position where I-pictures are recorded, these pictures being referred to as "entry point pictures"; see D1 at page 124, left column,

lines 1-6 and D2 at page 912, right column, 4th and 5th lines from bottom.

3. *Novelty*

The subject-matter of the independent claims differs from the disclosure of either D1 or D2 in means for/the steps of, when reproduction is to be started at an access position which is not a position at which said first image data (I) is recorded, starting the reproduction of audio data from the access position and starting the reproduction of image data from the first image data (I) that is temporally in the vicinity of the access position.

Since neither D1 nor D2 mentions reproduction from the medium being started at an access position which is not a position at which said first image data (I) is recorded, the Board finds that the subject-matter of the claims is novel with regard to documents D1 and D2.

4. *Inventive step*

The Board notes that the difference features set out above have the effect that sound reproduction can commence from any point on the recording medium, thus adapting the prior art to meet the wishes of users primarily interested in the audio content, such as for example for use in Karaoke. The problem to be solved can thus be formulated as adapting the prior art, as represented by either document D1 or D2, to the wishes of users primarily interested in the audio content.

The solution to this problem is plausibly provided by the characterizing features of the independent claims

which allow sound reproduction to start at any chosen point on the recording medium, and not just where there is an I-picture.

None of the documents in the Search Report hints at providing such a solution. In particular, documents D1 and D2 both teach (in the passages cited above) that sound and video reproduction can only start from certain points, the "entry point pictures". In this context the statement in D2 (page 912, right column, lines 6 to 7) that "Intra-pictures provide entry points for random access" does not imply that, using I-pictures, reproduction can start from any point. Instead the Board understands this statement to mean that the I-pictures can be read in any sequence. This is contrasted in lines 8 to 12 of the same paragraph with the P- and B-pictures which must be decoded in a predetermined sequence.

The Board consequently takes the view that the subject-matter of the independent claims involves an inventive step, Articles 52(1) and 56 EPC. The dependent claims set out particular embodiments of the invention.

5. *The description*

Although the revised claims are allowable, the description remains open to objection under Rules 27(1)(b) and 27(1)(c) EPC, since D2 is not acknowledged and the description has not been adapted to the revised claims. The Board consequently remits the case to the first instance to attend these matters.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance for further prosecution on the basis of claims 1 to 7 submitted during the oral proceedings on 5 December 2000.

The Registrar:

The Chairman:

M. Kiehl

R. Randes