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D E C I S I O N
of 23 November 2001

Case Number: T 1030/99 - 3.5.1

Application Number: 96908540.6

Publication Number: 0818110

IPC: H04N 7/173, G06F 17/30

Language of the proceedings: EN

Title of invention:
Trick-play control for pre-encoded video

Applicant:
THOMSON CONSUMER ELECTRONICS, INC

Opponent:
-

Headword:
Trick-play control/THOMSON

Relevant legal provisions:
EPC Art. 109, 111(1)

Keyword:
"Interlocutory revision expedient if amendments produce fresh case"
"Remittal for further prosecution"

Decisions cited:
T 0001/94

Catchword:
-



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Boards of Appeal

Chambres de recours

Case Number: T 1030/99 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 23 November 2001

Appellant: THOMSON CONSUMER ELECTRONICS, INC.
10330 North Meridian St
Indianapolis, IN 46290-1024 (US)

Representative: Ruellan-Lemonnier, Brigitte
THOMSON Multimedia
46, quai A. Le Gallo
F-92648 Boulogne Cédex (FR)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 3 August 1999
refusing European patent application
No. 96 908 540.6 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: S. V. Steinbrener
Members: R. Randes
P. Muehlens

Summary of Facts and Submissions

I. European patent application 96 908 540.6 was refused by a decision of the Examining Division dated 3 August 1999 because the subject-matter of claims 1 and 11 lacked inventive step having regard to the following document:

D1: EP-A-0 625 857.

II. The applicant appealed, requesting grant of a patent on the basis of amended claims 1 to 11. The appellant also made an auxiliary request for oral proceedings if the appeal was not allowed.

III. Claim 1 (excluding reference symbols) reads as follows, features in parentheses being deletions with respect to the refused claim and features in bold being additions with respect to the refused claim:

"1. A method for reproducing video programs, comprising the steps of:

identifying a digitally encoded set of signals in a storage medium for each one of a plurality of video programs for reproduction of each one of said plurality of programs at a plurality of reproduction speeds;

reproducing one of said encoded [signals] from said store responsive to a program selection and a reproduction speed;

responding to a new reproduction speed request by calculating [to determine] an address for initiating reproduction of a different one of said encoded signals

corresponding to said new reproduction speed;

modifying said new reproduction speed request according to a user preference that offsets said address for initiating said reproduction of said different one of said encoded signals;

reproducing said different one of said encoded signals from said address in said store; and,

decoding said reproduced signals for display of said selected program at said selected new reproduction speed,

whereby said reproducing of said different one of said encoded signals can be initiated at a different time during playback with respect to said address determined by said calculating step prior to said modifying step."

A further independent claim 8 relates to an apparatus corresponding to the method of claim 1.

Reasons for the Decision

1. The appeal meets the requirements set out in Rule 65(1) EPC and is therefore admissible.
2. *Amendments*

All the claims have been amended with respect to the refused claims, the independent claims having been restricted by taking up the feature of modifying the new reproduction speed request according to a user

preference. This feature, which was not recited in the refused claims, has not been commented on and apparently not considered by the Examining Division. Nor is it clear that it was covered by the European Search Report.

3. *Interlocutory revision*

The amended application documents differ to such an extent from those decided on by the Examining Division that the appealed decision can no longer be seen as applicable to the amended application. In effect, the amendments filed with the appeal have created a "fresh case" which has not yet been examined by the first instance. Under these circumstances the impugned decision should have been rectified by the Examining Division pursuant to Article 109 EPC for reasons of overall procedural efficiency (see decision T 1/94, not published in OJ EPO; point 8 of the reasons. See also Guidelines for Examination in the European Patent Office E XI 7).

4. *Remittal*

Hence the Board considers it appropriate to remit the case to the first instance for further prosecution under Article 111(1) EPC so that the applicant/appellant has the benefit of a two-instance procedure before the EPO.

5. *Oral proceedings*

Oral proceedings, mentioned at point III above, need not be held, since the appeal has not been dismissed.

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.

The Registrar:

The Chairman:

M. Kiehl

S. Steinbrener