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**Datasheet for the decision
of 23 April 2008**

Case Number: T 0289/04 - 3.5.01

Application Number: 96302342.9

Publication Number: 0737016

IPC: H04N 7/52

Language of the proceedings: EN

Title of invention:
Subtitle colorwiping and positioning

Applicant:
Sony Corporation

Opponent:
-

Headword:
Colorwiping/SONY

Relevant legal provisions:
EPC Art. 123(2)

Relevant legal provisions (EPC 1973):
-

Keyword:
"Added subject-matter (no)"

Decisions cited:
-

Catchword:
-



Case Number: T 0289/04 - 3.5.01

D E C I S I O N
of the Technical Board of Appeal 3.5.01
of 23 April 2008

Appellant:

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Decision under appeal:

Decision of the Examining Division of the
European Patent Office posted 26 September 2003
refusing European application No. 96302342.9
pursuant to Article 97(1) EPC 1973.

Composition of the Board:

Chairman: S. Wibergh
Members: W. Chandler
P. Schmitz

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division to refuse European patent application No. 96302342.9.
- II. According to the decision, claims 1 and 7 as filed with letter dated 10 March 2003 contravened Article 123(2) EPC 1973.
- III. Together with the grounds of appeal, dated 12 January 2004, the appellant filed new claims 1 to 10 and requested that the examining division rectify its decision and that the examination procedure be resumed before the examining division in respect of the new claims.
- IV. Claim 1 filed with the grounds of appeal dated 12 January 2004 reads:

"A subtitle colorwiping decoding apparatus operative to be supplied with multiplexed encoded video data and encoded subtitle data including codes representing colors of a color look up table and a position in a subtitle at which switching takes place between standard and colorwiping color look up tables, each code representing a color component of a pixel of the subtitle, said apparatus comprising:

video decoding means (3) for decoding the encoded video data of said video image to be displayed;

buffer means (7, 22) for storing the subtitle data to be decoded and displayed contemporaneously with said video image;

control means (7, 21) for timing a read out operation of said subtitle data out from said buffer means during a real time display of said video image;

subtitle decoding means (7, 23, 24) arranged to decode said subtitle data stored in said buffer means from said codes into said color components according to one of the standard and colorwiping color lookup tables; and

colorwiping means (7, 26) comprising standard and colorwiping look up tables, the standard look up table having, at at least some addresses, different color data than the same addresses of the colorwiping color look up table,

the colorwiping means being arranged to respond to the said code representing the said position to cause a portion of said subtitle to have a different color than another portion of said subtitle by switching between said standard and colorwiping color look up tables at the said switching position."

Claim 6 is directed to a corresponding "subtitle colorwiping decoding method".

Reasons for the Decision

1. The present application was refused under Article 123(2) EPC 1973 on the grounds that "CLUT means as claimed in claim 1 are not disclosed and that claim 1 thus contravenes Article 123(2) EPC". Claim 1 in the version before the examining division was directed to a subtitle colorwiping encoding apparatus. The same conclusion was reached for claim 7 directed to a subtitle colorwiping encoding method. There was no

- objection against claims 13 and 17 then on file, directed to a corresponding decoding apparatus and method, respectively.
2. On appeal, the appellant deleted all claims directed to the encoder apparatus and method, retaining only (amended) claims directed to decoding, and requested rectification of the decision under Article 109 EPC 1973. Although all claims objected to had been deleted, the examining division did not rectify its decision. Article 109 EPC states that if the department whose decision is contested considers the appeal to be admissible and well founded it shall rectify its decision. In the present case, however, there may be some doubt as to whether the objections raised by the examining division do or do not apply to the present decoder claims. Not only are encoding and decoding steps always correlated, but the new independent claims contain encoding features as part of the definition of the data with which the decoding apparatus is intended to be supplied (see paragraph IV above). Therefore the Board finds it appropriate to examine the independent claims now on file with respect to Article 123(2) EPC, although these claims have been amended at the appeal stage and no objections had been raised in the decision under appeal against the decoding claims.
 3. Referring to the wording of present claim 1, the claimed subtitle colorwiping decoding apparatus was originally disclosed as operative to be supplied with multiplexed encoded video data and encoded subtitle data (see fig. 7B, multiplexer 58). The encoded subtitle data include codes representing colors of a color look up table, namely table addresses (see

col. 15, l. 10-13 of the patent application as published: "The subtitle buffer verifier also inserts the color look up table address for transmission to the decoder..."). The Board notes that these table addresses are not processed in the DPCM 65, run length coding circuit 66 and variable length coding circuit 67 (see fig. 7B). Still, they are "encoded data" in the meaning that they represent certain colour table data. This use of the word "encode" has a basis in claim 2 as originally filed: "color look up table means for *encoding* each pixel of said subtitles as an address in a standard color look up table" (emphasis added).

It is also disclosed that the encoded subtitle data include codes representing a position in a subtitle at which switching takes place between standard and colorwiping color look up tables (see col. 16, l. 13-16: "The wipe data sampler and position sampler 70 determines from the adapter signals where in the video picture the color look up table is to be changed and outputs this information to the encoding circuits..."). Each code represents a color component of a pixel of the subtitle (see fig. 6 and 9).

As disclosed in original claim 13, the invention comprises video decoding means for decoding the encoded video data of a video image to be displayed, buffer means for storing the subtitle data to be decoded and displayed contemporaneously with the video image, and control means for timing a read out operation of the subtitle data from said buffer means during a real time display of the video image.

Claim 1 further requires the presence of subtitle decoding means arranged to decode the subtitle data stored in the buffer means from the codes into color components according to one of the standard and colorwiping color lookup tables (CLUT). According to fig. 2, "CLUT_data" are transferred from the code buffer 22 to the CLUT 26. Although these data, which determine the colour components of the subtitles, bypass the decoding circuits 23 and 24, they are still "decoded" in the meaning that they are transformed into colour components (luminance and chrominance) by means of the CLUT 26. This use of the word is natural since the operation is the inverse of the "encoding" mentioned in original claim 2.

Original claims 15 and 16 disclose colorwiping means comprising standard and colorwiping look up tables. By comparing fig. 6 and 9 it can be seen that the standard look up table has, at at least some addresses, different color data than the same addresses of the colorwiping color look up table. Original claims 13 and 16 read together furthermore disclose colorwiping means arranged to respond to the code representing the position to cause a portion of the subtitle to have a different color than another portion of the subtitle by switching between the standard and colorwiping color look up tables at the switching position.

4. It can thus be seen that all features of claim 1 are supported by the application as originally filed. Claim 1 therefore complies with Article 123(2) EPC. The same applies to claim 6.

5. Since the decision under appeal only dealt with the issue of added subject-matter, the case is remitted to the examining division for further prosecution.

Order

For these reasons it is decided that:

The decision under appeal is set aside.

The case is remitted to the first instance for further prosecution.

The Registrar:

The Chairman:

T. Buschek

S. Wibergh