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Datasheet for the decision of 22 November 2007

Case Number: T 1191/04 - 3.5.01

Application Number: 98912650.3

Publication Number: 0919034

IPC: G06F 17/30, H04H 1/00

Language of the proceedings: EN

Title of invention:
Cyclic transmission of a plurality of mutually related objects

Applicant:
Koninklijke Philips Electronics N.V.

Opponent:
-

Headword:
Object carousel/PHILIPS

Relevant legal provisions:
EPC Art. 54, 83

Keyword:
"Novelty (no)"
"Sufficiency of disclosure (no)"
"Decision according to the state of the file"

Decisions cited:
-

Catchword:
-

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Case Number: T 1191/04 - 3.5.01

D E C I S I O N
of the Technical Board of Appeal 3.5.01
of 22 November 2007

Appellant: Koninklijke Philips Electronics N.V.
Groenewoudseweg 1
NL-5621 BA Eindhoven (NL)

Decision under appeal: **Decision of the Examining Division of the European Patent Office posted 18 May 2004 refusing European application No. 98912650.3 pursuant to Article 97(1) EPC.**

Composition of the Board:

Chairman: R. R. K. Zimmermann
Members: K. Bumes
G. Weiss

Summary of Facts and Submissions

I. The appeal was lodged on 19 July 2004 against a decision of the examining division, dated 18 May 2004 and refusing the application number 98 912 650.34 on the basis of claims filed by the applicant in oral proceedings on 20 January 2004.

II. The application was refused for lack of novelty in the light of the document IETF RFC 958: Network Time Protocol (NTP), September 1985, considered to anticipate the subject-matter of claim 1. A statement setting out the grounds of appeal was filed on 9 September 2004.

III. Claim 1 filed on 20 January 2004 reads as follows:

> "1. Communication system comprising a transmitter (2) for transmitting cyclically a plurality of mutually related objects (20, 22, 24, 26) in an object carousel via a communication network (4) to a terminal (10), said terminal (10) comprising processing means (14) for processing said plurality of mutually related objects, characterized in that the transmitter (2) comprises assembling means (28) for combining said mutually related objects (20, 22, 24, 26) into a combined transport entity (30, 32), the processing means (14) being arranged for extracting said plurality of mutually related objects (20, 22, 24, 26) from the common transport entity (30, 32) and for processing said plurality of said mutually related objects (20, 22, 24, 26)."

IV. According to the appellant, document D1 did not disclose objects that are transmitted in an object carousel. The word "carousel" meant "merry-go-round" and implied repetition of something, otherwise it would not be a carousel. The finding of the examining division was thus incorrect and should thus be set aside.

V. In a communication issued under Article 110(2) EPC and dated 10 September 2007, the Board of appeal indicated that it did not see much prospect of success for the appeal, giving in particular the following reasons for its preliminary findings:

"*Novelty*

3. […] In the light of the arguments on file, the main difference of opinion between the appellant and the examining division on novelty seems to result from the interpretation of the term "object carousel".

4. At the priority date of the application this term did not have, to the knowledge of the Board, any commonly-accepted meaning. A broad interpretation as applied by the examining division seems thus to be justified. A "carousel" method, the periodical transmission of a structured group of data, does not exclude the constant change of data. It is the data or frame structure, not the data, which is the "carousel". In document D1, the structure of the NTP message transmitted periodically does not change; even some data portions do not change, like the "reference clock identifier" (see appendix B).

5. Therefore, reversal of the decision under appeal seems not to be warranted.

Further objections

Disclosure of the invention

6. According to Article 83 EPC the invention must be disclosed in the European patent application (itself) in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art. The present application, however, describes and discloses essential aspects of the invention by sweeping references to various standards (for example, page 3, line 15 f. and line 24, page 4, line 4 f., page 5, line 6 f.). The content of such standards is not necessarily part of the common technical knowledge. The standardisation documents are usually voluminous and restricted in access. The skilled person would have to make, under such circumstances, undue efforts to find and get together the information it needs to carry out the invention. In the present case, considering the extent and the lack of precision in citing DVB standards, the Board considers necessary to raise an objection under Article 83 EPC against the application.

Novelty/Inventive step with regard to DSM-CC

7. Although references to standardisation documents might be insufficient to meet the requirements of Article 83 EPC, such documents - if published before the priority date of the invention - form nevertheless part of the prior art and have to be

taken into account in assessing novelty and inventive step.

8. The present application introduces the term "object carousel" in context with the DSM-CC international standard ISO/IEC 13818-6 (see the application, page 4), citing a pre-editing release of 12 July 1996 which, however, consists of many separate document files. The Board, therefore, considers it appropriate to refer to the following more concise document (cited as D4 in these proceedings) which also discloses the basic features of DSM-CC:

Balabanian, V.; Casey, L.; Greene, N.; Adams, C. "An introduction to digital storage media-command and control", Communications Magazine, IEEE, Vol.34, Iss.11, Nov 1996, pages 122-127 (see in particular page 126, left col.).

9. Present claim 1 seems to be delimited against a communication system complying with such a standard.

10. According to the two-part form of claim 1, the technical contribution over the prior art resides in combining and extracting mutually related objects into and from a common transport entity, respectively. However, these features are apparently anticipated by the DSM-CC download protocols which provide for a modular structure of the data (see, for example, document D4, page 124 f., section " DOWNLOADING TO A CLIENT" and

page 126, section "DATA CAROUSEL AND U-U OBJECT CAROUSEL").

11. If claim 1 is construed in the light of fig. 2 of the present application, i.e. the combination and extraction of objects are implemented on the application level, the second part of claim 1 seems to define not more than the creation and processing of structured objects, which is a common feature in many object-oriented data models.

12. Moreover, it is doubtful whether the concept of combining "mutually related objects" or "ensuring consistency of the mutually related objects" (page 1, line 22 f. of the application) at the application level has any technically relevant meaning at all. Combining objects which are mutually related in the mind of the user does not, certainly not in general, solve any technical problem and is thus not an aspect which could provide the basis for any inventive technical contribution to the prior art."

VI. In a reply letter dated and received on 10 October 2007, the appellant requested "a decision on the file as it stands" and withdrew a pending request for oral proceedings.

Reasons for the Decision

1. The appeal is admissible.

2. However, for the reasons given by the Board in its communication dated 10 September 2007, the appeal is not allowable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

T. Buschek R. R. K. Zimmermann