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**Datasheet for the decision  
of 24 July 2008**

**Case Number:** T 1288/04 - 3.5.04

**Application Number:** 00200971.0

**Publication Number:** 1017233

**IPC:** H04N 5/445

**Language of the proceedings:** EN

**Title of invention:**

Method and apparatus for displaying television program information

**Applicant:**

E-Guide, Inc.

**Headword:**

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**Relevant legal provisions:**

-

**Relevant legal provisions (EPC 1973):**

EPC Art. 56

**Keyword:**

"Inventive step - main request: no"

**Decisions cited:**

-

**Catchword:**

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Case Number: T 1288/04 - 3.5.04

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.04  
of 24 July 2008

**Appellant:** E-Guide, Inc.  
9100 Wilshire Boulevard  
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**Representative:** Kinsler, Maureen Catherine  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 21 June 2004  
refusing European application No. 00200971.0  
pursuant to Article 97(1) EPC 1973.

**Composition of the Board:**

**Chairman:** F. Edlinger  
**Members:** A. Teale  
B. Müller

## **Summary of Facts and Submissions**

- I. The appeal is against the decision by the examining division to refuse European patent application No. 00 200 971.0, a divisional application of European patent application No. 95 931 687.8, the latter being published as WO 9607270 A1.
- II. The applicant appealed, requesting that the decision be overturned in its entirety. In a subsequently filed statement of grounds of appeal the appellant (applicant) requested that the application be granted on the basis of new main and auxiliary requests and made arguments in support of inventive step. The appellant also made an auxiliary request for oral proceedings.
- III. In an annex to a summons to oral proceedings the board raised objections under Article 76(1) EPC 1973.
- IV. With a letter dated 23 June 2008 the appellant filed amended claims according to a main and an auxiliary request and provided further arguments in support of inventive step.
- V. In the oral proceedings before the board on 24 July 2008 the appellant submitted amended independent claims for the main and auxiliary requests and requested that the decision under appeal be set aside and that the case be remitted to the first instance on the basis of the following documents.

Main request:

claims 1 and 18, submitted in the oral proceedings, and 2 to 17 and 19 to 34, filed with the letter dated 23 June 2008.

Auxiliary request:

claims 1 and 13, submitted in the oral proceedings, and 2 to 12 and 14 to 24, filed with the letter dated 23 June 2008.

VI. Claim 1 of the main request reads as follows:

"An entertainment system comprising:  
a display having a screen;  
means (30) for recovering video programs;  
a source of a schedule of program listings including listings for video programs, wherein the listings include program titles;  
means for displaying (20) a plurality of the program listings for video programs from the source in a first area (46) of the screen, each displayed program listing including a program title;  
an input device (28) for selectively marking one of the displayed program listings for a video program; and  
means (24) responsive to the input device (28) for controlling the means for recovering (30) to display in a second area (42) of the screen simultaneously with the program listings the video program corresponding to one of the program listings, such that at least a part of the image of the video program is visible in real time."

Apparatus claim 1 and independent method claim 13 of the auxiliary request differ from claims 1 and 18 of

the main request, respectively, in that the expression "the video program corresponding to one of the program listings" has been amended to "the video program corresponding to the marked program listing".

VII. In the appealed decision it was held that the subject-matter of the independent claims of the then main request lacked inventive step in view of the following document:

D1: EP 0 444 496 A1.

According to the reasons of the appealed decision, in D1 (figure 2) the type of information in areas 19B-E was not exactly explained. It was only mentioned that the display area 19B displayed the character information "CH1" indicating a music program. Whether this information exactly represented the title of the content currently received on the corresponding channel or only the category could not be unambiguously derived from D1. Hence the subject-matter of the then claim 1 was novel over D1. A title list informed the viewer more precisely about what was currently being transmitted on a particular channel than a more general type of information such as a category. The only effect created by this differing feature was to inform the viewer in more detail about the content of a particular channel. The objective problem associated with this effect was thus to provide a particular type of information to the viewer. This problem was not considered technical, since the type of a piece of information to be displayed was not linked to the technical capabilities of the system; the processing of information in the system was not affected by the type

of the information. Hence a skilled person did not have to search for a technical solution for the objective problem. Rather, it was only a matter of system design which type of information was to be displayed to the user. The skilled person would design the system such that the desired type of information was treated in the same manner as in the prior art system so that it could be displayed to the user in the same way. Hence the system as claimed in claim 1 lacked inventive step, Articles 52(1) and 56 EPC 1973. The following document was mentioned in connection with the features of the dependent claims:

D2: EP 0 447 968 A2.

An auxiliary request with amended claims was not admitted because it was only filed in the oral proceedings and claim 1 *prima facie* did not comply with Article 123(2) EPC 1973.

VIII. The appellant's arguments in the oral proceedings can be summarized as follows.

Main request

The claims were directed to viewing listings of programs scheduled for future broadcast while watching a program currently being broadcast, as shown in the "This channel" guide disclosed in figure 4 and on page 2, lines 23 to 33, and page 6, lines 26 to 36, of the application as originally filed.

D1 improved on devices for displaying PAL or MAC television pictures by displaying information on MAC

channels while displaying a PAL channel. This meant that in figure 2 the television picture did not correspond to the information in areas 19B-E. Contrary to the previous, erroneous statement in the appellant's letter of 23 June 2008, D1 did not disclose the display of program listings. D1 disclosed areas 19B-E in figure 2, these areas containing channel characters and an indication of the category of content on each channel. Hence, although D1 mentioned the reception of "program content information" (see page 3, lines 29 to 33), it did not disclose the display of program titles. Although area 19E in figure 2 showed that channel 4 ("CH4"), which was showing "SPORTS", was highlighted, D1 did not disclose a user input device for selectively marking a program listing. Instead, the user selected a content key word (in this case "SPORTS") on the remote control, pressed the "MAC information search button" which caused the display of the key word and the marking of a corresponding channel (in this case channel 4). Once a MAC channel was being displayed, the information in areas 19B-E would no longer be displayed. Indeed D1 also mentioned the possibility of the character information in the display areas 19B-E disappearing automatically after the search button had been pressed. D1 did not disclose the display of a video program simultaneously with one of the corresponding program listings. The device of D1 was not even technically able to do so.

There was no incentive to add selective marking of a displayed program listing, even taking D2 into account, since a combination of D1 and D2 would merely lead to a MAC program listing being displayed with a PAL picture. Moreover the suggestion that between the publication

date of D1 (4 September 1991) and the earliest priority date of the application (31 August 1994) there had been a significant expansion of digital television broadcasting was mere speculation, for which no evidence had been produced. It would moreover not have been obvious to make the information in the display areas 19B-E persist, since this would have undesirably cluttered the display.

#### Auxiliary request

The auxiliary request differed from the main request essentially in the restriction to the displayed video program corresponding to the marked program listing. This enhanced the program guide by allowing program selection by highlighting.

- IX. During the oral proceedings the board informed the appellant that European patent application 0 682 452, which had come to the board's attention in another case, might constitute relevant prior art under Article 54(3) EPC in the present case.

### **Reasons for the Decision**

1. *Admissibility*

The appeal is admissible.

2. *The amendments*

Claim 1 of the main request is identical to claim 1 on which the decision under appeal was based, this being

claim 1 filed with the letter dated 9 May 2002, except that the alternative to video programs, namely "or program clips", has been deleted in the present claim 1 following objections raised by the board. No objections under Article 123(2) EPC were raised against the claims of the main request. The board concurs.

Claims 1 and 13 of the auxiliary request have the additional feature of the displayed video program corresponding to the marked program listing which is based, for instance, on claim 34 as originally filed.

The board consequently sees no objection under Article 123(2) EPC as far as claims 1 and 18 of the main request and claims 1 and 13 of the auxiliary request are concerned.

3. *Examination of the contested decision*

Although the appellant has requested that the case be remitted to the first instance according to both requests, the appellant's main request cannot be allowed because the board first has to examine the allowability of the appeal; see Article 111(1) EPC 1973. Since claim 1 of the main request relates to essentially the same subject-matter as that of claim 1 according to the main request in the appealed decision (see point 2 above), the board, in carrying out its primary duty to examine the contested decision, has to examine whether the subject-matter of claim 1 involves an inventive step over D1, at least in view of the reasons given in the contested decision.

4. *Document D1*

D1 concerns a video signal processing apparatus which can receive a (D2)MAC satellite video signal and a PAL terrestrial video signal and display program content information contained in the MAC signal while displaying the PAL terrestrial video signal. Figure 2 shows a PAL terrestrial video signal being displayed in the image display area 19A of the monitor 19 whilst areas 19B-E contain character information representing the contents of the current broadcast program of the first to fourth channels of the satellite broadcast, respectively; see page 5, lines 6 to 9. The user selects a content key word (in this case "SPORTS") on the remote control, and the receiver compares the "program content information" received in the MAC video signal with the user-designated key word. When a match occurs the receiver switches to the "indication of receiving the MAC signal" containing the particular program content information. Thus when a user operates a MAC information search button the receiver does not switch to a different program, but automatically switches on a "receiving indication" which may result in the highlighting of the character information of the channel having the same key word as shown in figure 2 of D1. The user may then select a MAC channel for viewing, for instance by operating the usual keys for channel selection (see page 5, lines 31 to 51). The character information may disappear automatically a predetermined time after without further operating the MAC information search button; see page 5, lines 21 to 23.

Hence D1 discloses an entertainment system comprising: a display having a screen (monitor 19); means for recovering video programs (tuners 3,7 and demodulators 4,8); a source of a schedule of program information (see decoder 5 and page 3, lines 29 to 33), means for displaying (character generator section 18) a plurality of pieces of information on video programs from the source in a first area of the screen (see figure 2; 19B-19E), an input device (remote controller 21) for entering a key word thereby (albeit indirectly) selectively marking a piece of displayed program information; and means (microcomputer 17) responsive to (for instance keys of) the input device (21) for controlling the means for recovering (3,7; 4,8) to display in a second area (19A) of the screen a video program corresponding to one of the pieces of program information, such that at least a part of the image of the video program is visible in real time. However there is no direct and unambiguous disclosure in D1 of controlling the means for recovering to simultaneously display program listings and the corresponding video program because the appearance and disappearance of the character information display area is determined by the user operating the MAC information search button.

The appellant has argued that D1 does not disclose an input device for selectively marking displayed items. The board disagrees, since, in the context of the application, this feature of claim 1 has to be given a broad meaning to cover the different embodiments shown, for instance, in figure 2 ("NOW guide") and figure 4 ("THIS CHANNEL guide"). The appellant confirmed in the oral proceedings that this was in fact the appellant's intention. In the embodiment of figure 4, one of the

displayed program listings (the current program) is marked (or highlighted) when the "THIS CHANNEL guide" is displayed. If the cursor highlights another program listing, a brief program description of the highlighted program is displayed in area 44 (see page 6, lines 32 to 33), but the same video program remains displayed in the second area 42 (page 13, lines 1 to 3). In this embodiment the only required link between selective marking and the displayed video program is the indication of the current program when the "THIS CHANNEL guide" is selected. The means for recovering the video program is not responsive to the input device for selectively marking (the cursor). Claim 1 thus covers an indirect selection. The same happens in D1, in which a key word is selected using the remote controller and transmitted to the microcomputer 17. The microcomputer in turn causes a displayed item (in this case "CH4") to be selectively marked.

5. *The main request*

5.1 *Novelty*

The subject-matter of claim 1 differs from the disclosure of D1 in that D1 does not disclose the simultaneous display of a plurality of video program listings, each listing including a program title, and the video program corresponding to one of the program listings.

The subject-matter of claim 1 is thus new when compared with the disclosure of D1, Article 54(1) EPC 1973.

5.2 *Inventive step*

In technical terms, the simultaneous display of program listings and the video program essentially requires, in addition to the means for generating and displaying video and character information known from D1, a source of a schedule of program listings which comprises the relevant information relating to a plurality of video programs which may be selected for display, and means which are responsive to the input device to display both program listings and video.

The technical problem to be solved in view of the disclosure of D1 can thus be seen in providing easier access to one of a plurality of video programs.

Since D1 already discloses the general idea of offering information to the viewer about the content of available programs and since electronic program guides listing the day of the week, time of day, channel and program title of available television programs were already known at the priority date of the present application, the simultaneous display, responsive to the input device, of program listings and video and the marking of the currently broadcast video program in the listings constitutes a straightforward development to provide easier access to one of the available programs. Similar to the receiving indication marking a simultaneously available MAC channel corresponding to a selected key word of interest in D1, selectively marking one of the program listings (when the "THIS CHANNEL guide" is selected, as in figure 4) gives orientation to the user and helps to retrieve a program of interest.

Consequently the board concurs with the finding of the examining division and concludes that the subject-matter of claim 1 lacks inventive step, Article 56 EPC 1973, so that the main request is not allowable.

6. *The auxiliary request*

The amendments to the independent claims create a connection between the (selective) marking, using the input device, of one of the displayed program listings and the display of the corresponding video program in a second area of the screen. In other words, the independent claims set out the selection of video programs by marking a displayed one of the program listings using the input device and displaying the corresponding video program responsive thereto. This is not technically possible with the system known from D1, since it only provides a passive indication corresponding to a selected key word, but does not allow the selection of any other of the displayed listings (for example by moving a cursor; see point 4 above). This changes the meaning of the expression "selectively marking" used in the claims in connection with the input device and restricts the claims to embodiments such as the "NOW guide" shown in figure 2 of the application; see page 6, lines 8 to 15, and page 7, lines 20 to 34, of the application.

The reasons given in the contested decision (see point VII above) do not give any indication why the selection and simultaneous display of the program corresponding to the marked program listing would be obvious in view of D1, on a proper interpretation of its disclosure

(see, in particular, point 4 above). The board can also see no such reasons in view of the teaching of D1.

7. *Remittal*

The board therefore considers that the subject-matter of claim 1 of the auxiliary request, on a proper construction as set out in point 6 above, has substantially changed with respect to that on which the appealed decision was based. The appealed decision was essentially based on D1, and the European Search Report contains another three documents also cited as relevant to original claims 31 and 46, which provide the basis for the present independent claims. For these reasons, and also in the light of EP 0 682 452, which might constitute relevant prior art under Article 54(3) EPC, the case is remitted for further prosecution. Given that further amendments of the claims are likely, the board has not considered the allowability of any amendments in the dependent claims of the auxiliary request.

**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 the auxiliary request comprising claims 1 and 13 submitted in the oral proceedings and claims 2 to 12 and 14 to 24 filed with the letter dated 23 June 2008.

The Registrar:

The Chairman:

D. Sauter

F. Edlinger