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**Datasheet for the decision
of 4 July 2007**

Case Number: T 0232/05 - 3.5.04

Application Number: 94105194.8

Publication Number: 0675650

IPC: H04N 7/087

Language of the proceedings: EN

Title of invention:

A television receiver with teletext function

Patentee:

SONY-WEGA PRODUKTIONS GmbH

Opponent:

IGR GmbH & Co. KG

Headword:

-

Relevant legal provisions:

EPC Art. 54, 56

Keyword:

"Novelty (yes) after amendment"

"Inventive step (no)"

Decisions cited:

-

Catchword:

-



Case Number: T 0232/05 - 3.5.04

D E C I S I O N
of the Technical Board of Appeal 3.5.04
of 4 July 2007

Appellant: IGR GmbH & Co. KG
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
16 December 2004 concerning maintenance of the
European Patent No. 067560 in amended form.

Composition of the Board:

Chairman: F. Edlinger
Members: C. Kunzelmann
B. Müller

Summary of Facts and Submissions

I. The appeal is against the decision of the opposition division to maintain European patent No. 0 675 650 in amended form on the basis of the claims of the main request.

II. The decision under appeal *inter alia* referred to the following documents which had been presented by the opponent in support of the grounds for opposition of lack of novelty and inventive step:

D11: WILDHAGEN, U. "Teletext-Multi-Page-System mit TPU 2700". In: *Elektronik*, volume 12, 14 June 1985, pages 163 to 168 and

D12: EP 0 256 295 A2.

III. The opponent appealed and filed document

D13: JP 04 070 177 A together with an English abstract thereof

with the statement of grounds of appeal.

IV. In a communication annexed to a summons to oral proceedings the board, *inter alia*, referred to the background art indicated in paragraphs [0002] and [0005] of the patent specification.

V. In a letter dated 31 May 2007 the appellant based objections also on document

D1: EP 0 536 828 A1,

the prior art referred to in paragraph [0005] of the patent specification, and filed new material referred to in the following as document

D14: Excerpts from a manual of the Metz TV set "Kreta-S 6397-100 VT Stereo", together with an invoice for a Metz TV set "Kreta-S 100 VT 6397 BN".

- VI. The respondent (patent proprietor) submitted auxiliary requests 1 to 5 with a letter dated 4 June 2007.
- VII. Oral proceedings were held on 4 July 2007 in which the board decided to admit D13 into the appeal proceedings in application of Article 10a(4) RPBA. The board also decided not to admit D14 in application of Article 10b(1) RPBA.
- VIII. The appellant requested that the decision under appeal be set aside and that the European patent No. 0 675 650 be revoked in its entirety.
- IX. The respondent's final requests were as follows:

Main request:

Claim 1 as maintained by the opposition division with the following additional word in line 16: "said entire bank being assignable by the user ...". The remaining documents for the maintenance of the patent were left unchanged.

Auxiliary requests 1 to 5:

Claims 1, each as filed with letter dated 4 June 2007, including the same additional word in line 16 (resp. line 15) as the main request:

"said entire bank being assignable by the user ...". The last two lines of claim 1 of auxiliary requests 4 and 5, respectively, should be corrected to read "TOP or FLOF teletext function" instead of "TOP and FLOP teletext function". The remaining documents for the maintenance of the patent were left unchanged.

X. Independent claim 1 of the main request reads as follows.

"A television receiver comprising:
signal input circuit means (2, 3, 4, 5) for receiving a signal including a video picture signal and a teletext data signal;
teletext signal processor means (7) for decoding the teletext data signal, obtaining teletext data and generating a teletext picture according to the obtained teletext data;
display means (6) for displaying the video picture and/or teletext picture on a screen thereof according to the video picture signal and teletext picture signal;
and
control means (10, 11, 12) including operation members (20G, 20R, 20Y, 20G) for controlling the television receiver;
characterized in that
at least one of said operation members is assigned to a selected teletext page number which was previously preset by a user to a memory bank,
said *entire* bank being assignable by the user to a selected television station or to two or more stations which use the same teletext page number for teletext data of the same category,

whereby if said operation member is manipulated while the video picture signal of a television station corresponding to said bank is currently displayed on the screen of said display means (6), then the teletext picture, of the teletext data of said television channel, bearing said selected teletext page number to which said operation member is assigned is displayed on the screen of said display means (6)."

[The amendment made in appeal proceedings to claim 1 of the main request on which the decision under appeal was based is indicated in italics.]

- XI. Claim 1 of the first to fifth auxiliary requests has the same preamble as the above claim 1 of the main request, but has the following characterizing portions.

[Differences from the characterizing portion of the main request have been emphasized by the board.]

First auxiliary request:

"characterized in that
at least one of said operation members is assigned to a selected teletext page number which was previously preset by a user to a memory bank,
said entire bank being assignable by the user to **two or more selected television stations** which use the same teletext page number for teletext data of the same category,
whereby if said operation member is manipulated while the video picture signal of a television station corresponding to said bank is currently displayed on the screen of said display means (6), then the teletext

picture, of the teletext data of said television channel, bearing said selected teletext page number to which said operation member is assigned is displayed on the screen of said display means (6)."

Second auxiliary request:

"characterized in that at least **two** of said operation members **are** assigned to a selected teletext page number which was previously preset by a user to a memory bank, said entire bank being assignable by the user to **two or more selected television stations** which use the same teletext page number for teletext data of the same category, whereby if **one of said operation members** is manipulated while the video picture signal of a television station corresponding to said bank is currently displayed on the screen of said display means (6), then the teletext picture, of the teletext data of said television channel, bearing **the respective** selected teletext page number to which said operation member is assigned is displayed on the screen of said display means (6)."

Third auxiliary request:

"characterized in that at least **two** of said operation members **are** assigned to a selected teletext page number which was previously preset by a user to a memory bank, said entire bank being assignable by the user to **two or more selected television stations** which use the same teletext page number for teletext data of the same category,

whereby if **one of said operation members** is manipulated while the video picture signal of a television station corresponding to said bank is currently displayed on the screen of said display means (6), then the teletext picture, of the teletext data of said television channel, bearing **the respective** selected teletext page number to which said operation member is assigned is displayed on the screen of said display means (6), **such that a direct access to the respective selected teletext page number is enabled.**"

Fourth auxiliary request:

"characterized in that at least **two** of said operation members **are** assigned to a selected teletext page number which was previously preset by a user to a memory bank, said entire bank being assignable by the user to **two or more selected television stations** which use the same teletext page number for teletext data of the same category, whereby if **one of said operation members** is manipulated while the video picture signal of a television station corresponding to said bank is currently displayed on the screen of said display means (6), then the teletext picture, of the teletext data of said television channel, bearing **the respective** selected teletext page number to which said operation member is assigned is displayed on the screen of said display means (6), **such that a direct access to the respective selected teletext page number is enabled,** wherein said operation members are otherwise used for controlling TOP or FLOF teletext function."

Fifth auxiliary request:

"characterized in that at least **two** of said operation members **are** assigned to a selected teletext page number which was previously preset by a user to a memory bank, said entire bank being assignable by the user to **two or more selected television stations** which use the same teletext page number for teletext data of the same category, whereby if **one of said operation members** is manipulated while the video picture signal of a television station corresponding to said bank is currently displayed on the screen of said display means (6), then the teletext picture, of the teletext data of said television channel, bearing **the respective** selected teletext page number to which said operation member is assigned is displayed on the screen of said display means (6), **such that a direct access to the respective selected teletext page number is enabled,** wherein, during television mode of the television receiver, said operation members are not usable for functions other than enabling said direct access, and said operation members are used for controlling TOP or FLOF teletext function during teletext mode."

XII. The reasons given in the decision under appeal for maintaining the patent on the basis of the main request (with the only difference from the present main request being that indicated in point X above) can be summarised as follows.

Firstly, D12 did not unambiguously disclose that the user could go directly to a selected teletext page, by operating one key, while watching a television

programme, without first having to press a key to enter the teletext mode. Secondly, D12 did not disclose that a memory bank was constructed or operated in such a way that a user could assign that bank to two or more television stations if he so wished. Thus the subject-matter of claim 1 was new with respect to D12.

Neither D12 nor any other document cited by the opponent suggested that a user could cause a television set to enter teletext mode without the user having to press a teletext mode key. In the absence of any clear suggestion in D12 (or in any other prior art document), the division had doubts whether this feature was obvious to a person skilled in the art, even though a person skilled in the art would indeed design a remote control so that the user would need to press as few keys as possible. Thus, giving the benefit of the doubt to the patent proprietor, the subject-matter of claim 1 involved an inventive step having regard to D12 in combination with D11, or in combination with the common general knowledge of a person skilled in the art.

XIII. The appellant's arguments can be summarized as follows.

Document D12 destroyed the novelty and the inventive step of claim 1 of the main request. Firstly, D12 disclosed, or at least suggested, in column 2, lines 13 to 27, that there was one key for each preselected teletext page, so that the user could view without delay the preselected teletext page by merely operating the corresponding key. D12 required previously operating an additional key only for programming of the preferred teletext pages, not for viewing them.

Secondly, D12 disclosed or at least suggested in column 3, line 52, to column 4, line 2, that a block of teletext page numbers assigned to a particular programme could additionally be assigned to another programme. Furthermore, in one of the three alternatives specified in claim 1, the memory bank with previously preset teletext page numbers was assignable to only one selected television station.

Also the patent specification itself acknowledged in paragraph [0002] that it was common general knowledge that operation of a "teletext ON key" led to automatic displaying of a pre-programmed teletext page, namely the first or index page. A person skilled in the art, starting from D12 and faced with the problem of presenting in a user-friendly manner a desired teletext page which was previously preset by the user, would have recognized on the basis of this common general knowledge that this problem could be solved by operating a single key for switching to the teletext mode, and for displaying a preferred teletext page.

Further lines of argumentation were based on the television receiver of claim 1 of the main request not being new or not involving an inventive step having regard to D1, and not involving an inventive step having regard to D12 in combination with D11, D13 or D14. The board should admit D13 and D14 into the appeal proceedings because of their relevance.

The first auxiliary request was in substance the same as the main request.

The additional features of the second and third auxiliary request were known from D12 and D13.

The additional features of the fourth and fifth auxiliary request were obvious from the common general knowledge, since the conventional coloured keys typical of TOP or FLOF teletext did not have any function in the TV mode, but were used to access teletext pages of interest in teletext mode.

XIV. The respondent's arguments can be summarized as follows.

Concerning D12, this document firstly contained in column 3, lines 31 to 41, indications that it was necessary to switch to teletext mode by pressing the teletext mode button. This was also necessary for calling up the programmed teletext pages because then the ASIC design was much simpler. Secondly, the decision under appeal had correctly found that D12 did not indicate that a memory bank was constructed or operated in such a way that the user could assign that bank to two or more television stations if he wished to do so. D12 did not disclose that the block of teletext page numbers assigned to a particular programme and referred to in column 3, line 52, to column 4, line 2, could additionally be assigned to another programme.

Millions of television sets with teletext mode had been sold before the priority date, but nobody had had the idea of allocating theme-oriented teletext information of one or more television stations to a specific key of a (remote) control and thus avoiding the need for the user to first press a separate key to switch on the teletext mode. This indicated the presence of an inventive step.

Concerning D1, this document disclosed presenting teletext pages which were independent from the television station to which the television receiver was tuned, so that the displayed teletext page did not necessarily belong to the television station being viewed. The teletext memory in D1 could only be assigned to one single television station.

The opposition division was correct in its assessment that the subject-matter of claim 1 did have an inventive step over the combination of D11 and D12.

D13 and D14 were late filed and should be disregarded in application of Article 114(2) EPC, among other reasons because they were not relevant.

The amendments made with the first auxiliary request aimed at excluding a possible misinterpretation of claim 1 that the memory bank was assignable to only one television station.

Claim 1 of the second auxiliary request specified that at least two operation members were assigned to a selected teletext page number. This limitation was neither known nor obvious from D12 or D13 even when taken in combination.

Claim 1 of the third auxiliary request more clearly set out the direct access to teletext page numbers for teletext data of the same category.

The additional features of claim 1 of the fourth auxiliary request improved the user friendliness and reduced the number of necessary operation members (keys).

Claim 1 of the fifth auxiliary request constituted a further clarification of the operation members already present in the fourth auxiliary request.

Reasons for the Decision

1. The appeal is admissible.
2. *Main request: claim construction*
 - 2.1 The board is not convinced by the appellant's argument that claim 1 covers "three alternatives", one of which specifying a memory bank which need not be assignable to two or more selected television stations, it being sufficient if it can be assigned to only one selected television station. The feature of claim 1 starting with "whereby if ..." determines the functioning of the claimed television receiver if two or more stations of the claimed television receiver correspond to the memory bank ("**a** television station corresponding to said bank", emphasis by the board), as explicitly specified in claim 1 in the feature "said entire bank being assignable by the user to a selected television station or to two or more stations which use the same teletext page number for teletext data of the same category". Thus claim 1 as a whole is based on the concept that the entire memory bank (such as bank A) is assignable to two or more stations (such as ARD and ZDF), as described for instance in paragraph [0023] in conjunction with figure 3 of the patent specification. Therefore, in the usual situation where a television set receives two or more television stations, the television receiver as claimed enables a user to assign

the entire memory bank to two or more of these stations. Assigning an entire memory bank to a group of stations which transmit teletext of the same category under the same page numbers means for the user that the teletext page numbers of interest need only be stored once for the whole group of television stations. Hence the board agrees with the interpretation given in the decision under appeal that the entire memory bank "must be constructed or operated in such a way that the user can indeed assign it to two television stations if he wishes."

- 2.2 Thus the expression "a television station corresponding to said bank" is to be construed in the context of claim 1 as meaning any one of the television stations to which said bank is assigned. Hence when viewing a video picture signal of any television station to which the memory bank is assigned, the user does not need to perform a separate step of selecting the teletext mode (see also paragraphs [0004] and [0007] of the patent specification). Instead it suffices to manipulate the (at least one) operation member to cause the displaying of a teletext page selected by the user as belonging to a particular category. Furthermore in such a case the displayed teletext page belongs to the teletext data of the television station viewed by the user when manipulating the operation member.

3. *Main request: novelty*

- 3.1 According to established case law (see "Case Law of the Boards of Appeal of the European Patent Office", 5th edition 2006, I.C.2.1), for an invention to lack novelty within the meaning of Article 54(1) EPC its

subject-matter must be directly and unambiguously derivable from the prior art.

- 3.2 It is common ground that both D1 and D12 disclose a television receiver comprising the features of the preamble of claim 1 of the main request.
- 3.3 Having regard to D12, the board concurs with the finding in the decision under appeal that this document does not unambiguously disclose whether a separate step of selecting the teletext mode is necessary or not, both possibilities being technically feasible. The appellant's argument that the lack of such a step was implicit because D12 disclosed that operating a key on the remote control allowed the displaying of the desired teletext pages without delay on the screen of the television set does not convince the board. The expression "without delay" (translation of "verzögerungsfrei") is repeatedly used in D12, both in the context of the prior art discussed in D12 and of the invention disclosed in D12. As convincingly argued by the respondent, this expression has the same meaning in both these contexts, namely that the teletext pages are already stored in memory and the system does not have to search for them in the incoming television signal. This is also the meaning that the decision under appeal gives to this expression. In the judgment of the board, the expression "without delay" in D12 also refers to a general objective to provide quick access to pre-programmed teletext pages, in particular undelayed access when a corresponding key is operated, but does not exclude the user having to perform a separate step of selecting the teletext mode when

viewing a video picture signal before a teletext page selected by the user can be displayed.

- 3.4 Having regard to D1, it is undisputed that D1 (see column 6, line 12, to column 7, line 13) discloses a special teletext operating mode in which the user does not need to switch to teletext mode first. The user has previously defined preferred teletext pages by storing in the memory locations of a teletext memory number pairs consisting of a programme number (each programme number corresponding to a predetermined television station and thus to a transmitter frequency) and a corresponding teletext page number (see D1, column 4, lines 42 to 47 and figure 1). The entire memory bank (namely all the memory locations of the teletext memory) is assignable to a selected television station or to two or more stations. In fact the user may store only number pairs having the same programme number. Alternatively, different memory locations of the teletext memory can be assigned to different television stations (as shown in D1, figure 1). But it is not directly and unambiguously derivable from D1 that the entire memory bank is assignable to two or more television stations such that the teletext data of "said channel" (of a television station which is currently displayed) is displayed. In fact the special teletext operating mode of D1 would always first display the same teletext page of the same television station (and transmitter frequency), independently of which television station was being viewed (see D1, column 6, lines 28 to 31 and lines 54 to 56; figure 4: 43). In contrast, claim 1 of the opposed patent specifies that the entire memory bank is assignable to two or more stations such that a displayed teletext

page belongs to the teletext data of the television station viewed by the user when manipulating the operation member (see points 2.1 and 2.2 above).

3.5 Thus the board judges that the television receiver of claim 1 is new, Article 54(1) EPC.

4. *Main request: inventive step*

4.1 As specified in Article 56 EPC, an invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

4.2 It is uncontested that D12 represents the closest prior art. The board concurs with this view. Furthermore, it was common general knowledge at the priority date that pressing a teletext ON key causes the automatic displaying of the first page or an index page of the teletext which is transmitted in the television signal of the television programme (see paragraph [0002] of the patent specification). This page was part of the setup of a conventional television receiver but not previously preset by a user.

4.3 D12 discloses in column 3, line 7, to column 4, line 2, that a user may preset selected teletext page numbers for a television programme "A" by storing the page numbers in a memory. The programming of the selected teletext page numbers for a television programme "B" was performed in the same manner. The user may assign the teletext page numbers in a desired order depending on his particular interests. The positions (within this order) the user assigns to the numbers may thus be

considered as corresponding to categories of interest, such as news (see D12, column 3, lines 1 to 7 and tables 1 and 2). It is implicit from D12 that a page number which is stored for a particular television programme at a particular position may also be stored for a second and third television programme at the corresponding position. Furthermore D12 (column 3, line 52, to column 4, line 2) discloses that the numbers of a block of pages could be assigned to a particular programme. Thus it is implicit from the teaching of D12 that teletext page numbers of a block of pages could be assigned to two or more television stations.

- 4.4 However D12 does not disclose whether such numbers of teletext pages are stored in a memory bank which can be entirely assigned to a selected television station or to two or more television stations. Since there were television stations which used the same teletext page numbers for teletext data of the same category (such as the common ARD/ZDF teletext referred to in D11, figure 3), there was an incentive to make a memory bank assignable to two or more television stations. Otherwise the user would have to input the same numbers again for these television stations and different memory banks storing identical teletext page numbers would be needed to access the previously preset teletext pages. Thus, in the context of D12, it was obvious to a person skilled in the art to make a memory bank assignable to two or more television stations.
- 4.5 D12 does not disclose whether a separate step of selecting the teletext mode is necessary or not (see point 3.3 above). However D12 has the objective of

displaying user-selected teletext pages without delay (see column 2, lines 1 to 9). And it was common general knowledge at the priority date that operating a single key may cause the displaying of a preset teletext (starting) page (see point 4.2 above). In these circumstances, displaying, by operating a single operation member, one of previously preset teletext pages of a category the user has a particular interest in was merely an obvious choice for a person skilled in the art to achieve the above objective in a user-friendly way.

4.6 Thus the two distinguishing features identified in the decision under appeal and in the statement of grounds of appeal (see points XII and XIII above) constitute modifications of a television receiver known from D12 which were obvious to a person skilled in the art. There are no arguments on file, and the board also does not see any, that the combination of claim 1 including the two distinguishing features provides additional technical effects which go beyond those analysed above and form a combination which was not obvious to a person skilled in the art.

4.7 The respondent's argument that nobody had had the idea of allocating theme-oriented teletext information of one or several television stations to a specific key of a (remote) control and thus avoiding the need for the user to first press a separate key to switch on the teletext mode does not convince the board. As convincingly argued by the appellant, allocating theme-oriented teletext information to a specific key relates to the content of the teletext pages, as generated by the broadcasting station, which the user allocates to a

specific key, namely the "teletext data of same category" specified in the claims. An obvious modification of the known television receiver in D12 has the technical means to enable a user to allocate teletext page numbers to an operation member in accordance with claim 1. The actual correspondence between operation members (keys) and categories of a particular content (and meaning to the user) as determined by the user is not specified in claim 1. Already for this reason it cannot justify the presence of an inventive step of the television receiver for which protection is sought. The respondent's argument based on the ASIC design does not convince the board either because neither D12, nor the opposed patent, nor the respondent's argumentation mention any details of ASIC design supporting this argument. The specific increase in user friendliness (the reduction of the number of key operations required) at the price of an unspecified more complicated ASIC design is one of the obvious possibilities available.

- 4.8 In view of the above, the television receiver of claim 1 was obvious to a person skilled in the art having regard to document D12 and therefore does not involve an inventive step within the meaning of Article 56 EPC.
- 4.9 Since, taking into consideration the amendments made by the proprietor of the patent during the opposition (appeal) proceedings, the patent and the invention to which it relates do not meet the requirements of the Convention, the patent as amended with the claims of the main request cannot be maintained (Article 102(3) EPC).

5. *First auxiliary request*

5.1 Claim 1 of the first auxiliary request has the same substance as claim 1 of the main request as construed in points 2.1 and 2.2 above. Thus its subject-matter does not involve an inventive step for the same reasons as given for the main request.

6. *Second auxiliary request*

6.1 Claim 1 of the second auxiliary request specifies that at least two of said operation members are provided. D12 teaches that several teletext page numbers may be stored for several television stations (in the order of interest to the user). The board has judged in this context that displaying one of user-selected teletext pages by manipulating a single operation member was an obvious choice (see point 4.5 above). If two pages (of different interest or categories) were to be displayed without delay an obvious possibility was to provide two operation members, one for each user-selected teletext page. Thus the subject-matter of claim 1 of the second auxiliary request does not involve an inventive step either.

7. *Third auxiliary request*

7.1 Claim 1 of the third auxiliary request has the same substance as claim 1 of the second auxiliary request. The additional feature of enabling direct access was already taken into account when referring to a single operation member (without having to press a separate teletext mode key). Thus the subject-matter of claim 1

of the third auxiliary request does not involve an inventive step either.

8. *Fourth and fifth auxiliary request*

8.1 Claim 1 of the fourth auxiliary request, compared to claim 1 of the third auxiliary request, further specifies that the two operation members are otherwise used for controlling TOP or FLOF teletext function. As acknowledged in the patent specification, paragraph [0017], TOP or FLOF teletext was very well known in Europe at the priority date. Claim 1 of the fifth auxiliary request further specifies that the operation members (during television mode) are not usable for functions other than enabling the direct access to the selected teletext pages. As convincingly argued by the appellant, the conventional four coloured keys typical of TOP or FLOF operation members normally did not have any function in television mode but were used to access teletext pages of interest in teletext mode. Hence it was a matter of normal design whether to use extra keys or those already present in certain conventional television receivers, to enable direct access to selected teletext pages. The subject-matter of claim 1 of the fourth and fifth auxiliary requests was therefore obvious to a person skilled in the art and thus does not involve an inventive step either.

9. Thus the board judges that the television receivers of claim 1 of all the requests (main request and first to fifth auxiliary requests) do not involve an inventive step, Article 56 EPC. Since the claims of all the requests do not meet the requirements of the Convention, the patent cannot be maintained taking into

consideration the amendments made by the proprietor of the patent in appeal proceedings (Article 102(3) EPC). Therefore the patent has to be revoked.

10. Since the board has come to the decision that the patent has to be revoked, without relying on D13 or D14, the board's reasons for admitting D13, but not D14, into the appeal proceedings are immaterial to the decision in the present case.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:

D. Sauter

F. Edlinger