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**Datasheet for the decision
of 30 June 2009**

Case Number: T 0335/05 - 3.5.04

Application Number: 01939558.1

Publication Number: 1290876

IPC: H04N 5/445

Language of the proceedings: EN

Title of invention:

Interactive television application with watch lists

Applicant:

United Video Properties, Inc.

Opponent:

-

Headword:

-

Relevant legal provisions (EPC 1973):

EPC Art. 56

Keyword:

"Inventive step (no)"

Decisions cited:

-

Catchword:

-



Case Number: T 0335/05 - 3.5.04

D E C I S I O N
of the Technical Board of Appeal 3.5.04
of 30 June 2009

Appellant: United Video Properties, Inc.
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Representative: Hibbert, Juliet Jane Grace
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 28 October 2004
refusing European patent application
No. 01939558.1 pursuant to
Article 97(1) EPC 1973.

Composition of the Board:

Chairman: F. Edlinger
Members: M. Paci
C. Vallet

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division refusing European patent application No. 01 939 558.1, which was filed as an international patent application and published as WO 01/91458 A2.

- II. The following documents, cited as prior art in the decision under appeal, are relevant to the present decision:

D2: WO 00/10327 A1 and
D3: US 5 534 911 A.

- III. The decision under appeal was based on the grounds that independent claims 1 and 14 according to the applicant's main request then on file lacked clarity (Article 84 EPC 1973) and that their subject-matter did not involve an inventive step (Article 56 EPC 1973) having regard to the disclosures of D2 and D3.

- IV. With the statement of grounds of appeal the appellant filed first, second and third auxiliary requests comprising respective sets of amended claims.

- V. In a communication accompanying the summons to oral proceedings the board expressed doubts as to *inter alia* the presence of an inventive step concerning the subject-matter of the independent claims 1 and 14 according to the main request filed with the statement of grounds of appeal. Objections were also raised against the first to third auxiliary requests.

VI. With a letter dated 28 May 2009 the appellant withdrew his request for oral proceedings and filed a new request, comprising claims 1 to 13, replacing the main and auxiliary requests previously on file.

VII. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 13 according to the request filed with letter dated 28 May 2009.

VIII. Independent claim 1 reads as follows:

"An interactive television system for adding a reference to a program of interest (1506) to a watch list (1302) using an interactive television application in relation to user television equipment (22), the user television equipment comprising:

a display device (45) on which is displayed the program of interest (1506); and characterised by

control circuitry (42) configured to implement the interactive television application to:

determine if a user has been watching the program of interest (1506) for a specified period of time,

automatically add the reference to the program of interest (1506) to the watch list (1302) in response to the user having watched the program of interest for the specified period of time,

monitor the recording by the user of programs on a storage device (31),

automatically add to the watch list a reference to a program that has been recorded on the storage device, and

display the watch list on the display device in response to a user input."

IX. The examining division's reasoning as to inventive step in the decision under appeal with respect to the claims then on file can be summarised as follows.

D2 is regarded as the closest prior art. It discloses a method and a system for adding a reference to a program of interest to a watch list using an interactive television guide in relation to the user television equipment having a display device. The method of D2 comprises the following steps (and the system of D2 comprises corresponding means for performing these steps):

displaying the program of interest on the display device;

determining if a user has been watching a program of interest for a specified period of time; and

in response to the user having watched the program of interest for a specified period of time, automatically adding a reference to the program of interest to the watch list.

The method of claim 1 (and correspondingly the system of claim 14) therefore differs from that of D2 in that the watch list includes at least one previously stored program.

The objective technical problem to be solved may therefore be regarded as providing a more complete watch list for the system shown in figure 15 of D2, which includes two tuners and a VCR or DVD.

The solution proposed in the method of claim 1 or in the system of claim 14 cannot be considered as

involving an inventive step because a watch list including previously stored programs is described in D3 (see from column 3, line 60, to column 4, line 10, and figure 4). The skilled person would therefore have regarded it as a normal option to include this feature in the method or system of D2 in order to solve the problem posed.

Therefore, the method of claim 1 and the system of claim 14 lack an inventive step.

- X. The appellant essentially argued as follows regarding inventive step.

D2 and D3 are unnaturally combined because they are addressing different concepts.

D2 discloses adding entries to a view list from currently broadcast outputs. It does not disclose applying the concept to extending the watch list to stored programs even though D2 discloses a VCR/DVD facility.

The examining division was wrong to have held that the problem to be solved was "providing a more complete watch list". The conventional idea of a "watch list" is concerned with monitoring broadcast of programs in real-time in case they are missed by the viewer. It is not naturally extended by adding a list of archive programs that are at all times available for playback because one is a watch list on what is being broadcast, while the other is a static list of what is stored in an archive. The two things are simply conceptually far apart.

D3 discloses a "personal guide". It discloses suggesting programs according to one set of criteria based on the potentially fallible concept of a "customer profile" established after the customer has answered a number of personal questions. This customer profile is applied to all items that can potentially be added to the personal guide of D3. Thus, applying D3 to D2 merely modifies D2 to accept into its list programs and recorded programs based on the same set of profile criteria. As D2 advocates populating its list according to what is actually watched, either D2 and D3 are incompatible (basing the inclusion of a **recorded** program on whether it is watched or not is essentially a nonsense) or D2 must adopt the overall teaching of D3, including the "one-size-fits-all" concept of the "customer profile".

The invention combines a watch service by which a watch list, based on a program being watched for a specified period of time, is combined with a list of recorded material. Both items are separately added to the watch list but based on their different criteria: one is a viewing period threshold and the other is the fact that it has been recorded in the first place. The combination of D2 and D3 fails to disclose this at all.

Hence the present invention is not an obvious combination of D2 and D3.

- XI. Oral proceedings were held on 30 June 2009 before the board in the absence of the appellant. At the end of the oral proceedings the board announced its decision.

Reasons for the Decision

1. The appeal is admissible.

Claim 1 - Inventive step (Article 56 EPC 1973)

2. Closest prior art

It is not in dispute that D2 represents the closest prior art and that it discloses the following features of the system of claim 1:

an interactive television system (D2, page 1, line 1, and figure 15) for adding a reference to a program of interest to a watch list using an interactive television application in relation to user television equipment (D2, from page 20, line 16, to page 21, line 1, and figure 18), the user television equipment comprising:

a display device on which is displayed the program of interest (D2, TV in figure 15);

control circuitry (D2, figure 15) configured to implement the interactive television application to:

determine if a user has been watching the program of interest for a specified period of time (D2, paragraph bridging pages 6 and 7),

automatically add the reference to the program of interest to the watch list in response to the user having watched the program of interest for the specified period of time (D2 page 7, lines 1 and 2), and

display the watch list on the display device in response to a user input (D2, page 22, lines 14 to 16, and figures 17 and 18).

3. Distinguishing features

The only features of the system of claim 1 that are not disclosed by D2 are therefore that the control circuitry is configured to implement the interactive television application to:

monitor the recording by the user of programs on a storage device, and

automatically add to the watch list a reference to a program that has been recorded on the storage device.

4. Objective technical problem

The application as filed does not mention which technical problem is solved by the above distinguishing features. The application discloses that references may be automatically added to the watch list based on either user preference profiles or on monitored user actions (see page 4, lines 17 to 20; page 26, lines 18 to 23 and figure 12). Other references may be added by the user, either based on a user initiative or in response to context-sensitive questions proposed by the interactive system (see page 22, line 24 to page 23, line 10). Display of the watch list may likewise be user initiated or automatic (page 3, lines 5 to 8), and may serve different purposes, such as providing a reminder function (page 22, lines 11 to 15) or navigating among programs of interest (page 3, lines 3 to 12; page 24, lines 26 to 32; page 26, lines 3 to 23). The overall objective which can be derived from these

different aspects is to increase the likelihood that programs of different types and sources which are of interest to the user (past, current or future programs) are compiled by the watch list. In this context the distinguishing features (in combination with the remaining features known from D2) have the technical effect of improving and expanding the watch list by adding references of a different type than those referring to broadcast programs. The objective technical problem, formulated in such a way that it does not contain pointers to the solution, should therefore be defined as being to improve the watch list of the system disclosed in D2.

5. Obviousness

It should first be noted that the application as filed states that watch lists may contain previously recorded programs (see page 22, lines 3 to 11; page 26, lines 15 to 18 and several original claims, such as claims 41 and 42), but does not provide any explanation as to how the corresponding technical means could be implemented. In other words, the technical feature that interactive television application automatically adds to the watch list a reference to a program that has been recorded on the storage device is only presented at a conceptual level. The appellant has not disputed the board's assumption expressed in the communication accompanying the summons to oral proceedings that the technical implementation was not disclosed because it was regarded by the appellant as obvious to the skilled person.

D3 discloses an interactive television system which, like those of D2 and of the present application, generally aims at helping a user find a program of interest among a large number of available programs. In the system of D3, the user television equipment creates a watch list (called "personal channel" or "personal guide" in D3; see figure 3) for each user based on a user profile (see D3, column 1, lines 12 to 17 and 64 to 66, column 2, lines 15 to 20, and column 4, lines 14 to 35). The watch list comprises a list of the best programs selected from a plurality of currently transmitted and previously recorded programs (see column 3, lines 46 to 50 and 60 to 63, and figure 4).

D3 thus teaches to include references to previously recorded programs in a watch list in addition to references to broadcast programs. The main advantage of this feature for the user of the system of D3 is apparent to the skilled person: a more complete watch list ("best programs selected" including recorded programs). The required technical modifications of the system of D2 are regarded as being within the skilled person's reach for the reason expressed in the above first paragraph of section 5 and because the device of D2 already includes a storage device (hard disc 87 in figure 15) for storing the watch list and audio/video sequences of the programs (see page 4, lines 11 to 16, and page 24, lines 9 to 12, and figure 15) which would simply need to be chosen of sufficient capacity to store recorded programs. The skilled person would thus, depending on the circumstances of the intended usage, have added this function to the device of D2, in particular in high-end models for which the associated extra cost would be less of an issue. In order to

automatically add to the watch list references to recorded programs the adapted system of D2 would, of course, also have to monitor the recording by the user of programs on the storage device as is implicit from the disclosure of D3.

For the above reasons, the skilled person would have arrived at the system of claim 1 from the combined teachings of D2 and D3 without having to exercise an inventive step.

6. Appellant's arguments

The appellant argued that D2 and D3 were unnaturally combined and effectively incompatible because the systems of D2 and D3 use different criteria for adding references to the "watch list", namely a viewing period threshold in D2 and a user profile in D3.

The board disagrees that the teachings of D2 and D3 are incompatible or unnaturally combined. D2 teaches to add references to programs having been watched by the user for a predetermined period of time. D3 teaches to add references for recorded programs and for broadcast programs based on a user profile. All these teachings aim at the same goal which is to compile a list containing the programs of the most interest to the user. In view of this goal these teachings are not mutually exclusive but complementary. The skilled person would understand from D2 that programs having been viewed for a predetermined period of time are likely to be of interest to the user and thus should be on the list. From D3, he/she would derive (i) that previously recorded programs should also be on the list

because if they were not of interest to the user they would not have been recorded and (ii) that a customer profile can also help selecting programs of interest to the user and determining programs which will be automatically recorded and added to the watch list (see D3, column 3, lines 55 to 59). Thus, the skilled person would have wanted to add references to the watch list which meet any of the above or similar criteria. The board sees no incompatibility or unnatural combination in this.

Conclusions

7. For the above reasons, the system of claim 1 does not involve an inventive step.

Hence the appellant's request is not allowable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

L. Fernández Gómez

F. Edlinger