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**Datasheet for the decision
of 16 December 2008**

Case Number: T 0083/06 - 3.5.04

Application Number: 96908588.5

Publication Number: 0812509

IPC: H04N 5/76

Language of the proceedings: EN

Title of invention:

Digital video production system storing twice the same video data along with correlated edit time code information on respective two removable storage media at different rate of compression

Patentee:

WASHINO, Kinya

Opponent:

Sony Corporation

Headword:

-

Relevant legal provisions:

RPBA Art. 13(1), (3)

Relevant legal provisions (EPC 1973):

EPC Art. 56, 100(a)

Keyword:

"Oral submission of accompanying person in oral proceedings - refused"

"Late filed auxiliary requests admitted"

"Inventive step - no"

Decisions cited:

G 0004/95

Catchword:

See points 2 and 3



Case Number: T 0083/06 - 3.5.04

D E C I S I O N
of the Technical Board of Appeal 3.5.04
of 16 December 2008

Appellant:
(Patent Proprietor)

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Respondent:
(Opponent)

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Respondent:

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Decision under appeal:

Decision of the Opposition Division of the
European Patent Office posted 22 November 2005
revoking European patent No. 0812509 pursuant
to Article 102(1) EPC 1973.

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 revoke European patent No. 0 812 509.
- II. The patent was revoked for the reason that the subject-matter of at least claims 1 and 22 then on file did not involve an inventive step having regard to document

D2: JP 6-292 116 A (English translation).
- III. The patent proprietor appealed and filed respective claims numbered 1 to 39 according to a main request and auxiliary requests 1 and 2 with the statement of grounds of appeal. The appellant also submitted a declaration by a technical expert, Mr A. Cavallerano, in support of the appellant's position, in particular that the opposition division had used a definition for "compression" which was unrecognisable to a person skilled in the art, and had misconstrued sections of D2 upon which the opposition division had relied in the decision under appeal.
- IV. The respondent (opponent) replied in a letter dated 10 August 2006, objecting *inter alia* to the requests comprising multiple independent claims in the same category.
- V. The appellant (patentee) filed comments on the respondent's reply in a letter dated 1 November 2007.
- VI. In a communication annexed to a summons to oral proceedings the board noted that the crucial question seemed to be which technical effects, with respect to

D2, were achieved by the data compression of the material in both formats in accordance with the teaching of the opposed patent.

- VII. In response to a question from the appellant whether the technical expert could join the oral proceedings either by a videoconference link or by telephone, the appellant was advised in a communication of the Registry of the board dated 4 November 2008 that he had not requested permission for a person accompanying the professional representative of a party to make oral submissions on specific legal or technical issues on behalf of that party within the meaning of G 4/95.
- VIII. With a letter dated 13 November 2008 in reply to the summons, the respondent filed documents to show what had been commonly known by the person skilled in the art.
- IX. With a letter dated 17 November 2008 in reply to the summons, the appellant filed claims according to auxiliary requests 3 to 10. In a further letter dated 24 November 2008 the appellant requested permission for the technical expert to make oral submissions.
- X. Oral proceedings before the board were held on 16 December 2008. The appellant (patentee) withdrew auxiliary requests 1 and 2. The respondent (opponent) objected to the making of the oral submissions requested. The appellant (patentee) did not object to admitting the documents filed with the letter dated 13 November 2008. At the end of the oral proceedings the chairman pronounced the board's decision.

XI. The appellant (patentee) requested that the decision under appeal be set aside and the patent be maintained on the basis of the main request filed with the statement of grounds of appeal, and should the main request not be allowable, that the patent be maintained on the basis of one of the auxiliary requests 3 to 10 filed with the letter dated 17 November 2008.

The respondent (opponent) requested that the decision under appeal to revoke the patent be maintained and the appeal be dismissed.

XII. Claim 10 of the main request and claim 9 of the auxiliary request 3 each read as follows.

"A method of producing a final video program, comprising the steps of:
providing video program source material in first and second digital formats, the material in both formats being data-compressed, the first format being more compressed than the second format;
recording the material (70, 88) in the first and second formats, respectively, onto first and second removable storage media along with correlated edit-time-code information;
interfacing the first storage medium to an offline video editing system (102) to develop edit decision information;
transferring the edit decision list to an on-line video editing system (202, 204, 206, 208);
accessing the program material in the second storage medium using the on-line video editing system; and

editing the material in the second format on the second storage medium in accordance with the edit decision list to produce a final video program."

XIII. Claim 11 of auxiliary request 4 reads as follows.

"An audio/video production method comprising the steps of: simultaneously recording information representative of a video program, plus correlated edit time-code information, onto first and second removable digital storage media (70, 88) in first and second digital formats, respectively, the material in both digital formats being data compressed, the program information in the first digital format being more compressed than the second digital format; receiving the first removable storage medium at a first video editing facility and editing the program information at the first facility in the first digital format to develop a set of edit decision directives based upon the edit-time-code information; and receiving the second removable storage medium and edit decision directives at a second video editing facility and editing the program information at the second facility in the second digital format in accordance with the edit decision directives so as to create a final video production."

Claim 11 of auxiliary request 5, apart from a typing error in the first word, has the same wording as claim 11 of auxiliary request 4 with the following differences. The expression "at a first video editing facility" is replaced by "at a first off-line video editing facility", and the expression "at a second

video editing facility" is replaced by "at a second on-line video editing facility".

Claim 11 of auxiliary request 6 has the same wording as claim 11 of auxiliary request 4, with the words "at 24 frames per second" added after the expression "simultaneously recording information representative of a video program".

Claim 1 of auxiliary request 7 has the same wording as claim 11 of auxiliary request 4, with the expression "information representative of a video program" replaced by "information representative of audio and video program material".

Claim 1 of auxiliary request 8 has the same wording as claim 1 of auxiliary request 7 with the words "including interleaved digital audio and video program data" added after the expression "information representative of audio and video program material".

XIV. Claim 1 of the auxiliary request 9 reads as follows.

"A digital audio/video production system adapted to deliver program material and an accompanying edit decision list to an on-line video editing facility for the purpose of creating a final program, the system comprising:

digital video recording apparatus, including: an input to receive a video program including interleaved digital audio and video program data or separately recorded audio and video portions, means to digitally compress the program in accordance with more than one compression ratio, an interface to a first removable

storage medium, an interface to a second removable storage medium, and means to simultaneously record the video program along with correlated edit-time-code information onto the first removable storage medium at a first compression ratio and onto the second removable storage medium at a second compression ratio, the material in both formats being data compressed, the first compression ratio being greater than the second; the system further comprising an off-line digital video editing system, including: an interface to receive the first removable storage medium, a display to review portions of the video program, enabling a user to make edit decisions concerning the program, and an interface to a third removable storage medium to store a list of the edit decisions, the system further comprising an on-line video editing facility (202, 204, 206, 208), which upon receiving the second and third storage medium, may be used to produce a final, edited version of the program in accordance with the decision list."

Claim 1 of auxiliary request 10 has the same wording as claim 1 of auxiliary request 9, with the expression "an off-line digital video editing system" replaced by "a PC based edit controller".

- XV. The appellant's (patentee's) arguments, insofar as they relate to issues which are decisive for the outcome of the appeal proceedings, can be summarised as follows.

The oral submissions requested to be made by the accompanying technical expert mainly concerned the points made in his declaration, in particular the meaning of the expression "compression".

Auxiliary requests 3 to 10 were filed in response to the respondent's objection of multiple independent claims in the main request and auxiliary requests 1 and 2.

The opposition division had used a definition for "compression" which would not be recognised by a person skilled in the art and had misconstrued the sections of D2 relied upon in the decision under appeal. D2 mainly described a recording system, namely a camcorder for producing both a main recording and a sub-recording, not a production and editing system or method. According to D2, the editing would be performed using the original tape having the main recording stored thereon, and the usual video format that would have been considered for the original tape was the uncompressed digital format D-3. A person skilled in the art of video editing would not have considered compression of the main recording, even though it was technically possible. D2 did not disclose simultaneous recording at two different compression ratios. Instead D2, considered in its entirety, taught away from this idea. According to D2 compression was only used in conjunction with the sub-recording. This taught against any implementation in which the main recording was compressed. The statement in D2 (paragraph [0011]) that compressed images were unusable as originals made clear that no compression whatsoever was allowed for the main recording. Moreover D2 did not disclose that the recording included correlated edit time-code information because there were different time tracks for the main recording and the sub-recording. In D2 the time signals for both recordings were identical, and D2

did not take into account the compression effects. The simultaneous recording at two different compression ratios of the same audio/video program was a key inventive step associated with the system of the opposed patent. It improved the productivity in video production and post-production, enabling the producer to save time and expense while preserving image quality. Also the recording with correlated edit-time codes distinguished the invention of the opposed patent from the disclosure of D2 and facilitated the editing downstream of the recording. The auxiliary requests specified more clearly and precisely that the invention was a production and editing system and method, not a camcorder as in D2 and specified features which were not disclosed in D2.

XVI. The respondent's (opponent's) arguments, insofar as they relate to issues which are decisive for the outcome of the appeal proceedings, can be summarised as follows.

The technical expert should not be allowed to make oral submissions because the subject-matter of his submissions had not been specified before the oral proceedings. The respondent could not prepare a response without knowing what the subject-matter of the oral submissions would be.

The multiple independent claims of the main request made it difficult to identify the scope of the claims. Amendments had not been made consistently to all the independent claims. This placed an undue burden on the respondent. Multiple independent claims were also present in auxiliary requests 3 to 10.

According to D2, both the main recording and the sub-recording were compressed. The sub-recording was data compressed by a compressing means 22, and the main recording was compressed because all known techniques for generating video signals used some form of compression. Compression was required to the effect that the main recording could be recorded onto a recording medium of choice. A person skilled in the art would understand that the sub-recording means should be compressed more than the main recording so as to preserve image quality in the main recording. The opposed patent did not disclose correlated edit-time code information having a functionality going beyond the synchronisation of the two recordings, and this functionality was also disclosed in D2. According to the opposed patent, the edit-time code information could be identical for both recordings. The additional features referred to in the independent claims of the auxiliary requests were either known from D2 or other documents on file, or were part of the common general knowledge of a person skilled in the art.

Reasons for the Decision

1. The appeal is admissible.
2. *Request for permission for the accompanying technical expert to make oral submissions during oral proceedings*
 - 2.1 The main criteria to be considered by the boards when exercising their discretion to allow the making of oral submissions by a person accompanying a professional

representative in opposition appeal proceedings are summarised in the headnote of the decision of the Enlarged Board of Appeal G 4/95 (OJ EPO 1996, 412). They are as follows.

(i) The professional representative should request permission for such oral submissions to be made. The request should state the name and qualifications of the accompanying person, and should specify the subject-matter of the proposed oral submissions.

(ii) The request should be made sufficiently in advance of the oral proceedings so that all opposing parties are able properly to prepare themselves in relation to the proposed oral submissions.

(iii) A request which is made shortly before or at the oral proceedings should in the absence of exceptional circumstances be refused, unless each opposing party agrees to the making of the oral submissions requested.

(iv) The EPO should be satisfied that oral submissions by an accompanying person are made under the continuing responsibility and control of the professional representative.

2.2 In the present case, the appellant's request was filed about three weeks before the oral proceedings and did not specify the subject-matter of the proposed oral submissions despite the communication of the Registry of the board (see point VII above). The subject-matter of the proposed oral submissions was only specified during the oral proceedings. Thus at least the above criterion (i) established by G 4/95 was not fulfilled by the request made about three weeks before the oral proceedings, as it did not specify the subject-matter. While the subject-matter of the proposed oral

submissions was specified at the oral proceedings, the respondent (opponent) did not agree to the making of the oral submissions requested, as required in principle by the above criterion (iii). In the absence of exceptional circumstances the board therefore refused the appellant's request.

3. *Admissibility of auxiliary requests 3 to 10*
(Articles 13(1) and (3) RPBA)

3.1 Auxiliary requests 3 to 10 were filed after the statement of grounds of appeal and after oral proceedings had been arranged (see point IX above). Hence the board had to consider the provisions of Articles 13(1) and (3) of the Rules of Procedure of the Boards of Appeal of the European Patent Office (RPBA, see OJ EPO 2007, 536).

3.2 The claims according to auxiliary requests 3 to 10 were filed in response to the summons to oral proceedings and the respondent's objection that the requests then on file each comprised multiple independent claims in the same category. In the present case the patent had been granted with an unusual number of independent claims. The independent claims of the different requests all concern one or several (decreasing numbers) of the independent claims as granted and comprise amendments of mainly clarifying nature. In particular, claim 34 of the main request with minor amendments is present in most of the auxiliary requests. Therefore the claims of auxiliary requests 3 to 10 did not fundamentally change the subject-matter of the appeal. It could consequently be anticipated that the assessment of the claims according to the main request

would allow the assessment of the claims of the auxiliary requests 3 to 10 with acceptable additional effort. In particular, the respondent as well as the board could be expected to deal with these auxiliary requests during the oral proceedings even though the procedural complexity of the case was somewhat increased.

3.3 Hence the board concluded that Article 13(3) RPBA did not apply and, relying on the foregoing considerations in exercising its discretion under Article 13(1) RPBA, decided to admit auxiliary requests 3 to 10 into the appeal proceedings.

4. *Construction of disputed expressions in the claims*

4.1 All the claims of the different requests under consideration relate to (simultaneously) recording video material in two digital data-compressed formats, the first being more compressed (or having a higher compression ratio) than the second. Correlated edit-time-code information is recorded along with the two formats. Some claims (auxiliary requests 4 to 8) specify that a set of edit decision directives is based upon the edit-time-code information. Previously the original unedited program material was digitized at a high data-compression ratio to provide representative pictures for use in an offline editing environment (see paragraph [0004] of the opposed patent). This material may be used to develop an edit decision list which may be used in an online editing system for the production of a final representation of the program using the original unedited material (see paragraph [0009] of the opposed patent). By recording the video material in the

two formats, time and costs are saved in an offline editing system (see paragraphs [0004] to [0010] of the opposed patent).

- 4.2 For the purposes of this decision, the expression "correlated edit-time-code information" in the claims is construed to have the meaning that the edit-time-code information allows the synchronising of the two versions of the program, namely those recorded in the first and second digital formats. According to paragraph [0016] of the description of the opposed patent, "both of the removable media for drives 70 and 88 should be recorded with identical or at least correlated edit-time-code information, so that edit list developed from one storage medium will produce the same results when applied to the program material recorded simultaneously on the other storage medium." Thus the "correlated edit-time-code information" serves the purpose of synchronising the two formats so that a set of edit decision directives based upon the edit-time-code developed from the (offline edited and more compressed) material will produce the same results on the other (less compressed) format of the material and it encompasses identical edit-time-code information. There is no disclosure in the opposed patent of "correlated edit-time-code information" which is more specific than identical edit-time-code information to achieve the above purpose. In particular, there is no disclosure in the opposed patent that the correlation of the edit-time-code information of the two program versions may compensate for any delays caused by the data compression in the edit-time-code information.

4.3 For the purposes of this decision, the expression "data compressed" in the claims, although not expressly limited by the claim wording to a specific format, will be construed in favour of the appellant to have the meaning described in the opposed patent (see for example paragraph [0018]). In the case of the second format, this means a small amount of digital compression which is suitable for online editing, and which may be the result of the recording in a generally known or standardized compressed data format such as Motion-JPEG or MPEG-2. The first format is more compressed than the second and is chosen for recording (for example on a magnetic or magneto-optical disk) a desired length of video material in a format which is suitable for editing purposes to produce an edit decision list in an offline editing system which may then be utilized in an online editing system (see paragraphs [0015] and [0021] of the opposed patent). Also the first format may be a generally known or standardised compressed data format such as MPEG-1 (see paragraph [0018]).

5. *Document D2*

5.1 It is common ground that D2 is the most relevant document of the available state of the art for assessing the inventive step of the subject-matter of each independent claim of all the requests.

5.2 D2 discloses in its embodiments of figures 3 to 5 (see, for instance, paragraphs [0033] to [0035]) a camcorder for simultaneously recording the same video scene in a main recording means and in a sub-recording means. The sub-recording means records, for instance, a digital

RGB video signal in a data-compressed format on a magneto-optical disk or a magnetic disk. The compression may be based on coding methods standardized by JPEG, MPEG or the like. The main recording means may record the digital RGB video signal on a cassette tape or a magneto-optical disk. Both recording means record position information together with the video signal. More specifically, they share the same position information (see paragraph [0024] and page 14, last sentence, of D2). The position information may be, for instance, an SMPTE time code and may be used in subsequent editing work. The camcorder of D2 is intended to enable prompt edits after image pickup, and D2 also discloses the principles of such conventional editing work. An example is given in which magnetic tapes are used for recording (see paragraphs [0009] to [0015]). In the example offline editing (a "preliminary edit") is carried out on a working copy of the original tape in order to create an edit decision list ("EDL") for selecting the desired images from all recorded images and their appropriate order to create a master tape. Based on the edit decision list, using the original tape, online editing ("real editing work") is carried out to finish a master tape by a real editing facility. D2 also discloses that editing systems may be computerized systems, with the edit decision lists being converted into electronic form, and the results of preliminary editing being recorded on floppy disk to share the data between the preliminary editing system and the real editing system (see paragraph [0013]).

6. *Main request and auxiliary request 3: inventive step
(Articles 56 and 100(a) EPC 1973)*

6.1 It is undisputed that D2 is the closest prior art for independent claim 10 of the main request. Moreover it is undisputed that the decision under appeal correctly identified the online video editing system, which is referred to in claim 10 of the main request, with the real editing facility in the terminology of D2, and correctly identified the offline video editing system, which is also referred to in claim 10 of the main request, with a preliminary editing system in the terminology of D2. It is also undisputed that the decision under appeal correctly identified the recording in the first format with the sub-recording in D2, and the recording in the second format with the main recording in D2.

6.2 The decision under appeal was also correct in its finding that D2 also discloses that the recorded video material is intended for use in editing systems (see point 5.2 above), and makes reference to online and offline video editing systems. Thus, even though D2 focuses on the video recording aspect, the appellant's argument that D2 does not describe a video production and editing system or method did not convince the board.

Furthermore it is clear from the submissions of both parties that only two features potentially distinguish the method according to claim 10 of the main request from the disclosure in document D2. These features are the correlated edit-time-code information and the dual compression.

- 6.3 Concerning the correlated edit-time-code information, it is undisputed that according to D2 a position information signal is transmitted both to the main recording means and the sub-recording means. Both recording means share the same position information, such as an SMPTE time code (see point 5.2. above). The position information allows synchronising the main recording and the sub-recording for the subsequent editing work and thus corresponds to the correlated edit-time-code information of the opposed patent. Taking into consideration point 4.2 above, the "correlated edit-time-code information" specified in claim 10 of the main request is disclosed in D2.
- 6.4 Concerning the dual compression, the decision under appeal held that "D2 is considered to disclose compressing both recordings. However, the respective ratios (amounts) of compression are not explicitly defined." It is undisputed that the sub-recording performed according to D2 is data compressed, and it is not decisive for the present decision whether D2 (implicitly or explicitly) discloses that the main recording is also data compressed with respect to certain of the formats which are referred to in the opposed patent (see paragraphs [0002] and [0026]) and known as non-compressed digital formats, such as D-1 and D-3. For it is undisputed that data compressed digital formats, their effects and the reasons for compressing data were common general knowledge at the priority date of the opposed patent. As set out in point 4.3 above, the board construes the claims so that the second format implies a small amount of compression with respect to non-compressed formats. However a person skilled in the art would have considered data

compression also for the main recording when carrying out the teaching of D2 at the priority date of the opposed patent. The amount of compression would have been chosen in accordance with the recording conditions, such as the desired quality of the video material and the length of video which could be recorded, for example on a magneto-optical disk. Thus the board agrees with the finding in the decision under appeal that (a small amount of) compression "must be considered at least obvious from D2 and the technical background knowledge of a skilled person."

The appellant's argument that a person skilled in the art would not have considered using compression of the main recording in D2 did not convince the board. D2 specifies that "compressed images are inferior in image quality, and pose a problem that they are unusable as originals", but it was common general knowledge that for instance lossless compression did not result in inferior image quality. Compression of the main recording in D2 which did not result in inferior image quality would not have been inconsistent with the overall teaching of D2. Thus a person skilled in the art, carrying out the teaching of D2, would have considered such a compression of the main recording in an amount "as much as necessary and as little as possible", as set out in the decision under appeal.

- 6.5 It is undisputed in appeal proceedings that the other features of claim 10 of the main request are known from D2. Thus, when carrying out the teaching of D2, it would have been obvious to a person skilled in the art to implement the only feature which potentially

distinguishes the method of claim 10 of the main request from the disclosure in D2.

6.6 Since auxiliary requests 1 and 2 were withdrawn in the oral proceedings before the board, the next request in the preferred order of the appellant's requests is auxiliary request 3. Claim 9 of auxiliary request 3 is identical to claim 10 of the main request, so that the above reasoning also applies to claim 9 of auxiliary request 3. Hence the board judges that the method according to claim 10 of the main request and the method according to claim 9 of auxiliary request 3 do not involve an inventive step (Article 56 EPC 1973).

7. *Auxiliary requests 4 and 5: inventive step (Articles 56 and 100(a) EPC 1973)*

7.1 Concerning the correlated edit-time-code information and the dual compression, the same considerations apply as set out in the preceding paragraphs. Also the other features of claim 11 of auxiliary requests 4 and 5 are disclosed in D2, or belong to the common general knowledge of a person skilled in the art. In particular, D2 discloses the feature of receiving the first removable storage medium (magneto-optical disk or magnetic disk) at a first video editing facility and editing the program information at the first (offline) facility in the first digital format to develop a set of edit decision directives (that is an "EDL list" in the terminology of D2) based upon the edit-time-code information. D2 also discloses the feature of receiving the second removable storage medium (cassette tape or magneto-optical disk) and edit decision directives at a second video editing facility (that is the online

editing facility) and editing the program information at the second facility in the second digital format in accordance with the edit decision directives so as to create a final video production (see point 5.2 above). Furthermore, even though D2 does not mention audio signals, it was common general knowledge that video recording systems of the type described in D2 (that is camcorders) could be used in combination with a separate audio recording system and/or could themselves allow audio recordings together with the video recordings. Thus a person skilled in the art would have considered recording audio signals together with video signals when carrying out the teaching of D2 at the priority date of the opposed patent.

7.2 Hence the board judges that the method of claim 11 of auxiliary requests 4 and 5 does not involve an inventive step (Article 56 EPC 1973).

8. *Auxiliary requests 6 to 8: inventive step (Articles 56 and 100(a) EPC 1973)*

8.1 Claim 11 of auxiliary request 6 has the same wording as claim 11 of auxiliary request 4, with the words "at 24 frames per second" added after the expression "simultaneously recording information representative of a video program". This particular frame rate is a standard for film and one of the usual frame rates under MPEG. Thus a person skilled in the art would have considered this particular frame rate when carrying out the teaching of D2 at the priority date of the opposed patent.

- 8.2 Claim 1 of auxiliary request 7 has the same wording as claim 11 of auxiliary request 4, with the expression "information representative of a video program" replaced by "information representative of audio and video program material". However this feature merely specifies that audio data are recorded simultaneously with the video data. A person skilled in the art would have considered this feature when carrying out the teaching of D2 at the priority date of the opposed patent (see point 7.1 above).
- 8.3 Claim 1 of auxiliary request 8 has the same wording as claim 1 of auxiliary request 7 with the words "including interleaved digital audio and video program data" added after the expression "information representative of audio and video program material". However it is clear from the opposed patent (see paragraphs [0014] and [0018] of the specification) that interleaving digital audio and video program data was a well-known conventional technique. Furthermore it is undisputed that digital audio and video data can only be recorded either separately or as interleaved data. Hence a person skilled in the art would have considered this feature when implementing the teaching of D2 at the priority date of the opposed patent.
- 8.4 In view of the above the board judges that the method according to claim 11 of auxiliary request 6, the method according to claim 1 of auxiliary request 7 and the method according to claim 1 of auxiliary request 8 do not involve an inventive step (Article 56 EPC 1973).

9. *Auxiliary requests 9 and 10: inventive step
(Articles 56 and 100(a) EPC 1973)*

9.1 Claim 1 according to auxiliary request 9 concerns a "digital audio/video production system" which corresponds essentially to the method according to claim 1 of auxiliary request 8, but includes the alternative of separately recorded audio and video portions in addition to the interleaved audio and video program data (see point 8.3 above). The system of claim 1 according to auxiliary request 9 also comprises the features that the offline video editing system includes an interface to a removable storage medium to store the edit decision list and includes a display to review portions of the video program. These additional features are also known from document D2. In particular D2 discloses that the edit decision list may be stored on a floppy disk and that editing systems may be computerized systems (see point 5.2 above). In the given context of video editing systems a display is implicit.

9.2 Claim 1 of auxiliary request 10 has the same wording as claim 1 of auxiliary request 9, with the expression "an off-line digital video editing system" replaced by "a PC based edit controller". However D2 discloses that editing systems may be computerized. Hence a person skilled in the art, when carrying out the teaching of D2 at the priority date of the opposed patent, had to select appropriate hardware. He would have considered in particular PC based hardware if such hardware was appropriate for the purpose of video editing. Also the opposed patent specifies that the controller is

preferably of conventional design (see paragraph [0019] of the specification).

The appellant's argument that the invention had moved editing systems from large dedicated computer systems into the PC/laptop domain did not convince the board. At the priority date of the opposed patent there was a trend towards implementing computerized systems as PC based systems, thereby avoiding the need for dedicated, specially developed hardware. And the appellant's argument that the dual compression feature (see point 6.4 above) allowed the implementation on a PC based system did not convince the board because it is not based on a concrete disclosure in the opposed patent. On the contrary, the opposed patent refers to generally known or standardized compressed data formats (see point 4.3 above).

- 9.3 Hence the board judges that the system according to claim 1 of auxiliary requests 9 and 10 does not involve an inventive step (Article 56 EPC 1973).
10. Thus in the judgment of the board, taking into consideration the amendments made by the proprietor of the European patent during the appeal proceedings, the patent and the invention to which it relates do not meet the requirements of the European Patent Convention (Article 101(3) EPC).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

L. Fernández Gómez

F. Edlinger