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**Datasheet for the decision
of 6 March 2014**

Case Number: T 2362/09 - 3.5.04

Application Number: 99955966.9

Publication Number: 1050160

IPC: H04N5/445

Language of the proceedings: EN

Title of invention:

APPARATUS FOR RECEIVING PROGRAMS

Applicant:

Koninklijke Philips N.V.

Headword:

Relevant legal provisions:

EPC 1973 Art. 56

Keyword:

Inventive step - (yes)

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 2362/09 - 3.5.04

**D E C I S I O N
of Technical Board of Appeal 3.5.04
of 6 March 2014**

Appellant: Koninklijke Philips N.V.
(Applicant) High Tech Campus 5
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Representative: Verweij, Petronella Danielle
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 27 July 2009
refusing European patent application
No. 99955966.9 pursuant to Article 97(2) EPC.**

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 examining division to refuse European patent application No. 99 955 966.9 under Article 97(2) of the European Patent Convention (EPC).
- II. The application was refused on the ground that the subject-matter of the independent claims then on file did not involve an inventive step (Article 56 EPC) in view of documents
- D1: EP 0 854 645 A2 and
D2: US 5 801 747 A.
- III. The applicant appealed and requested that the decision under appeal be set aside.
- IV. The board issued a communication pursuant to Rule 100(2) EPC dated 14 October 2013.
- V. The appellant filed a letter of reply dated 10 February 2014 with annexed claims 1 to 10 and description pages 1, 2, 2a and 8 and requested the grant of a patent with these claims.
- VI. Following a telephone conversation with the rapporteur, the appellant filed a new description page 1 with a letter dated 19 February 2014.
- VII. Claim 1 reads as follows:
- "An apparatus for receiving a multitude of programs, said programs being classified by at least a channel name and a program category, the apparatus comprising user operable profiling means (8, 11) for defining a

subset of said multitude of programs constituting a user profile, and zap means (9) for sequentially selecting members of said multitude of programs, characterized in that the user profile comprises an individual rating for each value combination of at least a value of the channel name and a value of the program category, the rating determining whether a program classified by said value combination is a member of said subset, and in that the profiling means (8, 11) are adapted to control the zap means (9) in accordance with said rating to sequentially select the members of said subset only."

VIII. Claim 9 reads as follows:

"A remote control device for controlling an apparatus for receiving a multitude of programs, comprising user operable profiling means (8, 11) for defining a subset of said multitude of programs constituting a user profile, the user profile comprising an individual rating for each value combination of at least a value of a channel name and a value of a program category, the rating determining whether a program classified by said value combination is a member of said subset, the remote control device further comprising zap means (9) for sequentially selecting members of said multitude of programs, the profiling means (8, 11) being adapted to control the zap means (9) in accordance with said rating to sequentially select the members of said subset only."

Claims 2 to 8 and 10 are dependent claims.

IX. The reasons for the decision under appeal may be summarised as follows:

D2 disclosed an apparatus for receiving a multitude of programs classified by at least a channel name and a program category. The apparatus comprised profiling means for defining a subset of said multitude of programs constituting a user profile. The user profile comprised a rating for a value combination. This value combination comprised a value for the program category but not for the channel name. User profile generation was automatic and the profiling means were not adapted to enable the user to assign a rating for each value combination.

Moreover, D2 disclosed a parental control feature which allowed the locking out of specific channels. If a channel was locked out, the lock-out value would override any other preference indicator value for each individual value combination which comprised a lock-out value. In the context of parental control it would have been obvious that parents actively assigned the lock-out value to the channels to be locked out. Thus the subject-matter of the independent claims did not involve an inventive step in view of D2 and the knowledge of a person skilled in the art.

D1 disclosed an apparatus for receiving a multitude of programs classified by at least a program category. The apparatus comprised profiling means for defining a subset of said multitude of programs constituting a user profile. The user profile comprised a rating for a value combination. This value combination comprised a value for the program category but not for the channel name. However, it would have been obvious to consider a channel name for user profile generation, since viewers had favourite channels. If a person skilled in the art implemented parental control in the context of D1, he would do so by allowing the locking of particular

channels in the user profile in accordance with the teaching of D2. This would result in assigning an overall locking value to such a channel for any individual combination with other preference indicator values. Thus the subject-matter of the independent claims did not involve an inventive step in view of D1 and D2.

X. The appellant's arguments may be summarised as follows:

Entirely locking out a channel, as in D2, implied that all program category preferences in combination with that channel would be overridden. The invention, however, enabled the user to assign a rating for each individual combination of channel name value and program category value. Thus, in the context of parental control, parents could lock out a channel unless that channel broadcast certain allowable programs. Hence the claimed subject-matter was new and inventive over D2.

With respect to the combination of D1 and D2, the disclosure of parental control in D2 did not constitute an incentive for a person skilled in the art to use the channel name as a parameter for user profile generation as in the invention. Moreover, a combination of D1 and D2 would not result in the claimed invention but would only allow a user to indicate preferences for program genres in combination with actors, sports teams, keywords etc., as well as to lock out specific channels irrespective of what programs they transmitted.

Reasons for the Decision

1. The appeal is admissible.
2. *Article 123(2) EPC and Article 84 EPC 1973*

Claim 1 is essentially a combination of claims 1, 2 and 3 as originally filed. Compared to claim 1 underlying the decision under appeal, present claim 1 has been clarified by stating that the user profile comprises "an individual rating" for each value combination of at least a value of the channel name and a value of the program category. This feature is disclosed on page 2, lines 2 to 8 and page 4, lines 28 and 29 as originally filed. Claim 9 is essentially a combination of original claims 12, 2 and 13 and the above feature of an individual rating. See also page 7, line 15 to page 8, line 7, of the application as filed. The dependent claims are renumbered original dependent claims, and the description pages 1, 2, 2a and 8 bring the description into conformity with the claims and acknowledge prior-art documents. Thus the board sees no reason for an objection under Article 123(2) EPC.

Nor does the board see any reason for an objection under Article 84 EPC 1973.

3. *Novelty (Article 54(1) EPC 1973)*

It is undisputed that none of the available prior-art documents discloses an apparatus for receiving a multitude of programs, the apparatus comprising user-operable profiling means for defining a subset of said multitude of programs constituting a user profile, wherein the user profile comprises an individual rating

for each value combination of a value of the channel name and a value of the program category, and the board agrees. Nor does the available prior art disclose a remote control with the above features. Hence the claimed subject-matter is new.

4. *Inventive step (Article 56 EPC 1973)*

4.1 The assessment based on D2

4.1.1 D2 discloses a user-specific electronic program guide (EPG). A user profile is automatically generated on the basis of a user's actual viewing behaviour (see column 4, line 15 to column 6, line 27). The user profile may be stored as a two-dimensional array illustrated in figure 2, with channel names along one axis and program categories along the other axis, and a number of viewing units (reflecting viewing time) for each pair of channel name and program category. The user-specific EPG is generated on the basis of the user profile. For instance, the user's preferred channels or programming categories may be displayed on the top rows of the EPG (column 7, lines 7 to 27). Moreover, specific channels or programming categories may be locked out or their viewing may be limited to, for example, a few hours per week (see column 7, line 65 to column 8, line 15). However, there is no indication in D2 that the locking out or limitation of specific channels or programming categories influences the generation of the EPG.

4.1.2 Thus the examining division is correct in its finding that in D2 user profile generation is automatic and the profiling means are not adapted to enable the user to assign a rating for each value combination of a value of a channel name and a value of a program category.

4.1.3 The argument in the decision under appeal that locking out a channel (such as for parental control purposes) would override any other preference indicator value, for each individual value combination which comprised a lock-out value, did not convince the board that the subject-matter of present claims 1 or 9 is obvious to a person skilled in the art. This argument does not take into account that the user-operable profiling means specified in claims 1 and 9 allows the user to define a user profile which comprises an **individual rating for each value combination** of a value of the channel name and a value of the program category (emphasis by the board). This is not possible with the automatic profiling means of D2.

4.1.4 Moreover, even if a person skilled in the art had envisaged that parents could actively assign a lock-out value to the channels to be locked out, this does not mean that it would also have been obvious to complement the EPG of D2 with a user-operable profiling means as specified in claims 1 and 9. Both for the purpose of locking out specific channels or program categories and for the purpose of limiting the amount of time specific channels or program categories are viewed (such as in the context of parental control), there would have been no obvious reason to implement user-operable profiling means as specified in claims 1 and 9 of the present application. In both these cases, the focus would have been either on a specific channel or on a specific category of programming, not on the combination of the two. The user-operable profiling means specified in claims 1 and 9 however allows the constitution of a user profile which comprises an individual rating for each value combination of a value of the channel name and a value of the program category, such that a

lock-out rating assignable for parental control purposes could be assigned for specific combinations of a value of the channel name and a value of the program category.

4.2 The assessment based on D1 and D2

4.2.1 D1 discloses a JAVA-based EPG which comprises a profile module. The profile module receives preference information from one or more viewers and generates corresponding user profiles (see figure 3 and column 10, line 12 to column 11, line 14). A user profile may be generated by modifying stored preference templates and may consist of a list of genres, with a ranking corresponding to each genre provided by the user (see figure 4 and column 12, lines 3 to 20). Other lists with corresponding rankings provided by the user (such as an actors' list or sports team list) are also possible. A suggest module uses a scoring algorithm to generate a program score indicating the desirability of the program to the viewer based on the user profile and available program listing information (see column 14, lines 11 to column 15, line 28). A colour code for a program indicated on the EPG is preferably used to indicate whether a program is likely to be highly desirable, mildly desirable, neutral, mildly undesirable, or highly undesirable to the viewer (see column 13, line 39 to column 14, line 10).

4.2.2 However, D1 does not disclose a user profile which comprises an individual rating for each value combination of a value of the channel name and a value of the program category.

4.2.3 The examining division found in the decision under appeal that it would have been obvious to consider a

channel name as a parameter for a preference template. However, even if in D2 the genre list, actors' list and sports team list (see point 4.2.1 above) were supplemented with a channel list with a corresponding ranking, this would essentially only result in additional information being provided which the scoring algorithm in the suggest module would use to determine the program scores. The result would still be an EPG with program scores displayed, for instance, by means of the colour code. It would not, however, comprise a user profile as specified in claims 1 and 9 of the present application.

4.2.4 The examining division also considered the possibility of including parental control in the context of D1. However, if low rankings were given to certain genres (or channels), this might result in programs in these genres (or on these channels) being identified as highly undesirable in the EPG. However, the programs may still be viewed and thus an EPG modified in this way in D1 would not allow parental control. Even if, in the context of D1, the particular parental control described in D2 were considered (that is by locking out particular channels or categories of programming), there would be no need to modify the EPG of D1. If a channel or program category were locked, the colour codes of the programs on this channel or of this program category in the EPG of D1 would not matter. Moreover, in none of these cases would the EPG of D1 comprise user-operable profiling means for constituting a user profile as specified in claims 1 and 9 of the present application.

4.2.5 Hence the arguments based on the combination of D1 and D2 given in the decision under appeal did not convince the board.

4.2.6 Considering the prior art disclosed in D1 and D2, the user-operable profiling means of claims 1 and 9 allows a user to define his or her user profile more accurately than in the apparatus disclosed in these documents, as discussed on page 2, bottom half, of the present application. The technical problem solved by the invention may therefore be seen as a user-friendly improvement of filtering received programs according to a user's preferences. The subject-matter of the independent claims achieves this by allowing a user to individually assign a rating to each value combination. This gives a user more flexibility in filtering programs for zapping (sequentially selecting the members of the subset only) and makes it easy to lock out specific value combinations from a zapping cycle by not assigning any rating or by assigning a locking rating (see figure 2). The board does not see an obvious modification of the apparatus known from either D1 or D2 which would have led a person skilled in the art to the claimed inventions.

5. None of the other available prior-art documents suggest the subject-matter of the present independent claims. Nor does the board see any other objection to granting a patent with the present application documents.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance with the order to grant a patent in the following version:

Description:

Page 1 filed with the letter dated 19 February 2014.

Pages 2, 2a and 8 filed with the letter dated 10 February 2014.

Pages 3 to 7 as originally filed.

Claims:

Nos. 1 to 10 filed with the letter dated 10 February 2014.

Drawings:

Sheets 1/2 and 2/2 as originally filed.

The Registrar:

The Chairman:



K. Boelicke

F. Edlinger

Decision electronically authenticated