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Datasheet for the decision of 19 February 2015

Case Number: T 1654/10 - 3.5.04

Application Number: 00938227.6

Publication Number: 1195055

IPC: H04N5/445

Language of the proceedings: EN

Title of invention:
REAL-TIME SIGNAL STRENGTH DISPLAY OF TERRESTRIAL DIGITAL TELEVISION SIGNALS

Applicant:
Thomson Licensing

Headword:

Relevant legal provisions:
EPC 1973 Art. 84
RPBA Art. 13(1), 15(3)

Keyword:
Claims - clarity (no)
Late-filed auxiliary requests - admitted (no)

Decisions cited:

Catchword:

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Chambres de recours

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Case Number: T 1654/10 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 19 February 2015

Appellant: (Applicant)	Thomson Licensing 1-5, rue Jeanne d'Arc 92130 Issy-les-Moulineaux (FR)
Representative:	Thies, Stephan Deutsche Thomson OHG European Patent Operations Karl-Wiechert-Allee 74 30625 Hannover (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 8 February 2010 refusing European patent application No. 00938227.6 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	F. Edlinger
Members:	R. Gerdes
	B. Müller

Summary of Facts and Submissions

I. The appeal is directed against the decision to refuse European patent application No. 00 938 227.6, published as international application WO 00/78039 A1.

II. The patent application was refused by the examining division, *inter alia*, on the grounds that the independent claims of the main request and the first and second auxiliary requests did not comply with Article 84 EPC.

III. The applicant appealed against this decision and with the statement of grounds of appeal submitted claims 1 to 11 of a new main request.

IV. The board sent a communication accompanying the summons to oral proceedings raising objections under Article 84 EPC 1973. The board also indicated that novelty and inventive step may have to be discussed at the oral proceedings.

V. With a letter of reply of 19 January 2015 the appellant submitted new claims of a first and a second auxiliary request.

VI. In a further letter dated 17 February 2015, the appellant informed the board that it would not attend the oral proceedings. The appellant referred to the arguments submitted previously and requested the board to continue in writing in case minor issues should remain.

VII. The board held oral proceedings on 19 February 2015. As announced beforehand, the appellant was not represented at them. The chairman noted that the appellant had

requested in writing that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request filed with the statement of grounds of appeal, or one of the first and second auxiliary requests both filed with the letter dated 19 January 2015.

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

"A video processing apparatus comprising:
means for receiving (14, 26) a plurality of television signals having audio and video information components and selecting (30) a television signal from the plurality of received television signals;
means for displaying (32) the video information component of the selected television signal on a display device (36) coupled to said video processing apparatus;
means for successively determining signal strength (32) in real time of each digital television signal of the plurality of received television signals; and
means for providing data representative of a real time signal strength of the digital television signals received for display; and
means for enabling display (32) of the data representative of the real time signal strength of selected digital television signals of the plurality of received television signals concurrently with said selected television signal allowing a user to adjust an antenna and find a lowest signal strength that will provide an acceptable level of audio and video quality."

IX. Claim 1 of the first auxiliary request is worded as follows:

"A video processing apparatus comprising:
means (14, 26) for receiving a plurality of digital television signals comprising audio and video information components;
means for receiving a user input to select a digital television signal from the received digital television signals;
means (32) for determining and updating a signal strength of the selected digital television signal;
means (32) for displaying the video information component of the selected digital television signal on a display device (36) coupled to the video processing apparatus; and
means (32) for displaying the signal strength of the selected digital television signal;
characterized in that the video processing apparatus further comprises:
means (32) for successively determining a signal strength of each received digital television signal and for storing the determined signal strength of each received digital television signal in a memory (34); and
means (32) for displaying the signal strength of each digital television signal of a subset of the received digital television signals concurrently with the video information component and the signal strength of the selected digital television signal."

X. Claim 1 of the second auxiliary request corresponds to claim 1 of the first auxiliary request with the following additional feature being appended to the claim:

"wherein the means (32) for displaying the signal strength of each digital television signal of the subset of the received digital television signals is

configured to also display information about a digital television signal that has previously been received but is no longer received."

XI. The appellant did not provide counter-arguments to the board's objections regarding lack of clarity of claim 1 of the main request. Instead, the claims of the first and second auxiliary requests had been "extensively revised to address the clarity issues identified in the Summons to oral proceedings" (see appellant's letter dated 19 January 2015, pages 1 and 2).

With respect to the advantages of the present invention in view of the cited prior art, the appellant argued that it was useful to gain knowledge about the strength of all digital television signals and to display this information to the user. The user then had the ability to adjust the reception antenna. The displayed signal strengths for the various received signals gave the user an overview of any adjustment which may be needed, as the strengths of certain signals might be too low even though a selected signal was fine. By displaying the currently selected channel, the user was able to determine how adjustment of the antenna affected the reception of the currently selected channel and also how adjustment of the antenna affected the signal strength of other received digital television signals (see statement of grounds, paragraph bridging pages 6 and 7, appellant's letter dated 19 January 2015, pages 2 to 4).

Reasons for the Decision

1. The appeal is admissible.

The present application

2. The application relates to the reception and measurement of terrestrial digital television signals. Adjustment of an antenna for optimised reception of such signals can be difficult if the television signals are received from different directions. Hence, in order to simplify an antenna adjustment operation, the present application proposes to output the video and audio signals for a selected channel during the adjustment operation. In addition, the signal strength for the selected channel and for at least some of the available channels are simultaneously displayed. Since audio and video are active during the real-time display of signal strength, the user can find the lowest signal strength that will provide an acceptable level of audio and video quality. As a result the user can adjust the antenna to receive the greatest number of channels that satisfy a minimum signal strength threshold (see application as published, page 1, line 10 to page 2, line 31; page 6, lines 8 to 12).

An antenna information list is displayed during the antenna adjustment operation containing information about all detected channels. Channels being received with a signal strength above a threshold are added to the list. If a channel is received with insufficient signal strength following an antenna adjustment, it is not deleted from this list, in order to help the user to know what channels are available (see application as

published, page 3, lines 6 to 24; page 8, line 23 to page 9, line 24).

Main request

3. According to Article 84 EPC 1973, the claims shall define the matter for which protection is sought. They shall be clear and concise and be supported by the description.

3.1 Claim 1 specifies "means for enabling display (32) of the data representative of the real time signal strength of selected digital television signals of the plurality of received television signals concurrently with said selected television signal allowing a user to adjust an antenna and find a lowest signal strength that will provide an acceptable level of audio and video quality" (emphasis added by the board).

3.2 Lines 5 to 7 of claim 1 specify "means for ... selecting (30) a television signal from the plurality of received television signals". In addition, lines 8 to 10 of claim 1 specify "means for displaying (32) the video information component of the selected television signal on a display device (36) coupled to said video processing apparatus".

3.3 However, it is unclear according to which criterion and by whom a television signal for display and the television signals of which the signal strength is displayed are selected, whether these signals are different signals or whether the selected digital television signals at least comprise the selected television signal (or said selected television signal). Moreover, the plural form of the expression "selected digital television signals" also allows for the

interpretation that data representative of the signal strength of a plurality of television signals are selected and displayed successively. The further qualification of determining the signal strength "in real time" is only limiting in the sense that it has to be sufficiently fast to allow a user to observe the effect of an antenna adjustment. In addition, claim 1 referring to the user finding "a lowest signal strength that will provide an acceptable level of audio and video quality" does not help to allow a clear distinction between means which are suitable for that purpose and means which are not, since this functional feature is based on a subjective perception.

3.4 Claim 1 therefore does not clearly define the matter for which protection is sought. It follows that claim 1 of the main request does not comply with Article 84 EPC 1973.

First auxiliary request

4. According to Article 13(1) RPBA, any amendment to a party's case after it has filed its grounds of appeal or reply may be admitted and considered at the board's discretion. The discretion shall be exercised in view of inter alia the complexity of the new subject-matter submitted, the current state of the proceedings and the need for procedural economy. Further, according to Article 15(3) RPBA, the board shall not be obliged to delay any step in the proceedings, including its decision, by reason only of the absence at the oral proceedings of any party duly summoned, who may then be treated as relying only on its written case.

4.1 The appellant has submitted that the independent claims of the first auxiliary request "have been extensively

revised to address the clarity issues identified in the Summons to oral proceedings" (see appellant's letter dated 19 January 2015, page 1).

Prima facie the amended features clarify that, by displaying the currently (user-)selected channel and its updated signal strength, the user is able to determine how adjustment of the antenna affects the reception of the currently selected channel.

4.2 However, the amendments to claim 1 introduce new features which seem to result in a major shift of the claimed subject-matter and would require further analysis with regard to the determination of signal strength of "each received digital television signal" and the storage and display of that information.

Claim 1 of the main request specifies "display ... of the data representative of the real time signal strength of selected digital television signals of the plurality of received television signals". This may be fairly construed as implying a signal strength determination of these signals sufficiently fast to allow a user to observe the effect of an antenna adjustment after a reasonable time (see point 3.3 above). In contrast, in claim 1 of the first auxiliary request a reference to a real time signal strength has been deleted. Claim 1 merely specifies that the signal strength of the selected digital television signal is updated, but it is silent with respect to an update of the signal strength measurement of the displayed subset of received television signals.

4.3 It is therefore questionable whether the appellant's argumentation concerning the inventive contribution of the present invention as set out in the statement of

grounds and in the appellant's letter of reply dated 19 January 2015 is applicable to the present claims. In particular, the appellant argued that the displayed signal strengths for the various received signals gave the user an overview of any adjustment which may be needed, as the strengths of certain signals might be too low even though a selected signal was fine (see point XI above). However, this effect is dependent on continuously updated signal strength values of the various received signals.

4.4 Similarly, it is doubtful whether the claimed video processing apparatus is suitable to provide the advantages described in the present application (see page 2, lines 5 to 7; page 6, lines 8 to 12), i.e. to help the user adjust his antenna to receive the greatest number of digital television signals that satisfy a minimum signal threshold.

4.5 Hence, the amendments create new problems of interpretation possibly resulting in a major shift of the claimed subject-matter which does not correspond to the argumentation provided by the appellant. It follows from the above that the amended claims of the first auxiliary request introduced new complex issues, and this took place at a very late stage of the proceedings, i.e. one month before the date set for oral proceedings (which were held as scheduled).

4.6 In view of the above the board has decided not to admit the first auxiliary request into the appeal proceedings in application of Article 13(1) RPBA.

Second auxiliary request

5. The additional feature of claim 1 according to the second auxiliary request essentially specifies that information concerning channels that have previously been received but are no longer received is retained in the list of television signals for display.

5.1 This feature does not change the issues regarding the update and real time display of the signal strength of a subset of the received digital television signals (see section 4 above). Hence, the arguments concerning the first auxiliary request apply likewise with respect to the second auxiliary request.

5.2 The board therefore decided to also not admit the second auxiliary request into the appeal proceedings in application of Article 13(1) RPBA.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

K. Boelicke F. Edlinger

Decision electronically authenticated