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**Datasheet for the decision  
of 6 March 2019**

**Case Number:** T 0898/12 - 3.5.04

**Application Number:** 00982045.7

**Publication Number:** 1256233

**IPC:** H04N7/16

**Language of the proceedings:** EN

**Title of invention:**

A device for transmission of signal units

**Applicant:**

Namvar, Kianoush

**Headword:**

**Relevant legal provisions:**

EPC 1973 Art. 84

EPC Art. 123(2)

**Keyword:**

Main and first to fourth auxiliary requests - clarity (no)  
Fifth auxiliary request - amendments - added subject-matter  
(yes)  
Sixth auxiliary request - clarity (no)

**Decisions cited:**

**Catchword:**



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Case Number: T 0898/12 - 3.5.04

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.04**  
**of 6 March 2019**

**Appellant:** Namvar, Kianoush  
(Applicant) Stiernhielmsv. 20  
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**Decision under appeal:** **Decision of the Examining Division of the European Patent Office posted on 25 November 2011 refusing European patent application No. 00982045.7 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** C. Kunzelmann  
**Members:** R. Gerdes  
B. Müller

## Summary of Facts and Submissions

- I. The appeal is against the decision to refuse European patent application No. 00 982 045.7, published as international application WO 01/41440 A1.
- II. The examining division refused the patent application on the grounds that claim 1 of the sole request lacked clarity and that claim 1 had been amended so that it contained subject-matter extending beyond the content of the application as filed.
- III. The applicant filed notice of appeal against this decision and with its statement of grounds of appeal submitted an independent claim 1 each according to a main and first to fourth auxiliary requests.
- IV. The board issued a summons to oral proceedings and indicated, *inter alia*, that it tended to agree with the reasons for the decision under appeal as far as lack of clarity of the claims of all requests was concerned.
- V. The oral proceedings were postponed twice at the appellant's request. On 21 December 2018, the appellant filed a new claim 1 of a fifth auxiliary request via electronic filing and, without giving any reasons, requested that the oral proceedings be postponed again. With a letter dated 8 January 2019 the appellant filed amended claim 1 each according to a main request, a fifth and a sixth auxiliary request. With a communication dated 15 January 2019 the board informed the appellant that the request for postponement could not be granted.
- VI. Oral proceedings were held before the board on 22 January 2019.

The appellant declared that the fifth auxiliary request filed during the oral proceedings of 22 January 2019 replaced the fifth auxiliary request filed with the letter of 8 January 2019, which in turn had replaced the fifth auxiliary request filed on 21 December 2018.

The appellant requested that the decision under appeal be set aside and that a European patent be granted on the basis of

- claim 1 of the main request filed with the letter dated 8 January 2019 or, in the alternative,
- claim 1 of the first, second, third or fourth auxiliary requests filed with the statement of grounds of appeal, or
- claim 1 of the fifth auxiliary request filed during the oral proceedings of 22 January 2019, or
- claim 1 of the sixth auxiliary request filed with the letter dated 8 January 2019.

At the end of the oral proceedings the chairman announced that a decision would be given in writing.

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

"A system for transmission of signal units to a plurality of addressed receivers (3), wherein each signal unit includes at least one signal and a digital ID, comprising:

an arrangement (1) including a receiving means (9) for receiving a number of signal units within a frequency range, wherein each signal unit includes at least one signal representing at least one of data signal, text-TV signal, image signal, audio signal and video signal,

an identifying means (11) configured to identify said signal units on the basis of at least said digital ID,

a forwarding means (12) forwarding at least a portion of said signal units or blocking at least partially said signal units with respect to each addressed receiver (3) and said digital ID,

a registering means (13) including a register (17) for storing at least those signal units to which said addressed receiver (3) has authorised access, whereby said forwarding means (12) is arranged to exclusively forward such signal units that have a correspondence in said register (17), where said register is an active register in which it is possible to erase registered signal units and add further signal units for each addressed receiver, and where said register (17) is arranged such that said erasure and addition can be effected via a communications system, and

a central computer (6) connected to the registering means (13) via said communications system, and wherein said central computer (6) being arranged to at least erase registered signal units or register further signal units in said register (17) in the registering means (13) with respect to said addressed receiver (3)."

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

"A system for transmission of signal units to a plurality of addressed receivers (3) comprising:

an arrangement (1) including a receiving means (9) for receiving a number of signal units within a frequency

range, wherein each signal unit includes at least one signal representing at least one of data signal, text-TV signal, image signal, audio signal and video signal,

a forwarding means (12) forwarding at least a portion of said signal units or blocking at least partially said signal units with respect to each receiver (3),

a registering means (13) including a register (17) over at least those signal units to which said receiver (3) has authorised access, whereby said forwarding means (12) is arranged to exclusively forward such signal units that have a correspondence in said register (17), where said register is an active register in which it is possible to erase registered signal units and add further selected signal units for each addressed receiver, and where said register (17) is arranged such that said erasure and addition can be effected via a communications system, and

a central computer (6) connected to the registering means (13) via said communications system, and wherein said central computer (6) being arranged to at least erase registered information pertaining to selected signal units or register further information pertaining to selected signal units in said register (17) in the registering means (13) with respect to said addressed receiver (3)."

IX. Claim 1 of the second auxiliary request reads as follows:

"A system for transmission of signal units to a plurality of addressed receivers (3) comprising:

an arrangement (1) including a receiving means (9) for receiving a number of signal units within a frequency range,

a selecting means (10) for selecting said received signal units, wherein each signal unit includes at least one signal representing at least one of data signal, text-TV signal, image signal, audio signal and video signal,

a forwarding means (12) forwarding at least a portion of selected signal units or blocking at least partially selected signal units with respect to each receiver (3),

a registering means (13) including a register (17) over at least those signal units to which said receiver (3) has authorised access, whereby said forwarding means (12) is arranged to exclusively forward such selected signal units that have a correspondence in said register (17), where said register is an active register in which it is possible to erase registered signal units and add further signal units for each addressed receiver, and where said register (17) is arranged such that said erasure and addition can be effected via a communications system, and

a central computer (6) connected to the registering means (13) via said communications system, and wherein said central computer (6) being arranged to at least erase registered signal units or register further signal units in said register (17) in the registering means (13) with respect to said addressed receiver (3)."



- X. Claim 1 of the third auxiliary request is identical to claim 1 of the second auxiliary request except for its last feature which has been amended to read (amendments indicated by underlining) as follows:

"... a central computer (6) connected to the registering means (13) via said communications system, and wherein said central computer (6) being arranged to at least erase registered information pertaining to selected signal units or register further information pertaining to selected signal units in said register (17) in the registering means (13) with respect to said addressed receiver (3)."

- XI. Claim 1 of the fourth auxiliary request is worded identically to claim 1 of the second auxiliary request except that the expression "... and wherein each signal unit is provided with a digital identification," has been appended to the phrase reading "wherein each signal unit includes ... and video signal,". In addition, the last four occurrences of "signal units" in the claim have been amended to read "corresponding signal units".

- XII. Claim 1 according to the fifth auxiliary request reads:

"Arrangement (1) for transmission of signal units to plurality (sic) of addressed receivers (3), wherein each signal unit includes at least one signal and a digital ID which is included in the transmitted signal or signal unit, comprising:

at least one addressed receiver configured to receive a number of signal units within a frequency range, wherein each signal unit of the number of signal units

represents at least one of data signal, text-tv signal, audio signal, video signal, or any combination thereof;

an identifying unit (11) configured to identify said signal units on the basis of at least said digital ID;

a comparator unit (16) configured to cause at least a portion of said signal units to be forwarded or at least partially be blocked with respect to said at least one addressed receiver (3), and

a verification unit (14), which includes a memory configured to store information, received from a central computer, for said signal units which said addressed receiver (3) has authorized access (sic) and which is arranged to verify that the signals being forwarded by said comparator unit correspond to a corresponding said stored information received from a central computer in said memory, whereby if said forwarded signal units do not correspond to said corresponding information in the memory the particular signal unit is being registered by means of a specific signal in a register unit."

XIII. Claim 1 of the sixth auxiliary request reads as follows:

"A system for transmission of signal units to plurality (sic) of addressed receivers (3), wherein each signal unit includes at least one signal and a digital ID which is included in the transmitted signal or signal unit, comprising:

an arrangement (1) including a receiving means (9) configured to receive a number of signal units within a frequency range, wherein each signal unit of the number

of signal units represents at least one of data signal, text-tv signal, audio signal, video signal, or any combination thereof;

a receiver (52), which is arranged to convey positional information;

a comparator unit (16) configured to cause at least a portion of said signal units to be forwarded or at least partially be blocked with respect to said at least one addressed receiver (3) and said positional information, and

a verification unit (14), which includes a memory configured to store at least those signal units to which said addressed receiver (3) has authorized access and which is arranged to verify that the signals being forwarded by said comparator unit correspond to a corresponding signal unit in said memory, whereby if said forwarded signal units do not correspond to a corresponding signal unit in the memory the particular signal unit is being registered by means of a specific signal in a register unit."

XIV. In the decision under appeal the examining division held that the then sole request was not allowable because the meaning of "signal units" in claim 1 was unclear. According to the description, signal units represented the content of the TV program itself (see page 11, from line 2 on). However, the central computer was in charge of erasing/adding signal units, which implied that a TV program had to be transmitted twice to the arrangement 1 if "signal units" were interpreted as referring to content. The applicant explained that the signal units in the registering means were not actually the program itself, but some data allowing an

identification of a program. It was therefore not clear what kind of data was stored in the registering means (see decision under appeal, Reasons, point 2.1).

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

The "signal units" that were received by the "receiving means" included, for example, a video and an audio signal of a specific TV channel. They had usually passed through some kind of signal processing and been modulated using a modulation method. The signal units stored in the memory, e.g. in the registering means or the verification means, represented data identifiers and information representing each "signal unit", i.e. "data about the signal units". The stored signal units could be added, removed or exchanged by the central computer.

A register was not a storage device such as a disk that could store whole movies. It was a device with a small storage capacity. Hence, the skilled person would have understood from the application as filed that the register 17 was intended for the storage of data identifiers and information representing the signal units received by the receiving means. Therefore, it would have been clear that the signal units received by the receiving means were different from the signal units stored in the register (17) of the registering means (13).

Regarding claim 1 of the fifth auxiliary request, the appellant referred to page 6, lines 1 and 2; page 14, lines 13 to 16 and lines 34 and 35; and page 15, lines 10 to 14 and lines 28 to 31, as a basis for the amendments.

## **Reasons for the Decision**

1. The appeal is admissible.

### *Clarity of claim 1 of the main request, Article 84 EPC 1973*

2. 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.

- 2.1 Claim 1 specifies a system for the transmission of "signal units" to a plurality of receivers. According to the claim "each signal unit includes at least one signal and a digital ID". The signal of the signal unit represents "at least one of [a] data signal, text-TV signal, image signal, audio signal and video signal". The signal units are received by a receiving means, identified by an identifying means and at least a portion of the signal units is forwarded or blocked by a forwarding means.

In addition, claim 1 specifies that the system comprises a registering means "including a register (17) for storing at least those signal units to which said addressed receiver (3) has authorised access". The forwarding means "is arranged to exclusively forward such signal units that have a correspondence in said register (17)". A central computer connected to the registering means may, via a communication system, erase registered signal units or register further signal units in the register.

- 2.2 On a "natural reading" of the claim, the register of the registering means is accessed by the central

computer and contains a copy of those signal units which are received by the receiving means and allowed to be forwarded by the forwarding means. This interpretation is confirmed by the description (see page 3, line 30, to page 4, line 5, and page 11, lines 22 to 29).

- 2.3 The board agrees with the decision under appeal that this interpretation implies that all signal units ("i.e., the TV-channels", see page 11, lines 2 to 7) would have to be transmitted twice to the addressed receiver. On the one hand, the signal units of a program would be received by the receiving means (via cable, terrestrial or satellite transmission). On the other hand, the central computer would have to transmit all signal units of the program to the register of the registering means (see decision under appeal, Reasons, point 2.1). However, such an interpretation is at least questionable because it would require excessive amounts of bandwidth and storage space in the register.
- 2.4 The appellant argued that the claim should be read such that the signal units in the registering means were actually not the signal units of the program itself but some data allowing an identification of a certain program, i.e. "data about the signal units". The signal units stored in the memory, e.g. in the registering means or the verification means, represented data identifiers and information representing each signal unit. The stored signal units could be added, removed or exchanged by the central computer.
- 2.5 The board agrees with the appellant that this interpretation of claim 1 would have made more sense for the skilled person. However, such an interpretation has no basis in the description. The application does

not distinguish between two types of "signal units", one received and one stored in the memory. Moreover, this interpretation would have left the skilled person in doubt about what exactly was stored in the registering means. It is, therefore, not clear what the functional definition of the register in the wording "a register (17) for storing at least those signal units to which said addressed receiver (3) has authorised access" could mean from a technical point of view.

2.6 The appellant argued that a register was not a storage device capable of storing whole movies such as a disk, but a device of small storage capacity. Hence, the skilled person would have understood from the use of the word "register" that it was only intended for storage of data identifiers and information representing the signal units received by the receiving means. Therefore, it would have been clear that the signal units received by the receiving means were different from the signal units stored in the register (17) of the registering means (13).

2.7 The board acknowledges that the term "register" may in certain contexts refer to a small amount of storage, as for example in CPUs. However, in general, the terms "registering means" and "register" are unspecific regarding the amount of information stored in them. In the context of the claims and the description, the board cannot see that the terms imply a restriction on the storage capacity of the register. Moreover, even if it were clear that a whole program could not be stored in the register, it would still be unclear what else was stored in the register.

2.8 Thus, claim 1 of the appellant's main request does not meet the requirements of Article 84 EPC 1973.

*Clarity of claim 1 of the first to fourth auxiliary requests,  
Article 84 EPC 1973*

3. Claim 1 of the first auxiliary request is worded similarly to claim 1 of the main request as far as the registering means are concerned:

"a registering means (13) including a register (17) over at least those signal units to which said receiver (3) has authorised access, whereby said forwarding means (12) is arranged to exclusively forward such signal units that have a correspondence in said register (17), ...".

Claim 1 of the second to fourth auxiliary requests differs from claim 1 of the first auxiliary request in the above passage only in that it refers to "selected signal units" (amendment underlined) which are forwarded by the forwarding means.

The definition of the "signal units" in each claim 1 of the first to third auxiliary requests is a generalisation of the one given in the main request which does not require the presence of a digital ID. The definition of the "signal units" in claim 1 of the fourth auxiliary request is similar to the one given in the main request. Hence, the definitions in claim 1 of the first to third auxiliary requests are less restricted than the one given in claim 1 of the main request.

- 3.1 The same interpretation as for claim 1 of the main request (see point 2.2 above) results from a natural reading of each claim 1 of the first to fourth auxiliary requests. This interpretation is at odds with



the technical understanding of the skilled person and leaves the reader in doubt about what exactly is stored in the register of the registering means.

- 3.2 As a result, each claim 1 of the first to fourth auxiliary requests lacks clarity for the same reasons as given above for claim 1 of the main request (Article 84 EPC 1973).

*Added subject-matter, fifth auxiliary request, Article 123(2) EPC*

4. According to Article 123(2) EPC, a European patent application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed. The relevant criterion is whether the proposed amendments are directly and unambiguously derivable from the application as filed (see Case Law of the Boards of Appeal of the European Patent Office, 8th edition, 2016, section II.E.1.2).

- 4.1 Claim 1 of the fifth auxiliary request has been amended to specify:

"... a verification unit (14), which includes a memory configured to store information, received from a central computer, **for** said signal units which said addressed receiver (3) has authorized access (sic) and which is arranged to verify that the signals being forwarded by said comparator unit correspond to a corresponding said stored information received from a central computer in said memory ..." (emphasis added by the board).

The appellant confirmed in the oral proceedings that this section of claim 1 should mean that the memory of the verification unit was configured to store information pertaining to those signal units to which the addressed receiver had authorised access.

- 4.2 According to the description (see page 6, lines 3 to 11), the memory of the verification means is "for storing those signal units to which said receiver has authorised access and which is arranged to verify that the signals being forwarded by said forwarding means correspond to a corresponding signal unit in said memory unit, whereby if said forwarded signal units do not correspond to a corresponding signal unit in the memory unit the particular signal unit is being registered by means of a specific signal in a registering unit."

Hence, according to this passage the memory of the verification means stores "those signal units to which said receiver has authorised access".

- 4.3 According to page 6, lines 21 to 23, of the description, "those signal units that pass said arrangement and are not found in said memory unit are registered together with certain additional information."

This passage confirms the interpretation that the memory stores copies of the signal units forwarded by the forwarding means. This interpretation is reinforced by the passages on page 11, line 30, to page 12, line 2 and claim 10 as originally filed.

- 4.4 "Information ... for said signal units" or "information pertaining to the signal units" is different from

"signal units" themselves because it encompasses information such as meta data describing the signal units or identification information for the signal units.

4.5 The appellant referred to page 6, lines 1 and 2, as the basis for the amendment. This passage refers to "information pertaining to, for instance, signal type and frequency". There is no disclosure that such information is stored in the memory of the verification unit. In addition, the appellant referred to page 14, lines 13 to 16 and lines 34 and 35, and page 15, lines 10 to 14 and lines 28 to 31. None of these passages refers to the memory of the verification unit, let alone to the storage of information pertaining to signal units in that memory. The board is not aware of any other passage in the original application on which that amendment could be based.

4.6 Hence, the amendment is not directly and unambiguously derivable from the application as originally filed. It follows that claim 1 contravenes Article 123(2) EPC.

*Clarity of claim 1 of the sixth auxiliary request, Article 84 EPC 1973*

5. Claim 1 of the sixth auxiliary request specifies:

"a verification unit (14), which includes a memory configured to store at least those signal units to which said addressed receiver (3) has authorized access ...".

5.1 Hence, on a "natural reading" of the claim, the skilled person would have understood that the verification unit contained a copy of those signal units, which were

received by the receiving means and allowed to be forwarded by the forwarding means, similar to the registering means of claim 1 of the main request. This interpretation is confirmed by the description (see page 6, lines 3 to 8 and lines 19 to 23; page 11, lines 30 to 33; page 13, lines 6 to 10; and claim 10 as originally filed).

5.2 The same ambiguity in interpretation as for claim 1 of the main request arises, because the wording of claim 1 seems to imply that the signal units would have to be transmitted twice to the addressed receiver (see points 2.3 to 2.5 above).

5.3 Hence, the board finds that claim 1 of the sixth auxiliary request lacks clarity, Article 84 EPC 1973.

#### *Conclusion*

6. Because none of the appellant's requests is allowable, the appeal must be dismissed.

**Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

C. Kunzelmann

Decision electronically authenticated