Internal distribution code:

(A) [-] Publication in OJ
(B) [-] To Chairmen and Members
(C) [-] To Chairmen
(D) [X] No distribution

Datasheet for the decision of 11 October 2017

Case Number: T 1332/12 - 3.5.04

Application Number: 06008001.7

Publication Number: 1848203

IPC: H04N5/44

Language of the proceedings: EN

Title of invention:
Method and system for video image aspect ratio conversion

Patent Proprietor:
Vestel Elektronik Sanayi ve Ticaret A.S.

Opponent:
Interessengemeinschaft für Rundfunkschutzrechte e.V.

Headword:

Relevant legal provisions:
RPBA Art. 13(1)
EPC 1973 Art. 56

Keyword:
New translation of prior art - admitted (yes)
Inventive step - main and auxiliary request (no)

Decisions cited:
T 0700/05, T 1483/10

Catchword:

Europäisches Patentamt
European Patent Office
Office européen des brevets

Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 1332/12 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 11 October 2017

Appellant: (Patent Proprietor)	Vestel Elektronik Sanayi ve Ticaret A.S. Organize Sanayi Bölgesi 45030 Manisa (TR)
Representative:	Ascherl, Andreas KEHL, ASCHERL, LIEBHOFF & ETTMAYR Patentanwälte - Partnerschaft Emil-Riedel-Straße 18 80538 München (DE)
Respondent: (Opponent)	Interessengemeinschaft für Rundfunkschutzrechte e.V. Bahnstraße 62 40210 Düsseldorf (DE)
Representative:	Pröll, Jürgen Die Patenterie GbR Patent- und Rechtsanwaltssozietät Leibnizstraße 6 95447 Bayreuth (DE)
Decision under appeal:	**Interlocutory decision of the Opposition Division of the European Patent Office posted on 5 April 2012 concerning maintenance of European Patent No. 1848203 in amended form.**

Composition of the Board:

Chairman	C. Kunzelmann
Members:	B. Willems
	T. Karamanli

Summary of Facts and Submissions

I. The appeal is against the interlocutory decision of the opposition division that, account being taken of the amendments made by the patent proprietor according to the then sixth auxiliary request, European patent No. 1 848 203 and the invention to which it related met the requirements of the EPC (Article 101(3)(a) EPC). The patent is based on European patent application No. 06 008 001.7.

II. Notice of opposition to the patent had been filed by the Interessengemeinschaft für Rundfunkschutzrechte e.V. (hereinafter: the respondent).

III. The opposition was based on the grounds under Article 100(a) EPC.

The opposition division decided that the subject-matter of claim 1 of the main, first, second and third auxiliary requests lacked inventive step over the disclosure of document D7 (JP 07-131734 A) and the common general knowledge of the person skilled in the art (Articles 56 and 100(a) EPC), and that the subject-matter of claim 1 of the fourth and fifth auxiliary requests extended beyond the disclosure of the application as filed (Article 123(2) EPC). For the analysis of inventive step, the opposition division referred to document D7T, which was a JPO machine translation of document D7 into English.

IV. The patent proprietor (hereinafter: appellant) filed an appeal against this decision and requested that the decision be set aside. In the statement of grounds of appeal, it requested that the patent be maintained in amended form on the basis of the claims according to a

main request or an auxiliary request, corresponding to the second and third auxiliary requests, respectively, underlying the decision under appeal. It submitted arguments as to why the subject-matter of claim 1 of each of these requests met the requirements of Article 56 EPC.

V. The respondent filed a reply to the appeal, and requested that the appeal be dismissed.

VI. With a letter dated 12 October 2015, the appellant submitted a different translation of document D7 (D7JPO) because "*the Japanese and the original and the previously translated prior art document D7T is not precise in many aspects*". The appellant provided additional arguments as to why the subject-matter of claim 1 of the main request and the auxiliary request should be considered to involve an inventive step (Article 56 EPC).

VII. In a communication under Article 15(1) RPBA (Rules of Procedure of the Boards of Appeal, OJ EPO 2007, 536), annexed to the summons to oral proceedings, the board indicated that it tended to agree with the opposition division's finding that the then second and third auxiliary requests lacked inventive step. It also indicated that it had to be discussed whether translation D7JPO should be admitted into the appeal proceedings (Article 13(1) RPBA).

VIII. In reply to that communication, the appellant argued that D7JPO was not late-filed because it had been submitted in response to the opponent's interpretation of D7 in the reply to the statement of grounds of appeal. It submitted further arguments in support of inventive step.

IX. The respondent informed the board with a letter dated 22 September 2017 that it would not be represented at the oral proceedings.

X. Oral proceedings before the board were held on 11 October 2017 in the absence of the duly summoned respondent.

At the beginning of the oral proceedings, the chairman informed the appellant that translation D7JPO was admitted into the proceedings and the discussion of inventive step was to be based on it.

During the oral proceedings, the appellant, in essence, reiterated the arguments set out in the written proceedings.

The appellant requested that the decision under appeal be set aside and that the patent be maintained in amended form on the basis of the claims according to the main request or the auxiliary request, corresponding to the second and third auxiliary requests, respectively, underlying the decision under appeal.

The chairman noted that the respondent had requested in writing that the appeal be dismissed.

XI. At the end of the oral proceedings the chairman announced the board's decision.

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

"A method of converting video images, comprising:

receiving first video images (102) having a first aspect ratio;

converting (502-506) the first video images to second video images (104), the second video images having a second aspect ratio, different from the first aspect ratio, said converting including a horizontal scaling operation; and

outputting the second video images (104);

characterised by said converting step including detecting (701-709) the presence in the first video images of horizontally scrolling text and/or horizontally scrolling image elements (302); and in that

the horizontal scaling operation (506) performed on a first section (604) of the first video images (102) that contains the horizontally scrolling text and/or horizontally scrolling image elements (302) is different from the horizontal scaling operation (504) performed on one or more remaining sections (602, 606) of the first video images,

wherein the conversion operation (506) performed on the first section (604) of the first video images (102) is linear scaling."

XIII. Claim 1 of the auxiliary request differs from claim 1 of the main request in that it also includes the following feature, appended at the end of claim 1 of the main request, immediately before the full stop:

"and wherein one of said one or more remaining sections (602, 606) of the first video images (102) comprises the main picture section (602); and the conversion operation (504) performed on said main picture section (602) is non-linear scaling".

XIV. The opposition division's arguments, as far as they are relevant for the present decision, may be summarised as follows:

Document D7 was identified as the closest prior art for the assessment of inventive step (Article 56 EPC). The opposition division reasoned that "*D7 appears to achieve the same effect as the claimed subject-matter, since distortions created by non-linear scaling are compensated for the text/title/ caption portion [...] D7 provides the same effect for horizontal scrolling text, since scrolling text will be moving on a field by field basis which is taken care of in the processing by circuitry of fig. 8*".

XV. The appellant's arguments, as far as they are relevant for the present decision, may be summarised as follows:

(a) D7 did not refer to scrolling text. The present application addressed the problem that scrolling text should be readable without distortion, even after a format conversion from 4:3 to 16:9. Since the problems relating to the display of scrolling text resulted from the movement of the characters, the person skilled in the art would not have

considered document D7 a starting point for the assessment of inventive step (page 3 of the statement of grounds of appeal).

(b) The solution proposed in D7 was not suitable for the processing of scrolling text.

(c) Since in D7 the titles were removed, they were not subjected to any scaling (see pages 4 and 5 of the letter dated 12 October 2015).

XVI. The respondent concurred with the opposition division that D7 disclosed a linear scaling of the text characters in the horizontal direction and a non-linear scaling of the remaining parts of the image and that the person skilled in the art would have applied the teaching of D7 to scrolling text (see page 3, second and third paragraphs, of the fax dated 20 December 2012).

Reasons for the Decision

1. The appeal is admissible.

2. *Admission of translation D7JPO into the appeal proceedings (Article 13(1) RPBA)*

2.1 The respondent filed a copy of Japanese application D7 (JP 07-131734 A) as evidence of the prior art under Article 54(2) EPC 1973 and a JPO machine translation of that document into English (D7T). In response to the respondent's reply, the appellant filed document D7JPO, which is also a JPO machine translation of document D7 into English, but of a later date and, in the appellant's view, a more accurate translation.

2.2 There is nothing in the EPC to prevent a party from filing a corrected translation of a document filed as evidence, even if the evidence and/or translation was filed by the other party to the proceedings. The board takes the view that this also applies if the document is a patent application, taking into account that, under the EPC, the translation of a European patent application or an international application into an official language of the EPO may generally be brought into conformity with the application as filed (Article 14(2) EPC 1973 regarding European patent applications; decisions T 700/05 and T 1483/10 regarding international applications). Hence, the board considers that the translation into English of Japanese prior-art document D7 may be brought into conformity with the original.

2.3 Moreover, the board concurs with the appellant that the differences between the two translations are minor and

result in a linguistic clarification of certain passages in D7T without changing its technical disclosure.

2.4 In view of the above, the board, exercising its discretion under Article 13(1) RPBA, decided to admit translation D7JPO into the appeal proceedings and base the discussions of inventive step on D7, referring to the text of translation D7JPO.

3. *Main request - inventive step (Article 56 EPC 1973)*

3.1 The opposition division found document D7 to be the closest prior art for the assessment of inventive step.

3.2 The board has not been persuaded by the appellant's argument that document D7 should not be considered the closest prior art for the assessment of inventive step because it does not refer to "horizontally **scrolling** text" (emphasis added). Document D7 relates to the same technical field as the present application and it addresses the effects of a 4:3 to 16:9 format conversion on horizontally displayed text. The reference in claim 1 to "horizontally scrolling text" distinguishes it from the disclosure of D7. However, this difference would not dissuade the person skilled in the art from considering D7 an adequate starting point for the assessment of inventive step.

3.3 The board agrees with the appraisal of the disclosure of document D7 set out on page 12 of the decision under appeal. Hence, the feature of detecting the presence of horizontally **scrolling** text and/or horizontally **scrolling** image elements is the only difference between the claimed subject-matter and the disclosure of D7.

3.4 The board has not been convinced by the appellant's argument that the titles shown in Figures 9(a) to 9(c) of document D7 have not been subjected to any scaling.

Paragraphs [0020] to [0024] of D7 disclose that the title is extracted from the video, written into and read out of field memory 13 with different clock frequencies, the clock frequencies for reading out of the memory varying along every scanning line to obtain a first non-linear scaling process. The title is then re-inserted into the video signal and submitted to a second non-linear scaling process by circuit 106. The result of both non-linear scaling processes is that the characters shown in Figure 9(c) are "*displayed in a substantially identical size*" (see paragraph [0024]). Thus, the characters are subjected to a scaling process which results in all characters being displayed in the same size, i.e. the characters are subjected to a linear scaling process.

3.5 The board agrees with the appellant that document D7 does not disclose detecting horizontally scrolling text. Therefore, the problem to be solved can be formulated as how to carry out the format conversion if horizontally scrolling text is present.

3.6 D7 discloses the detection of the presence of a title (extracts the title) on a frame-by-frame basis. This detection is based on a simple level comparison. Thus, it is irrelevant for the detection whether the title is scrolling or not. Therefore, the person skilled in the art would consider using "*title moving circuit 109*" to detect horizontally scrolling text and would determine the specification of the circuit elements and their operating parameters such as the processing speed so as to meet the requirements imposed by scrolling text. The

appellant's unsubstantiated assertion that the circuit known from document D7 would not cope with horizontally scrolling text did not convince the board of the contrary.

3.7 Thus, the board concludes that for the reasons set out in points 3.1 to 3.5 above, the subject-matter of claim 1 of the main request lacks inventive step over the disclosure of document D7 combined with the common general knowledge of the person skilled in the art (Article 56 EPC 1973). Hence, the patent cannot be maintained in amended form on the basis of the claims of the main request.

4. Auxiliary request - inventive step (Article 56 EPC 1973)

4.1 The appellant did not contest the opposition division's finding in the paragraph bridging pages 14 and 15 of the decision under appeal that the feature identified in point XIII above is known from document D7. The board likewise concurs with this finding.

4.2 Thus, the board concludes that for the reasons set out in section 3 and point 4.1 above, the subject-matter of claim 1 of the auxiliary request lacks inventive step over the disclosure of document D7 combined with the common general knowledge of the person skilled in the art (Article 56 EPC 1973). Hence, the patent cannot be maintained in amended form on the basis of the claims of the auxiliary request.

5. In view of the above, neither of the appellant's requests is allowable. Hence, the appeal is to 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