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**Datasheet for the decision  
of 11 October 2017**

**Case Number:** T 1985/13 - 3.5.03

**Application Number:** 06018858.8

**Publication Number:** 1775865

**IPC:** H04H1/00

**Language of the proceedings:** EN

**Title of invention:**

Delayed reproduction of broadcast content received by a mobile terminal

**Applicant:**

LG ELECTRONICS INC.

**Headword:**

Time-shift recording of broadcast content/LG ELECTRONICS

**Relevant legal provisions:**

EPC Art. 84, 123(2)  
RPBA Art. 13(3)

**Keyword:**

Added subject-matter - main request (yes)  
Clarity - auxiliary requests 1 and 2 (no)  
Admissibility - auxiliary request 3 (no)



**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 1985/13 - 3.5.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.03**  
**of 11 October 2017**

**Appellant:** LG ELECTRONICS INC.  
(Applicant) 20, Yeouido-dong  
Yeongdeungpo-gu  
Seoul 150-721 (KR)

**Representative:** Katérle, Axel  
Wuesthoff & Wuesthoff  
Patentanwälte PartG mbB  
Schweigerstraße 2  
81541 München (DE)

**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 15 April 2013  
refusing European patent application  
No. 06018858.8 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** B. Noll  
**Members:** K. Schenkel  
S. Fernández de Córdoba

## **Summary of Facts and Submissions**

- I. This appeal is against the decision of the examining division refusing European patent application No. 06018858.8 with European publication No. EP 1 755 865 A2.
- II. The refusal was based on the ground that the subject-matter of claims 1 to 15 did not involve an inventive step having regard to the disclosure of D1 (US 2003/0097659 A1) and taking into account the common general knowledge of a person skilled in the art.
- III. In the statement of grounds of appeal, the appellant requested that the decision be set aside and that a patent be granted on the basis of the claims of a main request or, in the alternative, of an auxiliary request 1 or an auxiliary request 2, all requests as filed with the statement of grounds of appeal.  
  
The appellant also conditionally requested oral proceedings.
- IV. In a communication accompanying a summons to oral proceedings, the board, without prejudice to its final decision, raised objections under Articles 84, 123(2) and 52(1) in conjunction with 56 EPC against claims 1 and 8 of the main request and of auxiliary requests 1 and 2.
- V. In response to the summons, the appellant filed with a letter dated 11 September 2017 a substantive response together with new sets of claims in the form of a new main request and new auxiliary requests 1 and 2.
- VI. Oral proceedings were held on 11 October 2017.

During the oral proceedings, the appellant filed new auxiliary requests 1 and 2 and a further set of claims as auxiliary request 3.

The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request as filed with the letter dated 11 September 2017 or, in the alternative, of auxiliary request 1, 2 or 3 as filed during the oral proceedings.

At the end of the oral proceedings, after due deliberation, the chairman announced the board's decision.

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

"A method of reproducing broadcast content received by a mobile terminal, the method comprising:

receiving (S120) a first request to delay reproduction of broadcast content in real-time, in response to detecting a first event;

storing (S130) automatically, in a first region (810, 910) of a storage medium (220), first broadcast content received between a time of receiving the first request and a time of receiving a second request to automatically reproduce the first broadcast content, in response to receiving the first request, wherein the second request is received in response to detecting a second event;

reproducing (S150) automatically the first broadcast content stored in the first region in response to receiving the second request;

storing (S170) automatically, in a second region (820, 920) of the storage medium, second broadcast content

received after the time of receiving the second request while the first broadcast content stored in the first region is being reproduced; and

reproducing automatically the second broadcast content stored in the second region after the first broadcast content stored in the first region is reproduced,

wherein the storage medium is divided into the first region (810) and the second region (820) and when either one of the first and second regions (810 or 820) is used for a recording region, the other is used for a reproduction region,

wherein a mode of the first region (810) is changed from a recording mode into a reproducing mode and a mode of the second region (820) is changed into recording mode when the second request is received,

wherein the recording mode is a mode which writes the broadcast content to the storage medium and the reproducing mode is a mode which reads the broadcast content, and

wherein the method further comprises:

receiving a command for moving a reproduction point of the stored broadcast content;

moving the reproduction point by moving a pointer to a location corresponding to the reproduction point in the storage medium; and

reproducing the stored broadcast content from the moved reproduction point."

- VIII. Claim 1 of auxiliary request 1 differs from claim 1 of the main request in that the claim wording from "and" in the fifth paragraph to the end has been replaced by the following:

"reproducing automatically the second broadcast content stored in the second region after the first

broadcast content stored in the first region is reproduced;

deleting the first broadcast content from the first region of the storage medium after the first broadcast content is reproduced; and

discontinuing storing the second broadcast content stored in the second region of the storage medium in response to determining that a predetermined amount of the second broadcast content is deleted from the second region of the storage medium,

wherein the storage medium is divided into the first region (810) and the second region (820), and

wherein, if a file switching process occurs during the reproducing steps:

- while previously recorded broadcast data is reproduced and displayed, broadcast data that is currently received in is recorded such that

-- a mode of a first file (811, 911) contained in the first region is changed from a read mode to a write mode at a reproduction completion point, and

-- a mode of a second file (821, 921) recorded in the second region is changed into a read mode, so that the second file is reproduced and displayed and the currently received broadcast data is recorded using the first file."

IX. Claim 1 of auxiliary request 2 differs from claim 1 of the first auxiliary request 1 in that the following has been added at the end:

", wherein the file switching operation is performed until the reproducing steps are completed:

- when reproduction of the first file contained in the first region is completed, the recorded second file contained in the second region is reproduced, wherein

the received broadcast data is recorded in the first region, and

- when reproduction of the recorded second file contained in the second region is completed, the recorded first file contained in the first region is reproduced, wherein, the received broadcast data is recorded in the second region, [sic] such that:

-- when the first file contained in the first region is reproduced, the first region has a first region (911) being reproduced and a first remaining recordable region (912), and when the second file contained in the second region is recorded, the second region has both a second region (921) that is being recorded and a second remaining recordable region (922),

-- when the first file of the first region is reproduced and the first recorded region does not exist anymore, the file switching operation between the first region and the second region is performed such that, when the first file contained in the first region is recorded, the first region comprises a third region (913) that is being recorded and a fourth region (914) that is being reproduced, and when the second file contained in the second region is reproduced, the second region has both a fifth region (923) that is being reproduced and a previously recorded sixth region (924),

-- when the second file contained in the second region is reproduced, the second region comprises a region that is being reproduced and a remaining recordable region, and when the first file contained in the first region is recorded, the first region has both a region that is being recorded and a remaining recordable region, and

-- when the second file of the second region is reproduced and a recorded region does not exist

anymore, the file switching operation between the first region and the second region is performed such that, when the first file contained in the first region is reproduced, the first region has both a seventh region (915) that is being reproduced and a previously recorded eighth region (916) and when the second file contained in the second region is recorded, the second region comprises a ninth region (925) that is being recorded and a previously reproduced tenth region (926)."

X. Claim 1 of auxiliary request 3 reads as follows:

"A method of reproducing broadcast content received by a mobile terminal, the method comprising:

receiving (S110), in response to a detection of a first event (S120), a first request to delay reproduction of the broadcast content in real-time;

storing (S130), in response to receiving the first request (S140), first broadcast content received between a time when the first request is received and a time when a second request to reproduce the first broadcast content is received, wherein the first broadcast content is stored in a first region of a storage medium;

reproducing (S150), in response to receiving the second request, the first broadcast content stored in the first region of the storage medium;

storing (S150), in a second region of the storage medium, second broadcast content received after the time when the second request is received, until the first broadcast content stored in the storage medium has been entirely reproduced; and

deleting (S170) the first broadcast content from the first region of the storage medium after the first broadcast content is reproduced while maintaining the



second broadcast content in the second region of the storage medium;

wherein the second request is received in response to detection of a second event."

### **Reasons for the Decision**

1. *Main request - claim 1 - added subject matter  
(Article 123(2) EPC)*

1.1 The first five paragraphs of claim 1 substantially correspond to claim 11 as originally filed.

The further features in the last four paragraphs of claim 1 relate to moving a reproduction point in the storage medium upon reception of a corresponding request and reproducing the stored broadcast content from the moved reproduction point. A basis for this feature group can only be found in paragraph [0072] of the description as originally filed (reference is made to the application as published).

The further features in the seventh and eighth paragraphs of claim 1 relate to the storage medium being divided into a first and a second region and, when either one of these regions is used as recording region, to the other one being used as reproduction region. This feature is based on paragraph [0097] of the description as originally filed.

1.2 Paragraph [0072] relates to an embodiment depicted in Fig. 5 and described in paragraphs [0061] to [0073]. In this embodiment, content for time-shifted reproduction is stored in a file on a storage 220. A controller recognises a storage position for data to be recorded and a reproduction position of data reproduced. This

embodiment provides user commands for moving a reproduction point, e.g. "fast-forward", "rewind" or "pause". Paragraph [0097] relates to a different embodiment which is shown in Fig. 8 and described in paragraphs [0098] to [0111]. In this embodiment the recordable region of the storage medium is divided into two regions. During time-shift operation, content to be recorded is stored in one region while content is reproduced in the other region (cf. Figs. 10 and 11) and recording and reproduction of regions are switched when the content in one region has been completely reproduced.

The groups of features added from the description are thus respectively disclosed in relation to separate embodiments. These embodiments are insofar incompatible as it is not clearly and unambiguously disclosed that the user functions for moving a reproduction point may be directly provided in the Fig. 8 embodiment. In the Fig. 8 embodiment the recording region and the reproduction region are mutually preclusive and are only exchanged at a reproduction completion point. An arbitrary move of a reproduction point by the user in particular to content in the recording region would therefore be in conflict with the rule for switching regions at a reproduction completion point.

The reference to Fig. 5 in paragraph [0100] cannot resolve this incompatibility, since this reference relates only to the storage of the broadcast data and not to user input commands for moving a reproduction point. This reference therefore cannot support a general interchangeability of features between the embodiments.

The claims as originally filed do not provide a basis for a combination of the features in question either. Features regarding the movable reproduction point were not addressed by the claims as originally filed.

- 1.3 There is therefore no clear and unambiguous disclosure for the subject-matter of claim 1 in the application documents as filed. The board therefore concludes that claim 1 of the main request includes subject-matter which extends beyond the content of the application as filed (Article 123(2) EPC). The main request is therefore not allowable.

2. *Auxiliary requests 1 and 2 - claim 1 - clarity (Article 84 EPC)*

- 2.1 The conditional wording "if a file switching process occurs" in the fourth paragraph from the end of auxiliary request 1 introduces a lack of clarity (Article 84 EPC) for the following reasons:

It implies that the subsequent steps are carried out if this particular case arises. It remains however unclear when or under which circumstances file switching occurs. There is no link between this condition and other features in claim 1 which could clarify these circumstances.

If file switching occurs, claim 1 further specifies in the penultimate paragraph that a mode of the first file is changed from a read mode to a write mode at a reproduction completion point. However, a switching point is understood in the description as being the point in the reproduced region at which file switching occurs because "a recorded region does not exist any more" (cf. paragraph [0105]). The wording in claim 1

therefore reverses the link between reaching a reproduction completion point as a cause and triggering a file switching as an effect.

2.2 The appellant argued that the features in the last four paragraphs of claim 1 provided further details for the feature group in the third to sixth paragraphs. A link between these feature groups was established by the wording in the last two paragraphs of claim 1 indicating that a first file was contained in the first region and a second file was recorded in a second region and that first and second regions were also referred to in the third to sixth paragraphs.

2.3 The board disagrees. In the third to sixth paragraphs it is stated that first and second broadcast content is stored in first and second regions, respectively. The last two paragraphs however refer to first and second files. The claim wording may be understood as meaning that in the first (second) region first (second) broadcast content is stored as well as a first (second) file, and that the file switching specified in the last four paragraphs of the claim is a separate process distinct from the change of first to second regions for reproducing content as specified in the third to sixth paragraphs. In this respect it is further noted that the term "broadcast data" used in the last four paragraphs suggests a different meaning from "broadcast content" in the third to sixth paragraphs.

2.4 For the above reasons, claim 1 of auxiliary request 1 lacks clarity (Article 84 EPC).

2.5 Claim 1 of auxiliary request 2 includes the same wording as that objected to at points 2.1 to 2.4 above

for introducing lack of clarity into claim 1 of auxiliary request 1.

Claim 1 of auxiliary request 2 therefore lacks clarity (Article 84 EPC) for the same reasons.

2.6 Auxiliary requests 1 and 2 are therefore not allowable.

3. *Auxiliary request 3 - admissibility*  
*(Article 13(3) RPBA)*

3.1 Auxiliary request 3 was filed during the oral proceedings.

3.2 As regards a basis for claim 1 in the application documents as filed, the appellant referred in general terms to paragraphs [0089] to [0093] and [0095]. In particular, it argued that the feature "deleting (170) the first broadcast content from the first region of the storage medium after the first broadcast content is reproduced" had a basis in paragraph [0093].

3.3 However, it is immediately clear from its wording that paragraph [0093] of the description is of no relevance to the deletion of broadcast content from a region of the storage medium. Hence, paragraph [0093] cannot serve as a basis for this feature.

3.4 Amendments to a party's case after the statement of grounds of appeal has been filed are governed by Article 13 RPBA.

In accordance with Article 13(3) RPBA, amendments sought to be made after oral proceedings have been arranged are not admitted if they raise issues which the board or the other party or parties cannot

reasonably be expected to deal with without adjournment of the oral proceedings

In the present case, the board came to the conclusion that the parts of the application as filed indicated by the appellant cannot serve as a basis for claim 1 to comply with the requirements of Article 123(2) EPC.

The board further held that in the present case a full examination of claim 1's compliance with Article 123(2) EPC could not reasonably be expected to be performed without adjournment of the oral proceedings.

3.5 For the above reasons, the board decided not to admit auxiliary request 3 under Article 13(3) RPBA.

4. *Conclusion*

As there is no allowable request, it follows that the appeal is to be dismissed.

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



G. Rauh

B. Noll

Decision electronically authenticated