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**Datasheet for the decision
of 18 October 2016**

Case Number: T 2322/13 - 3.5.06

Application Number: 06123324.3

Publication Number: 1785904

IPC: G06F21/00

Language of the proceedings: EN

Title of invention:

Digital rights management method and system

Applicant:

Samsung Electronics Co., Ltd.

Headword:

Modifying digital rights/SAMSUNG

Relevant legal provisions:

EPC 1973 Art. 56

Keyword:

Inventive step - all requests (no)

Decisions cited:

Catchword:



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Chambres de recours

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Case Number: T 2322/13 - 3.5.06

D E C I S I O N
of Technical Board of Appeal 3.5.06
of 18 October 2016

Appellant: Samsung Electronics Co., Ltd.
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Representative: Grootsholten, Johannes A.M.
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted on 2 July 2013 refusing European patent application No. 06123324.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman W. Sekretaruk
Members: M. Müller
A. Teale

Summary of Facts and Submissions

- I. The appeal lies against the decision of the examining division, with reasons dispatched on 2 July 2013, to refuse European patent application No. 06 123 324.3 because the main and auxiliary requests lacked clarity and the auxiliary request contained subject-matter which extended beyond the content of the application as originally filed. In a section entitled "Further Remarks", the decision also contains arguments as to why the claimed subject-matter lacked inventive step over a document referred to as D1.
- II. Notice of appeal was filed on 2 September 2013, the appeal fee being paid on the same day. A statement of grounds of appeal was filed on 16 October 2013. The appellant requests that the decision be set aside and that a patent be granted based on claims 1-19 according to a main or one of four auxiliary requests filed with the grounds of appeal, in combination with description pages 1-19, of which separate versions were also filed with the grounds of appeal for each request, and drawing sheets 1-10 as originally filed.
- III. Claim 1 of the *main request* reads as follows:
- "A Digital Rights Management (DRM) method comprising:
modifying a Rights Object (RO) by a DRM playback device (300, 350);
transmitting, by the DRM playback device (300, 350), the Rights Object (RO) modified by the DRM playback device (300, 350) to a Rights Object (RO) issuance authority (400, 450); and
receiving and storing, by the Rights Object (RO) issuance authority (400, 450), the Rights Object (RO)

modified by the DRM playback device (300, 350) at the Rights Object (RO) issuance authority (400, 450),

characterized in that:

the DRM playback device (300, 350) comprises no non-volatile storage to permanently store a Rights Object (RO) whose status can be changed, after the status of the Rights Object has been modified by the DRM playback device (300, 350);

transmitting, by the DRM playback device (300, 350), the Rights Object (RO) modified by the DRM playback device (300, 350) to a Rights Object (RO) issuance authority (400, 450) is performed without storing the Rights Object (RO) modified by the DRM playback device (300, 350) in the DRM playback device (300, 350); and by

requesting, by the DRM playback device (300, 350), the Rights Object (RO) modified by the DRM playback device (300, 350) and stored at the Rights Object (RO) issuance authority (400, 450), and

extracting, by the Rights Object (RO) issuance authority (400, 450), the Rights Object (RO) modified by the DRM playback device (300, 350) and stored at the Rights Object (RO) issuance authority (400, 450), and transmitting, by the Rights Object (RO) issuance authority (400, 450), the requested and extracted Rights Object (RO) modified by the DRM playback device (300, 350) and stored at the Rights Object (RO) issuance authority (400, 450), to the DRM playback device (300, 350)."

- IV. Claim 1 of the *first and fourth auxiliary requests*, respectively, differs from claim 1 of the main request in that the feature that "the DRM playback device (300, 350) comprises no non-volatile storage to permanently store a Rights Object (RO) whose status can be changed, after the status of the Rights Object has been modified

by the DRM playback device (300, 350)" has been deleted, and in that the "transmitting" step has been amended. In claim 1 of the *first auxiliary request*, it reads as follows (emphasis by the board: additions being underlined, deletions being struck out):

"... transmitting, by the DRM playback device (300, 350), the Rights Object (RO) whose status can be changed and after the status thereof has been modified by the DRM playback device (300, 350) to a Rights Object (RO) issuance authority (400, 450) ~~is performed~~ without storing the Rights Object (RO) of which the status has been modified by the DRM playback device (300, 350) in the DRM playback device (300, 350) ..."

In the *fourth auxiliary request* it is further amended to read:

"... transmitting, by the DRM playback device (300, 350), the Rights Object (RO) modified by the DRM playback device (300, 350) to a Rights Object (RO) issuance authority (400, 450) ~~is performed without storing the Rights Object (RO) modified by the DRM playback device (300, 350) in the DRM playback device (300, 350)~~ ..."

V. Claim 1 of the *second auxiliary request* differs from that of the main request by the insertion before the "transmitting" step of an "acquiring" step, which reads as follows:

"... acquiring, using a DRM agent (320) of the DRM playback device (300, 350), a path for a location at which the Rights Object (RO) will be stored at the Rights Object (RO) issuance authority (400, 450); ...".

Moreover, in the "transmitting" step, the expression "is performed" has been deleted and the indefinite article "a" in the phrase "a Rights Object (RO) issuance authority" has been replaced by "the".

- VI. Claim 1 of the *third auxiliary request* is identical to claim 1 of the second auxiliary request with the "non-volatile storage" feature deleted (see above point IV, first paragraph).
- VII. All requests also comprise corresponding independent claims to a digital rights management *system* and to a computer-readable *storage medium* storing program code for executing the DRM method.
- VIII. In the annex to a summons to oral proceedings, the board informed the appellant about its preliminary opinion that the claimed invention lacked inventive step over both D1 and the prior art cited in the application itself, Article 56 EPC 1973. Clarity objections were also raised, Article 84 EPC 1973.
- IX. In response to the summons, neither amendments nor arguments were filed. Rather, the representative informed the board in the letter dated 24 August 2016 that he had received instructions from the applicant not to file any amendments and not to attend the scheduled oral proceedings. Accordingly, at the oral proceedings on 18 October 2016 the appellant was not represented.
- X. At the end of the oral proceedings, the chairman announced the decision of the board.

Reasons for the Decision

The appellant's absence from the oral proceedings

1. The appellant was duly summoned but chose not to attend the oral proceedings. According to Article 15(3) RPBA, the board is not 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. The following reasons are based on the board's preliminary opinion as set out in the annex to the summons to oral proceedings.

The invention

2. The application relates to digital rights management systems in which digital content can be freely distributed in encrypted form and can be accessed by a "playback unit" (henceforth termed a "player" for simplicity) if a suitable "rights object (RO)" is also available (see page 2, last paragraph).
 - 2.1 The RO may be an XML document (see figures 2C and 4) defining what the player is allowed to do with the content. In addition, it may contain a key that allows the player to decrypt and use the content (see page 5, paragraph 1).
 - 2.2 The RO may define exhaustible rights, such as the number of times a piece of content may be played. Monitoring and enforcing such a right requires that the status of the player vis-à-vis this right is stored (e.g. the remaining number of allowed uses).

- 2.3 If this status is stored in the RO, the player "must have a non-volatile storage device" (see page 5, last paragraph), but there are players "where the non-volatile storage device does not exist" (*loc. cit.*).
- 2.4 As a solution to this problem, the invention proposes that the RO issuance authority store the modified RO on behalf of the player, which may later have to request and retrieve the modified RO from the RO issuance authority.
- 2.5 The application discloses "two types of storage methods" (see page 10, penultimate paragraph; page 13 to page 14, paragraph 1), but the claims relate specifically only to the first method. According to this method, the "DRM agent" in the player "functions to acquire a path for a location at which the RO will be stored" (page 11, penultimate paragraph). In the board's understanding, this "path" may be a URL which is said to be "set [...] using a method of adding the value of the element for the URL to an XML schema for the changed RO" (see page 13, lines 7-9 and 15-18).

The prior art

3. The board understands the description as stating that digital rights management systems (and corresponding methods) were known which used rights objects to control playback units when accessing encrypted DRM content (see page 3, penultimate paragraph, to page 5, paragraph 2). It is further understood as stating that it was known that rights may define a number of allowed uses and thus have "changeable status information" (page 5, lines 22-27) and that there were "cases where the non-volatile storage device" necessary to store the

modified RO with the "changeable status information" at the player "[did] not exist" (page 5, lines 29-32).

4. In the annex to its summons, the board informed the appellant of its understanding that systems with the cited features were prior art for the present application. The appellant has not challenged this understanding. The board will therefore start its inventive step assessment from such a known digital rights management system.
5. Accordingly, the disclosure of D1 is immaterial for this decision.

Clarity, Article 84 EPC 1973, and claim interpretation

6. The decision (reasons 7.1 and 7.2) found the claimed features to be unclear according to which the player
 - i) "comprises no non-volatile storage, to permanently store a Rights Object (RO) whose status can be changed, after the status of the Rights Object has been modified" and
 - ii) "transmit[s ...] the Rights Object (RO) modified by the" player "to a Rights OPbject (RO) issuance authority [...] without storing [it ...]" in the player.
- 6.1 In the summons, the board gave reasons why it tended to agree with the examining division that features i) and ii) lacked clarity.
- 6.2 According to the board's understanding, it is crucial for the invention that the modified RO is stored at the RO issuance authority so that it *need not be* stored

locally at the player. This allows the use of players which *cannot* store the modified RO locally, but also of players which simply *do not*, even though they might have suitable local storage. From this perspective, the potential lack of clarity of features i) and ii) is secondary to the lack of inventive step of the independent claims as a whole. Therefore, the board leaves this issue open.

6.3 For the purposes of the following analysis, the board interprets feature i), based on the description on page 5, lines 29-32, as meaning that the player has *no non-volatile storage whatsoever*, and feature ii) as meaning that the rights object is not stored *permanently* in the player, but is, for permanent storage, transmitted to the RO issuance authority.

7. In the summons, the board also addressed a potential lack of clarity caused by the feature stating that "a path for a location" is "acquired" by the DRM agent. For the purposes of the following analysis, and on the basis of the disclosure on page 11, paragraph 4, the board interprets this phrase as meaning that the path is "generated" according to some local computations.

Article 123(2) EPC

8. The board disagrees with the objection under Article 123(2) EPC raised in the decision (reasons 8), according to which the feature "acquiring, using a DRM agent of the DRM playback device, a path for a location at which the Rights Object will be stored in a Right Object issuance authority" extends beyond the content of the application as originally filed. The board is satisfied that the cited features are originally disclosed in paragraph 4 on page 11, in combination

with the fact that the modified RO is stored in, and retrieved from, the RO issuance authority (see e.g. page 13, lines 7-11).

Inventive step, Article 56 EPC 1973

9. As stated above, the board considers that the most appropriate starting point for assessing inventive step is the prior art discussed in the description.
- 9.1 The claimed invention differs from this prior art in that the "changeable status information", in the simplest case a counter value denoting the remaining number of allowed uses, was not and could not be stored in the player as part of the modified RO.
- 9.2 In its grounds of appeal, the appellant gave reasons why it considered that the invention solved a technical problem. Specifically, it argued that the "technical problem solved underlying the novel features" was "safeguarding the rights of the content proprietor, while securing that a user also is provided with the actual usage that the user has acquired" (page 7, paragraph 2). The board agrees that this is a suitable objective technical problem to be considered.
- 9.3 If a player cannot store the modified RO, it is self-evident that it must be stored elsewhere, external to the player device. Otherwise, the user would lose rights that had been paid for.
- 9.4 The board considers that it would be an entirely obvious choice for the skilled person to store the modified RO in the same place from which the initial RO was obtained, i.e. the RO issuance authority. This

solves the second part of the problem proposed by the appellant.

- 9.5 The board also considers it to be evident from the DRM context that the terminal device would have to later request the modified RO. Otherwise, the rights expressed by the modified RO could not be properly enforced at the terminal device. This solves the first part of the problem proposed by the appellant.

10. In the board's view, this shows that the skilled person would, starting from the prior art in the application, have arrived at the subject-matter of claim 1 according to the main request without exercising an inventive step.

11. Moreover, the board considers that this assessment also applies to claim 1 of all auxiliary requests for the following reasons.
 - 11.1 The deletion of the "non-volatile storage" feature from the first, third and fourth auxiliary request cannot change the inventive step assessment (see points IV, VI, 6.i) and 6.3 above).

 - 11.2 Likewise, the amendment of the "transmitting" step according to the first and fourth auxiliary requests does not change the board's interpretation of the claimed subject-matter and therefore does not affect the inventive step assessment either (see points V, 6.2 and 6.3 above).

 - 11.3 With regard to the second and third auxiliary requests, the board notes the following: in order to enable the terminal device to request the currently valid modified RO, its location must be made available to the terminal

device. Doing this in terms of "acquiring [...] a path for a location" at which it "will be stored" is, in the board's view, an obvious solution to guarantee this.

12. As a consequence, none of the requests involves the required inventive step over the prior art in the application, Article 56 EPC 1973.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



B. Atienza Vivancos

W. Sekretaruk

Decision electronically authenticated