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**Datasheet for the decision
of 22 May 2019**

Case Number: T 2025/15 - 3.5.03

Application Number: 12158856.0

Publication Number: 2637327

IPC: H04H60/04, H05B37/02

Language of the proceedings: EN

Title of invention:

Audio mixing console with lighting control and method of mixing by means of a mixing console

Applicant:

Harman International Industries Ltd.

Headword:

Audio mixing console with lighting control/HARMAN

Relevant legal provisions:

EPC Art. 52(1), 56
RPBA Art. 12(4)

Keyword:

Inventive step - main request (no)
Late-filed request - request could have been filed in first instance proceedings (yes) - first and second auxiliary requests



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Case Number: T 2025/15 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 22 May 2019

Appellant: Harman International Industries Ltd.
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 2 June 2015
refusing European patent application No.
12158856.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman F. van der Voort
Members: J. Eraso Helguera
J. Geschwind

Summary of Facts and Submissions

- I. An appeal was lodged by the applicant against the decision of the examining division refusing European patent application No. 12158856.0 with publication number EP 2 637 327 A1. The refusal was based on the ground that the subject-matter of claims 1 to 15 as originally filed lacked an inventive step having regard to a combination of the cited prior art and the common general knowledge of the person skilled in the art (Articles 52(1) and 56 EPC).

- II. In the statement of grounds of appeal, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims as originally filed (main request) or, in the alternative, on the basis of either a first or a second auxiliary request, both filed with the statement of grounds of appeal. Oral proceedings were conditionally requested.

- III. In a communication accompanying a summons to oral proceedings, the board gave its preliminary opinion that the subject-matter of the independent claims 1 and 11 of the main request appeared to be not new having regard to the disclosure of document D3 (US 2005/077843 A1) and informed the appellant that, if the subject-matter were held to be new, it would be necessary at the oral proceedings to discuss inventive step. Further, the admissibility of the auxiliary requests would, if necessary, be discussed.

IV. With its response to the summons, the appellant informed the board that it would not attend the oral proceedings.

Oral proceedings were held on 22 May 2019 in the absence of the appellant (Rule 115(2) EPC and Article 15(3) RPBA).

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

V. Claim 1 of the **main request** reads as follows:

"A mixing console (1) having a housing (1b), the mixing console (1) comprising:

- a plurality of audio interfaces (5a) arranged on the housing (1b) and being respectively configured for inputting or outputting of audio signals (50a, 50b),
- an audio processing module (2) arranged within the housing (1b) and being configured to control audio signal properties by processing of the plurality of audio signals (50a, 50b),
- a lighting interface (5b) arranged on the housing (1b) and being configured to output a lighting control signal (51) to a lighting system (102),
- a light processing module (3) arranged within the housing (1b) and being configured to generate the lighting control signal (51) to control lighting properties of the lighting system (102),
- a plurality of actuation elements (20-28) arranged on the housing (1b), wherein each of the plurality of actuation elements (20-28) is selectively coupled to the audio processing module (2) and / or the light processing module (3) for controlling of the audio signal properties and / or the lighting properties."

VI. Claim 1 of **auxiliary request 1** is identical to claim 1 of the main request, except that at the end of the claim the following wording is added:

"wherein combined control of the audio signal properties and the lighting properties is assigned to a given one of the plurality of actuation elements".

VII. Claim 1 of **auxiliary request 2** is identical to claim 1 of the main request, except that at the end of the claim the following wording is added:

"wherein the plurality of actuation elements (20-28) comprise a fader (20),
- a control user interface (41) configured to allow user-defined assignment of combined control of the lighting properties and the audio signal properties to the fader (20)".

Reasons for the Decision

1. *Main request: claim 1 - inventive step*

1.1 The subject-matter of claim 1 of the main request does not involve an inventive step (Articles 52(1) and 56 EPC) having regard to the disclosure of document D3, for the following reasons:

1.2 D3 discloses a mixing console (see paragraph [0015]: "*show controller system with computer, mixer, and amplification integrated into foot pedal*") having a housing (see Fig. 6: housing 12), the mixing console comprising:
- a plurality of audio interfaces (Fig. 6: see reference signs 29, 30, connected to loudspeakers 27 and 26 via speaker cables 24, 25) arranged on the

housing and being respectively configured for outputting of audio signals,

- an audio processing module (Fig. 6, circuit board 16) arranged within the housing and being configured to control audio signal properties by processing of a plurality of audio signals (paragraph [0037]: *"all control and audio playback, mixing, and amplification functions are done by electronic circuitry on circuit board 16"*),

- a lighting interface (paragraph [0019] and Fig. 6, light connector port 15) arranged on the housing and being configured to output a lighting control signal to a lighting system,

- a light processing module (paragraph [0019] and Fig. 6, circuit board 16) arranged within the housing and being configured to generate the lighting control signal to control lighting properties of the lighting system,

- a plurality of actuation elements (Fig. 6: switches 13A to 13E) arranged on the housing, wherein each of the plurality of actuation elements is coupled to the audio processing module and/or the light processing module for controlling of the audio signal properties and/or the lighting properties (paragraphs [0024], [0029], [0030] and [0032]).

1.3 The subject-matter of claim 1 of the main request differs from the known mixing console in that each of the plurality of actuation elements is selectively coupled to the audio processing module and/or the light processing module.

1.4 The embodiment shown in Fig. 6 of D3 is a show controller which is an autonomous unit "with computer, mixer, and amplification integrated into foot pedal" (paragraph [0015]). For this specific

embodiment, D3 does not describe how the assignment of each of the switches 13A to 13E to their different functions is achieved. However, in connection with the preceding embodiments, D3 describes the software which is used to control the show (see paragraphs [0023] to [0033] and Figs 4A and 4B; i.a. creating a play list and opening a playlist for feedback) and the firmware which resides on circuit board 16 as having two functions, namely "to receive light data from computer 11 and relay it as DMX512 data out light connector 15" and "to detect switch 13A thru 13F presses and relay a corresponding command to computer 11 so that computer 11 may react to the command sent" (see paragraphs [0034] and [0035] and Fig. 5).

- 1.5 Hence, in these preceding embodiments, the functionality of each switch is selectively defined in software, be it the firmware residing on the circuit board 16 which sends the command and/or in the software used to control the show, which receives the command. Further, the relationship between lighting properties and audio signal properties is defined by the user as of the creation of a play list (see paragraph [0024]).

- 1.6 The skilled person faced with the task of implementing the autonomous unit shown in Fig. 6 of D3 would thus, by studying the technical details given in respect of the preceding embodiments, realise that the assignment of switches to respective functionalities need not be hard-wired, but could instead be selectively defined by the firmware residing on the circuit board 16 and/or by the program run by the computer 11. Furthermore, since the autonomous unit embodiment integrates the features of both the computer 11 and the circuit board 16, it would have been obvious to the skilled person to use the firmware or software within the autonomous unit for

selectively coupling each of the plurality of actuation elements to the audio processing module and/or the light processing module. In doing so, the skilled person would arrive at a mixing console which includes all the features of claim 1, without the exercise of inventive skill.

1.7 The subject-matter of claim 1 of the main request does not therefore involve an inventive step (Articles 52(1) and 56 EPC).

1.8 The main request is therefore not allowable.

2. *First and second auxiliary requests*

2.1 In accordance with Article 12(4) of the Rules of Procedure of the Boards of Appeal (RPBA), the board has the discretion to not admit requests which could have been presented in the first instance proceedings. In this respect, the board notes that the main purpose of the appeal proceedings is to examine the correctness of the impugned decision and not to provide an opportunity to submit new requests not previously examined.

2.2 Claim 1 of the first auxiliary request comprises additional features allegedly extracted from the description, whilst claim 1 of the second auxiliary request comprises additional features allegedly based on dependent claims 4 and 5 as originally filed and the description. The board notes that the applicant did not file any amendments at any stage during the proceedings before the first instance. It was therefore clear that the applicant did not wish to submit any further amendments or requests in the first instance proceedings, including a request based on the subject-matter of dependent claims.

- 2.3 The first and second auxiliary requests having been filed with the statement of grounds of appeal, it is also clear that they cannot be considered a reaction to issues raised by the board in the communication accompanying the summons to oral proceedings.
- 2.4 Hence, the first and second auxiliary requests could and should have been presented in the first instance proceedings.
- 2.5 In view of the above, exercising its discretion pursuant to Article 12(4) RPBA, the board did not admit these requests into the appeal proceedings.
3. As there is no allowable request, the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



G. Rauh

F. van der Voort

Decision electronically authenticated