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**Datasheet for the decision
of 15 November 2021**

Case Number: T 1739/17 - 3.5.03

Application Number: 12839590.2

Publication Number: 2767067

IPC: H04L29/06, H04N21/236,
H04N21/643

Language of the proceedings: EN

Title of invention:

Apparatus and method for transmitting multimedia data in hybrid network

Applicant:

Samsung Electronics Co., Ltd.

Headword:

Multimedia data in hybrid networks/SAMSUNG

Relevant legal provisions:

EPC Art. 78(1)(c)

EPC R. 103(4)(c)

RPBA Art. 12(4)

RPBA 2020 Art. 12(8)

Keyword:

Decision in written proceedings: cancellation of hearing following appellant's announcement of non-attendance
Admittance of request filed with the grounds of appeal - main request - (no): "fresh case"



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Case Number: T 1739/17 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 15 November 2021

Appellant: Samsung Electronics Co., Ltd.
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 6 March 2017
refusing European patent application
No. 12839590.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair K. Bengi-Akyürek
Members: J. Eraso Helguera
C. Almberg

Summary of Facts and Submissions

- I. The appeal was lodged against the decision of the examining division to refuse the present European patent application for lack of novelty (Article 54 EPC) and an inventive step (Article 56 EPC) with respect to the claims of a main request, and for added subject-matter (Article 123(2) EPC) and lack of clarity (Article 84 EPC) with respect to the claims of each of three auxiliary requests.
- II. The appellant requests that the decision under appeal be set aside and that a patent be granted on the basis of the claims of a **main request** filed with the statement of grounds of appeal.
- III. In a communication pursuant to Article 15(1) RPBA 2020, the board stated its negative preliminary opinion on the admittance of the main request into the appeal proceedings.
- IV. In their reply to the board's communication, the appellant informed the board that they would not be represented at the oral proceedings and that they expected a written decision. They did not submit any comments on the substance of the board's communication.
- V. The board then cancelled the scheduled oral proceedings.
- VI. Claim 1 of the **main request** reads as follows:

"A method for transmitting media data in a multimedia system, the method comprising: identifying an MPEG media transport media fragment unit, MFU (100),

the MFU being fragmented from an MPEG media transport media unit, M-unit (110), wherein the M-unit is corresponded to an encoding handling unit to be independently decoded;

generating at least one multimedia data packet (140) including a packet header, a payload header, and a payload (150, 160) comprising the media data; and

transmitting the at least one multimedia data packet to a receiving entity,

wherein the payload header includes a payload type indicating that a plurality of MFUs are included in the payload,

wherein the media data is transmitted using a streams mode or a file delivery mode, and

wherein if the media data is transmitted using the file delivery mode, a payload header for the file delivery mode includes a content related parameter for indicating an asset, the asset comprising at least one M-unit."

Reasons for the Decision

1. *Decision in written proceedings*

1.1 According to established case law, where oral proceedings are appointed upon a party's request and that party subsequently expresses its intention not to attend, such statement is normally considered to be equivalent to a withdrawal of the request for oral proceedings.

1.2 As the board does not consider holding oral proceedings to be expedient or necessary in this case (cf. Article 116(1) EPC), these were cancelled and a

decision was handed down in written proceedings (Article 12(8) RPBA 2020).

1.3 Given that the appellant's indication of non-attendance was not submitted within one month of notification of the board's communication under Article 15(1) RPBA 2020, the appeal fee cannot be partially reimbursed under Rule 103(4) (c) EPC.

2. MAIN REQUEST

Claim 1 of the **main request** comprises the following limiting features (amendments vis-à-vis claim 1 of the main request subject to the appealed decision highlighted by the board):

A method for transmitting media data in a multimedia system, the method comprising:

- (a) identifying an MPEG media transport media fragment unit, MFU, ~~wherein the MFU is an encoding slice or one slice when the frame includes a plurality of slices,~~ the MFU being fragmented from an MPEG media transport media unit, M-unit,
- (b) wherein the M-unit is ~~a frame unit or a Group of Picture unit~~ corresponding to an encoding handling unit to be independently decoded;
- (c) generating at least one multimedia data packet including a packet header, a payload header, and ~~region of a payload and the payload~~ comprising the media data;
- (d) transmitting the at least one multimedia data packet to a receiving entity,
- (e) wherein the payload header ~~region~~ includes a payload type indicating if that a plurality of MFUs are included in the payload ~~a type of data included~~

~~in the payload is a single, not divided, MFU, and
an aggregation of a plurality of MFUs,~~

- (f) wherein the media data is transmitted using a streams mode or a file delivery mode,
- (g) wherein if the media data is transmitted using the file delivery mode, a payload header for the file delivery mode includes a content related parameter for indicating an asset, the asset comprising at least on M-unit.

2.1 *Admittance into the appeal proceedings (Article 12(4) RPBA 2007)*

2.1.1 Claim 1 of the present main request is said to correspond to claim 1 of the main request subject to the impugned decision. Amendments made were indicated in the marked-up version and the suggested bases in the application as published were the following:

- paragraph [25] for **features (a) and (b)**,
- paragraphs [25], [47] and [49] for **feature (f)**,
- paragraph [56] and [57] for **feature (g)**.

2.1.2 As an introductory remark, it should be recalled that the purpose of the appeal proceedings is not to examine subject-matter which is substantially different from that considered by the department of first instance, let alone to provide the appellant with the opportunity to tidy up and broaden claims at will. On the contrary, the primary object of the appeal proceedings is to review the decision under appeal in a judicial manner (see Article 12(2) RPBA 2020).

2.1.3 In accordance with Article 12(4) RPBA 2007, the board has the power to hold inadmissible requests which could have been presented in the first-instance proceedings.

2.1.4 Notwithstanding the fact that the extensive rewording of present claim 1 would require an assessment by the board for the very first time, with respect to the requirements of Article 84 and 123(2) EPC, the appellant's case on novelty and inventive step presented in the statement of grounds of appeal is now based on the presence of new **features (f) and (g)**. Thus, the appellant apparently endorses the conclusions drawn in the decision under appeal for the then pending claim 1. Likewise, the board sees no prejudicial errors in the assessment by the examining division.

The merits of those features, which could arguably be related to similar features appearing in claim 1 of the *third auxiliary request* subject to the appealed decision, were **never discussed or decided upon** during the examination proceedings. Instead of arguing why the examining division erred when considering that the *third auxiliary request* did not comply with the requirements of Articles 84 and 123(2) EPC, the appellant now turns to the board with a different subject-matter ("fresh case"), which would require examination from the ground up, and which could **and should** have been presented in the first-instance proceedings.

2.2 In view of the above, the board did not admit the **main request** into the appeal proceedings (Article 12(4) RPBA 2007).

3. As there is no admissible set of claims on file (cf. Article 78(1)(c) EPC), it follows that the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



B. Brückner

K. Bengi-Akyürek

Decision electronically authenticated