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**Datasheet for the decision
of 5 October 2021**

Case Number: T 1713/18 - 3.5.07

Application Number: 08105447.0

Publication Number: 2051173

IPC: G06F17/30

Language of the proceedings: EN

Title of invention:

System and method for dynamic content insertion from the Internet into a multimedia work

Applicant:

Bellevue Investments GmbH & Co. KGaA

Headword:

Dynamic content insertion/BELLEVUE

Relevant legal provisions:

EPC Art. 123(2)

Keyword:

Amendments - extension beyond the content of the application as filed (yes)



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Case Number: T 1713/18 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 5 October 2021

Appellant: Bellevue Investments GmbH & Co. KGaA
(Applicant) Quedlinburger Straße 1
10589 Berlin (DE)

Representative: Bellevue Investments GmbH & Co. KGaA
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 16 February
2018 refusing European patent application No.
08105447.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair J. Geschwind
Members: C. Barel-Faucheux
P. San-Bento Furtado

Summary of Facts and Submissions

- I. The appellant (applicant) filed an appeal against the examining division's decision refusing European patent application No. 08105447.0, which was published as EP 2 051 173 A2.
- II. The examining division refused the application, *inter alia*, because claim 1 of the sole request did not comply with the requirements of Article 123(2) EPC. The appellant did not attend the oral proceedings before the examining division.
- III. With 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 an amended set of claims.
- IV. In a communication, the board informed the appellant that the requirements of Article 123(2) EPC did not appear to be met, *inter alia*.
- V. By letter of 29 September 2021, the appellant informed the board that it did not intend to attend the oral proceedings and that it was aware that the oral proceedings would be held either way. The appellant did not make any further submissions.
- VI. Oral proceedings were held in the appellant's absence. At the end of the oral proceedings, the Chair announced the board's decision.
- VII. The appellant's final requests were that the decision under appeal be set aside and that a patent be granted

on the basis of the claims filed with the grounds of appeal.

VIII. Claim 1 of the sole request reads as follows:

"A method of creating a digital multimedia work, comprising the steps of:

- (a) activating a multimedia editing program having an Internet browsing function integral thereto;
- (b) creating a version of said digital multimedia work within said program;
- (c) within said program, activating said Internet browser function;
- (d) within said program, selecting a position of a notification bar representing a point in time within a timeline of said version of said digital multimedia work;
- (e) using said Internet browser function to navigate to a web site;
- (f) displaying at least a portion of said web site to a user using said Internet browser function;
- (g) automatically analyzing said displayed portion of said web site and extracting the contained media items and the media type of the media items;
- (h) presenting to a user a representation displaying said extracted media items;
- (i) requiring said user to select at least one of said media items from said representation of said extracted media items thereby selecting at least one media item;
- (j) analyzing source code associated with said selected media item;
- (k) in response to said analysis, determining if said selected media item is downloadable or extractable,
(k1) upon determining that said media item is downloadable or extractable, automatically downloading said selected media item. [sic]

- (k2) upon determining that said media item is not downloadable and depending upon said media type of said media item, instructing the user to initiate playback of said selected media item;
- and,
- (k3) automatically capturing at least one representation of said selected media item during said playback;
- (k4) assembling a media item from said captured at least one representation of said selected media item, wherein said media item has the same media type as said selected media item and is resembling said selected media item;
- (l) using said program to automatically incorporate said downloaded or assembled media item into said version of said digital multimedia work at said position of a notification bar without, [sic] thereby creating said digital multimedia work; and,
- (m) storing said digital multimedia work on a computer readable medium."

IX. The appellant's arguments, where relevant to this decision, are addressed in detail below.

Reasons for the Decision

The application

1. The application relates to a method for multimedia editing which provides for dynamic and automatic content insertion from the internet. A multimedia editing program with an embedded browsing interface is provided, which the user can utilise to navigate to and select content from an Internet website. Depending on the type of the multimedia data, a series of steps are

performed which will automatically extract the selected data from the website, convert it to a format that is supported by the multimedia editing application, and insert the converted content into the current multimedia project. These steps will preferably be largely invisible to the user, i.e., the steps will be performed automatically and the user will preferably not be informed as these steps are executed (paragraphs [0013] and [0014] of the application as originally filed).

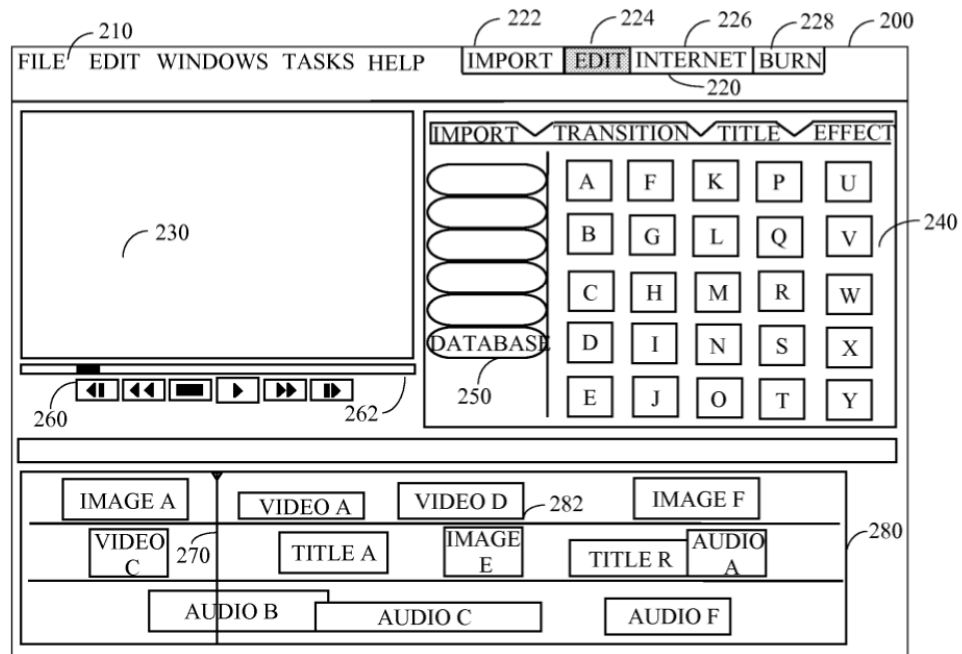
Article 123(2) EPC

2. The examining division was of the opinion that the feature "selecting an insertion location representing a point in time within a timeline" ["of said version of said digital multimedia work"] in the previous claim 1 of the sole request did not have a basis in the application as originally filed and therefore constituted added subject-matter.

This feature has been amended to "selecting a position of a notification bar representing a point in time within a timeline of said version of said digital multimedia work" in the present claim 1 (see feature (d)).

The appellant has indicated paragraphs [0060], [0068] and [0080] as the basis for this amendment.

For the sake of clarity of the following analysis, Figure 2 is reproduced below:



The board notes that paragraph [0060] of the application as originally filed describes that the notification bar 270 indicates the current position of the editing process in the multi-track arrangement. Paragraph [0068] describes that the content is inserted at the current editing position illustrated by the notification bar 270. According to paragraph [0080], after a conversion process, the content will be inserted into the multimedia work at the current editing position.

These passages provide a basis for "selecting a position of a notification bar representing a point in time within a timeline of said version of said digital multimedia work representing a current editing position for inserting content" (emphasis added by the board). It has to be noted that the board also considered related disclosures of inserting content in

paragraphs [0055] ("the user will [...] be able to control the font [...] of the text that is to be inserted as well as the time at which it is inserted"), [0067] (the highlighted notification bar 270 depicts the current status of the editing process), [0074] (inserting content into one or more tracks of the editing program at the current editing position) and [0075] (inserting the extracted and converted content at the selected time location in the multimedia work).

Feature (1) of claim 1 specifies a step of incorporating said downloaded or assembled media item into said version of said digital multimedia work "at said position of a notification bar". Therefore, claim 1 as a whole specifies that the position of the notification bar is an "inserting position"; however, the inserting position might be different from the "current position of the editing process".

The amended feature "selecting a position of a notification bar representing a point in time within a timeline of said version of said digital multimedia work" in feature (d) therefore constitutes an unallowable intermediate generalisation since it does not specify that the "point in time" is a "current editing position". It therefore does not fulfill the requirements of Article 123(2) EPC.

3. The examining division was also of the opinion that the expressions "screen-capturing" and "screen-captured" in the previous claim 1 of the sole request did not have a basis in the application as originally filed.

These expressions have been replaced with "capturing" and "assembled", respectively, in steps (k3) and (1), while step (k4) "assembling a media item from said

captured at least one representation of said selected media item, wherein said media item has the same media type as said selected media item and is resembling said selected media item" has been added to claim 1.

The appellant has indicated paragraphs [0033] and [0034] as the basis for said amendments.

The board notes that paragraphs [0033] and [0034] describe that

"[o]n the other hand, if a direct download with help of the command file or by directly accessing the video data file is not possible, the user will be asked to replay of the video content from the beginning and the instant invention will record the video content as it plays. This will preferably be accomplished through a screenshot based system, wherein every frame is captured via a screenshot of the video window and the audio data is recorded as well. [...]

[...] the captured individual screenshots will be reassembled to create the video content and the recorded audio material will be added to recreate the video. The process of reconstructing the original video from the screenshots and from the audio data will preferably result in a video clip that is in a format that is supported by the multimedia editing program".

In this example, the "selected media item" from claim 1 corresponds to a video and a "representation of said selected media item" corresponds to one or more video frames, with the assembled "media item" corresponding to the "video clip" reassembled from the "captured individual screenshots" (captured individual video frames).

The board notes that there is no mention of "resembling" in the application as filed.

The feature whereby the assembled media item is "resembling the selected media item" is not directly and unambiguously derivable from these passages; it is instead directly and unambiguously derivable from said passages that the assembled media item is a "reconstruction" of the selected media item. In fact, the word "resembling" is a rather broad term (even if a reconstructed media item resembles a selected media item) which encompasses, for example, a video of a first football game "resembling" a video of a second, different, football game, while the term "reconstruction" is more specific, and would relate to the reconstruction of the same football game, for example.

The amended feature (k4) therefore does not fulfill the requirements of Article 123(2) EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



S. Lichtenvort

J. Geschwind

Decision electronically authenticated