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**Datasheet for the decision
of 25 November 2021**

Case Number: T 1328/19 - 3.5.05

Application Number: 04789739.2

Publication Number: 1680887

IPC: H04L12/22, H04L9/00

Language of the proceedings: EN

Title of invention:

METHOD AND SYSTEM FOR DETECTING AND PREVENTING UNAUTHORIZED
SIGNAL USAGE IN A CONTENT DELIVERY NETWORK

Applicant:

MAXXIAN TECHNOLOGY INC.

Headword:

Detection of unauthorized network usage/MAXXIAN

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - (no)

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 1328/19 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 25 November 2021

Appellant:
(Applicant)

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Representative:

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Decision under appeal:

**Decision of the Examining Division of the
European Patent Office posted on 28 November
2018 refusing European patent application No.
04789739.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair

A. Ritzka

Members:

P. Cretaine

F. Blumer

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division posted on 28 November 2018 refusing European patent application No. 04789739.2. The application was refused for lack of novelty (Article 54 EPC) over the disclosure of:

D1: US 4 975 951.

II. The notice of appeal was received on 28 January 2019, and the appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 5 April 2019. The appellant requested that the decision be set aside and that a patent be granted based on the main request or the first auxiliary request, both filed with the statement setting out the grounds of appeal. Oral proceedings were requested if none of the requests was allowed.

III. A summons to oral proceedings was issued on 21 April 2021. In a communication pursuant to Article 15(1) RPBA, sent on 22 July 2021, the board gave its preliminary opinion that the main request and the first auxiliary request did not meet the requirements of Article 56 EPC having regard to the disclosure of D1.

IV. By letter dated 6 August 2021, the appellant informed the board that it would not attend the scheduled oral proceedings.

V. By communication dated 10 August 2021, the board announced that the oral proceedings were cancelled.

VI. Claim 1 according to the main request reads as follows (with the numbering of features F1 to F7 added by the board, in *italics* in parentheses):

"A method for detecting unauthorized signal usage in a content delivery network (10), the method comprising the steps of (*feature F1*):
acquiring at least two signal usage records for a receiver (16) of said content (*feature F2*), each signal usage record having indicia of actual usage associated therewith (*feature F2.1*);
evaluating the respective indicia of actual usage for said at least two signal usage records against a set of predetermined indicia of usage that are associated with a use of a combination of signals not authorized for usage together on said receiver (*feature F3*); and
detecting unauthorized signal usage upon finding an indicia of usage in the set of predetermined indicia of usage consistent with said respective actual usage indicia for said at least two signal usage records (*feature F4*),
regardless of whether each instance of signal usage associated with the at least two actual signal usage records have been previously individually authorized for usage with said receiver (16) (*feature F4.1*),
wherein said evaluating step and said detecting step are implemented by a software module (*feature F5*),
wherein, once unauthorized signal usage is detected, the usage of one or more features or signals is hindered by a component of said network (10) (*feature F6*), and
wherein said evaluation step is operated after said acquisition step and the hindering step is operated after said evaluation step (*feature F7*)."

Claim 1 of the first auxiliary request differs from claim 1 of the main request in that the following wording is added at the end of the claim:

", such that said steps operate at different times and one or more of said steps have executed at least once and the results of said step is stored in network (10) so that the next step can operate (*feature F7.1*)."

Reasons for the Decision

1. With its decision not to attend the scheduled oral proceedings, the appellant has chosen not to make any further submissions during these proceedings. The board has therefore cancelled the oral proceedings, and the appellant is treated as relying only on its written case.

2. Prior art

D1 relates to a content delivery network for pay TV. D1 discloses a view history data authentication system that stores view history in a record and checks for consistency. If an inconsistency is found, an exception report is generated (see column 11, lines 11 to 22). More precisely, D1 describes the use of a view history database to record, for each programme viewed by a descrambling device, the channel identifier, the programme ID, the associated showcount, whether the view history has been uploaded to a business data processor, and the date and time the view history record was received. Individual records maintained by the system include an IPPV programme ID paired with an associated showcount. A view history data

authentication, sorting and distribution system checks the showcount data for consistency, e.g. if a showcount limit has been reached (see column 8, lines 13 to 25 and column 10, lines 66 to 67).

3. Main request - Article 56 EPC

D1 teaches that a receiver must be authorised to receive a TV signal and that its showcount limit is checked for consistency (see column 8, lines 13 to 25, column 10, lines 66 to 67 and column 11, lines 20 to 22). Feature F1 is thus disclosed in D1.

The board further holds that the signal usage records having indicia of actual usage defined in claim 1 can be seen in the programme ID and showcount recorded for each programme viewed by a receiver in D1. Features F2 and F2.1 are thus disclosed in D1.

Features F3, F4 and F4.1 define, in substance, that a check is performed whether the receiver has viewed two programmes it was not authorised to view together and that thus unauthorised signal usage is detected. D1 discloses checking each of the showcount records individually for consistency. That is, in D1, each record is checked so that the showcount has not exceeded some preset showcount limit. The board thus acknowledges that D1 does not disclose detecting the usage of two signals that should not be viewed together, as defined by features F3, F4 and F4.1. However, the board holds that these features are of an administrative nature only and do not have technical character. In this respect, the board considers that the administrator of the content delivery network in D1 has at its disposal the showcount records for any subscriber receiver, in particular the showcount

records for two programmes which could be viewed together by the receiver. Deciding that the usage together of the two programmes by the receiver is an unauthorised usage is a mere administrative decision that may be taken based on the business model of the content provider. Therefore, the board holds that features F3, F4 and F4.1 are not technical and cannot contribute, in accordance with the case law of the boards, to the inventive step of claim 1.

Features F5 to F6 are disclosed in D1. With respect to feature F5, it is implicit that the view history data authentication of D1, with the storing of the view history data in a database (see column 11, lines 11 to 13), is implemented by a software module. In respect of feature F6, it is implicit from D1 that when a subscriber receiver is deauthorised for a programme (see column 8, lines 19 to 26), a component of the network hinders the usage of this programme by the subscriber receiver. As to feature F7, D1 discloses in column 11, lines 11 to 22, in the same order, an acquisition step ("stores the view history data"), an evaluation step ("checks the showcount data for consistency") and a hindering step ("exception report when an inconsistency is found").

For these reasons, claim 1 does not meet the requirements of Article 56 EPC having regard to the disclosure of D1.

4. First auxiliary request

Claim 1 adds to claim 1 of the main request the feature F7.1.

The appellant argued that this feature provided the technical effect of enabling the system to store the results of any of the steps of feature F7 before executing the following step. According to it, this would have the advantage of reducing the use of hardware resources of the system.

The board is not convinced by this argument. Each of the acquisition, evaluation and hindering steps uses network resources. It is thus not established that repeating the acquisition or evaluation step before performing the next step would reduce the overall use of hardware resources when the method comprising the claimed three steps is performed. Therefore, feature F7 merely defines an alternative way of operating the claimed steps with no inventive merit.

For these reasons, claim 1 does not meet the requirements of Article 56 EPC having regard to the disclosure of D1.

5. Conclusion

None of the appellant's requests is allowable under Article 56 EPC. Thus, the appeal has to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



A. Chavinier-Tomsic

A. Ritzka

Decision electronically authenticated