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**Datasheet for the decision
of 12 November 2024**

Case Number: T 2003/22 - 3.5.07

Application Number: 12722185.1

Publication Number: 2695090

IPC: G06F17/30, G06K19/077,
H04N21/41, G06Q30/00

Language of the proceedings: EN

Title of invention:

A microprocessor based system for providing a media player with access to remotely-stored digital media content

Applicant:

Lemon Inc.

Headword:

Playing remotely-stored digital media content/ Lemon Inc.

Relevant legal provisions:

EPC Art. 56

Keyword:

Remittal - (yes)



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Case Number: T 2003/22 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 12 November 2024

Appellant:
(Applicant)

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Decision under appeal:

**Decision of the Examining Division of the
European Patent Office posted on 20 April 2022
refusing European patent application
No. 12722185.1 pursuant to Article 97(2) EPC**

Composition of the Board:

Chair J. Geschwind
Members: P. San-Bento Furtado
M. Jaedicke

Summary of Facts and Submissions

I. The appeal lies from the decision of the examining division to refuse European patent application No. 12722185.1, which was filed as international application PCT/GB2012/050740 claiming a priority of 2 April 2012.

The following documents were cited in the decision under appeal:

D1: WO 2006/110111 A1, 19 October 2006;
D2: US 2009/0300020 A1, 3 December 2009;
D3: WO 2010/095040 A2, 26 August 2010;
D4: US 2007/0250193 A1, 25 October 2007;
D5: US 2009/0319064 A1, 24 December 2009;
D6: "Streaming media", Wikipedia, 23 September 2010,
https://en.wikipedia.org/w/index.php?title=Streaming_media&oldid=386597012.

II. The examining division decided *inter alia* that the subject-matter of the claims of the main request and first to seventh auxiliary requests lacked inventive step over prior art document D1 and that the third, fourth and sixth auxiliary requests did not meet the requirements of Article 83 EPC.

III. 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 main request or of one of the first to seventh auxiliary requests considered in the appealed decision. With the notice of appeal, the appellant requested reimbursement of the appeal fee.

The appellant cited the following document (page 2 of the statement of grounds of appeal):

D10: J. Rutenbeck: "TECH TERMS - WHAT EVERY Telecommunications AND Digital Media Professional SHOULD KNOW", pages v, vi, 124, National Association of Broadcasters NAB, Focal Press, Elsevier 2006.

- IV. In a communication accompanying a summons to oral proceedings, the board expressed among other things its preliminary opinion that the subject-matter of claim 1 of the main request and first to seventh auxiliary requests was not inventive over document D1. The feature added by the first auxiliary request seemed to be known from document D3. Claim 1 of the second to seventh auxiliary requests did not seem to fulfil the requirements of Article 84 EPC. The board considered that the request for reimbursement of the appeal fee had been withdrawn since it was not mentioned in the statement of the grounds of appeal.
- V. With a letter of reply dated 12 October 2024 the appellant filed new second to new seventh auxiliary requests.
- VI. Oral proceedings were held as scheduled. At the end of the oral proceedings, the Chair announced the board's decision.
- VII. The appellant's final request was that the decision under appeal be set aside and that a patent be granted on the basis of the set of claims of the main request or the first auxiliary request, both requests as considered in the decision under appeal, or any of the second to seventh auxiliary requests filed with the letter of 12 October 2024.

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

"A system, which is a portable, personal device including a microprocessor, for providing a media player with access to remotely-stored digital media content and its associated metadata wherein (a) the system is capable of accessing the remotely-stored digital media content and its associated metadata; (b) the media player is provided, by the system, with a suitable interface including a High-Definition Multimedia Interface (HDMI) connection, accessible by that media player, for interacting with the content; in which the system is configured to use its network connectivity to stream the content."

IX. The first to seventh auxiliary requests are not relevant to this decision.

Reasons for the Decision

Application

1. The application relates to a portable, personal device, also referred to as "CloudStick" in the description, which can be connected to a media player in order to provide the media player with access to remotely-stored digital media content.

Main request

2. *Inventive step over document D1 - claim 1*
 - 2.1 Document D1 discloses a data storage system in the form of a portable storage device 100 which includes a local communication module 106 to connect to local

devices 114 and a remote communication module 109 to communicate with external storage sites 112, 113 over a suitably arranged communication network or system such as the internet or an internal network 108. The functionality of the device 100 is implemented as a universal hierarchical storage (UHS) application on the portable storage device 100 (page 7, line 14 to page 8, line 23). The local device 114 may be any computing device such as a desktop computer, laptop, PDA, phone, digicam or portable music player 206 (page 8, lines 8 to 10; page 10, line 20; Figure 2).

In the embodiment of Figure 2, the portable storage device 100 is a USB flash memory device 200. Once connected, the portable storage device allows a user to have access to all the user's digital files seamlessly using the UHS application 101 regardless of whether the files are cached locally on the USB flash memory device 200 or stored at remote storage site 208 (page 10, lines 16 to 33; Figures 1 and 2). Document D1 discloses different types of connections, such as USB, Bluetooth, Firewire, WiFi and Ethernet (page 11, lines 16 to 24, Figure 2), but no HDMI connection.

Document D1 does not disclose the features of claim 1 specifying that a media player is provided, by the "system, which is a a portable, personal device ..." (corresponding to the portable storage device of D1), with a suitable interface including an HDMI connection, accessible by that media player, for interacting with the content, in which the system is configured to use its network connectivity to stream the content (see feature (b) of claim 1 of the main request).

2.2 In the decision under appeal, the media player was considered to be disclosed in document D1 on page 10, line 20, on page 1, lines 32 and 33, and in Figure 2, reference 206. The passage on page 10 mentions the "camera 203, Laptop 204, PDA 205, Portable Music devices 206" shown in Figure 2. The passage on page 1, lines 32 to 33, refers to the digital camera 203. The board argued that the music player 206 or the laptop 204 could be mapped to the media player of claim 1.

2.3 In its reply to the board's communication, the appellant did not contest this mapping but argued that document D1 did not disclose that the portable music device 206 was provided, by the system, with a suitable interface including an HDMI connection and that the system was configured to use its network connectivity to stream the content (see feature (b) of claim 1). The appellant disputed that it was common general knowledge for a portable music device to be provided, by the portable, personal system 100 or 200 of document D1, with a suitable interface including an HDMI connection and for the system 100 or 200 of document D1 to use its network connectivity to stream the content. The portable music device 206 of Figure 2 was the only media player disclosed in document D1.

At the oral proceedings, the appellant argued that the portable music device of D1 was not suitable for playing video. Document D1 did not disclose any other device that could be mapped to a media player for playing video. The digital camera 203 disclosed on page 1, lines 32 and 33 and Figure 2 was only for still pictures. Document D1 did not disclose a laptop with a media player and referred only to still images and audio files. It did not mention playing video. The appellant argued that the skilled person would not

combine an HDMI connection with the music playing device 206, since it would not make any sense to do so. The reasoning in the decision under appeal and in the board's communication was based on hindsight. Therefore, document D1 was not an adequate starting point for assessing inventive step of the claimed invention.

2.4 At the priority date of the present application, HDMI and streaming video were common general knowledge in the context of video players. This is confirmed by document D6, a Wikipedia article on "Streaming media" and document D10, which comprises a definition of "HDMI" in a dictionary of "must-know" technical terms for digital media professionals (see page v, first paragraph and page 124, right-hand column).

However, the board agrees with the appellant that the portable music device 206, e.g. an iPod, of document D1 is not adequate for playing video and that the skilled person would not connect this device using HDMI. The passage on page 1, lines 26 to 35 of document D1 mentions only storing pictures from a digital camera. Document D1 is not about playing video and does not disclose using any of the local devices 201 to 206 for playing video. The portable storage device 100 or 200 of document D1 is a data storage system for providing access to user files. It may include a cache to improve access to the files (page 11, line 30, to page 12, line 15). While document D1 discloses in Figure 2 that the portable storage device has "connectivity to devices through multiple protocols (USB, bluetooth, firewire, Wifi, Ethernet...)", there is no hint that the portable storage device may be used for streaming media files or may be connected via HDMI. Even though it discloses that music files obtained from the remote storage can

be stored in the portable storage device, document D1 does not disclose using the portable storage device for playing, in the local player 206, music as it is continuously being retrieved from the remote storage. Therefore, on the basis of document D1 alone, the skilled person would not add an HDMI connection to the portable music player of D1 or adapt the portable storage device of D1 for streaming video or digital media content. The board could not find any evidence on file that could motivate the skilled person to connect the portable music player of D1, such as an iPod, using HDMI.

- 2.5 Since document D1 does not disclose an HDMI connection, playing video or streaming content, and in the context of claim 1 the HDMI connection has the purpose of supporting content streaming, the two distinguishing features concerning the HDMI connection and content streaming cannot be considered as being directed to independent problems, as argued in the decision under appeal and in the board's communication. The two features are both directed to the problem of supporting efficient local play of digital media content stored remotely. However, identifying this problem implies recognising that a portable storage device such as that of document D1 can be used for streaming content between a remote system and the local player to which the portable storage device is connected. This is itself, without a hint in that direction, an inventive step. Therefore, without such a hint document D1 is not a suitable starting point for concluding that the subject-matter of claim 1 lacks inventive step.

In the decision under appeal, the examining division mentioned on page 5, fourth paragraph, the possibility of combining document D1 as closest prior art with

document D4 or D3, respectively and/or D5. However, the reasoning based on these combinations still relied on considering two independent problems being solved over document D1. In its preliminary opinion, the board did not present a line of argument based on these combinations of prior-art documents.

- 2.6 In view of the above, the board is no longer convinced that document D1 is a suitable starting point for assessing inventive step based on the reasoning of the decision under appeal or of the board's preliminary opinion. In order to avoid introducing a fresh case at a late stage of the appeal proceedings, the board decides to remit the case for further prosecution (Article 111(1) EPC). The examining division will therefore need to deal again with inventive step.

Reimbursement of the appeal fee

3. In its communication, the board informed the appellant that the request for reimbursement of the appeal fee submitted with the notice of appeal was considered to be withdrawn because it was not expressly specified in the statement of grounds of appeal as required by Article 12(3) RPBA. This was not disputed by the appellant in its reply and at the oral proceedings. A request for reimbursement of the appeal fees is thus not pending.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance for further prosecution.

The Registrar:

The Chair:



S. Lichtenvort

J. Geschwind

Decision electronically authenticated