

Appeal decision

Dissatisfaction No. 2015-10541

China

Appellant HUAWEI TECHNOLOGIES CO. LTD.

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The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2013-83039, entitled "Method and Device for Encoding and Decoding Signal" [the application published on September 5, 2013, Japanese Unexamined Patent Application Publication No. 2013-174899] has resulted in the following appeal decision:

Conclusion

The appeal of the case was groundless.

Reason

No. 1 History of the procedures

The present application is an additional application dated April 11, 2013 for a part of Patent Application No. 2011-539879 filed on November 20, 2009 (priority claim under the Paris Convention, December 10, 2008, China (CN)). In response to a notification of reasons for refusal dated November 29, 2013, a written amendment was submitted on June 2, 2014. However, an examiner's decision of refusal was issued on January 30, 2015. In response to this, an appeal against the examiner's decision of refusal was made on June 3, 2015 and a written amendment was submitted at the same time. In response to a notification of reasons for refusal by the body on March 16, 2016, a written amendment was submitted on September 23, 2016.

No. 2 Summary of the notification of reasons for refusal by the body on March 16, 2016

The present application does not comply with the requirement under Article 36(6) (ii) of the Patent Law due to deficiencies in the claims in the following points:

Notes

- Claims 1 and 2

- Remarks

The invention relates to adaptive encoding of a high frequency signal of an input signal, wherein the type of the high frequency signal includes a transient signal and a non-transient signal. Although claims 1 and 2 include descriptions on how to encode the transient signal, they do not include descriptions on how to encode the non-transient signal.

Therefore, the inventions related to Claims 1 and 2 (methods for encoding a signal) are not clear.

- Suggestion of amendment

The method for encoding a non-transient signal (which envelope is to be encoded) should be clarified.

No. 3 The Invention

The inventions relating to Claims 1 and 2 of the present application (hereinafter, referred to as the "Invention 1" and "Invention 2") are acknowledged as follows, as specified by the matters described in Claims 1 and 2 of the scope of claims for patent described in the written amendment dated September 23, 2016. The underlines indicate the amended matters.

"[Claim 1]

A method for encoding a signal, comprising:

performing a classification decision process on a high frequency signal of an input signal;

adaptively encoding the high frequency signal according to the result of the classification decision process; and

outputting a bitstream comprising an encoded bitstream of a low frequency

signal of the input signal, an adaptively encoded bitstream of the high frequency signal, and the result of the classification decision process,

wherein the performing the classification decision process on the high frequency signal of the input signal comprises:

calculating parameters of the high frequency signal; and

determining a current frame type of the high frequency signal according to the parameters and a decision mechanism;

wherein if the current frame type of the high frequency signal is a transient signal,

the adaptively encoding the high frequency signal according to the result of the classification decision process comprises encoding four time envelopes for the transient signal and encoding four spectral envelopes.

[Claim 2]

An apparatus for encoding a signal, comprising:

a code classification module, adapted to perform a classification decision process on a high frequency band signal of an input signal;

an adaptive encoding module, adapted to adaptively encode the high frequency band signal according to the result of the classification decision process; and

a code stream output module, adapted to output a code stream comprising an encoded of a low frequency band signal in the input signal, an adaptively encode the high frequency band signal, and the result of the classification decision process,

wherein the code classification module comprises:

a signal analysis unit, adapted to calculate parameters of the high frequency band signal; and

a type determination unit, adapted to determine a current frame type of the high frequency band signal according to the parameters and a decision mechanism,

wherein if the current frame type of the high frequency band signal is a transient signal,

the adaptive encoding module comprises encodes four time envelopes and encodes four spectral envelopes for the transient signal, to adaptively encode the high frequency band signal according to the result of the classification decision process."

No. 4 Details of the written opinion dated September 23, 2016

1. In view of the notification of reasons for refusal drafted March 16, 2016 (dispatched

on March 22, 2016), the applicant amended part of the scope of claims according to the written amendment sent on the same day and stated the following opinions on the contents of the Invention.

2. Description of amendment

The description of "the type of the high frequency signal includes a transient signal and a non-transient signal" in claim 1 has been amended to "if the current frame type of the high frequency signal is a transient signal."

Similarly, the description of "the type of the high frequency band signal comprises a transient signal and a non-transient signal" in claim 2 has been amended to "if the current frame type of the high frequency band signal is a transient signal."

The amendments to the above claims 1 and 2 are for the purpose of clarifying the descriptions on the basis of the paragraphs 0040 and 0041 of the Description and it is considered that the amendments do not fall under the addition of new matter.

3. Regarding refusal under Article 36(6) (ii) of the Patent Law

The inventions relating to claims 1 and 2 (methods for encoding signal) were rejected because of failure to be clear since, as stated in the notification of reasons for refusal, "The Invention relates to adaptively encoding of a high frequency signal of an input signal, wherein the type of the high frequency signal comprises a transient signal and a non-transient signal. Although claims 1 and 2 include descriptions on how to encode the transient signal, they do not include descriptions on how to encode the non-transient signal."

Against this, the applicant amended the claims 1 and 2 as described above, and has clarified that the distinguishing feature of the Invention is the encoding processing for the transient signal.

Accordingly, in consideration that the indicated unclear point has been clarified, the applicant requested re-examination for a decision to grant a patent.

No. 5 Judgment by the body

Since how to encode the non-transient signal was not described, the reasons for refusal indicating that claims 1 and 2 were not clear (refer to "No. 2" above) were notified. However, the Inventions 1 and 2 still clarify the encoding only for the case of "if ... is a transient signal" and do not include descriptions on how to perform encoding for the case of "if ... is a non-transient signal."

Further, it does not mean that there is only an encoding method "that is well known by a person skilled in the art and is only one" for encoding the non-transient signal; and in addition, it also does not mean that any encoding methods can be used for encoding the non-transient signal. Therefore, claims 1 and 2 that have not clarified the method for encoding the non-transient signal are not clear.

Here, the appellant alleges the point that the encoding processing for the transient signal has been clarified, in the written opinion; however, in claims 1 and 2 of the Inventions 1 and 2 before the amendment, the encoding processing for the transient signal was originally described clearly and it was not the subject of the reasons for refusal by the body. In addition, referring to the written opinion (refer to "No. 4, 3." above), it is acknowledged that the appellant had recognized that "they do not include descriptions on how to encode the non-transient signal."

Thus, the reasons for refusal by the body have not been resolved.

No. 6 Closing

As described above, the description in the scope of claims of the present application does not comply with the requirement under Article 36(6) (ii) of the Patent Law.

Therefore, the appeal decision shall be made as described in the conclusion.

November 14, 2016

Chief administrative judge:	MORIKAWA, Yukitoshi
Administrative judge:	SAKAI, Tomohiro
Administrative judge:	INOUE, Shinichi