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**Datasheet for the decision
of 17 April 2007**

Case Number: T 0972/03 - 3.5.04

Application Number: 97953161.3

Publication Number: 0945002

IPC: H04N 5/445

Language of the proceedings: EN

Title of invention:

Method and apparatus for providing a modulated scroll rate for text display

Applicant:

THOMSON CONSUMER ELECTRONICS, INC.

Opponent:

-

Headword:

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Relevant legal provisions:

EPC Art. 084 claims-clarity (no)

Keyword:

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Decisions cited:

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Catchword:

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Case Number: T 0972/03 - 3.5.04

DECISION
of the Technical Board of Appeal 3.5.04
of 17 April 2007

Appellant: THOMSON CONSUMER ELECTRONICS, INC.
10333 North Meridian Street
Indianapolis, IN 46290-1024 (US)

Representative: Wördemann, Hermes
Deutsche Thomson-Brandt GmbH
Licensing & Intellectual Property
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 3 March 2003
refusing European application No. 97953161.3
pursuant to Article 97 (1) EPC.

Composition of the Board:

Chairman: F. Edlinger
Members: A. Teale
J. Willems

Summary of Facts and Submissions

- I. The appeal is against the decision by the examining division to refuse European patent application no. 97 953 161.3 (published as WO 98/27722) on the grounds of lack of conciseness of the claims, Article 84 EPC, lack of novelty, Article 54 EPC, and lack of inventive step, Article 56 EPC.
- II. The applicant filed a notice of appeal, requesting that the appealed decision be set aside and that a patent be granted on the basis of the following documents:
- Description:
- Pages 1, 2, 4, 9, 10 and 12 to 17 as published.
Pages 3, 5 to 8 and 11, received on 7 June 1999 with the letter dated 31 May 1999.
- Claims:
- 1 and 13, received on 10 December 2001 with the letter dated 6 December 2001.
2 to 12, received on 7 June 1999 with the letter dated 31 May 1999.
- Drawings:
- 1 to 4 as published.
- III. With a statement of grounds of appeal dated 3 July 2003 the appellant filed amended claims 1 to 11 to replace the claims on file and provided arguments as to why the amended claims showed inventive step.

IV. Claim 1 reads as follows:

"A method of modulating the pause time between scrolling of displayable text information comprising the steps of:

- a) processing an input signal to produce text information;
- b) storing said text information in a buffer memory;
- c) retrieving a line of text information from said buffer memory;
- d) displaying said line of stored text information in a row;
- e) waiting a predetermined amount of pause time based upon an amount of text information within said buffer memory;
- f) scrolling the display of said text information at a constant rate upon expiration of said predetermined amount of time;
- g) retrieving a subsequent line of text information from said buffer memory;
- h) displaying said subsequent line of stored text information in a row;
- i) detecting an amount of text information within said buffer memory;
- j) adjusting said pause time based upon the detected amount of text information within said buffer memory;

and

- k) repeating steps e) - j) wherein step f) scrolls at said constant rate".

V. In an annex to a summons to oral proceedings the board questioned whether the claims were consistent with the description, Article 84 EPC, since the statement on page 9, lines 11 to 15, of the description concerning the "scope of the invention" called into question

whether the pause and the constant scroll rate between pauses mentioned in the claims were always present.

- VI. In a letter dated 16 March 2007 the appellant stated that he did not intend to attend the oral proceedings and requested a decision based on the state of the file.
- VII. As announced, the appellant did not attend the oral proceedings held on 17 April 2007.
- VIII. At the end of the oral proceedings the board announced its decision.

Reasons for the Decision

1. The appeal is admissible.
2. The state of the file

The board understands that the appellant is requesting the grant of a patent on the basis of the following documents:

Description:

Pages 1, 2, 4, 9, 10 and 12 to 17 as published.

Pages 3, 5 to 8 and 11 filed with the letter dated 31 May 1999.

Claims:

1 to 11 filed with the statement of grounds of appeal dated 3 July 2003.

Drawings:

Sheets 1/4 to 4/4 as published.

3. The amendments

In method claim 1 "modulating the scroll rate" has been modified to "modulating the pause time between scrolling" and the claim now sets out how the text is dealt with a row at a time in a loop. Scrolling of the display now occurs "at a constant rate upon expiration of said predetermined amount of [pause] time". The previously mentioned "particular condition of the display of said text information" has been amended to "an amount of text information within said buffer memory". The amendments have a basis in page 3, line 35, to page 4, line 1, and page 11, lines 17 to 24, of the description as published.

4. Clarity of claim 1

According to Article 84 EPC, the claims shall define the matter for which protection is sought. They shall be clear and concise and be supported by the description. Claim 1 sets out a method of modulating the pause time between scrolling of displayable text information in which repeatedly a row of text information stored in the buffer memory is displayed, followed by waiting a predetermined amount of time based upon an amount of text information within the buffer memory and then scrolling the display of said text information at a constant rate. Claim 1 thus specifies a predetermined pause time (which is adjustable; see feature j) and scrolling at a constant

rate. The subject-matter for which protection is sought by claim 1 thus corresponds to modulating the effective scroll rate by modulating the (home position) pause duration, as set out in the description, page 9, lines 9 and 10. However, this is in contradiction to the statement on page 9, lines 11 to 15, of the description that "Although this embodiment of the invention modulates the effective scroll rate by altering the home position pause duration, those skilled in the art will realize that direct modulation of the speed of scroll with a constant home position pause or no home position pause at all would also be within the scope of the invention." At least this passage of the description raises doubts as to the meaning of the features "a predetermined amount of pause time" and "a constant rate" of scrolling in claim 1. This contradiction between claim 1 and the description causes claim 1 to become unclear in view of statements in the description, in particular the above cited passage.

5. Conclusion

Since claim 1 does not comply with Article 84 EPC, a patent cannot be granted based on the state of the file.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Sauter

F. Edlinger