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**Datasheet for the decision
of 12 September 2006**

Case Number: T 1111/03 - 3.5.03

Application Number: 94307981.4

Publication Number: 0651543

IPC: H04M 1/00

Language of the proceedings: EN

Title of invention:

Personal communicator having improved zoom and pan functions

Applicant:

MediaTek, Inc

Opponent:

-

Headword:

Personal communicator/MEDIATEK

Relevant legal provisions:

EPC Art. 52(1), 56

Keyword:

"Inventive step - (yes)"

Decisions cited:

-

Catchword:

-



Case Number: T 1111/03 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 12 September 2006

Appellant: MediaTek, Inc
5F, No 1-2
Innovation Road
Science-Based Industrial Park
Hsin-Chu 300 (TW)

Representative: Meldrum, David James
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 2 May 2003
refusing European application No. 94307981.4
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: A. S. Clelland
Members: D. H. Rees
R. Moufang

Summary of Facts and Submissions

I. This is an appeal against the decision of the examining division to refuse the European patent application number 94 307 981.4, with publication number 0 651 543. The appellant had requested "an appealable decision according to the state of the file". The reasons for the decision were given only by referring to three earlier communications; it is however apparent from those communications that the subject-matter of independent claim 1 was considered to lack an inventive step with respect to the disclosures of documents

D1: EP 0 499 012 A and

D2: C. Ottino, "User Interface in the 1990's," Advances in Instrumentation and Control, vol. 47, no. 2, 01 January 1992, pages 659 to 700.

II. The following further document was later introduced into the procedure by the board of its own motion pursuant to Article 114(1) EPC:

D4: J. D. Foley et al., "Computer Graphics: Principles and Practice," Addison-Wesley, 1990, pages 182 to 184.

III. Notice of appeal was filed in a letter dated 22 and received 24 May 2003, together with the appropriate fee. A statement setting out the grounds of appeal was submitted on 1 September 2003.

IV. In response to a communication from the board pointing out that a procedural error had apparently occurred in issuing the decision the appellant indicated that it preferred that the case not be referred back to the

examining division and that the board proceed to study the substantive issues.

- V. The board then issued a communication asking the appellant to clarify the basis on which grant of a patent was requested. It further discussed the arguments that the claimed subject-matter lacked an inventive step with respect to a combination of documents D1 and D2, and raised a further potential objection that the claimed subject-matter lacked an inventive step with respect to D1 alone in the light of the common general background knowledge in the art, as illustrated by D4.
- VI. The appellant filed a complete text of the application including a newly amended independent claim and presented counter-arguments. A conditional request for oral proceedings was made.
- VII. In response to a communication accompanying a summons to oral proceedings the appellant filed further amendments including claims and an amendment to the description for an auxiliary request. This request was however withdrawn in the course of the oral proceedings.
- VIII. In the oral proceedings the appellant requested that the decision under appeal be set aside and that a patent be granted in the following version:
- claims 1 to 4 filed with letter dated 20 April 2006
 - description pages 1 and 3 to 10 submitted with letter dated 20 April 2006 and page 2 filed at the oral proceedings

- drawing sheets 1 to 5 filed with letter dated 20 April 2006.

IX. The single independent claim 1 reads as follows:

"A personal communicator (10) comprising:
a casing (12)
a touch sensitive display (26, 28) mounted on said casing;
means for displaying a graphics image (143) on said display;
characterised in that
the case having a size adapted to be held in the hand of a user;
means for displaying a magnification frame (168) of a predetermined size and shape on said display in response to a user touching said display at a touch point (166) with a finger, said frame being located beneath said touch point and delineating a portion of said graphics image to be magnified;
means for moving said frame around said display in response to sliding said finger around said display and in contact therewith; and
means for magnifying said portion of said graphics image delineated by said frame, in response to disengaging said finger from said display;
means for panning said graphics image (143) in response to said user touching said display with a finger at one point and sliding the finger to another point thereby indicating direction and extent of panning."

X. The board announced its decision at the end of the oral proceedings.

Reasons for the Decision

1. *The procedural error*

1.1 The decision of the examining division was signed by an unknown person acting on behalf of the second examiner. The hand-written signature is unreadable, except that it begins "i. V." which stands for "in Vertretung", i.e. "representing", and the printed name is identified as that of the second examiner. Thus the requirement of Rule 70(1) EPC that, "Any decision ... is to be signed by and to state the name of the employee responsible," was not satisfied.

1.2 As a matter of principle this would appear to be a fundamental deficiency requiring remittal of the case to the department of first instance according to Article 10 of the Rules of Procedure of the Boards of Appeal. However it is also incumbent on the board to act in a procedurally efficient manner and not to cause pointless delays. The appellant, having had the error pointed out, requested the board not to remit the case but to proceed to study the substantive issues. Since in the circumstances of the case it was predictable that if remitted the application would again be refused, without further substantive examination, the board decided to accede to the appellant's request.

2. *Novelty and inventive step*

2.1 Document D1 describes a personal communicator comprising: a casing 3; a touch sensitive display 4 mounted on said casing; and means for displaying a

- graphics image on said display (D1 Fig. 1 and column 2 line 38 to column 3 line 4).
- 2.2 The dimensions of the device described in D1 are given alternatively as 15 inches (38 cm) by 5 inches (13 cm) by 2 inches (5 cm) (column 2 lines 5 to 9) or "no more than, (and preferably less than)" 16 inches (41 cm) by 6 inches (15 cm) by 3 inches (8 cm) (column 7 lines 11 to 16). These dimensions cannot be considered "a size adapted to be held in the hand of a user". However, "A microphone and speaker are provided in the device and either hand-held or speaker phone operation can be selected," (column 4 lines 40 to 43 and column 6 lines 42 to 45). Thus the skilled person would at least be motivated to reduce the dimensions (and weight) of the device as much as possible within the constraints imposed by its functions, to make it "a size adapted to be held in the hand of a user". This feature therefore does not of itself involve an inventive step with respect to the disclosure of D1.
- 2.3 One of the functions of the device in D1 is to act as a portable facsimile transmitter. This function is realised with the help of a scanner which runs along the length of the device (Fig. 1 element 2) and has the size of "the entire width dimension of an image bearing member, such as a standard sheet of paper," (column 6, lines 9 to 13). It is clear, e.g. from Fig. 1, that the length of the display is comparable with the length of the scanner, i.e. the width of the standard sheet of paper. One of the functions of the display is to show received facsimiles (column 2 lines 38 to 47). With this configuration it would be implicit for the skilled person that the image would at least usually be

reproduced at its original size. D1 does not include any disclosure which could be taken as an incentive to provide for magnification or "zooming" of displayed images. The display further naturally has a "letter-box" shape, so that the obvious way to display a received facsimile would be without magnification or reduction whilst providing scrolling down the length of the page.

2.4 This is not to say that zooming was unknown to the skilled person at the present priority date. As may be seen from D4, a standard work in the graphics field, it was common general knowledge to display a whole image on a screen, to select an area for magnification, and to replace part or the whole of the original image by the magnified part (D4, Fig 4.27 on page 182 and Fig 4.29 on page 183). However, given that the shape of the display in D1 is not naturally adapted to the display of a whole received facsimile page and that the dimensions are appropriate for showing a number of lines of a document at their original size in a letter-box format, the board considers that it would not be an obvious step to introduce a zoom function to D1, and in particular it would not be obvious to use the claimed user interface for implementing such a function.

2.5 As to the introduction of a zooming function *per se*, and leaving aside the mechanism which would be used to invoke it, the board considered two hypothetical motivations for the skilled person to do so. The first would be a desire to reduce the size of the device of D1. However the size of the device is constrained by the requirement for inclusion of a scanner and the board agrees with the appellant that this is clearly

- one of the crucial features of the device (see e.g. D1, column 2 lines 12 to 21); it would not be obvious to abandon the scanner. The second would be to cater for users having sight problems. However, as the appellant argues, since the device displays documents at their original size, users having difficulty reading them on the display would equally have problems reading original documents, and would therefore presumably already have ways of dealing with the problem without a requirement for enlargement of the image on the display.
- 2.6 Finally the method of panning specified in the present independent claim would equally be inappropriate to the normal letter-box display. It would make it cumbersome to pan a significant distance in the direction most likely to be required, i.e. up or down the page. Instead the skilled person would naturally provide an up-and-down scrolling mechanism which would, if magnification were hypothetically provided, most likely be supplemented by a separate left-right scroll, in the way familiar from e.g. computer window text areas.
- 2.7 The board concludes that even with the aid of common general knowledge the presently claimed subject-matter is not obvious on the basis of document D1.
- 2.8 The examining division based its arguments on a combination of D1 and D2. It argued that D2 discloses a user interface including zoom and pan functions and asserted that, "The graphical user interface disclosed in D2 can be applied to a wide range of devices, including hand held units with corresponding displays and touch screens," citing D2 page 683 line 21 to page 684 line 9 in its communication dated 19 June 2001

(page 2 lines 25 to 27). However in fact D2 does not mention "hand held units with corresponding displays and touch screens." Touch screens are mentioned for use with an "operations console" (page 684, lines 8 and 9). The "operations console" as the expression is used in this document is not "hand held" - see the picture at the bottom of page 672. Moreover there is no argument put forward as to why in particular the skilled person would be led to implement aspects of the user interface put forward in D2 in the device described in D1. This user interface is disclosed in the context of process control and plant automation systems and it is not immediately apparent to the board why the skilled person in the field of personal communicators or portable facsimile machines should look to this rather distant field. However even assuming for the sake of argument that he or she would do so, D2 does not teach to adapt the device in the way claimed. In the context of D2 the screen of D1 might be considered to be small and it would clearly not be appropriate without adaptation for the multiple image display suggested for "Pan-Zoom (Magnifying Glass) Navigation" (diagram page 688). But D2 does not suggest zooming an image to overcome small size of screen, rather (page 684 lines 1 to 5) it proposes the use of overlapping tiled windows.

- 2.9 The board also considered the possibility of taking D2 as its starting point. However firstly there is no suggestion in D2 of a requirement for a portable facsimile device in industrial control. Secondly the considerations discussed in Points 2.3 and 2.6 above with respect to D1 alone would equally militate against using the pan-zoom navigation put forward in D2 on the device of D1.

2.10 None of the other documents in the case are as relevant as these. Thus the board concludes, having regard to the prior art at its disposal, that the claimed subject-matter involves an inventive step.

3. *Other requirements of the EPC*

3.1 The examining division raised no substantive issues other than the question of inventive step. Nor does the board see any other substantive objections; in particular the board considers that the requirements of Article 123(2) EPC are satisfied for the following reasons. The present claims are directly derived from the claims of the application as filed, with the addition of the feature that the "magnification frame" is "of a predetermined shape and size". This additional feature is implicit in the original disclosure as a whole, particularly with reference to column 8 lines 16 to 19 of the description and Figure 6. The description has only been amended to add an acknowledgement of the prior art document D1 and to conform to Rule 27(1)(c) EPC.

3.2 The appellant has adapted the description to comply with the requirements of Rule 27 EPC and the two-part form of claim 1 is apparently in compliance with Rule 29(1) EPC.

4. Thus the appellant's request is allowable.

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 with the order to grant a patent on the basis of the following documents:
 - claims 1 to 4 filed with letter dated 20 April 2006
 - description pages 1 and 3 to 10 filed with letter dated 20 April 2006 and page 2 filed at the oral proceedings
 - drawing sheets 1 to 5 filed with letter dated 20 April 2006.

The Registrar:

The Chairman:

D. Magliano

A. S. Clelland