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**Datasheet for the decision  
of 6 June 2008**

**Case Number:** T 0701/06 - 3.5.01

**Application Number:** 01972538.1

**Publication Number:** 1395922

**IPC:** G06F 17/30

**Language of the proceedings:** EN

**Title of invention:**

Picked-up image managing device and method of determining group name

**Applicant:**

CASIO COMPUTER CO., LTD.

**Opponent:**

-

**Headword:**

Determining group name/CASIO

**Relevant legal provisions:**

-

**Relevant legal provisions (EPC 1973):**

EPC Art. 56

**Keyword:**

"Inventive step (no)"

**Decisions cited:**

T 0643/00

**Catchword:**

The idea of naming groups of images by where they were taken does not make a technical contribution (point 7 of the reasons).



Case Number: T 0701/06 - 3.5.01

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.01  
of 6 June 2008

**Appellant:** CASIO COMPUTER CO., LTD.  
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Tokyo 151-8543 (JP)

**Representative:** Grünecker, Kinkeldey,  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 2 December 2005  
refusing European application No. 01972538.1  
pursuant to Article 97(1) EPC 1973.

**Composition of the Board:**

**Chairman:** S. Steinbrener  
**Members:** W. Chandler  
P. Schmitz

## Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division to refuse the application on the grounds that the subject-matter of claim 1 extended beyond the content of the application as filed (Article 123(2) EPC 1973) and did not involve an inventive step (Article 56 EPC 1973). Inter alia, the following documents were mentioned in the decision:
- D1: US-B1-6 437 797 (which was considered to serve as a translation of JP-A-10 233985)
- D2: Patent Abstracts of Japan, Vol. 1995, No. 06, 31 July 1995 & JP-A-07 064169
- D3: Patent Abstracts of Japan, Vol. 1997, No. 03, 31 March 1997 & JP-A-08 313988
- D5: HEWAGAMAGE KP et al.: "Augmented Album: Situation-dependent System for a Personal Digital Video/Image Collection". Proceedings of IEEE International Conference On Multimedia And Expo, ICME 2000, 30 July - 2 August 2000, IEEE, US, Vol. 1, pages 323-326.
- II. In the statement setting out the grounds of appeal, the appellant requested that the decision be set aside and that a patent be granted on the basis of amended claims 1 to 5, filed with the grounds of appeal. The appellant also made an auxiliary request for oral proceedings.
- III. In the communication accompanying the summons to oral proceedings, the Board summarised the issues to be discussed and expressed doubts about the clarity and

inventive step of claim 1. In a response, the appellant filed a further amended claim 1.

IV. At the oral proceedings, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claim 1 filed during the oral proceedings before the Board and claims 2 to 5 filed with the statement of grounds of appeal dated 10 April 2006. At the end of the oral proceedings, the Chairman announced the decision.

V. Claim 1 reads as follows:

"A picked-up image managing device comprising:

picked-up image storing means (620) for storing picked-up image data (624) and image picked-up position data (623) being associated with the picked-up image data;

name storing means (630) for storing name data (632) and corresponding position data and area data on a map for group name candidates which are selected from names corresponding to different positions or areas on a map;

grouping means (3, 8) for grouping the picked-up image data (624) stored in said picked-up image storing means (620) into a group, wherein a group is made by either an arbitrary user selection among a plurality of picked-up image data, or by a selection among the plurality of picked-up image data based on a positional relationship;

means (3, 8) for identifying position data or area data corresponding to the group by:

a) selecting an image data (624) which has the oldest date-and-time information (622) from the image data (624) included in the group, and a coordinate

comparison for finding a shortest one of distances between the image position data (623) corresponding to the selected image data (624) and all of the position data (631) stored in the name storing means (630), or alternatively,

b) performing a coordinate comparison for determining whether or not image pick-up position data of all of the image data included in the group are included in areas corresponding to the area data stored in the name storing means (630);

means (3, 8) for acquiring from the name storing means (630) a name data (632) corresponding to the position data or the area data identified by the identifying means; and

control means (3, 8) for storing the acquired name data (632) as a group name in association with picked-up image data included in the group."

VI. The appellant argued essentially as follows:

The invention concerned the problem of organising digital photographs. When images taken at a number of holiday sightseeing locations were put in an album, they could be grouped by the date they were taken. A name corresponding to that date could be assigned to each group such that the group could be retrieved. However, it was difficult to associate the images in a group some time later from only the date they were taken.

The present invention assigned a meaningful name to the group. This was either a name representing the area where all the images in the group were taken, or the name of the location of the oldest image in the group.

The invention also performed both alternatives in sequence, namely first trying to give the group an area name and if one was not found giving it the name of the location of the oldest image. This always resulted in a useful name because the first photograph in a group was often very impressive and generally characterised the whole group.

The examining division took the standpoint that from "a technical point of view" the selection criterion was "arbitrary". However, claim 1 did not claim an "arbitrary" selection, but referred to two very specific selection criteria, which had been chosen such that they fulfilled the user's needs and could be carried out with the available data in an automatic way.

The prior art mentioned groups, and D3, for example, disclosed the association of a single image with a name taken from a map. However, none of the prior art addressed the problem of how grouping and name selection for a group of images could be carried out. It was a non-trivial task to organise an album file with practically no user interaction when the images in the groups were taken at different positions.

D5 was remote from the invention. Although it disclosed preparing a group of images if they had been taken at the same geographical location, it did not disclose the grouping of the invention, nor assigning a group name. In particular, in D5 a problem arose naming a plurality of images taken at different locations.

The invention solved the technical problem of how to allocate a group name automatically based on location data.

### **Reasons for the Decision**

1. The appeal complies with the requirements referred to in Rule 65 EPC 1973 and is therefore admissible.
2. The application relates to grouping and automatically naming digital images depending on where they were taken, or "picked-up" in the language of the application. In particular, as explained by the appellant (see point VI, above), the name given to the group is the name of the nearest item in a map database to where the oldest (first) image in the group was taken, or the name of an area in the map database covering the places where all the images in the group were taken.
3. According to the decision under appeal at page 4, the division considered that D1 and D5 were equally good starting points, but they only pursued in detail the argument starting from D1. The Board considers that D5 is a better starting point because it additionally discloses automatically naming a group of images (see below).
4. The Board does not consider that D5 is remote as argued by the appellant because according to the abstract it relates to an easy-to-use interface for organising digital images called "Augmented Album", which is a "picked-up image managing device" according to claim 1.

D5 argues at section 2 that context-based retrieval of images, i.e. when, where, why and how, is more efficient than content-based retrieval, i.e. based on features in the image data itself. In section 3, context is defined specifically by the parameters of location, time, and corresponding events stored in a personal scheduler. Thus, the position data is stored with the image data according to the first feature of claim 1. D5 also discloses at page 325, left column, last paragraph grouping the picked-up image data if they are taken at the same location, which, in the Board's view is grouping based on a "positional relationship" according to one of the alternatives in the third feature of claim 1. One of the advantages of the system of D5, disclosed at page 325, left column, first full paragraph, is that it automatically provides file names and structure for the stored images. The files are stored as "entities" that are said to be identified by their context, which, following from the above, includes where the image was taken. Although the detailed mechanism for doing this is not disclosed, it is implicit that there are control means for storing an acquired (automatically from the system) name data as a group name in association with picked-up image data included in the group according to the last feature of claim 1.

5. The subject-matter of claim 1 thus differs from D5 by:
  - i) name storing means for storing name data and corresponding position data and area data on a map (second feature of claim);
  - ii) means for identifying position data or area data corresponding to the group by:



- a) selecting an image data which has the oldest date-and-time information from the image data included in the group, and a coordinate comparison for finding a shortest one of distances between the image position data corresponding to the selected image data and all of the position data stored in the name storing means, or alternatively,
  - b) performing a coordinate comparison for determining whether or not image pick-up position data of all of the image data included in the group are included in areas corresponding to the area data stored in the name storing means;
  - iii) means for acquiring from the name storing means name data corresponding to the position data or the area data identified by the identifying means (penultimate feature of claim).
6. These features have the effect of identifying the group by either the name of the location of the oldest image in the group (alternative a), or the name of the area covered by the group (alternative b).
7. The Board agrees with the examining division that the general idea of identifying images according to subjective criteria (time, location, event or combinations thereof) for easy retrieval is non-technical (and essentially conventional). This is not changed if some images are "impressive" as argued by the appellant. Hence, in the Board's view, the above effects of naming groups of images according to the position of the oldest image in the group or the area covered by the group do not involve a technical contribution. In particular, this cannot be considered to be part of a technical image retrieval process as in

case T 643/00 - Searching image data/CANON (not published in OJ EPO). Thus, although the Board agrees with the appellant that the claimed selection criteria are specific, they are "arbitrary" in the sense of being irrelevant to the inventive step as stated by the examining division. Technical considerations only come into play with the implementation of the naming strategy.

8. Thus, the technical problem can be considered to be how to achieve the non-technical effects mentioned at point 6, above. The formulation of this problem cannot involve an inventive step since according to the established jurisprudence of the EPO, non-technical aspects cannot contribute to inventive step.
9. Faced with the problem of naming the group by the location of the oldest image (or indeed any image), the skilled person would consider D2 and D3, which disclose that single images can be named by the location where they were taken. This process uses "name storing means" ("place name information register part 7" in D2 and CD-ROM 14 in D3) for storing name data and corresponding position data on a map. Although not explicitly stated in D2 or D3, the Board judges that this would in fact involve finding the nearest named point in the map data to the selected image, for which the claimed coordinate comparison would be an obvious implementation.
10. As far as naming the group by the area where the images were taken is concerned, the Board notes that apart from the claimed "coordinate comparison", neither claim 1 nor the rest of the application gives any details of how this is actually implemented, in

particular how the area names are defined and stored. Indeed, in the Board's view, this could be rather complicated. Alternative b) of the claim therefore amounts only to the mere definition of the effect to be achieved and the use of a "coordinate comparison". Whatever way the area names are implemented, they must inevitably be represented by some coordinates, so that the provision of the claimed "coordinate comparison" to determine the relevant area would again be an obvious requirement.

11. The appellant argues that the invention uses both techniques in the same device in that it first looks for a name representative of the area and if one is not found it gives the group the name of the oldest image in the group. However, the appellant was unable to find support in the application for this sequence of operation and this is not reflected in the wording of claim 1. This is particularly so in view of the fact that the alternatives are presented the other way round in the claim. Thus, the claim merely defines an apparatus that is capable of performing both alternatives. Since, as mentioned above, both alternatives are obvious and there is no surprising effect disclosed when combining these two alternatives in the same device, the Board considers that the claimed combination does not involve an inventive step (Article 56 EPC 1973).
  
12. There being no further requests, it follows that the appeal must be dismissed.

**Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:

T. Buschek

S. Steinbrener