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**Datasheet for the decision
of 1 February 2011**

Case Number: T 0585/07 - 3.4.03

Application Number: 98305673.0

Publication Number: 0899700

IPC: G07G 1/12

Language of the proceedings: EN

Title of invention:
Sales management apparatus

Applicant:
Sharp Kabushiki Kaisha

Opponent:

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Headword:

-

Relevant legal provisions:

-

Relevant legal provisions (EPC 1973):

EPC Art. 56

Keyword:

"Inventive step (yes)"

Decisions cited:

-

Catchword:

-



Case Number: T 0585/07 - 3.4.03

D E C I S I O N
of the Technical Board of Appeal 3.4.03
of 1 February 2011

Appellant: Sharp Kabushiki Kaisha
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Representative: Brown, Kenneth Richard
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 16 November 2006
refusing European patent application
No. 98305673.0 pursuant to Article 97(1) EPC
1973.

Composition of the Board:

Chairman: G. Eliasson
Members: T. Häusser
T. Bokor

Summary of Facts and Submissions

I. This concerns an appeal by the appellant (applicant) against the decision of the examining division refusing European patent application No. 98 305 673 for lack of novelty and inventive step having regard to the following documents:

D1: WO 96/18979 A1,

D2: WO 87/04482 A1.

II. The appellant requests that the decision be set aside and a patent be granted on the basis of one of the following requests:

Main request:

- claims 1 to 5 as filed with the letter dated 17 November 2010.

First auxiliary request:

- claims 1 to 5 as filed with the letter dated 25 October 2010.

Second auxiliary request:

- claims 1 to 4 as filed with the letter dated 25 October 2010.

Third auxiliary request:

- claims 1 to 5 as filed with the letter dated 25 October 2010.

The appellant also requests oral proceedings on an auxiliary basis.

III. The wording of claim 1 according to the main request, reads as follows:

"1. A point of sale terminal comprising:
a main part operable to function in a plurality of modes, said main part comprising a memory for storing a control program and a control unit for operating the apparatus in accordance with said control program; and
a plurality of mode keys, each mode key comprising a memory for storing a control program, wherein
a control program for operation of the main part is operable to be transmitted from the memory of the mode key to the memory of the main part, wherein
said main part is operable to receive a mode key and functions in a particular mode dependent upon which mode key is connected thereto, wherein
a control program stored in a mode key is changeable with another program different in: position of restaurant menu keys, kind of restaurant menu to deal with, processing functions and the like."

IV. In relation to the main request the appellant argued essentially as follows:

Document D1 disclosed an ATM machine, but did not disclose a point of sale terminal comprising a plurality of mode keys. Furthermore, document D1 did not disclose that the control program stored in a mode key was changeable with another program that is different in position of menu keys, kind of menu to deal with and the like.

Furthermore, the adaptation of the ATM machine disclosed in D1 into a point of sale terminal would not lead to the subject-matter of claim 1, as the customers would not be prepared to provide their financial cards to a stranger before starting to shop.

Reasons for the Decision

1. Admissibility

The appeal is admissible.

2. Main request - amendments

Claim 1 is based on claims 1, 3, and 8 as originally filed and on the description as originally filed (page 1, first paragraph; page 5, second paragraph; page 10, last paragraph - page 11, fifth paragraph; page 13, fourth paragraph).

Dependent claims 2 to 5 are based on original claims 2, 4, 5, and 7, respectively. The description has been brought into conformity with the amended claims.

Accordingly, the board is satisfied that the amendments comply with the requirements of Article 123(2) EPC.

3. Main request - novelty

- 3.1 Document D1 discloses a financial transaction terminal (D1, page 7, lines 12-14). It is explicitly stated that the terminal which is described in D1 is an ATM machine (D1, page 7, lines 14-15). This is followed by a description of the detailed features of the ATM machine (see Figures 1-3, 5 and corresponding parts of the description). On page 7, lines 14-18 it is stated that the invention described in D1 is inclusive of home computers, POS (i.e. point of sale) terminals, pay

telephones and other devices that accept financial cards. However, none of these other devices is described in any detail. Furthermore, ATM machines are generally operated by the customer, whereas point of sale terminals are generally operated by the cashier; therefore they cannot merely be substituted for each other without modification. Accordingly, it is the board's opinion that a point of sale terminal is not disclosed in combination with the detailed features relating to the disclosed ATM machine.

The financial interaction terminal 101 of document D1 then corresponds to the main part in the apparatus of claim 1 (D1, page 8, lines 21-25). Furthermore, the terminal comprises a memory 350, into which programming steps can be read from the programming memory 403 of the program card (D1, page 10, lines 27-29), and an interpreter and microprocessor for interpreting the read programming steps and executing them (page 9, lines 3-10 and page 11, lines 1-6). Interpreter and microprocessor thus correspond to the control unit for operating the apparatus in accordance with the control program in claim 1.

The display and possible transactions of the terminal can be customized to the needs of each individual customer (D1, page 11, lines 21-25). For example, a bill paying function, a function to order merchandise, and a function to buy lottery tickets can be added for those customers who desire such functions (D1, page 12, line 29 - page 13, line 36). For each customer the main part is thus functioning in a specific customized way, so that it can be regarded to be operable to function in a plurality of modes.

Document D1 discloses a customized program card with a program memory space 403 for storing programming instructions (D1, page 9, lines 19-22). As these programming instructions determine the way the ATM machine functions (D1, page 10, line 28 - page 11, line 6), the program card is a mode key in the sense of claim 1. It is regarded to be implicitly disclosed in document D1 that a plurality of these cards is issued to different customers (see page 11, lines 21-25).

As the terminal 101 reads the program from the programming memory 403 of the program card into the memory 350 of the terminal (D1, page 10, lines 27-29), the program is transmitted from the memory 403 to the memory 350.

Furthermore, the main part is operable to receive a program card in a card receptacle (D1, page 7, lines 25-28) and functions in a specific way depending on the card connected to the terminal (D1, page 9, lines 10-12). Document D1 also discloses that the contents of the memory 403 of the program card can be altered via I/O port 407, allowing modifications of the transactions available to the user (D1, page 9, lines 29-34).

Document D1 does not disclose that

- the terminal is a point of sale terminal, and
- a control program stored in a mode key is changeable with another program different in: position of restaurant menu keys, kind of restaurant menu to deal with, processing functions and the like.

The subject-matter of claim 1 is therefore new over document D1.

3.2 The prior art document JP 8-153277 (D3), cited in the description of the application, describes a point of sale terminal (paragraph [0001]) which comprises a main part 1 operable to function in a plurality of modes, for example a registration mode, a checking mode, and a balancing account mode (paragraph [0036]). The main part 1 comprises a memory 12 for storing a control program (paragraph [0016]) and a control unit, namely CPU 11, for operating the apparatus in accordance with the control program (paragraph [0022]). Furthermore, a plurality of mode keys are provided (paragraph [0015]), the main part 1 being operable to receive a mode key (paragraphs [0014]-[0015]; see also paragraphs [0003]-[0004]). The different mode keys allow the user to access a different selection of the available modes (paragraph [0015]).

Document D3 does not disclose that

- (i) each mode key comprises a memory for storing a control program,
- (ii) a control program for operation of the main part is operable to be transmitted from the memory of the mode key to the memory of the main part,
- (iii) the main part functions in a particular mode dependent upon which mode key is connected thereto,
- (iv) a control program stored in a mode key is changeable with another program different in: position of restaurant menu keys, kind of restaurant menu to deal with, processing functions and the like.

The subject-matter of claim 1 is therefore new over document D3.

- 3.3 Neither document D2 nor the remaining cited prior art documents are closer to the subject-matter of claim 1 than documents D1 and D3. Claims 2 to 5 are dependent on claim 1 providing further limitations.

Accordingly, the subject-matter of claims 1 to 5 is new (Articles 52(1) EPC and 54(1), (2) EPC 1973).

4. Main request - inventive step

- 4.1 The present application is directed to a point of sale terminal that can be adapted to a variety of tasks by the use of mode keys (see the description, page 2, second paragraph).

Document D3 is directed to the same purpose as the application (D3, paragraph [0006]). Document D1 relates to conducting commercial transactions using financial cards and a financial transactions terminal (D1, page 1, lines 1-13). Even though it is mentioned that the financial transactions terminal could be a point of sale terminal (D1, page 7, lines 14-18), such a terminal is not further described in D1. Furthermore, document D1 is in particular concerned with personalizing the financial terminal displays and selection options based on the card user's or issuer's preferences (D1, page 1, first paragraph and page 4, penultimate paragraph).

Document D3 is therefore regarded to be the closest prior art.

- 4.2 The subject-matter of claim 1 differs from the point of sale terminal of D3 in comprising the features (i), (ii), (iii), and (iv) (see point 3.2 above).

The effect of these features is to allow the adaptation of the point of sale terminal to different working conditions at different times of the day in a simple and efficient manner (see the description, page 18, penultimate paragraph - page 19, second paragraph).

The objective technical problem can therefore be regarded as to allow to simply and efficiently adapt the point of sale terminal to different working conditions.

- 4.3 In the closest prior art document D3 it is described that the hard disk drive 20 contains a correspondence file 40 providing a correspondence table between mode key positions and operation modes, and a program file 30 providing application programs 32 for the operation modes (D3, Figure 5 and paragraph [0019]). When the point of sale terminal is operated, the operation mode corresponding to the chosen mode key position as determined according to the correspondence file 40 will be executed (D3, paragraph [0037]). The operation modes can therefore already be modified in the apparatus of D3 by changing, e.g. updating, the program file 30 on the hard disk drive 20.

- 4.4 Document D2 relates to a key operated switch with a key comprising an electronic memory containing key-identifying data and a transmitter cooperating without contact with a corresponding receiver in a receptacle

arranged to receive the key (D2, page 1, last paragraph). The key may be used in access control for housing, boats, offices, factories, etc. and for vehicle security (D2, page 7, last three paragraphs). Since the objective technical problem relates to the adaptation of the point of sale apparatus to different working conditions, rather than to improved access control or security, the skilled person would not look for solutions to the objective technical problem in the document D2, especially as the apparatus of D3 already provides means for modifying the operation modes by changing the program file 30.

4.5 Document D1 relates to conducting commercial transactions using financial cards and a financial transactions terminal, and in particular to personalizing the terminal displays and selection options in the terminal based on the card user's or issuer's preferences. Instructions stored on the customer's financial card and read into the terminal's memory allow the display and interaction to be customized to the needs of the customer (D1, page 10, line 18 - page 12, line 17). Since D1 aims at personalizing display and interaction, rather than allowing adaptation of the point of sale apparatus to different working conditions, the skilled person would not consider document D1 in his attempt to find solutions to the objective technical problem.

4.6 Furthermore, in document D3 only the following modes of operation are mentioned (D3, paragraphs [0002] and [0019]): registering sales, cancelling sales, outputting sales reports, clearing stored sales, setting prices. Neither in D3 nor in any other prior

art document on file there is any indication to adapt the operation mode to different restaurant menus. He would thus not be prompted to modify the apparatus of D3 to allow such adaptation.

- 4.7 The remaining prior art documents on file do not contain any teaching leading the skilled person to the subject-matter of claim 1, which is therefore not considered to be obvious.

The subject-matter of claims 2 to 5 is also not considered obvious as these claims are dependent on claim 1.

Accordingly, the subject-matter of claims 1 to 5 of the main request involves an inventive step (Articles 52(1) EPC and 56 EPC 1973).

5. Main request - other requirements of the EPC and conclusion

The description has been brought into conformity with the amended claims to comply with the requirements of Article 84 EPC 1973. The remaining requirements of the EPC are therefore also satisfied.

Therefore a patent can be granted on the basis of the application documents according to the main request.

6. Subsidiary requests

Since the application documents according to the appellant's main request are allowable, neither the holding of oral proceedings nor the consideration of

the application documents according to the appellant's auxiliary requests is necessary.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance with the order to grant a patent in the following version:

Main request:

- claims 1 to 5 as filed with the letter dated 17 November 2010;
- description pages 1 to 3 and 7 to 20 as originally filed and pages 4 and 5 as filed with letter dated 17 November 2010;
- drawings sheets 1/9 to 9/9 as originally filed.

The Registrar:

The Chairman:

S. Sánchez Chiquero

G. Eliasson