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**Datasheet for the decision
of 6 October 2011**

Case Number: T 1561/07 - 3.5.06
Application Number: 96301082.2
Publication Number: 727727
IPC: G06F 1/00, G06K 19/07,
G07F 7/10
Language of the proceedings: EN

Title of invention:

Portable interactive storage device and method of displaying
its contents

Applicant:

ContentGuard Holdings, Inc.

Headword:

Transportable storage device/CONTENTGUARD

Relevant legal provisions (EPC 1973):

EPC Art. 56

Keyword:

"Inventive step (main request) - yes"

Decisions cited:

-

Catchword:

-



Case Number: T 1561/07 - 3.5.06

D E C I S I O N
of the Technical Board of Appeal 3.5.06
of 6 October 2011

Appellant:
(Applicant) ContentGuard Holdings, Inc.
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 1 March 2007
refusing European patent application
No. 96301082.2 pursuant to Article 97 (1) EPC
1973.

Composition of the Board:

Chairman: D. H. Rees
Members: M. Müller
M.-B. Tardo-Dino

Summary of Facts and Submissions

I. The appeal lies against the decision of the examining division to refuse the European patent application 96301082.2 delivered in writing with letter of 1 March 2007.

II. The decision referred to the following document

D1: US 4 868 376

and came to the conclusion that the claimed invention lacked an inventive step over D1.

III. Appeal against the decision was filed on 11 May 2007 and the appeal fee was paid on the same day. A statement of grounds of appeal was filed on 11 July 2007. The appellant requested that the decision be set aside and that a patent be granted based on the claims on file.

IV. With a summons to oral proceedings the board introduced a new document, namely

D3: EP 0 390 611 A2

and expressed its preliminary opinion that the present independent claim appeared to lack an inventive step over each of D1 and D3.

V. In response to the summons and with letter dated 6 September 2011 the appellant filed two new sets of claims 1-25 and 1-24 as, respectively, auxiliary requests 1 and 2.

VI. During oral proceedings, the appellant withdrew the main request, filed amended description pages, and requested that a patent be granted based on the following documents:

description, pages

1, 2 received with letter of 10 February 2003

2a, 2b, 3-5 as filed during oral proceedings

6-15 as originally filed

claims, numbers

1-25 according to a main request, filed with letter of 6 September 2011 as auxiliary request 1, or else

1-24 according to an auxiliary request, filed with letter of 6 September 2011 as auxiliary request 2

drawings, pages

1/10-10/10 as originally filed

VII. Claim 1, the sole independent claim of the main request, reads as follows

"A method for accessing documents stored in a repository from a transportable storage device (101; 601), said documents stored in said repository having one or more usage rights attached thereto, said usage rights indicating a particular manner by which said document may be used, said manner by which said document can be used comprises a manner by which said document can be rendered, said transportable storage device (101; 601) comprising a display, a plurality of traversal keys, a select key, and an external interface means (202) for coupling said transportable storage

device (101; 601) to said repository, said method comprising the steps of:

detecting coupling of said transportable storage device to said repository;

displaying on said display of said transportable storage device a list of functions for accessing a document stored on said repository, each of said functions representing an instance of how a selected document is used, each of said functions corresponding to an instance of a usage right;

detecting selection of a function from said displayed list of functions;

displaying on said display of said transportable storage device a list of the contents of said repository;

detecting selection of a desired document from said list of contents of said repository; wherein

access to said document is granted if said desired document has attached thereto said instance of said usage right corresponding to said selected function; and

access to said document is denied if said desired document does not have attached thereto said instance of said usage right corresponding to said selected function."

VIII. At the end of the oral proceedings the chairman announced the decision of the board.

Reasons for the Decision

1. The decision under appeal did not raise any objections under Article 84 EPC 1973 or Article 123 (2) EPC and the board has no occasion to raise any of its own. The feature added to claim 1 according to which the usage rights may refer to manners of rendering is supported by the original application *e. g.* on p. 5, lines 16-18 in combination with lines 28-29. Furthermore, in view of the acknowledgements of D1 and D3 in the application (pages 1, 2, and 2a) the board deems it appropriate that claim 1 is drafted in one-part form.
2. In view of the result of this appeal, it is sufficient to limit the analysis to the main request.

The Invention

3. The invention generally relates to the field of digital rights management. In this context, the invention as claimed is concerned with the interaction between a "transportable storage device" (henceforth "device" for brevity) and a "repository" during which the device requests "from" the repository access to a document for an intended purpose.
 - 3.1 According to the description the device, therein called a "DocuCard", may be equipped to access documents stored in local memory or within other repositories. The claimed invention is limited to the access of

documents from a device in an external repository such as a kiosk or another DocuCard (cf. amended p. 3, lines 20-23; p. 5, lines 20-21; p. 7, penult. par.). Claim 1 expresses this limitation by requiring that, for the device and the repository to interact, the device must be "coupled" to the repository by a suitable "external interface means". In the board's view this implies that the repository and the device as claimed are separate pieces of hardware.

- 3.2 The term "document" is intended to subsume essentially any kind of digital information, including for instance audio, video or textual data (cf. description, p. 1, lines 3-4, and p. 5, lines 15-21 and 30-32). The repository stores documents along with attached "usage rights" which define how the documents may be used or "rendered", e. g. played or displayed.
- 3.3 When the device is coupled to the repository, it will display a list of "functions", i. e. possible manners of use, and a list of contents and thus enable the user to select a document and its intended manner of use.
- 3.4 When the selected function is amongst the usage rights attached to the selected document, access is granted, otherwise access is denied. In the context of the claimed method for "accessing documents stored in a repository from a transportable storage device" this implies that it is the repository which performs this validation, in conformity with the description (p. 5, lines 28-29).
- 3.5 The board deems it evident that for the device to obtain access to a document so as to render (e. g.

display) it, the document must be transferred to the device. Therefore, the board interprets claim 1 as implying such transfer of a document to which access is granted. Beyond that, the claimed invention does not define what is to happen when access to a document is granted.

4. The appellant suggests that the repository enforces the usage rights attached to a document at the device. The board concedes that the repository contributes to such enforcement by granting or denying access to a selected document only when a selected manner of use is allowed. Beyond that it is not claimed how or whether it is ensured that the device accesses the selected document only within the limits of the attached usage rights, let alone only for the selected manner of use.

The Prior Art

5. Document D3 discloses a transportable computing device for retrieval and displaying the contents of various types of documents, in particular books (cf. p. 2, lines 1-3). In D3 this device is called an "electronic book". D3 does not disclose any other "rendering" of documents than displaying.
 - 5.1 The electronic book has an internal memory into which new content can be loaded via various memory media but also via direct coupling to a vending machine or the publishing company by means of cable, telephone or broadcast (cf. table on p. 2; p. 5, lines 18-23, 28-32 and 37-38; figs. 6-9).

5.2 D3 does not disclose that documents are stored with attached usage rights. D3 also does not disclose any detail as to how the user would select documents of interest for download, let alone that the electronic book would display for separate selection a manner of use and a document and that the server would allow the electronic book to access a selected document only when the selected use and the attached usage rights match.

6. It is known that, as a matter of law, documents may come with copyright and reprint restrictions which might, for instance, allow reprint for classroom use but prohibit any other reproduction, *i. e.* rendering. Such documents often contain printed copyright notices to inform users about the fact that "access" is granted only for "use" within the limits of these rights. Within the system of D3 such copyright notices would be part of the digital document *content*, which may be displayed but would not have any impact on the functioning of the electronic book or the document transmission. The mere existence of usage rights or its legal consequences within documents thus does not solve any technical problem.

7. In contrast, the use of these usage rights to grant or deny the device access to a document stored on the repository depending on selections made by the user has the technical effect that documents may or may not be transmitted and, as a consequence, will or will not be available for access at the device.

7.1 The board therefore is of the opinion that the claimed invention in comparison with D3 solves, at least partially, the technical problem of controlling

document access in conformity with associated usage rights.

7.2 As D3 neither mentions usage rights nor suggests their relevance, let alone any technical support towards enforcing them, nor discloses any detail about how user selections are enabled in interaction with the vending machine or publishing company, the board concludes that claim 1 of the main request is not obvious for the skilled person in view of D3.

8. Document D1 discloses a transportable storage device, called an intelligent transaction card ITC, equipped with a display, a plurality of traversal keys and a select key, (see fig. 1a; col. 10, line 61 - col. 11, line 2) and external interfaces through which data and program code can be loaded into the ITC (see e.g. col. 4, lines 2-4; col. 7, lines 4-7 and 47 ff.; and col. 19, lines 43-52: transducer).

8.1 The ITC acts as a "portable ... personal data system" which can store a variety of data, such as addresses, telephone numbers or notes (see abstract; col. 3, lines 44-47; col. 11, lines 43 ff.), but also a "variety of application programs" (col. 3, lines 35-40).

8.2 D1 discusses several such applications in some detail (cf. col. 10, lines 24-34), *inter alia* a notebook application which enables the user to browse and edit notes held in local memory (col. 11, lines 43 ff.) and a ticketing application which allows the user to buy an electronic train ticket (col. 15, lines 53 ff.; col. 20, lines 35-38). These applications make use of the ITC display to guide the user through an appropriate menu.

8.3 The application programs - which fall within the broad scope of the term "documents" according to the application (cf. p. 5, lines 30-32) - are loaded by "authorized manufactures or issuers of the ITC" only (see D1, col. 3, lines 67 - col. 4, line 4). Because it is suggested that each such "issuer" takes care of its programs only (col. 4, lines 4-7), and because the ITC may run several applications at the same time (col. 3, lines 36-40), several external parties may be able to update application programs. The user however is expressly excluded (col. 4, lines 31-35). Also, no interactive menu is disclosed to support the loading of application programs.

8.4 In comparison with claim 1 any of these applications according to D1 lack at least the following features.

- a) The device can be coupled to an external repository and view an index of its contents via a suitable interface using the local display.
- b) The external repository stores documents along with associated usage rights, enables selection of an intended use ("function") and a document, and grants corresponding access only if the attached usage rights so allow.

Notebook application

9. The notebook application, which is referred to in the decision, exemplifies the use of the ITC as a "personal data system" according to which the relevant data is stored on the ITC (cf. D1, abstract). In the board's

view, it would be against the gist of this application to store the notes on external storage and access them from there. The board thus considers that claim 1 is inventive over the notebook application of D1, already by virtue of feature a.

Program loading

10. D1 discloses that for security reasons it may be prohibited that the cardholder read or modify software on the ITC (col. 4, lines 31-35). This is immediately reasonable for banking or ticketing software. The skilled person would be aware, however, that for other applications such as an electronic address book or calendar a lower security level is acceptable and that hence that this prohibition may be dispensed with.
- 10.1 In the board's view it would be a realistic objective technical problem to modify D1 by enabling the users to install certain programs themselves.
- 10.2 However, according to D1, programs are loaded ("input") for execution or they are not loaded at all. There is no suggestion in D1 that there should be different "manners of use" for a program, let alone that the user should be enabled to select amongst them and that program transmission should be made dependent on this selection.
- 10.3 The board hence concludes that claim 1 of the main request is non-obvious over the program loading mechanism of D1 at least by virtue of feature b.

Electronic Ticketing

11. The ticketing application according to D1 runs entirely on the ITC (see fig. 17). Even specific choices - such as that between "one way" or "round trip" and that between a normal fare or a "senior citizen" - are hard coded. By consequence, the transportation authority may have to update the application software when the tickets are offered under different terms or at different prices.
 - 11.1 In the board's view it would be another realistic objective technical problem to modify the ticketing application of D1 so that the ticketing software needs fewer updates.
 - 11.2 As a solution, the board considers it obvious to store a list of available ticket options on an external ticket vending machine, and to enable the user to browse this list from the ITC.
 - 11.3 However, the electronic ticket eventually transmitted is not one that had been stored in a repository before. Rather, for use as a "token" (cf. col. 20, lines 35-38) the electronic tickets must be generated for the purpose of transmission. Hence in the board's view an electronic ticket does not qualify as a "document" as claimed which is held in a repository and to which access is granted or denied.
 - 11.4 In summary, there is nothing in D1 that would suggest that the user should select a ticket from a list of "documents" held in external storage and that this

ticket should be transmitted only if a desired "manner of use" is allowed for this ticket.

- 11.5 The board concludes that claim 1 of the main request is non-obvious also over the ticketing application of D1 by virtue of feature b.
- 11.6 In summary, the board finds that the subject matter of claim 1 is not obvious to the person skilled in the art having regard to D1.
12. The board also cannot see any way in which the skilled person would, without exercising an inventive step, arrive at the claimed invention by combining the teaching of D1 and D3 and therefore further concludes that claim 1 of the main request shows the required inventive step over the prior art available on file, in conformance with Article 56 EPC 1973.

Order

For these reasons it is decided that:

1. The decision 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:

description, pages

1, 2 received with letter of 10 February 2003
2a, 2b, 3-5 as filed during oral proceedings
6-15 as originally filed

claims, numbers

1-25 according to the main request, filed
 with letter of 6 September 2011 as
 auxiliary request no. 1

drawings, pages

1/10-10/10 as originally filed

The Registrar:

The Chairman:

B. Atienza Vivancos

D. H. Rees