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**Datasheet for the decision  
of 25 June 2010**

**Case Number:** T 1968/07 - 3.5.05

**Application Number:** 04751839.4

**Publication Number:** 1620789

**IPC:** G06F 3/033

**Language of the proceedings:** EN

**Title of invention:**

Method and apparatus for navigating alphabetized text

**Applicant:**

Thomson Licensing

**Headword:**

Different scroll modes for alphabetized list/THOMSON

**Relevant legal provisions:**

EPC Art. 123(2)

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

EPC Art. 56, 84, 106, 107, 108

**Keyword:**

"Inventive step - yes (after amendment)"

**Decisions cited:**

J 0010/07

**Catchword:**

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Case Number: T 1968/07 - 3.5.05

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.05  
of 25 June 2010

**Appellant:** Thomson Licensing  
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F-92130 Issy-les-Moulineaux (FR)

**Representative:** Le Dantec, Claude  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 9 July 2007  
refusing European application No. 04751839.4  
pursuant to Article 97(1) EPC 1973.

**Composition of the Board:**

**Chairman:** A. Ritzka  
**Members:** M. Höhn  
G. Weiss

## Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division dispatched 9 July 2007, refusing European patent application No. 04751839.4 because of lack of inventive step (Article 52(1) EPC and Article 56 EPC 1973) over prior art document:
- D1: US 2002/0109709 A1.
- II. The notice of appeal was filed with letter received on 12 September 2007. The appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 19 November 2007 in which it was requested that the appealed decision be set aside and that a patent be granted on the basis of one of the three sets of claims 1 to 11, filed with the statement setting out the grounds of appeal as main request, first and second auxiliary requests. Oral proceedings were requested on an auxiliary basis.
- III. A summons to oral proceedings to be held on 25 June 2010 was issued on 1 April 2010. In an annex accompanying the summons the board expressed the preliminary opinion that the subject-matter of independent claim 1 of the main request and the first auxiliary request did not fulfil the requirements of Article 84 EPC 1973. The subject-matter of independent claim 1 of the main request and the second auxiliary request did not fulfil the requirements of Article 56 EPC 1973 in the light of D1 when combined with the skilled person's common general knowledge, or alternatively in the light of

D2: EP 0 813 138 A1,

also when combined with the skilled person's common general knowledge. The subject-matter of independent claim 1 of the first auxiliary request appeared to lack novelty over D2. The board gave its reasons for these objections and stated that the appellant's arguments were not convincing.

- IV. With a letter dated 24 May 2010 the appellant filed three amended sets of claims named main request and first and second auxiliary requests. The appellant submitted arguments in support of these requests.
- V. Oral proceedings were held on 25 June 2010. In the course of them the appellant withdrew the second auxiliary request and filed two amended sets of claims as a main request and a first auxiliary request replacing the previous requests.
- VI. Independent claim 1 according to the main request reads as follows:

"1. A method (150) of navigating through an alphabetized ordered list of text items identifying elements accessible from an apparatus comprising the steps of:  
advancing and displaying the alphabetized list of text items, in a first scroll mode, by scrolling by one text item at a time in response to pressing a key for a duration that is longer than a first duration (152) and less than a second duration  
advancing by a predetermined number of text items greater than one in the alphabetized ordered list of

text items and displaying consecutive pages of text items from the alphabetized list of text items each displayed page having the predetermined number of text items greater than one, in a second scroll mode, in response to pressing a key for a duration that is longer than the second duration (156) and less than a third duration; a pause being included between the display of each page of text items each displayed page having consecutive text items from the alphabetized list of text items and advancing and displaying the alphabetized list of text items, in a third scroll mode, by text items having a starting letter that is next in the alphabet relative to a starting letter of a text item currently being displayed in response to pressing the key for longer than the third duration (160)."

In independent claim 1 according to the auxiliary request the last feature specifying the third scroll mode has been replaced by:

"changing from the second scroll mode to a third scroll mode by advancing and displaying the alphabetized list of text items by text items having a starting letter that is next in the alphabet relative to a starting letter of a text item currently being displayed in response to scrolling in the second scroll mode reaching a text item having a first letter that is the next letter in the sequence of first letters, wherein the first text item displayed during the first scroll mode is associated with a starting first letter selected by a user."

Independent apparatus claims 7 of both requests are directed to a corresponding digital audio player.

VII. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of one of the two sets of claims 1 to 11 filed at the oral proceedings as main request and as first auxiliary request. The second auxiliary request filed with letter dated 24 May 2010 was withdrawn.

VIII. After deliberation the board announced its decision.

## **Reasons for the Decision**

### 1. Admissibility

The appeal complies with the provisions of Articles 106 to 108 EPC 1973, which are applicable according to J 0010/07, point 1 (see Facts and Submissions, point II above). Therefore the appeal is admissible.

#### *Main request*

### 2. Amendments to the independent claims

The set of claims as submitted during oral proceedings was amended based on page 13, line 7 to page 15, line 15 of the description as published and figures 5, 6 and 7. It fulfils the requirements of Article 123(2) EPC. The formulation "pressing a key for a duration that is longer than a first duration (152) and less than a second duration" of claim 1 and the corresponding wording of claim 7 overcomes the objection under

Article 84 EPC 1973 raised in the summons to oral proceedings.

3. Inventive step - Article 56 EPC 1973

3.1 D1 discloses that a user, by pressing a scroll key, scrolls through an alphabetized ordered list of text items at a constant rate on a line-by-line basis (see paragraphs [0021] to [0023] and figure 2, step 220). The board considers this disclosure to correspond to the function of the first scroll mode according to claims 1 and 7. However, D1 discloses that this scroll mode is performed as long as the scroll key is pressed for less than a duration T1 (see figure 4). According to the claimed first scroll mode the list is scrolled when pressing a key for a duration that is longer than a first duration and less than a second duration. The duration T1 disclosed in document D1 corresponds to the second duration according to claims 1 and 7. The effect of the first duration as claimed is considered to be an initial delay before the scrolling starts which is not explicitly disclosed in D1. Apart from the fact that no concrete value for such a first duration is specified in claims 1 and 7, and every hardware component or software detecting a key press has an inherent delay before an operation can start, such a delay is either inherent in the teaching of D1 or is at least regarded as obvious in the light of the common general knowledge of the skilled person knowing about key press delays and, hence, does not involve an inventive activity.

3.2 D1 further discloses a second scroll mode of speeding up the scrolling so that it soon becomes difficult to read the entries as they pass by (see figure 2, step

230 and paragraphs [0021] and [0022]). Furthermore, D1 discloses that a helper letter replaces the items of the list displayed (see e.g. figure 2, steps 240 to 243, and paragraphs [0024] to [0025] of D1). Therefore, the board does not agree with the appellant's argument on page 5 of the statement setting out the grounds of appeal, and which was repeated during oral proceedings, that D1 did not disclose three different modes of scrolling, because the helper letter superseded the list only by being shown over the list. By suggesting to replace the items of the list by a helper character, D1 discloses a third scroll mode, the three different scroll modes being (see also figures 2 and 4 of D1):  
Mode 1: scrolling item by item at a constant rate,  
Mode 2: scrolling item by item at increasing the rate and  
Mode 3: replacing the items of the list by a helper letter and scrolling the starting letters in alphabetical order.

- 3.3 As far as the third scroll mode according to claims 1 and 7 is concerned, mode 3 of D1 does not display corresponding text items together with their starting letter. However, the board considers this difference in comparison to the claimed third scroll mode not to involve an inventive step, in particular in the light of the fact that according to the appellant's argument (see page 5, paragraph 3, of the statement setting out the grounds of appeal) D1 also suggests that the helper letter superseded the list only by being shown over the list (see D1, last sentence of paragraph [0024]), thereby hinting at a display of text items together with the starting letter. In the light of this motivation in D1, the board considers it to be obvious



that the text items superseded by the helper letter are the corresponding text items starting with such a first letter.

3.4 Regarding the second scroll mode according to claims 1 and 7, with the amendments made during oral proceedings this second scroll mode has been further specified by the limiting feature of advancing consecutive pages of text items from the alphabetized list and displaying them with a pause included between the display of each page. This feature has the effect that the text items of the alphabetized list are advanced in the second scroll mode at an increased speed compared to the first scroll mode. In contrast to the claimed feature, in Mode 2 of D1 (see point 3.2 above) all the items are displayed item by item with an increasing speed. While having the same effect of accelerating the speed of advancing the text items of the alphabetized list, this causes the problem that it soon becomes difficult to read the entries as they pass by, as explicitly stated in D1 (see figure 2, step 230). It is therefore considered that the objective technical problem of this difference between the claimed subject-matter and the disclosure of D1 is to accelerate the speed of advancing the text items of the alphabetized list while at the same time avoiding it becoming difficult to read the entries as they pass by.

D1 does not disclose a scroll mode according to which text items are scrolled by more than one text item at a time. In particular, D1 does not disclose a scroll mode on a page-by-page basis. The skilled person, faced with the objective technical problem underlying the claimed subject-matter, would infer from D1 that the increase

of speed in Mode 2 of D1 (see point 3.2 above) has to be limited to a maximum speed which still allows all the entries to be read as they pass by, or alternatively that Mode 2 of D1 (see point 3.2 above) is switched to Mode 3 of D1 (see point 3.2 above) when the maximum speed is reached. Limiting the speed of Mode 2 to the maximum speed or switching from Mode 2 to Mode 3 at the maximum speed would solve the objective problem. Therefore, D1 does not provide a hint to the skilled person to solve the objective problem by the second scroll mode as claimed.

The board therefore judges that the second scroll mode according to claims 1 and 7 is not rendered obvious by the disclosure of D1.

3.5 Prior art document D2 discloses a first scrolling mode (see "Mode 1" in column 5, line 1 onwards) in which text items are scrolled one-by-one, a second scrolling mode (see leap scrolling "Mode 2" in column 5, line 20 onwards) in which, at least occasionally depending on the actual text items in the list, it is scrolled by a number of text items greater than one (see the example with "Aaa" being scrolled to "Aba" omitting "Aab" and "Aam") and a third scrolling mode (see leap scrolling "Mode 3" in column 5, line 40 onwards) with scrolling list members with subsequent first letters (see example "Aaa" followed by "Baa" until "Zaa").

In all modes 1 to 3 of D2 the list members are displayed sequentially, i.e. line by line. The displayed list in mode 3 is a subset of the list displayed in mode 2, and the list displayed in mode 2 is a subset of the list displayed in mode 1.

- 3.6 The first scrolling mode according to claims 1 and 7 is considered to be at least obvious in the light of "Mode 1" in D2 (regarding the initial delay defined in the claimed feature the argument presented in point 2.1 above applies accordingly).
- 3.7 As far as the third scroll mode is concerned, the board interprets the wording "advancing and displaying the alphabetized list of text items..." in claims 1 and 7 to mean that it does not exclude only subsets of the complete list being displayed, as is the case in the third scroll mode (see e.g. figures 7A and 7B of the application, where parts of the alphabetized text items are skipped). For that reason the board regards the functioning of the leap scrolling "Mode 3" (see D2, column 5, line 40 onwards) with scrolling list members with subsequent first letters (see example "Aaa" followed by "Baa" until "Zaa") to correspond to the third scroll mode according to claims 1 and 7. The only difference between the third scroll mode of claims 1 and 7 and the disclosure of D2 is that according to D2 "Mode 3" is entered when the second letter of the text items scrolled through in "Mode 2" is the last one. However, the board considers it to be an obvious design alternative to replace this way of changing from "Mode 2" to "Mode 3" by another timer, as is already the case when changing from "Mode 1" to "Mode 2".
- 3.8 Leap scrolling "Mode 2" of D2 (see column 5, line 20 onwards) advances, depending on the actual text items in the list, by a number of text items greater than one (see the example with "Aaa" being scrolled to "Aba" omitting "Aab" and "Aam"). The board considers the

number of text items advanced in "Mode 2" of D2 to be "predetermined" by the concrete text items in the alphabetized list (e.g. predetermined number of three text items according to the example in column 5, lines 23 to 25). This is regarded as a kind of "advancing" through the alphabetized list of text items by a predetermined number of text items greater than one (following the aforementioned example advancing by three items). However, the same is not the case for "displaying". D2 merely discloses skipping at least one text item and displaying the following text item, but only a single additional line. D2 does not disclose or suggest displaying consecutive pages of text items and displaying them with a pause included between the display of each page according to the second scroll mode of claims 1 and 7.

- 3.9 Neither D1 nor D2, considered alone or in combination, renders the second scroll mode according to claims 1 and 7 obvious, the subject-matter of which therefore involves an inventive step over the prior art on file (Article 56 EPC 1973).

*Auxiliary request*

4. Since the main request is allowable, the board does not need to consider the auxiliary request.

**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 claims 1 to 11 of the main request filed at the oral proceedings and a description to be adapted.

The Registrar

The Chair

K. Götz

A. Ritzka