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**Datasheet for the decision
of 2 December 2010**

Case Number: T 1511/08 - 3.5.03

Application Number: 05021643.1

Publication Number: 1643738

IPC: H04M 1/725

Language of the proceedings: EN

Title of invention:

Mobile communication terminal and method for
transmitting/receiving image data in a push-to-talk (PTT)
communication network

Applicant:

LG Electronics Inc.

Opponent:

-

Headword:

Image data over push-to-talk/LG

Relevant legal provisions:

EPC Art. 56

Relevant legal provisions (EPC 1973):

-

Keyword:

"Inventive step - no"

Decisions cited:

-

Catchword:

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Case Number: T 1511/08 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 2 December 2010

Appellant: LG Electronics Inc.
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Yeongdeungpo-gu
Seoul 150-721 (KR)

Representative: Katérle, Axel
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Patent- und Rechtsanwälte
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 11 March 2008
refusing European patent application
No. 05021643.1 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: A. S. Clelland
Members: B. Noll
M.-B. Tardo-Dino

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division to refuse European patent application No. 05021643.1 on the ground that the subject-matter of independent claims 1 and 15 lacked an inventive step.
- II. The applicant (appellant) lodged an appeal against the decision. In the statement of grounds it was requested that a patent be granted on the basis of the claims on which the impugned decision was taken (main request) or on the basis of claims of an auxiliary request filed together with the statement of grounds. Oral proceedings were conditionally requested.
- III. In a communication accompanying a summons to oral proceedings the board gave a preliminary opinion on clarity (Article 84 EPC) and inventive step (Article 56 EPC). *Inter alia*, the following documents were referred to in the communication:
- D3: WO 99/63773 A1
D4: WO 2004/056083 A1
- IV. Together with a response to the board's communication the appellant filed a new set of claims 1 to 13 on 25 October 2010. It was requested that the decision under appeal be set aside and a patent be granted on the basis of the newly filed claims. The appellant informed the board that it would not attend the oral proceedings.

V. Claim 1 as filed on 25 October 2010 reads as follows:

"A method for transmitting and/or receiving image data and voice data over a Push-to-Talk group communication network using mobile communication terminals, comprising the steps of:

a) establishing (S1) a call setup process for performing group communication among a plurality of member terminals (211, 212, 213) of the Push-to-Talk group communication network;

b) combining (S5) image data of a drawing created by a user on a caller terminal with encoded voice data to form a packet, wherein the image data is entered by using a navigation key (120) of the terminal (100) while pushing a Push-to-Talk switch (110) for obtaining a transmission right in the group communication, wherein the entry process of the image data is completed when the pushing of the Push-to-Talk switch (110) is released;

c) transmitting (S7), by the caller terminal (100) participating the group communication and having the transmission right [sic], the packet from the caller terminal (100) to a base station (221); and

d) receiving (R1) the packet by a receiver terminal participating the same group communication [sic], wherein the receiver terminal separates (R3) the image data from the received packet and displays (R5) the image data simultaneously with outputting (R6) the voice data, and the image data is formed by converting the image data into script data representing in script form one or more predefined figure objects and operations performed on the one or more figure objects, wherein the script

data only includes data indicating a changed portion of the image."

Claim 11 is an independent apparatus claim directed to a mobile communication terminal.

VI. Oral proceedings were held on 2 December 2010 in absence of the appellant.

Reasons for the Decision

1. *Procedural matters*

The appellant, which was duly summoned, had informed the board that it did not intend to take part in the oral proceedings and, indeed, was absent. The oral proceedings were therefore held in the absence of the appellant (Rule 115(2) EPC).

In the communication accompanying the summons, objections under Article 56 EPC were raised in respect of the claims of the main and the auxiliary requests pending at the time. The appellant was thereby informed that at the oral proceedings it would be necessary to discuss these objections and, consequently, could reasonably have expected the board to consider at the oral proceedings these objections in respect of the amended claims filed in reply to the summons. In deciding not to attend the oral proceedings the appellant chose not to make use of the opportunity to comment at the oral proceedings on these objections but, instead, chose to rely on the arguments as set out in

the written submissions, which the board duly considered below.

Thus, the board was in a position to give at the oral proceedings a decision which complied with the requirements of Article 113(1) EPC.

2. *The invention*

Enhanced push-to-talk (PTT) communication in a mobile communication network permits transmission of simple graphics data together with the voice information in common data packets, for the purpose of transmitting to other participants of the PTT communication image data such as a rough map including position information of a meeting place (paragraph [0004] of the published application).

3. As set out in the communication accompanying the summons to oral proceedings, the board considers D3 as the most relevant prior art for assessing novelty and inventive step and this is not contested by the appellant. In addition to the standard PTT features of establishing a call setup process which are described in D3 from page 17, line 17 onwards, D3 further discloses that voice and image video data are transmitted "either in separate data packets or in the same data packets" when the mobile telephone is operated in a video conferencing mode (cf. page 25, lines 3 to 14). When operating in the video conferencing mode it is implicit that the mobile telephone also receives data packets containing voice and image data from other participants, and that the image data are separated from the received packets and

displayed simultaneously with outputting the voice data (cf. the second paragraph at page 26 and the passages at page 25 referred to above).

4. Accordingly, the method according to claim 1 is distinguished from D3 in that the image data are of a drawing created by a user on a caller terminal by using a navigation key of the terminal while pushing a PTT switch, that the entry process of the image data is completed when the PTT switch is released, and that the image data is formed by converting the image data into script data representing in script form one or more predefined figure objects and operations performed on the objects, wherein the script data only includes data indicating a changed portion of the image. These are the features also considered by the appellant to distinguish the method of claim 1 from D3. The appellant argued that, by means of the distinguishing features, the user is enabled to create and transmit simple graphics images during a PTT communication and the size of the image data to be transmitted is reduced.
5. Starting out from D3 as the closest prior art, the board considers the technical problem to be solved by the invention as to provide the user with a convenient possibility for transmitting by a member of a group communication a message that can be easily recognized by other members. This problem is also stated in the application as an object of the invention (paragraph [0009]).
6. This problem is solved in document D4 which discloses a mobile graphics device in which graphics data for transmission during an instant messaging session can be

created by converting an image signal entered by the user into graphics data (cf. page 8, line 16 to page 9, line 9). In the board's view, the skilled person would understand that images may be drawn by means other than a touch screen. It is known to the board, and not contested by the appellant, that the functions of mobile telephones commercially available before the priority date of the application were commonly controlled through a graphical user interface and functions of the telephone selected using a navigation key. The skilled person would appreciate that the navigation key could be used for entering graphics commands and, thus, creating image data. Considering the further feature of converting image data to script data consisting of predefined objects which represent changed portions of the image, the format of coding the drawing is at the free choice of the skilled person and selection of a particular format does not require inventive skill. The board does not see that depressing the PTT key while entering image data has any additional influence on the creation of image data other than keeping the telephone in the PTT transmission state. Thus, the skilled person, starting out from D3 as the most relevant prior art, would be led by D4 and by common practice as regards the user interface of a mobile telephone to the method of claim 1 without the exercise of inventive skill.

7. The appellant further argued that D4 did not relate to PTT communications, and that there was no motivation to combine D3 with D4. Even if these documents were combined this would result in graphics data being entered via a touch-sensitive display.

D4 relates to the transmission, via an instant messaging service, of graphics images ad hoc generated by users and would thus be considered by the skilled person as relevant prior art for transmitting graphics images in enhanced PTT-communication. As pointed out above (point 5 of the reasons) the skilled person would not be restricted by D4 to entering a graphics image solely by the use of a touch screen and a pen but would be led by their general experience to consider other means for drawing graphic images. Thus, the appellant's arguments are not convincing.

8. Since the method of claim 1 lacks an inventive step (Article 56 EPC) the appeal has to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

G. Rauh

A. S. Clelland