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Datasheet for the decision of 13 January 2012

Case Number: T 1709/08 - 3.5.05

Application Number: 99964551.8

Publication Number: 1055167

IPC: G06F 3/00, G06F 3/033, H04B 1/20

Language of the proceedings: EN

Title of invention:
Clustering of task-associated objects for effecting tasks among a system and its environmental devices

Applicant:
Adrea LLC

Headword:
Mechanism for displaying objects to enable user access to resources/ADREA

Relevant legal provisions:
RPBA Art. 15(3)

Relevant legal provisions (1973):
EPC Art. 56, 84

Keyword:
"Clarity - all claims (no)"
"Inventive step (no)"

Decisions cited:
-

Catchword:
-

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Case Number: T 1709/08 - 3.5.05

D E C I S I O N
of the Technical Board of Appeal 3.5.05
of 13 January 2012

Appellant: (Applicant)
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Representative:
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Decision under appeal:
Decision of the Examining Division of the European Patent Office posted 23 April 2008 refusing European patent application No. 99964551.8 pursuant to Article 97(2) EPC.

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 on 23 April 2008, refusing European patent application No. 99964551.8 on the grounds of insufficency of disclosure (Article 83 EPC 1973) and of lack of inventive step (Article 56 EPC 1973) in the light of the prior-art documents:

D1: J. PASCOE, "The Stick-e Note Architecture: Extending the Interface beyond the User", IUI 97, Orlando, Florida, USA, pp. 261-264, 1997;
D2: B. N. SCHILIT et al., "Context-Aware Computing Applications", IEEE workshop on mobile computing systems and applications, pp. 85-90, 1995;
D3: A. MORSE et al., "Overcoming current growth limits in UI development", communications of the ACM, Vol. 36, Nb. 4, pp. 73-81, April 1993 and
D4: A. STRUYF, M. HUBERT, P. J. ROUSEEUW, "Clustering in an object-oriented environment", Journal of Statistical Software 1, 1996.

II. The notice of appeal was received on 19 June 2008. The appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 20 August 2008. The appellant requested that the appealed decision be set aside and that a patent be granted on the basis of the set of claims submitted with the statement setting out the grounds of appeal. Oral proceedings were requested on an auxiliary basis.

III. A summons to oral proceedings on 13 January 2012 was issued on 2 November 2011. In an annex accompanying the summons the board maintained the objection under

Article 83 EPC 1973, in particular in section 4.2 of the decision under appeal, and expressed the preliminary opinion that the subject-matter of claims 1 to 15 did not appear to fulfil the requirements of Article 84 EPC 1973 and that the subject-matter of the independent claims did not appear to involve an inventive step (Article 56 EPC 1973) in the light of the disclosure of D1 combined with D3 or with the common general knowledge of the skilled person. In addition, the board referred to D5 (EP 0626635), cited in the search report. The board gave its reasons for the objections and explained why the appellant's arguments were not convincing.

IV. By letter dated 6 December 2011 the board was informed that the appellant was not inclined to proceed with the case and that the appellant's representative did not intend to attend the oral proceedings.

V. Independent claim 1 according to the sole request reads as follows:

"1. An implementing mechanism (100) for displaying objects for enabling user access to resources that provide for effecting tasks associated with the objects (310,312,313,314,315,316,318,320,322,323,324,326,328, 329,330,332,334,336,338,340), the implementing mechanism being associated with an environment, the environment comprising
one or more environmental devices (202), the implementing mechanism comprising:
resources including communication facilities (110) enabling communication with the environmental devices (202), display facilities (108) enabling display of the

task-associated objects, and input facilities 106 [sic] enabling user selection of the task-associated objects; and

a tasking software system (116) including a state tracking subsystem, a cluster formulation subsystem, a cluster presentation subsystem and a transition subsystem, wherein

the state tacking subsystem supports determination of a context by gathering data respecting at least one of environmental, device, system and temporal states;

the cluster formulation subsystem formulates clusters, each cluster comprising selected objects, such formulation being responsive to the context, wherein the selected objects are clustered based on at least one of:

(i) the tasks with which the objects are associated,

(ii) the environment or sequence of environments,

(iii) the available environmental devices or the devices that may become available by anticipatable environmental changes,

(iv) the states of devices,

(v) the user and the user's specified preferences, and

(vi) the user’s past behavior in the environment and anticipatable environments the cluster presentation subsystem supports the formatting and presentation of the task-associated objects of an active cluster responsive to the context; and,

the transition subsystem supports transitions among the formatting and presentation of the active cluster;

the tasking software system (116) operating in coordination with the resources so as to display, via the display facilities and responsive to the context, the clusters of the task-associated objects and, by selection of any such object, to enable a user to

activate a task respecting one or more environmental devices."

VI. The appellant requested in writing that the appealed decision be set aside and that a patent be granted on the basis of the set of claims submitted with the statement dated 20 August 2008 setting out the grounds of appeal.

VII. Oral proceedings were held on 13 January 2012 in the absence of the appellant. After due deliberation on the basis of the written submissions, the board announced its decision.

Reasons for the Decision

1. Admissibility

The appeal complies with Articles 106 to 108 EPC (see Facts and Submissions, point II above). It is therefore admissible.

2. Non-attendance at oral proceedings

By letter dated 6 December 2011 the board was informed that the appellant was not inclined to proceed with the case and that the appellant's representative did not intend to attend the oral proceedings. The board considered it expedient to maintain the date set for oral proceedings. Nobody attended on behalf of the appellant.

Article 15(3) RPBA stipulates that the board is not obliged to delay any step in the proceedings, including its decision, by reason only of the absence at the oral proceedings of any party duly summoned who may then be treated as relying only on its written case.

Hence, the board was in a position to announce a decision at the end of the oral proceedings.

Article 84 EPC 1973 - Clarity

3. Claims 1 to 12 are directed to an "implementing mechanism". The board considers the term "implementing mechanism", and whether the mechanism is already implemented or how it might be implemented, to be unclear. The term can also be interpreted to mean that

the mechanism is for implementing the claimed features. Therefore, the category of the claims is not clear. It is even possible to interpret this term as referring to method-like subject-matter. Even more obscure is the wording "A method implemented on an implementing mechanism" to which claims 13 to 15 are directed. If the method is implemented, it is an apparatus rather than a method, so again the category is unclear.

The appellant did not provide the board with any arguments to clarify the wording used in the set of claims 1 to 15 and thus their category.

Claims 1 to 15 therefore lack clarity, in breach of the requirements of Article 84 EPC 1973.

Article 56 EPC 1973 - Inventive step

4. Leaving aside the clarity objection, the claimed subject-matter of the independent claims also does not involve an inventive step having regard to the disclosure of D1. In amended claims 1 and 13 submitted with the statement setting out the grounds of appeal, the appellant deleted the feature identified in the decision under appeal as the only distinguishing feature of previous claims 1 and 13 with regard to the disclosure of D1 (i.e. the aspect of contextual gravity introduced during the first-instance proceedings; see e.g. point 4.2 of the decision under appeal).

4.1 The prior art has to be interpreted on the same level of abstraction as the disclosure of the present application. Moreover, the same skilled person has to

be considered for assessing compliance with Article 83 and Article 56 EPC 1973.

4.2 The board agrees with the decision under appeal that D1 discloses the concept of presenting task-associated objects in response to context (see e.g. D1, page 261, section "DEFINING CONTEXT AWARENESS" and page 262, section "THE STICK-E NOTE ARCHITECTURE").

4.3 D1 discloses an extended user interface on, for example, a PDA, which inherently is implemented as a software mechanism. Objects are defined in terms of their context (e.g. place, person, time, etc.) and the content that they represent (information, action, interface). Hence, objects are associated with particular contexts. Entering the context invokes the object (see D1, page 262, right-hand column, paragraph 4, or page 263, right-hand column, section "Defining a stick-e note"), i.e. task-associated objects are presented in response to the context according to claim 1. Such objects can be user interfaces (i.e. for displaying objects according to claim 1), or information (i.e. enabling user access to resources according to claim 1), or actions (i.e. effecting tasks associated with objects according to claim 1).

4.4 In the wording of D1, the term "context" is interpreted as equivalent to "environment" (see. e.g. D1, page 263, left-hand column, last paragraph "environment class") as used in claim 1. The PDA referred to in D1 (see e.g. page 261, right-hand column, paragraph 2) is considered to be an environmental device according to claim 1, inherently providing resources like a display, input

facilities and communication facilities. D1 also discloses a state-tracking subsystem for gathering data on the environment, the device, the system or the temporal state according to claim 1, since it discloses a mechanism for capturing such data like, for example, GPS data (see e.g. D1, page 261, right-hand column, paragraph 4, or page 263, left-hand column, paragraph 5).

4.5 D1 further discloses "trigger conditions", a "continual trigger-checking" and the routing of triggered objects to displays (see D1, page 263, right-hand column, paragraph 4 and last paragraph), which is understood to be an activation of a task on one environmental device by selection of a task-associated object according to the last feature of claim 1.

4.6 The claimed subject-matter is therefore distinguished from the disclosure of D1 only in the cluster formulation subsystem.

The underlying objective technical problem is considered to be to define rules for grouping objects, which is the effect of clustering.

4.7 D1 does not explicitly mention cluster formulation, but it suggests context hierarchy and device hierarchy, in particular "enabling devices of the same general type (e.g. location) to be treated in a common way" (see D1, figure 1 and page 263, left-hand column, paragraph 5). The explicit example of using "location" information as a criterion for grouping the devices is regarded as a grouping based on the "environment", which is one alternative in the list in claim 1 (see item (ii)). For

this reason the board does not agree with the appellant's argument that D1 merely taught the obtaining of knowledge of the environment, but that did not comprise knowledge about e.g. device states (see grounds, page 3, section "Prior art"). The location of a device is considered to be a device state.

Thus, the subject-matter of claim 1 is obvious with regard to the disclosure of D1 when interpreted in the light of the skilled person's common general knowledge.

4.8 Reference is also made to D3, mentioned in the decision under appeal (see page 10, first paragraph). D3 also deals with the design of graphical user interfaces (GUIs) and explicitly suggests "the ability to cluster attributes and objects" (see D3, page 77, centre column, paragraph 4) for interacting with several objects at the same time. Thus, in contrast to the appellant's argument (see grounds, page 3, section "Prior art"), the subject-matter of claim 1 is obvious also with regard to the disclosure of D1 combined with the teaching of D3.

5. For the sake of completeness, the board would point out that the appellant has also not overcome the objection under Article 83 EPC 1973 made in the decision under appeal (see section 3.2) and maintained in the annex to the summons to oral proceedings (see point 4).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chair:

K. Götz A. Ritzka