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**Datasheet for the decision
of 24 January 2013**

Case Number: T 0699/09 - 3.5.05

Application Number: 04802385.7

Publication Number: 1704462

IPC: G06F3/023, H04M1/02

Language of the proceedings: EN

Title of invention:
KEYBOARD ARRANGEMENT

Applicant:
Research In Motion Limited

Headword:
Reduced keyboard/RIM

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - (no) - obvious alternative solution

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 0699/09 - 3.5.05

D E C I S I O N
of the Technical Board of Appeal 3.5.05
of 24 January 2013

Appellant: Research In Motion Limited
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Representative: Hibbert, Juliet Jane Grace
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted 8 October 2008
refusing European patent application No.
04802385.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair: A. Ritzka
Members: K. Bengi-Akyuerek
D. Prietzel-Funk

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division, posted on 8 October 2008, refusing European patent application No. 04802385.7 on the ground of lack of inventive step (Article 56 EPC) with respect to a main and an auxiliary request, having regard to the disclosure of

D1: WO-A-03/056784

and the skilled person's common general knowledge as evidenced by

D2: WO-A-02/100646.

II. Notice of appeal was received on 11 December 2008 and the appeal fee was paid on 12 December 2008. The statement setting out the grounds of appeal was received on 17 February 2009. The appellant requested therein that the decision of the examining division be overturned in its entirety and that a patent be granted on the basis of the claims (claims 1 to 70) of the main request underlying the appealed decision, re-filed with the statement setting out the grounds of appeal, as a sole request. In addition, oral proceedings were requested as an auxiliary measure.

III. A summons to oral proceedings scheduled for 24 January 2013 was issued on 13 August 2012. In an annex to this summons, the board expressed its preliminary opinion on the appeal pursuant to Article 15(1) RPBA. In particular, objections were raised under Articles 52(1) and 56 EPC, mainly having regard to D1.

- IV. By letter dated 21 January 2013, the appellant informed the board that it would not be attending the scheduled oral proceedings, without submitting any comments on the substance of the board's communication under Article 15(1) RPBA.
- V. Oral proceedings were held on 24 January 2013 in the absence of the appellant. After due deliberation on the basis of the written submissions, the decision of the board was announced at the end of the oral proceedings.
- VI. Independent claim 1 of the sole request reads as follows:

"A handheld mobile communication device (10) with a physical keyboard (14), said device comprising:

a housing with a plurality of keys located at a front surface of the housing;

said plurality of keys comprising a first set of at least twelve and fewer than twenty-six keys having indicia of letters A to Z associated therewith so that at least a portion of the keys of said first set each have more than one letter indicia associated therewith, said letters being arranged in a standard alphabetic keyboard arrangement, a second set of keys having indicia of numerals 0 to 9 associated therewith, said numerals being arranged in a numeric phone key arrangement (42) that is at least partially overlaid on said standard alphabetic keyboard arrangement, and a space key (84) having a height that is greater than the height of each of said first set of keys;

wherein the plurality of keys are arranged in a grid pattern having a plurality of columns and rows, and the space key (84) is positioned in a bottom row of keys and extends below a remainder of keys in the bottom row."

Reasons for the Decision

1. Admissibility of the appeal

The appeal complies with the provisions of Articles 106 to 108 EPC (cf. point II above) and is therefore admissible.

2. Non-attendance at oral proceedings

The appellant decided not to attend the scheduled oral proceedings. Pursuant to Article 15(3) RPBA, the board is not obliged to delay any step in the appeal 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.

In the present case, the appellant did not submit any comments on the objections raised in the board's communication under Article 15(1) RPBA. The board reconsidered and maintained these objections, and was in a position to take a decision at the end of the oral proceedings in exercise of its discretion according to Article 15(3) RPBA.

3. SOLE REQUEST

This request corresponds to the main request underlying the appealed decision.

3.1 Article 52(1) EPC: Novelty and inventive step

In the board's judgment, claim 1 does not meet the requirements of Articles 52(1) and 56 EPC, for the

following reasons:

- 3.1.1 The board concurs with the examining division in considering D1 as the closest prior art.
- 3.1.2 Like the present invention, D1 is related to a reduced keyboard for combined text and numeric data entry on a mobile communication device and discloses, with regard to the wording of claim 1, a handheld mobile communication device ("mobile communication device 10") with a physical keyboard ("keyboard 32") comprising a housing ("housing 50") with a plurality of keys located at a front surface of the housing (see Fig. 3).

Fig. 6 of D1 further shows that the letter and numeral keys are arranged in a grid pattern having a plurality of columns and rows, wherein the space key is positioned in a bottom row of keys. In addition, D1 also discloses that the space key ("space bar key 32B") extends below a remainder of keys in the bottom row (see, in particular, the dimensions in Fig. 6).

- 3.1.3 Hence, the single difference between the subject-matter of claim 1 and the disclosure of D1 is seen in that the space key has a height that is greater than the height of the remainder of the first set of keys.

As a consequence, the subject-matter of claim 1 is novel over D1 (Article 54 EPC).

- 3.1.4 According to the appellant, the alleged technical effect of this distinguishing feature consisted in the provision of an improved tactile and visual distinction of the keys whilst meeting the requirements of a reduced keyboard on the handheld device, and the objective problem to be solved by claim 1 was to

produce an improved reduced keyboard allowing tactile and visual key recognition.

- 3.1.5 The board, however, concludes that an improved tactile and visual key recognisability of the space key is already achieved in D1 by the space key being centrally located in the bottom row and having a larger width than the other keys (see e.g. Fig. 6). Consequently, such an objective problem is not admissible.
- 3.1.6 Rather, the objective problem to be solved by claim 1 is regarded as being to find an alternative solution which provides the same effect of improving the ergonomic design of the space key within a reduced keyboard of a mobile device.
- 3.1.7 However, starting from the teaching of D1, the type and details of enlarging a certain, often used key such as the space key represents a common problem with which the skilled person in the field of ergonomic keyboard design could readily be faced at the application's priority date and the selection thereof typically depends on the practical circumstances like user needs and the space constraints of the device.

In this context, the skilled person would be aware from his common general knowledge that, apart from enlarging the width of a space key (as in D1) or its perimeter, other enlargement types were also suitable for improving the ergonomic setting of the handheld device. Hence, he would readily select one of equally likely alternatives (such as enlarging the key's height rather than its width) for improving the ergonomic properties of a mobile device's reduced keyboard arrangement, without exercising any inventive skills.

3.1.8 In view of the above, the subject-matter of claim 1 does not involve an inventive step having regard to D1 and the skilled person's common general knowledge (Article 56 EPC).

3.1.9 The appellant argued that there was no disclosure of the space key being positioned in a bottom row of keys and extending below the remaining keys.

In the board's judgment, however, the sketch in Fig. 6 of D1 clearly exhibits that the space bar key is positioned in the fourth row, i.e. the bottom row of the considered keyboard arrangement, and extends below the neighbouring keys "32G" and "32F" in the same row. Anyway, it is worth noting that, even if the feature of the space key extending below a remainder of keys in the bottom row were not considered as being anticipated by D1, the board finds, in agreement with the examining division, that this feature represents an obvious design choice for the skilled person to more clearly distinguish the space key from the other neighbouring keys.

3.1.10 The appellant further submitted that D1 did not render the subject-matter of claim 1 obvious, since D1 (referring to paragraphs [0003], [0026], [0034], and [0057]) aimed to reduce space on the printed circuit board (PCB) of the underlying keyboard arrangement rather than addressing the need to obtain a compromise between reducing the keyboard size and improving visual and tactile key recognition.

In this regard, the board takes the view that the aim of reducing space in D1 according to the respective paragraphs is solely related to the number of keys in the underlying keyboard arrangement and not to the

shape of frequently used keys.

3.2 In conclusion, the sole request is not allowable under Article 56 EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz

A. Ritzka

Decision electronically authenticated