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**Datasheet for the decision
of 11 April 2012**

Case Number: T 1988/09 - 3.5.03

Application Number: 03712177.9

Publication Number: 1488617

IPC: H04M 1/02

Language of the proceedings: EN

Title of invention:

A personal telecommunication device with two parts and pronounced potential for self-expression

Applicant:

Nokia Corporation

Headword:

Amulet/NOKIA

Relevant legal provisions:

EPC Art. 56

Keyword:

"Inventive step - no"

Decisions cited:

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Catchword:

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Case Number: T 1988/09 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 11 April 2012

Appellant:
(Applicant)

Nokia Corporation
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Representative:

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Decision under appeal:

Decision of the Examining Division of the
European Patent Office posted 20 May 2009
refusing European patent application
No. 03712177.9 pursuant to Article 97(2) EPC.

Composition of the Board:

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

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division refusing European patent application No. 03712177.9, with international publication number WO-A-03/084192. The decision was based on Article 123(2) EPC, but contains "additional remarks" in respect of novelty and inventive step, in particular having regard to the disclosure of the document

D1: WO-A-00/65803.

II. In the notice of appeal the appellant requested that the decision be set aside and a patent granted.

III. With the statement of grounds of appeal the appellant filed a new set of claims. The appellant stated that it "primarily requests that a European patent is granted based on the enclosed amendment".

Oral proceedings were conditionally requested.

IV. In a communication accompanying a summons to oral proceedings, the board asked that the appellant clarify that the request submitted with the statement of grounds was the only pending request. The board further gave a preliminary opinion that, *inter alia*, the subject-matter of claims 1 and 17 did not involve an inventive step with respect to the disclosure of document D1.

V. The appellant informed the board that it did not intend to attend the oral proceedings.

VI. Oral proceedings were held on 11 April 2012 in the absence of the appellant. From the written submissions, the appellant requested "primarily" that a European patent be granted "based on the enclosed amendment" [claims 1-22 of the request filed with the statement of grounds].

After due deliberation, the board announced its decision.

VII. Claim 1 of the main request reads as follows:

"A personal telecommunication device (100) for use as a mobile station of a digital cellular radio network, comprising:

- a keypad (105, 221) for allowing a human user to input information to the personal telecommunication device (100) and
- a display (103, 233) for displaying information to a human user of the personal telecommunication device (100),

characterized in that

- the personal telecommunication device (100) comprises two mechanically separate structural parts, of which a first part is a keypad part (102, 202, 302, 402, 502, 602, 702) that comprises the keypad (105, 221), and a second part is an amulet (101, 201, 301, 401, 501, 601, 701, 801, 1201) that comprises the display (103, 233) providing the amulet with a display side,
- the personal telecommunication device (100) comprises a short distance communication link (106, 222, 231, 322, 331, 722, 731) between said keypad part and said amulet,

- said amulet (101, 201, 301, 401, 501, 601, 701, 801, 1201) comprises a hanging arrangement (104) by the help of which said amulet is adapted to be worn on the torso of a human user by hanging the amulet around the neck of a user or by fastening the amulet to clothing on the upper front part of the torso, with the display side clearly visible from the spatial sector in front of the user."

VIII. Claim 17 is a further independent claim directed to the "amulet" part defined in claim 1.

Reasons for the decision

1. *The appellant's request*

The expression the appellant "primarily requests that a European patent is granted based on the enclosed amendment" is somewhat ambiguous as it suggests the possibility of further request(s). The board asked the appellant to clarify that the request filed with the statement of grounds was the only pending request. The appellant did not comment, which the board understands as confirmation that there are no further requests.

2. *Article 113(1) EPC*

The reasons for the board's decision are based on the provisional opinion communicated to the appellant with the summons to oral proceedings. The board's decision therefore complies with Article 113(1) EPC.

3. *Claim interpretation*

The present invention concerns a personal telecommunications device consisting of two mechanical parts, referred to in the description as the "amulet" and "keypad part" (cf. description, page 2, lines 30-32). The term "amulet" is also used in independent claims 1 and 17. The board understands an "amulet", in its general meaning, to be a trinket or charm worn eg as a protection against evil or disease. However, in the present technical context, the board regards an amulet merely as a small device worn on the person, ignoring any such esoteric aspects.

4. *Inventive step*

Document D1 is considered as representing the closest prior art. This document (cf. Fig. 1) discloses a mobile telephone 3 comprising a mechanically separate control unit 10 which, in one embodiment, communicates with the mobile telephone via a wireless short-distance Bluetooth connection (cf. page 6, lines 28-30). The control device is small ("for instance with a length a [*sic*] of 3-10 cm, preferably 4-7 cm"; cf. page 7, lines 12-13) and has a display side including a display 13, eg for a telephone number or SMS messages (cf. page 7, lines 5-10). The control unit is "located below the face of the user" (ie, implicitly, worn on or adjacent to the upper torso/neck region of the user), so that "by lifting the control unit ..., the user can operate both the keys ... with one finger and meanwhile view ... the display member" (cf. page 7, lines 15-19). The board regards the separate control unit as an "amulet" in the sense of the present invention.

- 4.1 The subject-matter of claim 1 differs from the disclosure of D1 only in that the "amulet" comprises a hanging arrangement by the help of which said amulet is adapted to be worn on the torso of a human user by hanging the amulet around the neck of a user or by fastening the amulet to clothing on the upper front part of the torso, with the display side clearly visible from the spatial sector in front of the user.
- 4.2 The problem to be solved is regarded as how to conveniently arrange for the control unit to be located "below the face of the user". In the board's view, obvious ways of solving this problem which would readily occur to the skilled person on the basis of common general knowledge include attaching the unit to a cord hung around the neck of the user or attaching a clip to the unit for fastening to the clothing of the user. In either case, it is possible that in normal use the display will face outwards. Hence, in the board's view, the skilled person would arrive at the subject-matter of claim 1 without inventive skill.
- 4.3 The appellant argues that the control unit of document D1 hangs from a single cord so that it can rotate to any direction. Further, when hanging from the ears it experiences little force against the body of the user. However, the board can find no disclosure in document D1 to the effect that the control unit is intended to be hung from the ears without further means of support. In fact, if the unit were only hung by means of the earphone cables 12 the weight of the unit would plausibly cause discomfort to the ears and/or result in the earphones falling out. Thus the skilled person

would immediately realise that a further means of attachment to support the weight of the unit would be required.

4.4 The appellant also argues that D1 does not disclose any desire to use the control unit 10 for self-expression. Further, the appellant argues that "the claimed invention can be seen as a problem invention (eg how to continually express oneself with ones's mobile phone as it usually resides concealed from others in a bag or pocket)". The appellant also suggests that the skilled person would have been wary of directing the display forward of the user due to privacy concerns. However, the board notes that claim 1 does not require the amulet to be used for self-expression (whatever this might mean in a technical sense). Therefore the board disagrees with the formulation of the problem as to how to express oneself with one's mobile phone. As to the privacy argument, in the board's view another person would not generally be able to read the information on the small display of the control unit of document D1 from a normal distance away from the user. Therefore, the user has no need to be concerned that the display faces outwards. Hence, the board finds the appellant's arguments unconvincing.

4.5 With regard to inventive step, the appellant also draws attention to the feature of dependent claims 16 and 22, whereby the amulet can be used independently of the keypad part. However, this argument is irrelevant since it does not concern any feature of independent claims 1 and 17.

4.6 In view of the above, the board concludes that the subject-matter of claim 1 does not involve an inventive step (Articles 52(1) and 56 EPC).

4.7 The above reasoning with respect to inventive step applies, *mutatis mutandis*, to claim 17.

5. *Conclusion*

As claims 1 and 17 of the appellant's only request are not allowable, the request as a whole is not allowable. It follows that the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

T. Buschek

A. S. Clelland