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**Datasheet for the decision
of 30 October 2012**

Case Number: T 0172/10 - 3.5.03

Application Number: 04251662.5

Publication Number: 1471652

IPC: H04B 1/20

Language of the proceedings: EN

Title of invention:

Wireless remote controller having navigation function and method of providing navigation function to the same

Applicant:

Samsung Electronics Co., Ltd.

Headword:

Wireless remote controller/SAMSUNG ELECTRONICS CO.

Relevant legal provisions:

EPC Art. 56
EPC Art. 113(1)
RPBA Art. 13(1) and (3)

Relevant legal provisions (EPC 1973):

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Keyword:

"Inventive step (main request) - no"
"Admissibility (auxiliary request) - no"

Decisions cited:

-

Catchword:

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Case Number: T 0172/10 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 30 October 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 1 October 2009
refusing European patent application
No. 04251662.5 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairwoman: M.-B. Tardo-Dino
Members: A. J. Madenach
T. Snell

Summary of Facts and Submissions

I. The present appeal is against the decision of the examining division to refuse application No. 04251662.5 on the ground that claim 1 of the application did not fulfil the requirement of novelty and inventive step (Articles 52(1), 54 and 56 EPC) *inter alia* in the light of

D5: US 2003/0025840 A1.

II. The appellant requested that the decision of the examining division be set aside and a patent be granted on the basis of a set of amended claims. As an auxiliary measure, oral proceedings were requested.

III. The board summoned the appellant to oral proceedings. In a communication accompanying the summons, the board gave its preliminary opinion that the subject-matter of claim 1 lacked an inventive step in view of D5 and common general knowledge.

IV. With letter of 25 September 2012, the appellant informed the board that it did not wish to attend oral proceedings and asked the board to issue a final written decision without conducting oral proceedings. The board understands that such a decision should be based on amended claims 1-17 according to a main request, or, alternatively, on amended claims 1-17 according to an auxiliary request, both filed with this letter.

V. Oral proceedings took place on 30 October 2012 in the absence of the appellant.

After deliberation by the board, the chairperson announced the board's decision.

VI. Independent claim 1 according to the main request reads as follows:

"A hybrid wireless remote controller having a display unit (320) and buttons (220) separate from the display, comprising:

a wireless transmission/reception unit (350);
function buttons (220,420) for selectively operating in a first mode where remote control key code information corresponding to an input of a user is transmitted through the wireless transmission/reception unit (350) to a plurality of controlled devices; and
a display unit (320) configured to display device information;

characterised in that:

in a second mode, the display unit (320) is configured to display device information of each of the plurality of controlled devices;

the function buttons (220,420) are operable in the second mode to navigate the device information of the plurality of controlled devices which are displayed on the display unit (320) in order to select the device information of at least one desired device amongst the currently displayed devices, thereby selecting the desired device; and

the wireless remote controller comprises a mode switching button (240) configured to select between the second mode and the first mode such that in the first mode remote control key code information is transmitted

to the at least one desired device selected in the second mode, and wherein the remote control key code information corresponding to the input of the user is not transmitted through the wireless transmission/reception unit (350) in the second mode."

Independent claim 12 according to the main request relates to a corresponding method.

Claim 1 according to the first auxiliary request essentially comprises the additional features that

"the function buttons (220, 420) are further operable in the second mode to navigate function information relating to functions of the plurality of controlled devices which are displayed on the display unit (320) in order to select a desired function of the desired device"

and

"wherein, in the second mode, the device information and function information of the plurality of controlled devices as displayed on the display unit (320) are navigated using the function buttons (220, 420)".

Claim 12 according to the first auxiliary request essentially comprises corresponding features.

Reasons for the decision

1. *Procedural matters*

1.1 The board considered it to be expedient to hold oral proceedings for reasons of procedural economy (Article 116(1) EPC). The appellant, which was duly summoned, had informed the board that it would not wish to attend the oral proceedings and, indeed, was absent. The oral proceedings were therefore held in the absence of the appellant (Rule 115(2) EPC, Article 15(3) RPBA).

1.2 The present decision insofar as it relates to the main request is based on an objection under Article 52(1) EPC in combination with Article 56 EPC which had already been raised in the board's communication. The appellant had the opportunity to present its comments on this objection and did, indeed, present its arguments in this respect. The amendments to the claims according to the main request only relate to clarity issues and are of no relevance for this decision.

1.3 Concerning the claims according to the first auxiliary request, which introduce for the first time features taken from the description, the appellant could reasonably have expected the board to consider at the oral proceedings *inter alia* objections in respect of the requirements of Article 123(2) EPC and did, indeed, present its arguments in this respect as it did with respect to the requirements of Article 56 EPC.

1.4 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 any of the

objections but, instead, chose to rely on the arguments as set out in the statement of grounds of appeal and in its letter of 25 September 2012, which the board duly considers below.

1.5 In view of the above and for the reasons set out below, 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. *Claim 1, Novelty and inventive step (Articles 52(1), 54 and 56 EPC):*

2.1 The present invention relates to a hybrid wireless remote controller. The board understands the gist of the present invention to be that the remote controller allows in a second mode to navigate to and select, using function buttons, one of a plurality of controlled devices. In this mode, no control information is transmitted to one of the controlled devices. This mode (the navigation mode) is thus an entirely internal mode of the remote controller.

2.2 The examining division considered D5 as the closest prior art. The board agrees.

There is agreement that D5 discloses a hybrid wireless remote controller as claimed in the preamble of claim 1. This means in particular that the remote controller has two modes, the first one being the ordinary remote control mode.

According to D5 (see paragraphs [0040] and [0041], and Figure 2), if the user wants to associate volume

control keys 14 with a device other than a TV, he or she selects key 20. After this selection, the remote controller is in the board's view in a second mode in that in this mode a plurality of keys 40 are displayed which correspond to a plurality of device types. The user may select from the displayed devices to be associated with the control keys 14 by manual input on the touch screen 18.

This selection corresponds to the claimed second mode, namely to navigate and select the device information, thereby selecting the desired device.

Furthermore, it is implicit in the known remote controller that the information related to the selected device (AMP in the example of Figure 2.3) is not transmitted to the selected device since such a transmission would serve no purpose. This point was raised in the communication and not disputed by the appellant.

- 2.3 The difference between the claimed device and the device known from D5 can thus be seen in that function buttons are used for navigation and selection instead of a direct selection via a touch screen using soft keys.
- 2.4 According to D5 a touch screen may not be required but a display may still be desirable (page 3, right column, lines 1-2). Obviously, in such a case different means for navigating and selecting devices and device information on the screen would be required.

Since function buttons are a well known alternative to direct manual input on a touch screen for navigation and selection, as they were generally known to have been used on mobile phones in the 1990s (for example on Nokia mobile phones having multi-line displays) for navigating through menus displayed on a display unit and selecting a chosen menu point, it would have been obvious to replace the selection via touch screen by a navigation via directional buttons which in fact are already present on the remote control of D5 (see Figure 1) if design or other considerations made it necessary to do so.

2.5 In view of the above, D5 in combination with the common general knowledge renders obvious the subject-matter of claim 1.

2.6 The appellant essentially argued that the claimed invention was the first time that a hybrid device was provided where directional buttons were used to navigate the device information icons displayed on the screen. In view of the prior art on file, the board cannot dispute this statement as far as remote controllers are concerned. This statement does, however, not apply to older mobile phones which had such directional and selection buttons in combination with a display already in the 1990s.

2.7 The subject-matter of claim 1 of the main request being obvious to the skilled person in the light of D5 in combination with the common general knowledge of the way older mobile phones were operated, the main request cannot be allowed.

2.8 Analogous arguments apply to the method claim 12.

3. *First auxiliary request (admissibility):*

3.1 The additional features of claim 1 according to the first auxiliary request are said by the appellant to be based on the original disclosure of page 11, line 21 - page 12, line 12 and Figure 4b.

This disclosure describes the flow diagram shown in the Figure and starts out with pressing an "icon button 450". Pressing this button opens a mode similar to the claimed second mode in which, however, no device information is displayed on the display unit but function icons are displayed on the display unit.

As is evident from the Figure and the description, this new button is different from the previous mode switching button and is additional to the mode switching button.

Therefore, *prima facie*, the omission of this button from the features forming claim 1 according to the first auxiliary request embraces embodiments in which the icon button and the mode switching button are the same ("a mode switching button (240, 410, 450)"), an embodiment which the board cannot find in the original application. This amendment must, thus, be considered as containing subject-matter which extends beyond the content of the application as filed, contrary to the requirements of Article 123(2) EPC.

3.2 Disregarding the above *prima facie* deficiency and turning, for the sake of the argument, to the

appellant's inventive step argument, the board comes to the conclusion that the subject-matter of claim 1 according to the first auxiliary request also lacks, at least *prima facie*, an inventive step in the light of the teaching of D5 and common general knowledge for the following reasons.

Contrary to the appellant's arguments in its letter of 25 September 2012 that D5 never discloses the feature of "controlling both the function information and the device information of devices to be controlled through navigation function" it is clear from Figure 2 of D5 that in addition to device information (Figure 2-2) the known remote control also displays the corresponding function information (Figure 2-1) which are both controlled by selection, *i.e.* navigation.

The only difference introduced by the further features according to claim 1 according to the auxiliary request is that the function buttons which allow navigation of the function information in order to select a desired function of the desired device are operable in the second mode, *i.e.* with no information transmitted through the wireless transmission/reception unit.

The appellant did not provide any arguments as to what technical problem is solved by this feature or why it would justify an inventive step, nor does the board see any.

For this reason, the subject-matter of claim 1 according to the first auxiliary request does not, *prima facie*, comprise an inventive step.

3.3 Since the amendments introduced with the first auxiliary request introduce new objections (here under Article 123(2) EPC) without, *prima facie*, removing the previous inventive step objection, the board, making use of its discretion under Articles 13(1) and (3) RPBA, does not admit this request into the proceedings for further discussion.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar

The Chairperson

G. Rauh

M.-B. Tardo-Dino