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**Datasheet for the decision  
of 30 June 2011**

**Case Number:** T 1418/10 - 3.5.03

**Application Number:** 05106433.5

**Publication Number:** 1744524

**IPC:** H04M 1/725

**Language of the proceedings:** EN

**Title of invention:**

Customizability of event notification on telephony-enabled devices

**Applicant:**

RESEARCH IN MOTION LIMITED

**Opponent:**

-

**Headword:**

Customizable telephone/RESEARCH IN MOTION

**Relevant legal provisions:**

EPC Art. 56

**Relevant legal provisions (EPC 1973):**

-

**Keyword:**

"Inventive step (all requests) - no"

**Decisions cited:**

-

**Catchword:**

-



Case Number: T 1418/10 - 3.5.03

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.03  
of 30 June 2011

**Appellant:** RESEARCH IN MOTION LIMITED  
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**Representative:** Skone James, Robert Edmund  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 28 December 2009  
refusing European patent application  
No. 05106433.5 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. 05106433.5, with publication number EP-A-1744524.

The refusal was based, *inter alia*, on the ground that the subject-matter of the independent claims of a main request did not involve an inventive step pursuant to Article 52(1) in combination with Article 56 EPC having regard to the disclosures of the following documents:

D1: EP-A-1111885

D2: EP-A-1545103

- II. The appellant filed a notice of appeal against the above decision and requested that the decision under appeal be set aside and a patent granted in accordance with the main, first or second auxiliary requests as considered by the examining division. In a subsequently filed statement of grounds the appellant filed claims of a new main request and first to fifth auxiliary requests implicitly replacing the requests on file.

Oral proceedings were conditionally requested.

- III. In a communication accompanying a summons to oral proceedings the board gave a preliminary opinion in which an objection of lack of inventive step pursuant to Article 52(1) in combination with Article 56 EPC was raised with respect to claim 1 of each request.

In its communication, the board introduced the following document cited in the European Search Report into the proceedings (Article 114(1) EPC):

D7: EP-A-0865188

IV. In response to the board's communication, the appellant filed claims of a new main request and first to sixth auxiliary requests to replace the requests on file. The first to sixth auxiliary requests were said to correspond respectively to the previous main and first to fifth auxiliary requests.

V. Oral proceedings were held on 30 June 2011. The appellant requested that the decision under appeal be set aside and a patent granted on the basis of the main request or, alternatively, one of the first to sixth auxiliary requests, all requests having been filed with the letter dated 27 May 2011.

At the end of the oral proceedings, after due deliberation, the board announced its decision.

VI. The claims filed by the appellant include underlined passages. In the claims reproduced below, all underlinings have been omitted.

VII. Claim 1 of the appellant's **main request** reads as follows:

"A method in a telephony-enabled device (10, 60) comprising:  
for at least one state of the telephony-enabled device in which there is an active voice call and for at least

one state of the telephony-enabled device in which there is no active voice call, receiving user customized notification settings for a plurality of event types including event types that occur internally to the telephony-enabled device (10, 60), the notification settings determining a user notification of an event;  
upon (2-1) an event triggering potential user notification, the event triggering potential user notification being one of said plurality of event types;  
processing (2-3) the event triggering potential user notification according to the user customized notification settings for the event type of the event for a current state of the telephony-enabled device."

VIII. Claim 1 of the **first auxiliary request** reads as follows:

"A method in a telephony-enabled device (10, 60) comprising:  
for each of at least two states of the telephony-enabled device, receiving user customized notification settings for a plurality of event types including event types that occur internally to the telephony-enabled device (10, 60), the notification settings determining a user notification of an event:  
upon (2-1) an event triggering potential user notification, the event triggering potential user notification being one of said plurality of event types;  
processing (2-3) the event triggering potential user notification according to the user customized notification settings for the event type of the event for a current state of the telephony-enabled device;

wherein the at least two states comprise:  
at least one state in which there is an active voice  
call; and  
at least one state in which there is no active voice  
call."

- IX. Claim 1 of the **second auxiliary request** is the same as claim 1 of the first auxiliary request except that the wording "the notification settings determining a user notification of an event" is replaced by "the notification settings determining whether or not the event type is to trigger a user notification".
- X. Claim 1 of the **third auxiliary request** is the same as claim 1 of the first auxiliary request except that the wording "the notification settings determining a user notification of an event" is replaced by the wording "the notification settings independently determining a user notification of an event".
- XI. Claim 1 of the **fourth auxiliary request** is the same as claim 1 of the first auxiliary request except that, before the wording "the notification settings determining a user notification of an event", the wording "and event types (10, 60) associated with one or more packet-switched or circuit switched services supported by the telephony-enabled device (10, 60)," is inserted.
- XII. Claim 1 of the **fifth auxiliary request** is the same as claim 1 of the first auxiliary request except that, before the wording "the notification settings determining a user notification of an event", the wording "chosen from completing a data download; an

upcoming calendar event; receiving an electronic message; an upcoming task; starting of any service; low battery detected and/or low signal detected," is inserted.

- XIII. Claim 1 of the **sixth auxiliary request** is the same as claim 1 of the first auxiliary request except that the wording "the notification settings determining a user notification of an event" is replaced by the wording "the notification settings determining whether or not the event type is to trigger a user notification and how the user is to be notified".

## **Reasons for the decision**

### *Inventive step*

#### 1. *General remarks*

Referring to the published application, as set out in paragraph [0023] ff. of the description of the application, it is desirable for the user of a wireless device or other "telephony-enabled device" to be notified on occurrence of certain events such as the reception of an email or a calendar event previously scheduled by the user. Other potential event notifications include completion of a data download and alarms for low battery and low signal (cf. paragraph [0013]. "However, if the frequency of such notifications is large, and a user is simultaneously occupied by a voice call, generating a notification for every such event could become cumbersome or undesirable" (cf. col. 3, lines 52-56). The essence of the solution provided by the present application is

that user customised notification settings of the device determine whether an event is to trigger user notification and the manner in which a user notification is to be carried out. In doing so, it is taken into account whether or not there is an active voice call in progress (cf. col. 4, lines 1-7 of the description).

2. *Claim 1 - main request*

2.1 It was common ground at the oral proceedings that document D1 represented the closest prior art.

2.2 D1 discloses a telephony-enabled device which can be in one of several different states, including, implicitly, a state in which there is no active voice call, in which case an acoustic signal is output when a call is received or an alarm is to be output (cf. col. 1, lines 3-18), as well as several states in which a voice call is active (cf. col. 5, lines 31-44), namely a "normal" mode (ie using the microphone and speaker of the device), a headset mode, and a handsfree mode. D1 also discloses a plurality of event types occurring internally to the device, namely a daily alarm function, an event alarm function, and a counter alarm function (cf. col. 5, lines 10-20). The alarm signal is output in different ways according to the communication mode (ie state) the device is currently in (cf. col. 5, lines 24-27). In the active voice-call mode, the user notification may be an optical signal or a vibration signal (see paragraph 0015).

2.3 The subject-matter of claim 1 differs from the disclosure of D1 in the step of, as claimed, "receiving



user customized notification settings for a plurality of event types including event types that occur internally to the telephony-enabled device ..., the notification settings determining a user notification of an event".

2.4 The board interprets this feature in line with the description (cf. eg paragraph [0030] of the published application) as meaning that for each state of the telephone (eg voice call or no voice call), customised settings input by the user determine if and/or how the user is to be alerted for each event type. The board understood that this was also the meaning given to this feature by the appellant.

2.5 *The problem to be solved*

2.5.1 The problem to be solved starting out from D1 is regarded by the board as being to provide enhanced functionality with regard to the user notification of alarm events. The appellant argued that the problem to be solved was to assist the user in coping with a high frequency of alarms and noted that D1 was not concerned with this problem but with a different problem, namely the prevention of an annoying or potentially damaging high volume signal from occurring when talking on the telephone. Moreover, D1 provided a self-contained solution to this problem and therefore the skilled person had no reason to solve the problem underlying the present invention.

2.5.2 The board however notes that claim 1 does not require there to be a "high frequency" of alarms, but merely a plurality of event types, which embraces merely two

event types. Therefore the board does not agree with the appellant's formulation of the problem. Further, D1 forms the starting point for the invention. The "problem-solution" approach requires formulating the objective technical problem starting out from D1. Those problems already solved by D1 (in this case, the avoidance of the annoying acoustic alarm signal) are not necessarily relevant when determining the objective technical problem. Finally, the skilled person is always seeking to make technical improvements. Hence the board does not agree that D1 discloses a "self-contained solution" such that the skilled person would not seek to solve further problems not considered in D1.

## 2.6 *Solution*

2.6.1 In seeking a solution to this problem the skilled person would have been aware at the filing date of the application (2005) that it was standard practise in the art to provide customisable settings in a mobile phone regarding user notification, for example the loudness of any acoustic signal, the tune of the acoustic signal, eg of ring tones and sms alerts, and the nature of any optical signals. Document D7, which is cited here as representative of common general knowledge, states on page 3, lines 6-7 that "The setting modes of a portable phone may comprise a considerable amount of user-defined parameters, such as call divert services, light, sound volume, call alert and ringing volume".

2.6.2 The appellant did not dispute that this cited passage of D7 represented common general knowledge. The appellant argued however that, although D7 was directed to customisation, the customisation was not based on

specific events for at least two communication states. Hence, even a combination of D1 and D7 did not result in the claimed invention.

- 2.6.3 The board however underlines that it has referred to document D7 (which dates from 1998, ie seven years before the filing date of the present application) merely as evidence of the skilled person's common general knowledge with respect to the degree to which mobile phone parameters may be customised, in particular alarm parameters. The board has however not argued on the basis of a combination of D1 with any particular special embodiment of D7.
- 2.6.4 Considering a first state of the mobile telephone of D1, that is the normal inactive state, and having regard to common general knowledge, it would not in the board's view have required inventive skill for the skilled person to arrange, for example, for the loudness and tune of the various alarm signals to be customisable by the user.
- 2.6.5 Considering a second state of the mobile phone of D1, that is the voice-call mode, it is mentioned in paragraph [0015] of D1 that user notification can be by means of an optical signal, eg in the form of a symbol on the normal display of the device, as well as a vibration signal. As it is obvious that different users may have different preferences in the way they are notified, the board considers that it would not have required inventive skill to customise the mobile phone of D1 by enabling the user to choose between using either the vibration signal, the optical signal, or both. Further obvious alternatives to a vibration or

optical signal that would occur to the skilled person are either to have no notification at all, or to be notified at the end of the call.

- 2.6.6 It follows that in at least two states of the mobile phone of D1 it would not require inventive skill to receive user customised notification settings for a plurality of alarm types, the notification settings determining a user notification of an alarm.
- 2.6.7 The appellant argued that the essence of the claimed solution was to customise the notification for each state and each event. In contrast, in accordance with D1 there was only one type of event (ie an alarm). Moreover, even if for the sake of argument the different alarms of D1 were considered to be different event types, all alarms were treated in the same way whereas in accordance with the invention, each event was individually customisable.
- 2.6.8 However, the board disagrees that the three different alarm types of D1 are not different "event types". Further, in the board's view it is a trivial difference whether the alarms are customisable in a collective sense or whether they are customisable individually. The skilled person would realise that individual customisation would be give the user increased choice at the cost of increased complexity. Therefore the board considers that at the filing date of the present application (2005) it would not have required inventive skill to provide individual customisation of the alarms of D1, all the more so as the trend to customisation of mobile phone features was by then well-established.

2.7 The board therefore concludes that the subject-matter of claim 1 of the main request does not involve an inventive step (Articles 52(1) and 56 EPC).

3. *Claim 1 - first auxiliary request*

The appellant agreed that claim 1 of the first auxiliary request was, in substance, the same as claim 1 of the main request, being merely formulated differently. The above comments with respect to claim 1 of the main request therefore apply, *mutatis mutandis*, to claim 1 of the first auxiliary request.

The board concludes that the subject-matter of claim 1 of the first auxiliary request does not involve an inventive step either (Articles 52(1) and 56 EPC).

4. *Claim 1 - second auxiliary request*

4.1 Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in the added feature: "the notification settings determining whether or not the event type is to trigger a user notification".

4.2 This feature has already been considered in connection with the main request (cf. point 2.6.5 above).

The board concludes that the subject-matter of claim 1 of the second auxiliary request does not involve an inventive step either (Articles 52(1) and 56 EPC).

5. *Claim 1 - third auxiliary request*

Claim 1 of the third auxiliary request differs from claim 1 of the first auxiliary request in specifying "the notification settings independently determining a user notification of an event" (board's underlining).

Since the board interpreted claim 1 of the main and first auxiliary requests as meaning that the notification settings were individually set for each event, which the board understands is the intended meaning of "independently", claim 1 of the third auxiliary request is in substance the same as claim 1 of both the main and first auxiliary requests.

The board concludes that the subject-matter of claim 1 of the third auxiliary request does not involve an inventive step either (Articles 52(1) and 56 EPC).

6. *Claim 1 - fourth auxiliary request*

6.1 Claim 1 of the fourth auxiliary request differs from claim 1 of the first auxiliary request in the added feature "and event types ... associated with one or more packet-switched or circuit switched services supported by the telephony-enabled device".

6.2 This feature relates to the separate problem of alerting a user of external events such as the receipt of an email or an SMS text message. A solution to this particular problem is disclosed in document D2. In accordance with D2, an importance level of a sender of an incoming mail is stored in the mobile phone. The importance level of the sender is compared with the

importance of the communication partner of the voice call, and depending on the outcome of the comparison, the user is either alerted or not (cf. paragraph [0008]).

6.3 Thus D2 discloses two states of the telephony-enabled device (active voice call or no active voice call), and includes user customised notification settings (importance levels) for a plurality of event types (emails of different importance) associated with one or more packet-switched or circuit switched services supported by the telephony enabled device, the notification settings determining a user notification of an event. D2 does not explicitly mention customisable settings when there is no active voice call, but the same applies here as mentioned in connection with the main request, ie that it is well-known for the user to customise, for example, the type of alert tones and their volume.

6.4 By solving the above-mentioned separate partial problem by making use of the teaching of D2, the skilled person would arrive at the subject-matter of the fourth auxiliary request without the need for an inventive step.

6.5 The appellant argued in the letter of reply to the board's communication that emails from different address sources did not constitute different event types. However, in the description of the present application (cf. col. 7, lines 25-31 of the published application) email messages having different priorities are given as an example of different event types. In D2 the importance level of the sender determines the

priority of the email. Hence D2 is essentially similar to this embodiment of the present application. The appellant argued at the oral proceedings that importance levels as disclosed in D2 were not notification settings within the meaning of the present application. The board however disagrees, since the importance levels play a role in determining a user notification of an event. The board therefore found the appellant's arguments unconvincing.

6.6 The appellant at the oral proceedings suggested amending the expression "the notification settings determining a user notification of an event" to "each notification setting determining a user notification of an event", apparently aimed at distinguishing the notification settings from the importance levels used in D2. However, in the view of the board, this wording embraces the importance levels of D2 too.

6.7 Consequently, the board concludes that the subject-matter of claim 1 of the fourth auxiliary request does not involve an inventive step either (Articles 52(1) and 56 EPC).

7. *Claim 1 - fifth auxiliary request*

7.1 Claim 1 of the fifth auxiliary request differs from claim 1 of the first auxiliary request in the added feature that the event types are "chosen from completing a data download; an upcoming calendar event; receiving an electronic message; an upcoming task; starting of any service; low battery detected and/or low signal detected, the notification settings determining a user notification of an event".



- 7.2 D1 however discloses notifying an upcoming calendar event (cf. col. 5, lines 16-18); D2, as already mentioned, discloses notifying the reception of an electronic message. Hence, the subject-matter added to claim 1 of the fourth auxiliary request makes no contribution to inventive step either.

Consequently, the board concludes that the subject-matter of claim 1 of the fifth auxiliary request does not involve an inventive step either (Articles 52(1) and 56 EPC).

8. *Claim 1 - sixth auxiliary request*

- 8.1 Claim 1 of the sixth auxiliary request differs from claim 1 of the first auxiliary request in that it includes the feature "the notification settings determining whether or not the event type is to trigger a user notification and how the user is to be notified".

- 8.2 This feature has already been discussed in connection with the main request (see point 1.1.8 above). Consequently, the board concludes that claim 1 of the sixth auxiliary request does not comply with the requirement for inventive step either (Articles 52(1) and 56 EPC).

*Conclusion*

As claim 1 of each request is not allowable, each request as a whole is also 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:

G. Rauh

A. S. Clelland