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**Datasheet for the decision
of 24 October 2014**

Case Number: T 0891/11 - 3.5.03

Application Number: 07001407.1

Publication Number: 1811752

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Language of the proceedings: EN

Title of invention:
Method and mobile terminal for selecting a menu

Applicant:
LG Electronics Inc.

Headword:
Menu selection/LG

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - (no)



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Case Number: T 0891/11 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 24 October 2014

Appellant: LG Electronics Inc.
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted on 8 December 2010 refusing European patent application No. 07001407.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman R. Cramer
Members: K. Schenkel
B. Noll

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division refusing European patent application No. 07001407.1, with publication number EP 1 811 752.

II. The reasons given for the refusal were that the subject-matter of claims 1 and 5 of a main request and of claims 1 and 4 of a first and a second auxiliary request did not involve an inventive step (Articles 52(1) and 56 EPC) having regard to the disclosure of:

D1: EP 1 028 570 A1

and taking into account the common general knowledge of the skilled person.

The decision, *inter alia*, also referred to the following document:

D2: US 2004/0130578 A1.

III. With the statement of grounds of appeal the appellant filed a new set of claims and submitted arguments in support. Oral proceedings were conditionally requested.

IV. In a communication annexed to a summons to oral proceedings the board, without prejudice to its final decision, raised objections under Article 123(2) EPC and objections under Article 52(1) EPC in combination with Article 56 EPC (inventive step) in respect of the subject-matter of claim 1. Reference was made to documents D1 and D2.

- V. The appellant did not file a substantive response but merely informed the board that it would not be attending the scheduled oral proceedings.
- VI. Oral proceedings were held on 24 October 2014 in the absence of the appellant.

In accordance with the submission in point I of the statement of grounds of appeal, the board understood the appellant to be requesting that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 16 as filed with the statement of grounds of appeal.

After due deliberation, the chairman announced the board's decision.

- VII. Claim 1 reads as follows:

"A method of selecting a menu in a mobile terminal (1), the method comprising:

- displaying a plurality of menus (A, B, C, D, E, F, G, H) in a circular or rectangular manner and arranging (S52) a first and a second (A, C, G, G) [sic] of the plurality of displayed menus (A, B, C, D, E, F, G, H) such that the first and second arranged menus (A, C, E, G) correspond to first and second terminal input keys, respectively;
- executing (S56) a specific menu (C) upon selection of one (410-3) of the first and second terminal input keys by a terminal user, the specific menu corresponding to the selected terminal input key; and
- re-arranging (S54) the first and second arranged menus (A, C, E, G) such that a third and a fourth (B, D, F, H) of the plurality of displayed menus (A, B, C, D, E, F, G, H) correspond to the first and second

terminal input keys, respectively, and the first and second arranged menus (A, C, E, G) no longer correspond to any terminal input key, wherein the re-arrangement is performed according to a request made by the terminal user by pressing a key and is performed by shifting each of the displayed menus (A, B, C, D, E, F, G, H) such that before and after the re-arrangement each of the menus corresponding to the first and second input keys is located between two of the menus not corresponding to any of the first and second input keys;

wherein the first and second terminal input keys comprise navigation keys (410-1, 410-2, 410-3, 410-4, 410-5) of the terminal (1) which are displayed on a central part of the displayed menus (A, B, C, D, E, F, G, H)."

Reasons for the Decision

1. Procedural matters

The present decision is based on an objection under Article 52(1) EPC in combination with Article 56 EPC. This objection was raised in the board's communication. The appellant had the opportunity to comment on it. However, no substantive submissions were filed in response to the communication. Further, in deciding not to attend the oral proceedings, the appellant chose not to make use of the opportunity to comment at the oral proceedings, but instead to rely on the arguments set out in the statement of grounds of appeal, which the board duly considered. Under these circumstances, the board was in a position to give a decision at the oral proceedings in accordance with Article 113(1) EPC.

2. Inventive step (Articles 52(1) and 56 EPC)

2.1 D1 represents the closest prior art, since it discloses a method for displaying menus ("icons" in the language of D1, see column 5, lines 49 to 52) on a display of a mobile terminal for wireless communication (see abstract of D1). The method of D1 further comprises highlighting a menu such that it can be selected by pressing a corresponding input key ("enter key" in the language of D1, see column 5, lines 55 and 56).

Hence, D1 discloses, using the language of claim 1, a method of selecting a menu in a mobile terminal (second sentence of the abstract), the method comprising:

- displaying a plurality of menus in a circular or rectangular manner (column 6, lines 32 to 36, Fig. 1) and arranging a first of the plurality of displayed menus such that the first arranged menu (the enlarged icon at position A in figure 1) corresponds to a first terminal input key (enter key 5, see column 6, lines 29 to 32 and Fig. 1);
- executing a specific menu upon selection of the first terminal input key by a terminal user, the specific menu corresponding to the selected terminal input key (column 6, lines 29 to 32); and
- re-arranging the first arranged menu such that another of the plurality of displayed menus corresponds to the first input key, and the first arranged menu no longer corresponds to any terminal input key (column 7, lines 2 to 10; see also figures 2 to 4), wherein the re-arrangement is performed according to a request made by the terminal user (column 7, lines 13-17) and is performed by shifting each of the displayed menus (column 7, lines 10-13).

2.2 The subject-matter of claim 1 thus differs from the method disclosed in D1 in that according to claim 1:

i) a second of the plurality of displayed menus is arranged such that it corresponds to a second terminal input key, a specific menu is executed upon selection of the second terminal input key, and re-arranging the second arranged menu such that a third and a fourth of the plurality of displayed menus correspond to the first and second terminal input keys, respectively, and the second arranged menu no longer corresponds to any terminal input key, wherein the re-arrangement is performed such that before and after the re-arrangement each of the menus corresponding to the first and second input keys is located between two of the menus not corresponding to any of the first and second input keys;

ii) the re-arrangement is performed by pressing a key;

iii) the first and second terminal input keys comprise navigation keys of the terminal; and

iv) the navigation keys are displayed on a central part of the displayed menus.

Features i) and ii) relate to the problem of arranging menu icons on the display and associating the menus to keys for selection by the user in a convenient manner. Features iii) and iv) relate to the problem of selecting appropriate input means for operating the menu by the user. Thus, the claim defines an aggregation of features in which the technical problem underlying the claimed invention consists of two separate partial problems.

2.3 Regarding the first partial problem relating to features i) and ii), D1 discloses that more than one

menu can be highlighted at the same time and that one input key is provided for each highlighted menu; in the specific example given in paragraph [0017] of D1, three menus are highlighted at the same time and three corresponding input keys are provided. The skilled person would therefore consider having two menus highlighted at the same time, corresponding to two input keys. For the further step of changing the association between highlighted menus and input keys the skilled person would find, by trial and error, a convenient option out of a limited number of possibilities and would therefore consider arranging a menu corresponding to an input key between two menus not corresponding to an input key as a matter of non-inventive choice. Further, using a key to perform the re-arrangement, as specified in feature ii) of claim 1, instead of a jog dial, as suggested in D1, is a straightforward, obvious design choice which does not require the exercise of inventive skill.

Regarding the second partial problem, the skilled person would also consider document D2, which discloses a method and a system for selecting a menu on a telephone display. More specifically, D2 discloses an embodiment in which menus ("menu items", see the abstract) are displayed and each of the menus can be selected by depressing a corresponding input key ("button", see paragraphs [0037] and [0038] and figures 5A and 5C), each of which is specified as a directional button (Fig. 5A and paragraph [0030]). Hence, the input keys used in D2 for selection of menu items are navigation keys. Further, D2 shows that the menus are arranged on the display of the telephone in the shape of a four-spiked star and, therefore, provide a display of the navigation keys, which are likewise arranged in the shape of a four-spiked star (Fig. 5A),

on a central part of the displayed menus within the meaning of feature iv) mentioned above.

The skilled person, starting out from D1 and faced with the above-mentioned partial problems, having regard to D2 and using common general knowledge, would arrive at the method of claim 1 without the exercise of inventive skill.

- 2.4 The board concludes that the subject-matter of claim 1 does not involve an inventive step (Articles 52(1) and 56 EPC).
3. As there is no allowable request, 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

R. Cramer

Decision electronically authenticated