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Datasheet for the decision of 8 June 2016

Case Number: T 0963/11 - 3.4.02

Application Number: 04735960.9

Publication Number: 1639329

IPC: G01H1/00

Language of the proceedings: EN

Title of invention:
MULTI-SOUND EFFECT SYSTEM INCLUDING DYNAMIC CONTROLLER FOR AN AMPLIFIED GUITAR

Applicant:
Guitouchi Ltd

Headword:

Relevant legal provisions:
EPC 1973 Art. 54(1), 56

Keyword:
Novelty - (yes)
Inventive step - (yes)

Decisions cited:

Catchword:

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Case Number: T 0963/11 - 3.4.02

D E C I S I O N
of Technical Board of Appeal 3.4.02
of 8 June 2016

Appellant: (Applicant)	Guitouchi Ltd 47 Halutzey Hatasia St. P.O.b. 10567 Haifa Bay (Mifratz Haifa) (IL)
Representative:	Pearl Cohen Zedek Latzer Baratz UK LLP 16 Upper Woburn Place London WC1H 0BS (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 21 December 2010 refusing European patent application No. 04735960.9 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairwoman	T. Karamanli
Members:	F. Maaswinkel
	H. von Gronau

Summary of Facts and Submissions

I. The appellant lodged an appeal against the decision of the examining division refusing European patent application No. 04735960.9. This patent application relates to a multi-sound effects system comprising a guitar.

II. In the decision it was held that the subject-matter of claim 1 then on file was not new (Articles 52(1) and 54 EPC) having regard to the disclosure in document

D3: US 6 570 078 B2.

According to the decision, the dependent claims then on file did not contain any additional features which could render the subject-matter of the claims patentable.

III. With the statement setting out the grounds of appeal the appellant filed new claim 1 and requested that the refusal decision be set aside and a patent be granted on the basis of new claim 1 and claims 2 to 18 filed with the letter dated 23 March 2010. The appellant also filed a request for oral proceedings.

IV. In a communication pursuant to Rule 100(2) EPC the board invited the appellant to complete its request and raised clarity objections against claims 1 and 8.

V. With a letter dated 11 May 2016 the appellant filed a new set of claims 1 to 18 to replace the former claims and requested to examine the appeal on the basis of the following documents:

Claims: 1 to 18 as filed with the letter dated 11 May 2016;
Description: pages 1 to 3 and 5 to 20 as published;
pages 4, 4bis and 21 as filed with the letter dated 23 March 2010;
Drawings: sheets 1/12 - 12/12 as published
[*in the letter of 11 May 2016 it reads "sheets 1/12-2/12", however, the board understands this to be a clerical error*]

The request for oral proceedings was maintained in the event that the board was minded to dismiss the appeal.

VI. The wording of independent claim 1 reads as follows:

"A multi-sound effects system (10) comprising: an amplified guitar (13) that produces electrical audio signals, which guitar (13) has a body with a front panel; a touch-sensitive Dynamic Control Unit (14) that is enabled to measure the absolute or relative position and pressure of more than one of a guitar player's fingers at a time touching the Dynamic Control Unit (14) and produces control signals representative of the measurements, which Dynamic Control Unit (14) is a touch screen or touch pad and enables the guitarist to adjust the value of at least one sound effect parameter; and, a Signal Processing Unit (22) that receives electrical audio signals from the guitar (13) and control signals from the Dynamic Control Unit (14) and processes and alters the electrical audio signals according to the control signals to produce guitar sound effects; characterised in that the Dynamic Control Unit (14) is mounted on the front panel in a way that enables the guitar player to adjust in real time the control signals while simultaneously picking

the guitar strings by moving at least one finger of his picking hand across the Dynamic Control Unit (14)".

Claims 2 to 18 are dependent claims.

VII. The appellant's arguments may be summarised as follows:

New claim 1 referred to a multi sound effects system having an amplified guitar, a Dynamic Control Unit (DCU) and a Signal Processing Unit (SPU). The system was characterised in that the DCU was mounted on a front panel of the guitar in a way that enabled the guitar player to adjust in real time the control signals while simultaneously picking the guitar strings by moving at least one finger of his picking hand across the DCU. Support for new claim 1 could be found, at least, at paragraph 5 on page 9, at paragraph 2 on page 10, at paragraphs 6 and 7 on page 11, and at paragraph 2 on page 14. Using the system according to claim 1, a guitarist was able to control the SPU without having to remove his hands from the guitar strings and control was co-located with the guitar at all times. Therefore, the guitarist was able to utilise the full range of sound effects and was able to adjust those effects without having to take his hands away from the guitar or interrupt his playing. Moreover, the guitarist was able to move around without losing his ability to adjust sound effects. Thus, the problems of the prior art were solved.

With respect to the prior art, document D3 discussed the use of touch-sensitive control pads to produce control signals. D3 also discussed adding touch sensitive control pads to musical instruments. Specifically, D3 disclosed providing a guitar with a touch pad. However, D3 said nothing about either where

to locate touch pads or guitar sounds effects in the sense of those of the invention including effects that were adjusted while the guitar strings were picked. However, these two features were inextricably interlinked. The absence of one was indicative of the absence of the other: because D3 was not concerned with producing guitar sound effects, location of the touch pads was of no consequence; and, because location of the touch pads was disregarded, D3 could not be concerned with producing guitar sound effects. In this respect, the general discussion of null/contact touch-pads at col. 16 line 45 to col. 18 line 61 of D3 was silent as regarded where to position a touch pad on an instrument.

Furthermore, in the two specific examples of a guitar to which a touch pad had been added (illustrated in Figs. 5 and 35), the pad was located on the front panel of the body of the guitar to the side of the bridge and in such a position that it would be impossible for a guitarist to pick the guitar strings and touch the touch pad with his playing hand at the same time. It was particularly telling that, despite the huge number of options, variations and possibilities of musical instruments and adaptations of musical instruments proposed in D3, nowhere did it discuss where to locate a touch pad on a guitar or the significance or consequence of where it was located on a guitar. Consequently, there was no basis for suggesting that the skilled person, having read D3, would come away with understanding that the positioning of the touch pad was critical. However, D3's silence as to location of the touch pad was not at all surprising because it did not deal specifically with guitar sound effects, that was, a range of effects including some that a

guitarist might wish to adjust in real time while simultaneously picking the guitar strings.

The only specific examples D3 gave of occasions when touch pads might be used as controller elements were for the purpose of pitch, amplitude, timbre and location modulations. There was no specific mention of these modulations in the context of a guitar. In any case, these modulations, individually, even in the context of guitar, did not constitute guitar sound effects, and there was no specific mention of using these modulations in combination in any context. Moreover, D3 did not mention carrying out modulations at the same time as making an instrument produce a sound, in other words, in real time. A guitarist following the teaching of D3 could not change any of the modulations at the same time as picking the guitar strings because the only positions suggested in D3 for locating the touch pads would not allow him to do so. Therefore, there was no basis for suggesting that the skilled person would regard D3 as being concerned with guitar sound effects in the sense of the invention. Otherwise, D3 would teach the skilled person how to change the control signals in real time. Therefore, the invention as claimed in claim 1 was novel and inventive with regards to D3.

Reasons for the Decision

1. The appeal is admissible.

2. Amendments

The board is satisfied that the passages in the description indicated by the appellant constitute a fair basis for the amendments in claim 1. In the new

set of claims also the board's clarity objections have been overcome.

Therefore the claims comply with the corresponding provisions of Article 123(2) EPC and Article 84 EPC 1973.

3. Patentability

3.1 Novelty - Claim 1

3.1.1 Document D3 discloses a multi-sound effects system comprising an amplified guitar, see the embodiments in Figures 5 and 35 and Section 4.3 "Single-course Guitars and Variations". This system comprises a Dynamic Control Unit (touch pad 522 in Figure 5; area 3518 in Figure 35, which may include a touch pad, see col. 4, line 49) and a Signal Processing Unit ("Audio Signal Processing", see Figures 1 and 2) receiving electrical audio signals from the guitar and control signals from the Dynamic Control Unit (generally indicated in Figure 1 as "Electronic Interface Elements" 102, communicating with unit 125 via the generalized interface 110).

Therefore document D3, considered to represent the closest prior art, discloses a system comprising the features of the preamble of claim 1 (Rule 43 (1)(a) EPC).

3.1.2 As is readily visible from the guitars shown in Figures 5 and 35 of document D3, the Dynamic Control Units, represented by touch pad 522 (Figure 5), respectively area 3518 suitable for locating a touch pad (Figure 35), are not mounted on the front panel in a way that enables the guitar player to adjust in real time the control signals while simultaneously picking the guitar

strings by moving at least one finger of his picking hand across the Dynamic Control Unit.

Indeed, in the embodiment of Figure 5 of D3, adjacent to the picking or string area (503, 505b, 508) keyboards 521a and 521b are located, and these might be contacted by a player's finger while simultaneously picking the guitar strings with another finger. However, such an action is not possible with the touch pad 522, which is arranged below the bridge and out of the way of the picking hand.

The embodiment in Figure 35 shows a similar arrangement: adjacent to the picking area (3505a, 3504) strumpads 3516a and 3516b are located; in contrast the area 3518 provided for a touch pad is located at the lower end part of the guitar body below the bridge and cannot be addressed by the picking hand while simultaneously picking the strings.

Therefore the features of the characterising portion of claim 1 (Rule 43(1)(b) EPC) are not disclosed in document D3.

3.1.3 In the decision under appeal it had been argued (*see page 4, first paragraph*):

"*the Dynamic Control Unit enables a guitar player to adjust in real time the value of at least one sound effect parameter while playing the guitar by moving at least one finger of his picking hand across said Dynamic Control Unit (cf. section 7.2.1.1: "various parameters of each of the elements ... may be advantageously controlled in real-time by control signals", see also fig.5: "touch pad 522")*".

3.1.4 The board notes that present claim 1 is more specific than the claims on which the decision was based, because claim 1 now explicitly defines the location of the Dynamic Control Unit on the front panel of the guitar with the clear provision of enabling the guitar player to adjust in real time the control signals while simultaneously picking the guitar strings.

3.1.5 It furthermore appears that Section 7.2.1.1 "Cross-channel Modulated Delay" referred to in the decision under appeal is not related to the embodiments in Figures 5 or 35. Indeed, the quoted passage "*...various parameters of each of the elements (modulation speed, modulation depths, relative amplitudes in audio mixes, etc.) may be advantageously controlled in real-time by control signals for expression (from instrument entities, foot controllers, etc.)*" does not disclose the use of touch pads and also does not discuss the location of a Dynamic Control Unit on a guitar body. Therefore the board does not concur with the examining division's assessment of the disclosure in document D3.

3.1.6 The subject-matter of claim 1 is also not disclosed in the further prior-art documents cited during the examination proceedings.

3.1.7 It is concluded that the subject-matter of claim 1 is novel (Article 54(1) EPC 1973).

3.2 Inventive step

3.2.1 The features of the characterising portion of claim 1, in combination with those from the preamble, solve the technical problem of enabling to adjust technical

effects in the Dynamic Control Unit while the guitar strings are picked.

3.2.2 As may be readily appreciated from the embodiments in Figures 5 and 35 in document D3 addressed *supra*, the skilled person would not have an incentive to modify the instruments shown in these figures by allocating the touch pad 522 at the position of the keyboards 521a and 521b in Figure 5; nor by replacing the strumpads 3516a and 3516b by the area 3518 in Figure 35, since neither document D3, nor the further documents mentioned in the examination proceedings suggest such a "swap" of these respective units, and the arrangements in Figures 5 and 35 enable the guitar player an easy access to the keyboards (Figure 5), respectively the strumpads (Figure 35).

3.2.3 Therefore, since neither the technical problem nor the claimed solution is disclosed or suggested in the prior art, the board concludes that the subject-matter of claim 1 involves an inventive step (Article 56 EPC 1973).

3.2.4 Claims 2 to 18 are dependent claims and therefore their subject-matter is equally inventive.

3.3 In view of the above, the present claims 1 to 18 are allowable.

4. Further procedure

The description and the drawings have not yet been adapted to the amended present claims. The board, exercising its discretion under Article 111(1) EPC 1973, considers it expedient to remit the case to the

department of first instance for adapting the description and drawings.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the department of first instance with the order to grant a patent with the following claims and a description and drawings to be adapted:

   Claims 1 to 18 as filed with the letter dated 11 May 2016.

The Registrar: The Chairwoman:

M. Kiehl T. Karamanli

Decision electronically authenticated