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**Datasheet for the decision
of 30 November 2017**

Case Number: T 2028/11 - 3.5.01

Application Number: 06014042.3

Publication Number: 1762968

IPC: G06Q10/00, H04M1/725, H04M1/247

Language of the proceedings: EN

Title of invention:

Event display apparatus for mobile communication terminal and corresponding computer program product

Applicant:

LG Electronics Inc.

Headword:

Overlapping icons / LG

Relevant legal provisions:

EPC Art. 56, 52(2)(d)

Keyword:

Appealed decision - missing evidence
Inventive step - overlapping icons representing simultaneous events (no - not technical)

Decisions cited:

T 1741/08, T 1562/11, T 1143/06



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Case Number: T 2028/11 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 30 November 2017

Appellant: LG Electronics Inc.
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 28 March 2011
refusing European patent application No.
06014042.3 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman W. Chandler
Members: A. Wahrenberg
P. Schmitz

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division refusing European patent application No. 06014042.3. The application concerns the display of events on a mobile communication terminal.
- II. The examining division refused the application for lack of inventive step in view of document D1 (WO 2005/033828 A) in combination with the teaching of the desktop of "Windows XP". The examining division referred to document D5 ("Windows XP a user guide", IT SERVICES DEPARTMENT, Robert Gordon University, Aberdeen, 2003), and a number of screenshots presented to the applicant during oral proceedings.
- III. In a communication accompanying a summons to oral proceedings, the Board set out its preliminary opinion on the case. The Board agreed with the appellant's analysis of the contents of D5, but could not judge the relevance of the screenshots, since they were not present in the file. Nevertheless, the Board had doubts about the technical character of the features distinguishing the invention from D1.
- IV. In the oral proceedings, the appellant confirmed its requests to be that the decision of the examining division be set aside and that a patent be granted on the basis of a main request or one of auxiliary requests I to III submitted with the statement setting out the grounds of appeal, dated 13 July 2011.
- V. Claim 1 of the main request reads as follows:

A mobile communication terminal, comprising:

a memory unit (6) configured to store at least one call related event;

a display (2) that is compact and configured to display a time line; and

a controller (8) configured to display the at least one call related event on the time line based on a time information of the at least one call related event, wherein the memory unit (6) is further adapted to store at least one event from scheduling events, alarm events, wakeup call events, task events, D-day events, and reservation message events, and

wherein the controller (8) is adapted to display a respective scheduling event on the time line based on the time information of the respective event, characterized in that

the controller (8) is adapted to display a plurality of events of the same kind occurring simultaneously at a same time as a single icon with a numeral on or next to the icon indicating a number of the plurality of events occurring simultaneously at the same time and/or to display a plurality of different events occurring simultaneously at a same time as a single icon with a highest priority overlapping other icons corresponding to events having a lower priority; and

the controller (8) is adapted to display summary information on the display (2) if the user of the mobile communication terminal places a cursor over the icon, and to display more detailed information on the display (2) if the user clicks the icon.

- VI. Claim 1 of auxiliary request I differs from the main request by the deletion of the text "*to display a plurality of events of the same kind occurring simultaneously at the same time as a single icon with a numeral on or next to the icon indicating a number of*

the plurality of events occurring simultaneously at the same time and/or" from the first feature in the characterising portion, and by the addition of the text *"*, wherein the priorities of each icon can be manually set by the user" at the end.

- VII. Claim 1 of auxiliary request II differs from the main request by the addition of the following text at the end:

", and to execute a program corresponding to a selected icon if a user selects the specific icon positioned on the time line".

- VIII. Claim 1 of auxiliary request III differs from auxiliary request I by the addition of the feature added to auxiliary request II and by the addition of the following feature at the end:

"the at least one call related event comprises at least one from a voice call history and a data call history, and the data call history comprises at least one from a short message service (sms) data call, a multimedia service (mms) data call, a wireless Application Protocol (wap) call, a Video telephony (vt) call, a Digital Mobile Broadcasting (dmb) call, an Instant Messaging Service (ims) call and a Push To Talk (ptt) call".

- IX. The appellant's arguments are summarized and addressed in the reasons below.

Reasons for the Decision

1. *Background*

1.1 The invention concerns the display of events, such as missed calls, received text messages, or calendar events, on a mobile phone. The events are represented by icons positioned on a timeline. Figures 4A, 4B, 5, 6, and 7A to 7D show examples of timelines. In figure 7A, the timeline has the shape of a snowman.

1.2 Mobile phones have small displays. As a consequence, the timeline might not fit within the display area. The invention mitigates this problem by displaying a single icon for events that occur simultaneously. The user may get summary information about the event by placing the cursor over the icon, and, by clicking on the icon, the user gets more detailed information. In the application, 'clicking' means a selection using the key pad of the mobile phone (see paragraphs [0035] and [0036] of the published application).

2. *D5 and the missing screen shots*

2.1 The examining division based its decision of lack of inventive step on D1 in combination with the teaching of "Windows XP". As evidence of what was known from Windows XP, the examining division relied on D5 and a number of screen shots handed to the applicant during oral proceedings. The screen shots were said to show the two-step procedure of displaying summary information when the user placed the cursor over the icon and more detailed information when the user clicked on the icon.

In the grounds of appeal, the appellant contested the relevance of the screen shots, which had been generated after the priority date. Regrettably, however, the Board cannot assess the relevance of the screen shots because they are not present in the file and the Board has not been able to obtain a copy of them. Since the missing screen shots are an essential part of the reasoning on lack of inventive step, the Board has doubts whether the decision is sufficiently reasoned. Nevertheless, the Board can decide on inventive step based on D1 alone especially since the issues raised by the Board had already been raised by the examining division in the communication of 15 October 2008.

3. *Main request, claim 1*

Claim 1 defines two alternatives: the display of "a plurality of events of the same kind" and the display of "a plurality of different events".

Events of the same kind are displayed as a single icon with a numeral on or next to it indicating the number of events that occur simultaneously (see calendar icon 107 in figure 4A).

In the case of a plurality of different events occurring simultaneously, the event with the highest priority is displayed as a single icon overlapping other icons corresponding to events of lower priority (icon 105 in figure 4A, which shows calendar icon 107 superimposed on alarm icon 104).

The controller (8) in claim 1 is adapted to display *either* a plurality of events of the same kind *or* a plurality of different events (the broadest case of "and/or"). If one alternative is found to be not

inventive, the whole claim is unallowable. Therefore, the assessment of inventive step is limited to the second alternative concerning a plurality of different events.

- 3.1 D1 discloses the display of call-related events (call- and message history) and other events (e.g. meetings, alarms, locations) on a timeline in a mobile phone (see figure 2 and the first four paragraphs on page 6). It is common ground that D1 is a good starting point for the assessment of inventive step and that the subject-matter of claim 1 differs from D1 by:

the display of a plurality of different events occurring simultaneously as a single icon with a highest priority overlapping other icons corresponding to events having lower priority; and

the display of summary information if the user places the cursor over the icon, and the display of more detailed information if the user clicks the icon.

- 3.2 It is established case law of the Boards of Appeal that non-technical features, which do not provide a technical effect, cannot contribute to inventive step. Instead, they may be part of the formulation of the problem to be solved in the form of a requirement specification given to the skilled person to implement (T 641/00 - "Two identities/COMVIK").

- 3.3 The display of events in claim 1 aims at presenting information to the user. Thus, "presentation of information", which is excluded from patentability under Article 52(2)(d) EPC, is certainly relevant.

There are many cases that deal with presentation of

information. The Board's preliminary opinion referred to two of them, namely T 1741/08 - "GUI layout/SAP" and T 1562/11 - "Closing out white space/SAP".

T 1741/08 concerned the arrangement of icons in two horizontally aligned sequences on a screen. This was considered to be a layout as such, which did not provide any technical effect.

T 1562/11 concerned the arrangement of window panes on a screen so as to close out white (unused) space. The deciding Board in T 1562/11 was not convinced that the efficient use of available screen space was a technical problem; this was considered to be a matter of layout design.

- 3.4 The appellant argued that the present invention was different from the ones in T 1741/08 and T 1562/11. The inventions in the cited cases both concerned the arrangement of objects within a screen area. Neither of them concerned the overlapping display of objects.
- 3.5 The appellant is right in that every case is based on a particular set of facts. Therefore, the Board agrees that it is difficult to draw any general conclusions from the case law as regards the technicality of a particular subject-matter, because this is very much a question of facts. Nevertheless, the Board sees a general line in the case law, namely that the assessment of mixed-type inventions involving presentation of information is no different from the assessment of inventions involving other non-technical subject matter; the subject matter contributes to inventive step only if it produces a technical effect or at least involves technical consideration (see also

T 1143/06 - "Data selection system/BRITISH TELECOMMUNICATIONS", which is cited in T 1741/08).

- 3.6 The distinguishing subject-matter in claim 1 involves icons. Icons are technical things. They allow the user to provide input by activating the icon. For example, by clicking on the icon, the user may trigger some action associated with the icon. This is a technical effect. But the question of inventive step is not about icons *per se*. The appellant agreed with the Board that icons were well known at the priority date. The presence of an inventive step rather depends on the overlapping of icons for simultaneously occurring events having different priorities. The question is whether this has a technical effect or, at least, involves technical considerations.
- 3.7 The appellant argued that the overlapping addressed the technical limitations of the compact display of a mobile phone. It allowed the user to see more of the timeline than if the events had been displayed side by side. This was more than just a layout; it was not about arranging existing icons on the screen. The invention reduced the number of icons to be displayed by making them overlap. In other words, the invention provided an arrangement in three dimensions, in which the single icon represented a "depth" of several events.
- 3.8 The Board is not convinced that the overlapping of events solves a technical problem related to the limited size of the display. The claim does not establish any connection between the dimensions of the display, the dimensions of the timeline, and the size of the icons, which leads to a better use of the available screen area. Therefore, the Board takes the

view that overlapping events are presentation of information *per se*.

Furthermore, the Board does not consider that the arrangement of objects within a limited space is technical. In the Board's view, it does not matter whether the space is two-dimensional or three-dimensional. To illustrate this, one could take the example of a Board member's desk. The desk has a limited size. Therefore, it often happens that there is not enough space on the desk to lay out all the prior art documents side by side. Then, the Board member may arrange the documents in an overlapping manner, possibly completely overlapping. The depth of the overlapping may be several documents. The desk and the documents are technical things, but the activity of arranging the documents on the desk is not a technical activity.

- 3.9 The appellant furthermore argued that the grouping of icons reduced the processing required for rendering the icons on the display.

The Board is not persuaded by this argument. The application does not provide any technical details about the rendering. Furthermore, the complexity of the rendering directly depends on the images to be displayed. That does not mean that the choice of images is necessarily a technical one.

- 3.10 One way of assessing whether something requires technical considerations is to look at the person formulating the idea. If it could be formulated by a non-technical person, without any technical knowledge or skill, it is a non-technical requirement.

In the present case, the overlapping of events could be formulated by the user. The user might not want or need a full display of all the events occurring at the same time. It might be enough to see the most important event, and an indication that there are other, less important events. The user may want the option of obtaining more information about those events. Thus, the overlapping according to priorities, and the display of information in two steps is a non-technical user requirement. The technical problem solved is the implementation of that user requirement in the graphical user interface of the mobile phone.

3.11 As already mentioned, the technical implementation involves icons. The icons are activated by placing the cursor over the icon, or by clicking on the icons. However, this was known and obvious at the priority date. Therefore, the implementation does not provide an inventive step.

3.12 For these reasons, the Board concludes that the subject-matter of claim 1 of the main request lacks an inventive step over D1 (Article 56 EPC).

4. *Auxiliary request I, claim 1*

Claim 1 of auxiliary request I specifies that the priorities can be set manually by the user.

During the oral proceedings before the Board, the appellant explained that this feature was meant to clarify the priorities in the main request, and that it did not provide any further inventive contribution. Indeed, the priorities must be settable.

Therefore, the subject-matter of claim 1 of auxiliary

request I lacks inventive step for the same reasons as set out above with regard to the main request.

5. *Auxiliary request II, claim 1*

Claim 1 of auxiliary request II includes the feature that a program corresponding to a selected icon is executed if the user selects the specific icon positioned on the timeline.

The appellant explained that the user could select any one of the overlapping icons by clicking on the part of the single icon representing the icon of interest. In the example in figure 4A, by clicking on the calendar icon, the user would select the calendar application. By clicking inside the frame surrounding the calendar icon, the user would select the alarm icon.

This is all part of the technical implementation of the graphical user interface. However, the Board considers that this would have been straightforward and obvious to implement for the skilled person. This was not disputed by the appellant.

Therefore, the subject-matter of claim 1 of auxiliary request II does not involve an inventive step (Article 56 EPC).

6. *Auxiliary request III, claim 1*

Claim 1 of auxiliary request III defines the call-related events as comprising at least one from a voice call history and a data call history, and the data call history comprises at least one from a short message service (sms) data call, a multimedia service (mms) data call, a wireless application protocol (wap) call,

a video telephony (vt) call, a digital mobile broadcasting (dmb) call, and instant messaging service (ims) call and a push to talk (ptt) call.

This is all part of the information to be displayed, and moreover known from D1 (see figure 2). Thus, the feature added by auxiliary request III does not establish an inventive step over D1 (Article 56 EPC).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated