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**Datasheet for the decision  
of 27 July 2016**

**Case Number:** T 1448/12 - 3.5.03

**Application Number:** 06006117.3

**Publication Number:** 1705882

**IPC:** H04M1/725

**Language of the proceedings:** EN

**Title of invention:**

Mobile terminal and method for outputting image with associated background sound

**Applicant:**

Samsung Electronics Co., Ltd.

**Headword:**

Outputting image with associated background sound/SAMSUNG

**Relevant legal provisions:**

EPC Art. 54

**Keyword:**

Novelty - both requests - (no)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
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Case Number: T 1448/12 - 3.5.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.03**  
**of 27 July 2016**

**Appellant:** Samsung Electronics Co., Ltd.  
(Applicant) 129, Samsung-ro  
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Suwon-si, Gyeonggi-do, 443-742 (KR)

**Representative:** Nederlandsch Octrooibureau  
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**Decision under appeal:** **Decision of the Examining Division of the European Patent Office posted on 20 January 2012 refusing European patent application No. 06006117.3 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** F. van der Voort  
**Members:** T. Snell  
P. Guntz

## **Summary of Facts and Submissions**

- I. This appeal is against the decision of the examining division refusing European patent application No. 06006117.3, with publication number EP 1705882.

The refusal was based on the ground of lack of inventive step.

- II. The appellant filed an appeal against the above decision. New sets of claims of respectively a main request and a first auxiliary request were filed together with the statement of grounds of appeal.

Oral proceedings were conditionally requested.

- III. In a communication accompanying a summons to oral proceedings, the board gave a detailed preliminary opinion that, *inter alia*, the subject-matter of claim 1 of the main and auxiliary requests respectively either was not new or at least did not involve an inventive step having regard to the following document cited in the impugned decision:

D2: US 2004/0204135 A1

- IV. Together with a letter of reply, the appellant filed claims of a second auxiliary request. The appellant did not comment on the board's objections to the main and first auxiliary requests. With respect to the second auxiliary request, the appellant stated that D2 was the closest prior art document and argued that claim 1 was both new and involved an inventive step with respect to this document.

V. Oral proceedings were held on 27 July 2016.

At the oral proceedings, the appellant withdrew the first auxiliary request. The appellant requested that the impugned decision be set aside and that a patent be granted on the basis of claims of a main request, filed with the statement of grounds of appeal, or, in the alternative, of an auxiliary request, filed as the "second auxiliary request" with the letter of 27 June 2016.

At the end of the oral proceedings, the chairman announced the board's decision.

VI. Claim 1 of the main request reads as follows:

"A method for outputting an image in a mobile terminal, comprising:  
a step of storing predetermined images and background sounds (S110; S310);  
a step of setting at least one image and a corresponding background sound (S120; S320) comprises:  
detecting when a user selects a specific image from a displayed list of stored images (S220; S430),  
detecting when the user confirms that a background sound in a displayed list of stored background sounds is appropriate to the selected image (S250-YES; S450-YES), and  
linking the selected image with the confirmed background sound (S255; S460) and storing the linked image and confirmed background sound; and  
a step of selecting and outputting comprises:  
detecting when a user selects a specific image of the at least one stored images with linked background sound (S130; S330), and  
outputting the selected image and the linked background

sound simultaneously (S140; S340) in response to detecting when the user selects the specific image of said at least one stored images with linked background sound."

VII. Claim 1 of the auxiliary request reads as follows:

"A method for outputting an image in a mobile terminal, comprising:

a step of storing predetermined images and background sounds (S110; S310);

a step of setting at least one image and a corresponding background sound (S120; S320) comprises: detecting when a user selects a specific image from a displayed list of stored images (S220; S430), displaying the selected specific image [page 8, lines 27-28];

detecting when a user selects a background sound (S230-YES) from a displayed list of background sounds, extracting and outputting the selected background sound (245);

detecting when the user confirms that the background sound in the displayed list of stored background sounds is appropriate to the displayed selected image (S250-YES; S450-YES), and

linking the selected image with the confirmed background sound (S255; S460) and storing the linked *[sic]* image and confirmed background sound. *[sic]*

a step of selecting and outputting comprises:

detecting when a user selects a specific image of the at least one stored images with linked background sound (S130; S330), and

outputting the selected image and the linked background sound simultaneously (S140; S340) in response to detecting when the user selects the specific image of

said at least one stored images with linked background sound."

## **Reasons for the Decision**

### *1. Main request - claim 1 - novelty*

D2 discloses a mobile device comprising a multimedia editor for creating "original multimedia content (140)" consisting of a combination of, inter alia, graphics and music files selected from multimedia content stored in a content memory of the mobile device (cf. the abstract). The "original multimedia content" files are stored in a memory for further utilisation, e.g. for creating an alert or for transmitting to another device (cf. paragraph [0030]). The board considers that the "original multimedia content" files disclosed in D2 are "images with linked background sound" referred to in claim 1. An example of a file containing two images and linked sound is referred to in paragraph [0044] ("For example, the new file can consists [sic] of a header, music1.mid, graph1.jpg, and graph2.jpg").

- 1.1 Using the wording of claim 1, D2 discloses a method for outputting an image in a mobile terminal, comprising:  
a step of storing predetermined images and background sounds (cf. paragraph [0025]);  
a step of setting at least one image and a corresponding background sound compris[ing]:  
detecting when a user selects a specific image from a displayed list of stored images (cf. paragraph [0042], lines 27-40; Fig. 5, step 245),  
detecting when the user confirms that a background sound in a displayed list of stored background sounds

is appropriate to the selected image (idem and paragraph [0044], lines 8-15; Fig. 6, steps 345 and 350), and linking the selected image with the confirmed background sound and storing the linked image and confirmed background sound (cf. paragraph [0044], lines 11-15); and a step of selecting and outputting comprising: detecting when a user selects a specific image of the at least one stored images with linked background sound (cf. paragraph [0045], lines 1-2), and outputting the selected image and the linked background sound simultaneously in response to detecting when the user selects the specific image of said at least one stored images with linked background sound (idem; cf. also paragraph [0043], lines 17-21).

Consequently, D2 discloses all the features of claim 1.

1.2 The appellant's counter-arguments set out in the statement of grounds of appeal are as follows:

(i) D2 does not disclose the feature "detecting when the user confirms that a background sound in a displayed list of stored background sounds is appropriate to the selected image".

(ii) D2 does not disclose the features "detecting when a user selects a specific image of the at least one stored images with linked background sound, and outputting the selected image and the linked background sound simultaneously in response to detecting when the user selects the specific image of said at least one stored images with linked background sound".



- 1.3 Re (i): In paragraph [0044], it is stated that "the process determines whether or not the device user desires to save the edited/recorded file". This implicitly requires the user to confirm that the background sound is appropriate to the image.
- 1.4 Re (ii): In accordance with paragraph [0045], lines 1-2, the user can playback the edited file, which has previously been saved (cf. paragraph [0044], lines 11-13). The saved original multimedia content files can furthermore be accessed at any time by the user, cf. paragraph [0038], lines 11-14 and 28-31. In addition, it is stated in paragraph [0043], lines 17-21 that "... the edited/recorded files are played. For example, the graph1.jpg will be displayed on the display 55 and music1.mid will be played via the device speaker simultaneously". Although this passage applies to the editing process prior to saving, it would be implicit to the skilled person that this applies, *mutatis mutandis*, to the playback which takes place after creating and editing the media content file has been completed in accordance with paragraph [0045], lines 1-2.

Consequently, the board finds the appellant's arguments unconvincing.

- 1.5 The board therefore concludes that the subject-matter of claim 1 is not new with respect to the disclosure of D2 (Articles 52(1) and 54 EPC).

2. *Auxiliary request - claim 1 - novelty*

- 2.1 Claim 1 of the auxiliary request differs from claim 1 of the main request in that it additionally includes,

after the step of detecting when a user selects a specific image, the steps:

"displaying the selected specific image"; and  
"detecting when a user selects a background sound from a displayed list of background sounds, extracting and outputting the selected background sound";

and in that the subsequent step of detecting when a user confirms now reads:

"detecting when the user confirms that the background sound in the displayed list of stored background sounds is appropriate to the displayed selected image" (changes with respect to the wording of claim 1 of the main request underlined by the board).

2.2 The appellant argued at the oral proceedings that, in accordance with the method of claim 1, an image was displayed, then the user selected the background sound, and only then did the user confirm that the background sound was to be linked to the image. This allowed different background sounds to be tried out before final confirmation. In contrast, in accordance with D2, the user had to choose both the image file and the sound file from respective lists, without the possibility of then changing the sound for that image without restarting the entire editing process, beginning at step 235 of Fig. 5.

2.3 However, even if, for the sake of argument, the appellant's interpretation of claim 1 and D2 is adopted, the board notes that the process of D2 is still embraced by claim 1. As part of the editing routine of D2, the image and sound files are played, i.e. the image is displayed (cf. Fig. 6, step 265 or

Fig. 7, step 335). The file created may then be edited (step 270) by returning to the process of Fig. 5, before finally being stored (step 350). Now consider the situation that in a first editing cycle, a user selects a specific image and sound to create a media file, which is then played, i.e. the image is displayed. If the user wishes to replace the sound, he must repeat the editing cycle of Fig. 5 by reselecting the same image and selecting a different sound file. However, all the steps required by claim 1 are still performed. In particular, the step of "displaying the specific image" would occur at the end of the first editing cycle (cf. Fig. 6, step 265, or Fig. 7, step 335) and the step of "detecting when a user selects a background sound ..." and all subsequent steps up to and including "storing the linked image and confirmed background sound" would follow in the second editing cycle (cf. Fig. 6, steps 265, 345 and 350).

Consequently, the board finds the appellant's argument unconvincing.

- 2.4 The appellant also suggested at the oral proceedings that the step of "linking the selected image with the confirmed background sound" was not disclosed in D2. The board notes that the appellant did not raise this argument in connection with claim 1 of the main request. However, in any case, D2 discloses that the image file and the sound file are stored together in a new file, as shown by the example given in D2, where the new file consists of a header, a music file and two graphic files (cf. paragraph [0045]). It follows that when the user elects to store the media content, the image and the sound are linked.

2.5 The board concludes that the subject-matter of claim 1 of the auxiliary request is not new either with respect to the disclosure of D2 (Articles 52(1) and 54 EPC).

3. *Conclusion*

It follows that there is no allowable request. Consequently, the appeal must be dismissed.

**Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:



G. Rauh

F. van der Voort

Decision electronically authenticated