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**Datasheet for the decision
of 14 January 2015**

Case Number: T 1495/12 - 3.5.05

Application Number: 06727697.2

Publication Number: 1864201

IPC: G06F3/00

Language of the proceedings: EN

Title of invention:

User interface to support a user selecting content

Applicant:

Koninklijke Philips N.V.

Headword:

User selection action/PHILIPS

Relevant legal provisions:

EPC Art. 123(2)

Keyword:

Added subject-matter - all requests (yes)
Right to be heard - withdrawal of request for oral proceedings

Decisions cited:

Catchword:



**Beschwerdekammern
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Chambres de recours**

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Case Number: T 1495/12 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 14 January 2015

Appellant: Koninklijke Philips N.V.
(Applicant) High Tech Campus 5
5656 AE Eindhoven (NL)

Representative: Verweij, Petronella Danielle
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 8 December 2011
refusing European patent application
No. 06727697.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: K. Bengi-Akyuerek
D. Prietzel-Funk

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division, posted on 8 December 2011, to refuse European patent application No. 06727697.2 on the ground of lack of inventive step (Article 56 EPC) with respect to a main request and an auxiliary request, having regard to the disclosure of

D1: US-A-2004/0135817.

II. Notice of appeal was received on 19 January 2012. The appeal fee was paid on the same day. With the statement setting out the grounds of appeal, received on 18 April 2012, the appellant filed new claims according to a main request and three auxiliary requests. It requested that the decision of the examining division be set aside and that a patent be granted on the basis of the main request or one of the auxiliary requests.

III. A summons to oral proceedings scheduled for 6 February 2015 was issued on 14 October 2014. In an annex to this summons, the board gave its preliminary opinion on the appeal pursuant to Article 15(1) RPBA. In particular, it raised objections under Articles 123(2), 84 and 52(1) EPC in conjunction with Article 54 EPC, having regard to

D3: US-A-5 877 750.

Prior-art document D3, cited in the present application as filed, was introduced by the board under Article 114(1) EPC into the appeal proceedings due to its relevance for the assessment of novelty and inventive step of the underlying subject-matter.

- IV. By letter of reply dated 12 November 2014, the appellant informed the board that it would not be attending the scheduled oral proceedings and that, consequently, the oral proceedings could be cancelled. It further asked for a "decision in accordance with the state of the file", and did not submit any comments on the substance of the board's communication under Article 15(1) RPBA.
- V. With a communication dated 27 November 2014, the appellant was informed that the oral proceedings appointed for 6 February 2015 were cancelled.
- VI. Claim 1 of the **main request** reads as follows:

"A method for selecting content comprising the acts of:

sensing (330) a duration of time of a single selection action of a content item; and
expanding (340, 360) a selection indication if the duration of time of the single selection action exceeds a given time interval;
characterized by
beginning growing of the selection indication when the duration of time of the single selection action exceeds the given time interval and
terminating (350) said growing when the single selection action is discontinued at a time after the given time interval."

Claim 1 of the **first auxiliary request** comprises all the features of claim 1 of the main request and adds the following phrase:

"wherein the selection indication is a selection area that originates in an area of the single selection

action, and said growing of the selection indication is arranged to grow in several dimensions."

Moreover, according to the statement setting out the grounds of appeal, the **second auxiliary request** is "a combination of claims 1 and 6" of the first auxiliary request while the **third auxiliary request** is "a combination of claims 1, 6 and 7" of the first auxiliary request.

Reasons for the Decision

1. The appeal is admissible.
2. MAIN REQUEST

Claim 1 of this request corresponds to claim 1 of the main request underlying the appealed decision.

2.1 Article 123(2) EPC

In the board's judgment, claim 1 does not comply with Article 123(2) EPC, for the following reasons:

- 2.1.1 The board finds that the term "single selection action" recited in claim 1 (introduced for the first time with the applicant's submission dated 21 September 2011) is not directly and unambiguously derivable from the application as filed, since nowhere in the entire application is there any clear definition of a *single* or *multiple* selection action. The passages of the application as filed cited by the appellant in its statement setting out the grounds of appeal (i.e. page 2, lines 16-18; page 3, lines 3-5; page 4, lines 3-4; page 11, lines 5-10) at most imply that the expression

"single selection action" is supposed to mean that a selection of multiple content items is triggered by first selecting a *single* item (see also board's communication under Article 15(1) RPBA, section 3.1.1).

2.1.2 Accordingly, claim 1 contains subject-matter which extends beyond the content of the application as filed.

2.2 In conclusion, the main request is not allowable under Article 123(2) EPC.

3. FIRST TO THIRD AUXILIARY REQUESTS

3.1 Article 123(2) EPC

Claim 1 of these auxiliary requests equally includes the term "single selection action". Consequently, the objection set out in point 2.1 above in respect of the main request applies *mutatis mutandis* to claim 1 of those requests.

3.2 In conclusion, the first to third auxiliary requests are likewise not allowable under Article 123(2) EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated