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**Datasheet for the decision
of 11 May 2017**

Case Number: T 0592/13 - 3.5.05

Application Number: 07115472.8

Publication Number: 2031485

IPC: G06F3/023

Language of the proceedings: EN

Title of invention:

Handheld electronic device and associated method providing disambiguation of an ambiguous object during editing and selectively providing prediction of future characters

Applicant:

BlackBerry Limited

Headword:

Disambiguation and prediction routines for reduced keyboard/
BLACKBERRY

Relevant legal provisions:

EPC Art. 56, 111

RPBA Art. 13(1)

Keyword:

Remittal to the department of first instance - special reasons
for not remitting the case
Inventive step - auxiliary requests (no)

Decisions cited:

G 0009/91, G 0010/93

Catchword:



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Case Number: T 0592/13 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 11 May 2017

Appellant: BlackBerry Limited
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 15 October 2012
refusing European patent application
No. 07115472.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: P. Cretaine
D. Prietzel-Funk

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division, posted on 15 October 2012, refusing European patent application No. 07 115 472.8. The decision was taken according to the state of the file and referred to a communication dated 20 August 2012 and raising an objection of lack of inventive step (Article 56 EPC). It was apparent from the previous communications on file that the closest prior art was identified as an existing handheld electronic device with a prediction routine, as exemplified by the documents

D1: EP 1 638 014 or

D2: GB 2 396 940.

II. Notice of appeal was received on 13 December 2012 and the appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 21 February 2013. The appellant requested that the decision be set aside and that a patent be granted based on pages 1 to 22 of the description, claims 1 to 4 and drawings sheets 1/8 to 8/8, all as originally filed. Oral proceedings were requested as an auxiliary measure.

III. A summons to oral proceedings was issued on 26 February 2017. In a communication pursuant to Article 15(1) RPBA issued on 10 March 2017, the board gave its preliminary opinion on the appeal. The board cited documents

D4: US 6 307 549 and

D6: US 6 032 053.

D4 had been cited in the European search report and D6 was introduced into the proceedings by the board of its own motion.

An objection under Article 56 EPC based on D6 as closest prior art was raised against the claims.

- IV. With a letter of reply dated 11 April 2017, the appellant requested as a main request that the decision under appeal be set aside and that the case be remitted to the examining division for further prosecution, or, as a first auxiliary request, that a patent be granted on the basis of the claims as originally filed, or that a patent be granted on the basis of the claims submitted as "second auxiliary request" with said letter.
- V. By letter dated 28 April 2017, the appellant announced that it would not be attending the oral proceedings.
- VI. Oral proceedings were held as scheduled on 11 May 2017 in the absence of the appellant. After due deliberation on the basis of the pending requests and the written submissions, the decision of the board was announced at the end of the oral proceedings.
- VII. Claim 1 according to the first auxiliary request reads as follows:

"A method of enabling input on a handheld electronic device that comprises an output apparatus, an input apparatus comprising a plurality of input members, and a processor apparatus comprising a memory having stored therein a number of routines, one of the routines being a prediction routine that is executable on the

processor apparatus and is structured, responsive to an input, to output a number of proposed completions of the input, each proposed completion comprising a number of data elements additional to the input, the method comprising:

detecting an input member actuation additional to a displayed text object that was generated as a result of an ambiguous text input, the input member actuation being additional to the displayed text object at one of a location disposed at the terminal end of the displayed text object and a location disposed elsewhere than at the terminal end of the displayed text object; when the input member actuation is additional to the displayed text object at a location disposed at the terminal end of the displayed text object, outputting a list comprising a number of disambiguated interpretations and a number of proposed completions of the ambiguous text input plus the input member actuation; and

when the input member actuation is additional to the displayed text object at a location disposed elsewhere than at the terminal end of the displayed text object, outputting another list comprising a number of disambiguated interpretations of the ambiguous text input plus the input member actuation, the another list being free of proposed completions."

Claim 1 according to the second auxiliary request reads as follows:

"A method of enabling input on a handheld electronic device that comprises an output apparatus, an input apparatus comprising a plurality of input members, and a processor apparatus comprising a memory having stored therein a number of routines, one of the routines being a prediction routine that is executable on the

processor apparatus and is structured, responsive to an input, to output a number of proposed completions of the input, each proposed completion comprising a number of data elements additional to the input, the method comprising:

detecting an input member actuation editing a displayed text object that was generated as a result of an ambiguous text input;

when the input member actuation reflects a deletion of a character from the displayed text object, outputting a first list comprising a number of disambiguated interpretations of the ambiguous text input excluding the deleted character, the first list being free of proposed completions;

when the input member actuation is additional to the displayed text object at a location disposed at the terminal end of the displayed text object, outputting a second list comprising a number of disambiguated interpretations and a number of proposed completions of the ambiguous text input plus the input member actuation; and

when the input member actuation is additional to the displayed text object at a location disposed elsewhere than at the terminal end of the displayed text object, outputting a third list comprising a number of disambiguated interpretations of the ambiguous text input plus the input member actuation, the third list being free of proposed completions."

Reasons for the Decision

1. The appeal is admissible.
2. Non-attendance at the oral proceedings

The appellant decided not to attend the scheduled oral proceedings and provided written submissions including an amended claim request in response to the inventive-step objection raised in the board's communication under Article 15(1) RPBA.

Pursuant to Article 15(3) RPBA, the board is not "obliged to delay any step in the proceedings, including its decision, by reason only of the absence at the oral proceedings of any party duly summoned who may then be treated as relying only on its written case".

In the present case, the board considered it expedient to maintain the date set for oral proceedings and was in a position to announce a decision at the end of those.

3. Main request
 - 3.1 This procedural request is directed to setting aside the decision under appeal and to remitting the case to the examining division for further prosecution.
 - 3.2 The appellant argued that the communication under Article 15(1) RPBA contained no comments on the merits of the decision under appeal, or on its submission in the statement setting out the grounds of appeal, but instead raised new objections based on newly cited

document D6. The appellant further argued that it had received the above-mentioned communication on 15 March 2017, so that less than three weeks had been available to report the communication to the applicant, study the documents, formulate a response for the applicant and file written submissions one month in advance of the hearing. Therefore, a remittal would provide the appellant with first-instance examination based on newly cited document D6, and, if needed, appeal at second instance, in accordance with the principles of G 0009/91.

- 3.3 The board would first point out that the findings of G 0009/91 apply to opposition proceedings only. Rather, G 0010/93 has confirmed that, in an appeal from a decision of an examining division refusing a European patent application, the board of appeal has the power to examine whether the application meets requirements of the EPC that the examining division did not take into consideration. In the present case the board considered while studying the appeal that document D6 was much more relevant to the issue of inventive step than the other documents, in particular D1 and D2, used by the examining division in its Article 56 EPC objection which led to the refusal of the application.

Further, it is important to note that document D6 was cited during the prosecution of European patent application Nr. 07115471.0 filed by the same applicant, on the same date, and which comprised the same description and drawings as the present application. Also the representative throughout the prosecution of this application was the same as in the present case. D6 had been cited as an "X" document in the search report for application 07115471, issued in

the same month (April 2008) as the search report for the present application, and was the basis for an inventive-step objection. It is thus clear, in the board's view, that the appellant, or at least its representative, was aware of the existence and pertinence of D6 with respect to the subject-matter of the present application long before the board issued its communication.

Nor did the appellant request a postponement of the oral proceedings, which could have given it the time it says it needed to study the document. It also decided not to attend the oral proceedings on 11 May 2017 which would have given it a further opportunity to present its case. In addition, the level of technical complexity of both the present application and document D6 is such that seven weeks before oral proceedings seems a reasonable amount of time for a technical study of the case. This is corroborated by the fact that the appellant provided a thorough analysis of D6 with respect to the first and second auxiliary requests in response to the board's communication.

For these reasons, the board judges that a remittal to the examining division is not appropriate in the present case and decides not to allow the appellant's main request.

4. First auxiliary request

D6 discloses in column 6, lines 17 to 45 a method for enabling input on a handheld electronic device with a reduced keyboard (see Figure 1A) wherein, after a user has entered initial characters, i.e. a text object, on the display using prior-art techniques, the device displays candidate words matching the initial

characters, i.e. proposed completions of the text object. As an example, D6 describes that if the user has entered the letters "PLE" in the display, a dictionary look-up routine may display the word "PLEASE", "PLEAD, and "PLEDGE" on a portion of the display (see Figure 4).

The differences between the subject-matter of claim 1 and the disclosure of D6 are thus that:

- a) the prior-art technique for entering the initial letters is explicitly defined as being a disambiguation scheme of ambiguous input, outputting a list comprising a number of disambiguated interpretations, and
- b) the device does not display a list of proposed completions when the last input of the user is at a location disposed elsewhere than at the terminal end of the displayed text object.

Features a) and b) are juxtaposed in the claim since the trigger for displaying a completion list defined in feature b) does not depend on the kind of prior-art technique used for entering the text object.

As to feature a), it is a common measure in the field of hand-held devices with reduced keyboards, such as the one shown in Figure 1A of D6, to use the so-called T9 disambiguation scheme illustrated in D4 (see the abstract). The skilled person would thus obviously consider using the T9 scheme as a technique for entering the text object.

Feature b) defines in substance that the prediction routine implemented on the hand-held device has two modes of functioning, the first mode involving

the output of a disambiguation list and a prediction list, the second mode involving the output of a disambiguation list only, the activation between the two modes being determined by whether or not the input is located at the end of the displayed text.

D6 however discloses the possibility of having the completion list not displayed in order to avoid confusion. This last mode is activated when no match with the user's wish occurs after a preset number of characters has been entered (see column 7, lines 6 to 9). Thus, two modes are also provided by the system of D6, one with the display of a completion list and one without.

Activating the mode without completion list based on the location of the input in the displayed text, as defined by feature b) represents, in the board's view, a mere alternative for the skilled person. In that respect, the appellant argued that the approach of feature b) displayed more meaningful results and thus provided an improved interface for entering text on a hand-held device. In particular, the appellant relied on paragraph [0048] of the description which stated that the quantity of displayed completions could be confusing to the user. In the board's view however, the activation of the mode with no completion list as defined in feature b) does not provide the claimed advantage in all cases. In particular, the insertion of an input at the beginning of a text object or in the middle of it may well be the last intended input of the user, for which he may wish to get a list of corresponding completed words. Therefore, the board holds that feature b) represents a mere alternative providing advantages and drawbacks mainly based on the user's preferences and thus with no inventive merit in

itself.

For these reasons the board judges that the subject-matter of claim 1 does not involve an inventive step, having regard to the disclosure of D6 and common general knowledge, as exemplified by D4 (Article 56 EPC).

5. Second auxiliary request

5.1 Admissibility

This request has been submitted in response to the communication of the board pursuant to Article 15(1) RPBA, i.e. after the statement setting out the grounds of appeal. Since it has been filed in order to overcome the objection under Article 56 EPC based on D6 and raised in that communication, and considering that its technical complexity is limited, the board decides to admit this request into the proceedings under Article 13(1) RPBA.

5.2 Claim 1 adds in substance to claim 1 according to the first auxiliary request a feature defining a second condition for activating the mode without display of the completion list. As already stated in point 4 above, the board holds that an alternative way of actuating the mode without completion list, based on a particular input on the reduced keyboard during entering a text, provides advantages and drawbacks which depend on the user's preferences. Therefore, the board holds that the above-mentioned added feature cannot contribute, in combination with the other features of the claim, to inventive step (Article 56 EPC).

Thus, the board judges that the subject-matter of claim 1 does not involve an inventive step, having regard to the disclosure of D6 and common general knowledge, as illustrated by D4 (Article 56 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