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**Datasheet for the decision
of 20 November 2017**

Case Number: T 1831/13 - 3.4.03

Application Number: 07701012.2

Publication Number: 2052382

IPC: G09G5/00

Language of the proceedings: EN

Title of invention:

METHOD OF CONTROLLONG TOUCH PANEL DISPLAY DEVICE AND TOUCH
PANEL DISPLAY DEVICE USING THE SAME

Applicant:

LG Electronics, Inc.

Headword:

Relevant legal provisions:

EPC 1973 Art. 54(1), 54(2)
RPBA Art. 13(1)

Keyword:

Novelty - (no)
Late-filed auxiliary requests - request clearly allowable (no)

Decisions cited:

Catchword:



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Case Number: T 1831/13 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 20 November 2017

Appellant: LG Electronics, Inc.
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Representative: Cabinet Plasseraud
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 3 April 2013
refusing European patent application No.
07701012.2 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman G. Eliasson
Members: M. Stenger
T. Bokor

Summary of Facts and Submissions

- I. The appeal concerns the decision of the Examining Division to refuse European patent application no. 07701012 for non-compliance with Articles 84, 54 and 123(2) EPC. The decision of the Examining Division was based on a main request and 4 auxiliary requests.
- II. In a communication sent with the summons to oral proceedings, the Board expressed its preliminary opinion, that the main request and the auxiliary request filed with the grounds of appeal were not allowable with respect to Articles 54, 84 and 123(2) EPC.
- III. In a letter dated 20 October 2017, the appellant requested the grant of a patent according to an amended main request and new first and second auxiliary requests. The main request corresponds to auxiliary request 1 on which the appealed decision was based.
- IV. During oral proceedings on 20 November 2017, the requests of the appellant were discussed. At the end of the oral proceedings, the Chairman announced the decision of the Board.
- V. The following document will be referred to in this decision:
D2: WO9954807 A
- VI. Claim 1 of the main request reads as follows:

*A method of controlling a touch panel display device, the method comprising:
displaying a zoom icon area on a screen, wherein the screen comprises at least the zoom icon area and a*

remainder of the screen, a plurality of icons being arranged in the zoom icon area;

recognizing (S301) a touch event, and determining (S303) whether the recognized touch event occurred anywhere in the zoom icon area; and

if it is determined that the recognized touch event occurred anywhere in the zoom icon area:

- recognizing the touch event as a user selection signal for selecting a specific magnified icon area corresponding to the zoom icon area, namely comprising the icons arranged in the zoom icon area; and*
- displaying (S306) the magnified icon area corresponding to the zoom icon area, wherein the magnified icon area is larger than the zoom icon area, and the magnified icon area is displayed as at least a portion of the remainder of the screen.*

VII. Claim 1 of the first auxiliary request differs from claim 1 of the main request in that it comprises the additional features that:

if it is determined that the recognized touch event did not occur in the zoom icon area:

- processing the touch event by regarding a touched icon as a default state operation (S304); and*
- executing a specific program of the touched icon accordingly (S304).*

VIII. Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in that it comprises the additional feature of:

- returning the magnified icon area to the zoom icon area by reverting to a previous resolution or recovering an original resolution if elsewhere out of the magnified icon area is selected.*

IX. The arguments of the appellant, as far as they are relevant for the present decision, may be summarized as follows:

D2 disclosed that only some area around a touched position were magnified. Thus, D2 did not disclose a magnified icon area corresponding to the zoom icon area.

Further, the plurality of symbols disclosed in D2 were not associated to a plurality of different programs, but only to different features of one program (namely, the keyboard program).

Thereby, the magnified keyboard shown in figures 1B and 1C could not be regarded as comprising a plurality of icons in the sense of the application.

In addition, D2 was completely silent about touch events outside the zoom icon area.

Reasons for the Decision

1. Main request - Novelty

1.1 Document D2 discloses a method of controlling a touch panel display device (see abstract), the method comprising:

- displaying a zoom icon area (*small icon, keyboard icon 12*) on a screen, wherein the screen comprises at least the zoom icon area and a remainder of the screen (figures 1A and 2A), a plurality of icons (*functions / functionalities*) being arranged in the zoom icon area (*such that its functions are recognizable / such that*

it is large enough to see its functionalities, see page 2, lines 8 to 11 and page 3, lines 19 to 20);

- recognizing a touch event, and determining whether the recognized touch event occurred anywhere in the zoom icon area (page 2, lines 10 to 11 and page 3, lines 20 to 21); and

- if it is determined that the recognized touch event occurred anywhere in the zoom icon area:

- recognizing the touch event as a user selection signal for selecting a specific magnified icon area corresponding to the zoom icon area (page 2, lines 10 to 11 in combination with lines 17 to 18 and page 3, lines 20 to 24 in combination with page 4, line 10 to 11), namely comprising the icons arranged in the zoom icon area (page 2, lines 17 to 19 and page 4, lines 10 to 12); and
- displaying the magnified icon area corresponding to the zoom icon area, wherein the magnified icon area is larger than the zoom icon area (page 2, lines 8 to 11), and the magnified icon area is displayed as at least a portion of the remainder of the screen (since the magnified icon area is larger than the zoom icon area, a situation where this is not the case seems difficult to imagine).

Thus D2 discloses all features of claim 1 of the main request.

1.2 Discussion of the arguments of the appellant

1.2.1 The appellant essentially argued (pages 2, 3, 5 and 8 of the grounds for appeal) with reference to figures 1A, 1B and 1C of D2 that this document disclosed that only some area around a touched position were magnified, involving only a part of the icons of the

zoom icon area. That is, in D2, contrary to the application, the area of the enlarged portion of the keyboard depended on the exact position where the keyboard icon was touched.

Thus, D2 did not disclose a magnified icon area corresponding to the zoom icon area and comprising the, i.e., all, icons arranged in the zoom icon area.

The Board is not convinced by this argument of the appellant.

The Board agrees with the appellant to the extent that according to the embodiments as shown in figures 1A, 1B and 1C only a part of the small icon area 12, namely the part around the touched position 14, is magnified. Therefore, according to these embodiments, only a part of the keyboard and thus not all functions of the small icon 12 are shown in the magnified version 16.

However, the general part of the description of D2 further discloses an alternative where not just the area touched, but *the entire icon becomes larger to basically fill the screen* (see page 2, lines 17-19). According to this alternative, all functions of the small icon 12 would be comprised in the magnified display version 16.

The Board notes that D2 further explicitly discloses, in addition to the disclosure in the general part of the description, such an alternative in detail for the embodiment shown in figures 2A and 2B: *if the display is large enough, all of the keys ... may be accessible* (see page 4, lines 10 to 12).

Thus, in the terminology of claim 1, D2 discloses a magnified icon area corresponding to the zoom icon area

and comprising the, i.e., all, icons arranged in the zoom icon area.

- 1.2.2 Further, with respect to figures 1A, 1B and 1C of D2, the appellant argued that the plurality of symbols disclosed were not associated to a plurality of different programs, but only to different features of one program, namely the keyboard input program. According to the application, on the other hand, the touch of an icon led to the execution of a completely icon-specific program (page 2, lines 8 to 9 and page 11, line 23). Hence, the magnified keyboard shown in figures 1B and 1C could not be regarded as comprising a *plurality of icons* in the sense of the application.

The Board is not convinced by this argument:

Page 2, lines 8 to 9 is the only passage in the application that mentions the term *program* in relation to a touch event. This passage explicitly states that an operation corresponding to a touch event may be *program execution or data entry*.

Thus, the application does not define that the touch of different icons always triggers the execution of different programs but instead even explicitly mentions another possibility (*data entry*).

The other passage mentioned by the appellant or more generally the paragraph bridging pages 11 and 12 does not mention the execution of *programs* upon the selection of a corresponding function, but only the execution of *functions*.

The figures of the application do not comprise any icons that would be clearly representative of *programs*, either. Only grids are shown to demonstrate the magnification of the zoom icon area.

The Board notes that, on the other hand, at least touching one of the arrow symbols shown in figure 2B of D2 will trigger operations that go beyond mere data entry (like channel up/down, or increase/decrease volume) and can thus in any case be considered to be *programs* (as opposed to *data entry*) in the sense of page 2, lines 8 to 9 of the application.

Hence it is concluded that the plurality of letter symbols shown in figure 1B and 1C of D2 as well as the plurality of numerical and arrow symbols present in figure 2B of D2 are to be regarded as a *plurality of icons* in the sense of the application.

- 1.3 The Board thus concludes that the subject-matter of claim 1 of the main request is not new within the meaning of Article 54(1) and (2) EPC 1973. The Examining Division reached the same conclusion concerning the first auxiliary request (see section 10. of the contested decision).

2. Auxiliary request 1 - Novelty

- 2.1 Claim 1 of auxiliary request 1 differs from claim 1 of the main request by the additional features that

if it is determined that the recognized touch event did not occur in the zoom icon area:

- processing the touch event by regarding a touched icon as a default state operation; and
- executing a specific program of the touched icon accordingly.

The appellant indicated page 10, line 23 to page 11, line 1 of the original application as a basis for these additional features. The Board is not aware of any other passage in the original application relating to touch events not occurring in the zoom icon area, either.

In view of this passage (see in particular page 10, line 25: *processes the touch event normally*), the additional features of claim 1 of auxiliary request 1 can only be interpreted as signifying that

- if a touch event is detected which does not occur inside the zoom icon area, the detected touch event is *processed normally*, i.e., an operation corresponding to the detected position of the touch event on the screen is performed.

In touch screens, touch events are detected irrespective of where on the screen they occur. There cannot be undefined sub-areas on the screen where a touch event would not be detected.

All detected touch events, wherever they occur on the screen, are then processed such that an operation is performed according to their positions on the screen, i.e., they are *processed normally* in the sense mentioned above.

Such an operation may involve the execution of a program / application, but may also consist of the decision not to execute any further operation (e.g., if the detected position does not correspond to an icon).

The amendments of claim 1 of the first auxiliary request thus relate to features that are inherently present in any touch screen.

In the specific case of D2, processing a touch event detected in the areas below the keyboard icon 12 in figure 1A or to the left of the icons 23, 24 and 25 shown in figure 2A of D2 will result in that no further operation is to be executed. A touch event detected at a position corresponding to the telephone icon shown in figures 1A and 1C will result in the execution of a program associated to the telephone icon.

It is thus inevitable that in the touch screen system according to D2, touch events occurring outside the zoom icon areas 12, 23, 24 and 25 will be *processed normally* in the sense mentioned above, i.e., according to their detected positions.

It must therefore be concluded that D2 implicitly also discloses the additional features of claim 1 of auxiliary request 1.

2.2 The appellant argued that D2 did not disclose touches outside the zoom icon area, nor the procedure to be followed when this occurs.

As noted above, however, when a touch screen is operated, touch events are detected and processed wherever they occur on the whole area of the screen. Even if D2 does not explicitly disclose the specific result of the processing step for each and every position on the touch screens 13, 22, it is inevitable for the proper functioning of these touch screens that at least the decision to take no further action is taken for touch events occurring outside the zoom icon areas 12, 23, 24 and 25.

2.3 The subject-matter of this claim is therefore not new within the meaning of Article 54(1) and (2) EPC 1973.

3. Auxiliary request 2 - Admission

Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in the additional feature of

- returning the magnified icon area to the zoom icon area by reverting to a previous resolution or recovering an original resolution if elsewhere out of the magnified icon area is selected.

Claim 1 of the second auxiliary request thus corresponds in substance to claim 1 of the third auxiliary request on which the contested decision was based. In appeal proceedings, however, this request was filed only after oral proceedings before the Board had been arranged.

It is the established case law of the Boards of Appeal that amendments filed at such a late stage should be clearly allowable (see Case Law of the Boards of Appeal, 8th edition 2016, IV.E.4.1.3 and IV.E.4.2.2).

In the present case, it is immediately apparent that the additional feature raises issues with respect to Article 123(2) EPC, since the steps of *reverting to a previous resolution* and *recovering an original resolution* are performed according to the original application only after that the touch of a *release icon* is determined (page 12, lines 2 to 7 and step 403 of figure 4). No release icon is however defined in claim 1 of the second auxiliary request.

Therefore, the amendments according to the second auxiliary request raise new issues (contrary to the

appellant's arguments during oral proceedings), and are thus not clearly allowable.

As a consequence, the Board does not admit the second auxiliary request into the proceedings in accordance with Article 13(1) RPBA.

4. Since none of the requests meets the requirements of the EPC, the appeal must fail.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



S. Sánchez Chiquero

G. Eliasson

Decision electronically authenticated