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Datasheet for the decision of 13 September 2018

Case Number: T 1046/14 - 3.5.05

Application Number: 07006748.3

Publication Number: 1840718

IPC: G06F3/048

Language of the proceedings: EN

Title of invention:
Method of displaying object and terminal capable of implementing the same

Applicant:
Optis Cellular Technology, LLC

Headword:
Icon manipulations on touch screen/OPTIS CELLULLAR

Relevant legal provisions:
EPC Art. 56

Keyword:

Decisions cited:

Catchword:

Europäisches Patentamt
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Beschwerdekammern

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Case Number: T 1046/14 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 13 September 2018

Appellant: (Applicant)	Optis Cellular Technology, LLC P.O. Box 250649 Plano, TX 75025 (US)
Representative:	Grünecker Patent- und Rechtsanwälte PartG mbB Leopoldstraße 4 80802 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 13 December 2013 refusing European patent application No. 07006748.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair	A. Ritzka
Members:	P. Cretaine
	F. Blumer

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division, posted on 13 December 2013, refusing European patent application No. 07006748.3 on the grounds of lack of inventive step (Article 56 EPC) in the main and first auxiliary requests, having regard to the disclosure of

D2: US 2002/0191029.

Second and third auxiliary requests were not admitted into the examination proceedings for lack of convergence with the previous requests and lack of support in the originally filed application documents.

II. Notice of appeal was received on 13 February 2014, and the appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 22 April 2014. The appellant requested that the decision be set aside and that a patent be granted on the basis of the main request or first to fourth auxiliary requests, all requests as submitted with the statement setting out its grounds of appeal. The main request and the first auxiliary request were identical to the main request and the first auxiliary request, respectively, on which the decision was based. The appellant also requested oral proceedings in the event that the main request, the first auxiliary request, or the second auxiliary request should not be allowed.

III. A summons to oral proceedings was issued on 11 June 2018. In a communication annexed to the summons, the board gave its preliminary opinion on the case. In its view, the subject-matter of independent claims 1 and 8 of all the requests did not involve an

inventive step (Article 56 EPC) having regard to the disclosure of

D1: US 5 844 547

in combination with D2.

IV. By letter of response dated 13 August 2018, the appellant filed a fifth auxiliary request and provided arguments in respect of inventive step.

V. Oral proceedings were held on 13 September 2018, during which the appellant submitted a new main request. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the main request as filed during oral proceedings before the Board, or on the basis of any of auxiliary requests 1 to 5, auxiliary requests 1 to 4 as filed with the statement setting out the grounds of appeal dated 22 April 2014, auxiliary request 5 as filed by letter dated 13 August 2018. The board's decision was announced at the end of the oral proceedings.

VI. Claim 1 according to the main request reads as follows:

"A method of displaying an icon attributed to an executable function in a terminal having a touchscreen (140), the method including:
- displaying the icon (141) and fixing the icon to a first position on the touchscreen such that the icon can not be moved away from the first position by a touch-and-drag action;
characterized by:
- if the icon is touched for a predetermined time, releasing (S27) the position fixation of the icon such that the whole icon can be moved away from the first

position to a second position by a touch-and-drag action; and
- displaying a first indication to visually inform a user that the position fixation of the icon is released, wherein the displayed first indication includes at least one of a graphical indication, an animation, and a text message,
wherein the fixed icon is available to a user before the fixed icon is released."

The main request comprises a further independent claim (claim 8) directed to a corresponding terminal.

Due to the outcome of the appeal proceedings, there is no need to detail the claims of the auxiliary requests.

Reasons for the Decision

1. Admissibility of the appeal

The appeal complies with Articles 106 to 108 EPC (see point II above) and is therefore admissible.

2. Main request - Article 123(2) EPC

The board is satisfied that the amendments made to the main request during the oral proceedings are supported by the application documents as originally filed. In that respect, the feature that an icon is attributed to an executable function is disclosed in paragraphs [0006] and [0009], and the feature that an icon is fixed to a position from where it can be made available to the user, i.e. from where its associated function can be executed, is disclosed in paragraphs [0039] and [0040] as well as shown in Figure 2, step S25.

Therefore the claims meet the requirements of Article 123(2) EPC.

3. Main request - inventive step

3.1 Prior art D1

D1 discloses control means for manipulating an object displayed on a touch screen. An object is defined in D1 as being a graphical representation of a file stored in memory and having specific shape, size and position on the screen (see column 3, lines 31 to 46, and Figures 11(a) and 11(b)). The touch position expressed as X-Y coordinates and the touch pressure applied by the user with one or two fingers on an object is discriminated and a manipulation type is identified (see from column 3, line 55, to column 4, line 5): pick manipulation, scroll manipulation, push manipulation, push-while-rotate manipulation, flip manipulation, roll manipulation, or distort-restore manipulation. The push manipulation can be considered to be identical to the touch-and-drag action described in the application: the user touches an object in a central position, applies a continuous movement of the touch contact from the initial position to a displaced position and then stops the movement while maintaining touch contact with the displayed object. In response to this manipulation, the control means of the touch screen moves the object to the displaced position and fixes it at this position. D1 thus discloses a manipulation of an object which is similar, in terms of the movement and display of images on the screen, to the touch-and-drag and fixing actions described in the application.

However, the appellant has convincingly argued that the objects in D1 are not icons in the sense of claims 1 and 8. In that respect, the appellant pointed to the only passage and figure in D1 mentioning an icon (column 1, lines 47 to 56 and Figure 1), which clearly show that object and icon are different entities, an icon in D1 being a symbolic representation of a computer function which is used for manipulating an object. Furthermore, the entire teaching and the different manipulations described in document D1 solely relate to an object, never to the icon. An object is described as having an "object type", specifying the shape and physical properties of the object (see column 8, lines 21 to 25: "weight", "hardness", "frictional resistance", "center of gravity"). The manipulations described in document D1 rely on these properties and on the type of the object, such as the type "out of screen" for the scroll manipulation, the type "gravity" for the flip-under-gravity manipulation, the type "rollable" for the roll manipulation, and the object type "elastic" for the distort-restore manipulation. These manipulations, and the properties described above for "objects", are not meaningful for an icon associated with a computer function and thus corroborate the understanding that the "object" of document D1 does not correspond to the claimed "icon".

As a result of this difference, in D1, preventing the activation of a function during the manipulations disclosed in D1 is not an issue since only the objects are manipulated and an object is not associated with an executable function. As a consequence, fixation of an object's position and releasing that fixation are not necessary, and are also not disclosed in D1. An object can be moved in D1 by a touch-and-drag action without

having to first be touched for a predetermined time to be released, as defined for an icon in claim 1.

Based on these differences between D1 and the subject-matter of claim 1, the objective technical problem may indeed be formulated, as argued by the appellant, as how to improve the system so that an icon of D1 associated with an executable function, not an object, can be moved on the touchscreen while at the same time preventing unintentional displacement of the icon.

The skilled person will not find in D1 any hint at the possible manipulation of an icon. They would not consider applying the mechanisms for moving objects on the touchscreen to moving the icons, since there are fundamental differences between an icon and an object, such as the above-mentioned types and physical properties (e.g. gravity, friction). Even if the skilled person were implementing the described push manipulation for an icon, this would first result in the involuntary execution of the associated function as soon as the icon is touched.

The appellant has further plausibly argued that the advantages of the claimed solution, vis-à-vis the solution of document D1, include the implementation of a position fixation mechanism together with a simple and easy touch action to release the position fixation such that the position fixation prevents the user from moving the icon by touching and dragging the icon away unintentionally, while still allowing the user to easily move the icon to a desired position where they can easily find it again whenever they want to use it. The indication provided to indicate the release state further enhances the convenience of the system, by

providing unequivocal feedback to the user about the state the icon is in.

Thus, the skilled person, starting from D1, could not arrive at a solution according to claim 1 without the exercise of inventive skill.

3.2 Prior art D2

D2 discloses a touchscreen for displaying icons associated with executable functions. D2 provides multiple screen layouts with different icons present, which the user can select (see paragraph [0058]). The display further indicates to the user which icons may be activated by pressure on them, i.e. which computer functions represented by the icons may be executed. The indication may take the form of dashed lines surrounding the icons (see Figures 4 and 5 and paragraphs [0052], [0060] and [0071]) or of text messages displayed close to the icons (see paragraph [0083]), or it is indicated that the whole set of icons on the screen may be activated (see paragraph [0057]). D2 further discloses that particular icons, such as the volume control 524 (see Figures 4, 5 and 8B) and the throttle control 1032 (see Figure 10B), comprise a mobile part which can be moved with the finger in a touch-and-drag operation in one direction when the icon is activated. No possibility of moving a whole icon from one position to any other position on the screen by a touching action is disclosed.

The board agrees with the appellant that, in D2, the movement of the mobile parts of the volume control icon 524 and of the throttle icon 1032 in D2 cannot be equated to a touch-and-drag action of an icon as usually understood by a skilled person and as described

in the application, for the reasons that it is not the whole icon which is moved and that the movement is limited in one direction of the plane so that only final positions within a segment of the screen may be reached. The board also agrees with the appellant that the activated state in D2 cannot be equated to the released state in the application, since the function associated with the touched icon can be executed in the activated state of D2 whereas, on the contrary, it cannot be executed in the released state of the application.

Because of these major differences, the skilled person, even if combining the teachings of D1 with D2, would not arrive at the subject-matter of claim 1.

3.3 For these reasons the board judges that the subject-matter of claim 1 involves an inventive step, having regard to the prior art on file (Article 56 EPC).

Independent claim 8 comprises the same features as claim 1 but expressed in terms of an apparatus claim. Therefore claim 8 also meets the requirements of Article 56 EPC.

Claims 2 to 7 and 9 to 14 are dependent claims and, as such, also meet the requirements of Article 56 EPC.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the examining division with the order to grant a patent on the basis of the following documents:
   - claims 1 to 14, filed as main request during oral proceedings before the Board on 13 September 2018;
   - description:
     - pages 2, 7-18 as originally filed,
     - pages 4, 6 as filed with letter dated 23 December 2008,
     - page 3 as filed with letter dated 18 May 2011;
   - drawing sheets 1/7 - 7/7 as originally filed.

The Registrar: The Chair:

K. Götz-Wein A. Ritzka

Decision electronically authenticated