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**Datasheet for the decision  
of 11 July 2018**

**Case Number:** T 2087/14 - 3.5.07

**Application Number:** 09786604.0

**Publication Number:** 2308048

**IPC:** G11B27/34, G11B27/034,  
G06F17/30, G06F3/048,  
G06F3/0482

**Language of the proceedings:** EN

**Title of invention:**

Displaying music metadata in a plurality of hierarchical levels

**Applicant:**

Koninklijke Philips N.V.

**Headword:**

Metadata display/PHILIPS

**Relevant legal provisions:**

EPC Art. 123(2)

**Keyword:**

Amendments - main and first auxiliary requests - added subject-matter (yes)



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**Chambres de recours**

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Case Number: T 2087/14 - 3.5.07

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.07**  
**of 11 July 2018**

**Appellant:**  
(Applicant)

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

**Representative:**

Coops, Peter  
Philips Intellectual Property & Standards  
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**Decision under appeal:**

**Decision of the Examining Division of the  
European Patent Office posted on 11 June 2014  
refusing European patent application No.  
09786604.0 pursuant to Article 97(2) EPC**

**Composition of the Board:**

**Chairman** R. Moufang  
**Members:** R. de Man  
M. Jaedicke

## Summary of Facts and Submissions

I. The applicant (appellant) appealed against the decision of the Examining Division refusing European patent application No. 09786604.0, published as international application WO 2010/010483 and claiming a priority date of 23 July 2008.

II. The Examining Division had decided that the subject-matter of claim 1 of the then sole substantive request was not new within the meaning of Article 54(1) and (2) EPC over the following document:

D1: US 2005/038819 A1, published on 17 February 2005.

III. The following document had been cited in the course of the first-instance proceedings:

D2: T. Marks, "Windows Manual - Lesson two: my computer and explorer", 1997, retrieved on 9 November 2006 from <http://www.windweaver.com/w95man2g.htm>.

IV. With its statement of grounds of appeal, the appellant resubmitted the request refused by the Examining Division as a main request and filed first and second auxiliary requests.

V. In a communication accompanying a summons to oral proceedings, the Board introduced the following documents:

D6: US 2008/0059911 A1, published on 6 March 2008; and  
D7: US 2007/0136286 A1, published on 14 June 2007.

The Board *inter alia* expressed the preliminary view that the independent claims of all requests were

unclear and lacked support in the description. The Board expressed doubts as to the novelty and inventive step of the subject-matter of claim 1 of all requests in view of the disclosures of documents D2, D6 and D7.

- VI. By letter of 7 June 2018, the appellant replaced its requests with an amended main request and an amended first auxiliary request. It commented on the Board's communication and indicated that it would not attend the oral proceedings.
- VII. Oral proceedings were held in the appellant's absence on 11 July 2018. At the end of the oral proceedings, the chairman pronounced the Board's decision.
- VIII. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request or, in the alternative, on the basis of the claims of the first auxiliary request. It further requested that the case be remitted to the Examining Division if only minor shortcomings remained.
- IX. Claim 1 of the main request reads as follows:
- "A method of displaying a plurality of items, said items arranged in a plurality of hierarchical levels, each of said hierarchical levels comprises a plurality of sets of items, each set of items comprising at least one of said plurality of items, each item having associated therewith at least one other item in another hierarchical level, the method comprising the steps of:
- displaying items (202) in hierarchical levels, wherein at a first hierarchical level at least a first and a second item (308) are displayed;

- selecting (206) one of the first and second item within the first hierarchical level;
- arranging (208) at least a first and a second set of items of at least one second hierarchical level, being associated respectively with the first and the second of the displayed plurality of items at the first hierarchical level, in a position aligned with said selected one of said first and second items, the second hierarchical level being a level lower than the first hierarchical level, and the first and second sets of items each comprising all items at the second hierarchical level that are associated respectively with the first and the second of the displayed plurality of items at the first hierarchical level; and
- displaying (210) said repositioned first and second sets of items of said at least one second hierarchical level."

X. Claim 1 of the auxiliary request differs from claim 1 of the main request in that its last step reads as follows:

"- displaying (210) the items comprised in said repositioned first and second sets of items of said at least one second hierarchical level."

XI. The appellant's arguments where relevant to this decision are discussed in detail below.

### **Reasons for the Decision**

1. The appeal complies with the provisions referred to in Rule 101 EPC and is therefore admissible.

2. *The invention*

The application relates to displaying a plurality of browsable items on the display of an electronic device. The background section of the description explains that conventional browsers for displaying items provide a hierarchical menu structure wherein each menu selection acts as a filter for the items displayed at the next menu level. For example, the first menu level may display the list of artists, the second menu level the list of albums from the selected artist, and the third menu level the list of songs from the selected album.

The application is concerned with the problem that such menu structures force the user to sequentially traverse all menu levels to select an item.

The invention proposes a variation on the hierarchical menu structure. In this variation, the selection of an item at one level does not act as a filter for the next level, but causes the items displayed at the next level to be arranged in a manner determined by the selected item.

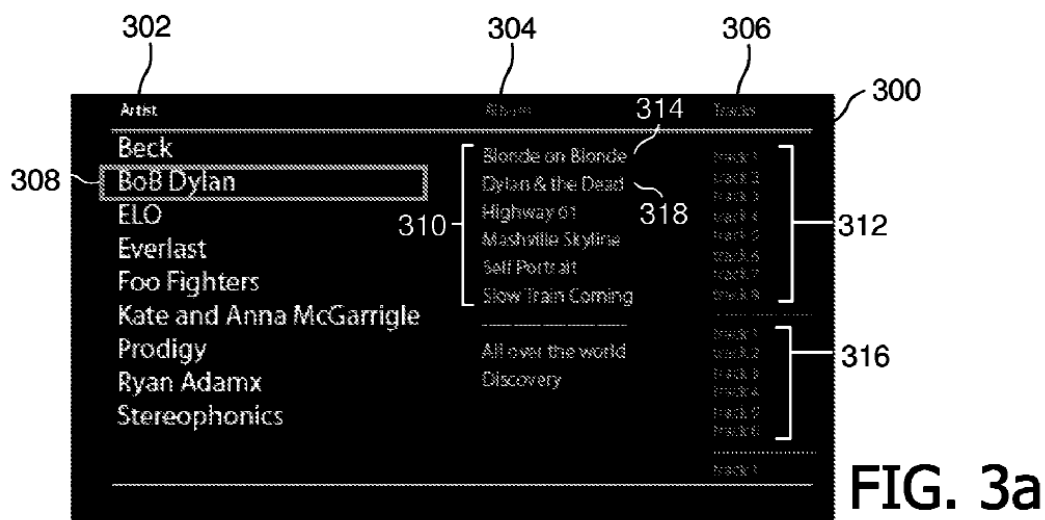
3. *Both requests - added subject-matter*

- 3.1 Claim 1 of both requests includes the amended feature "arranging at least a first and a second set of items of at least one second hierarchical level ... in a position aligned with said selected one of said first and second items". According to the claim, "said first and second items" are in a first hierarchical level one level above the second hierarchical level.

According to the appellant, this amendment had a basis in the application as filed, at the bottom of page 2,

at the top of page 4, on page 5, lines 15 to 20, on page 6, line 28, to page 7, line 6, on page 7, lines 12 to 19, at the bottom of page 7, and in Figures 3a to 3c.

The most relevant figure is Figure 3a, which shows a display with three hierarchical levels, 302, 304 and 306, labelled "Artist", "Album" and "Tracks":



3.2 None of the cited passages discloses that sets of items at a second hierarchical level are arranged in a position aligned with a selected item at a first hierarchical level.

In particular, the passage on page 4, lines 1 to 6, merely discloses that the items at the lower (second) hierarchical level are re-aligned based on the user's selection at the higher hierarchical level.

The passage on page 6, lines 28 to 34, in combination with Figure 3a, explains that the sets of items at the second hierarchical level are repositioned "such that the set of albums 310 belonging to the selected highlighted item 308 align correctly with the first hierarchical level 302", i.e. that "upon selection of

the highlighted item 308, the set of albums 310 belonging to the selected highlighted item 308 are arranged to appear first in the second hierarchical level 304". It can be seen in Figure 3a that the set of items 310 is aligned not with the position of the selected item 308, but with the top of the display area. The passage on page 6, line 34, to page 7, line 6, likewise refers to repositioning by aligning a set of items corresponding to the selected item with the hierarchical level of that item.

The passage on page 7, lines 12 to 19, relates to aligning items at a higher hierarchical level with an item selected at a lower hierarchical level.

The remaining cited passages on pages 2, 5 and 7 refer to "alignments" in more general terms.

In addition, none of these passages discloses that both a first **and** a second set of items at the second hierarchical level are "aligned with" either the selected item at the first hierarchical level or something else. For example, in Figure 3a the only visible second set of items at the (second) "Albums" level consists of the "All over the world" and "Discovery" items corresponding to the non-selected (second) "ELO" item at the (first) "Artist" level. This second set of items is not aligned with either the selected "Bob Dylan" item 308 (as required by the claim), the "first hierarchical level 302" (with which the set of items 310 is aligned according to the passage on page 6, lines 28 to 34) or the top of the display area (with which the set of items 310 is aligned in Figure 3a).



3.3 Since, moreover, the Board is not able to identify any other passage in the application as filed that could serve as a basis for the amended feature, it concludes that the subject-matter of claim 1 of both requests extends beyond the content of the application as filed, contrary to Article 123(2) EPC.

4. *Request for remittal to the Examining Division*

The appellant requested that the case be remitted to the Examining Division if only "minor shortcomings" remained.

The appellant, which bears the responsibility for its decision not to attend the oral proceedings, had to expect that amendments filed in response to the Board's communication would be examined for compliance with Article 123(2) EPC. This examination has led to the conclusion that both requests on file infringe a requirement of the EPC. There is therefore now no basis for remittal of the case to the Examining Division. The Board notes in this respect that the deficiencies do not admit of a self-evident correction and that they stand in the way of assessing whether the amended claims overcome the novelty and inventive-step objections raised in the Board's communication.

5. *Conclusion*

Since neither of the requests on file is allowable, the appeal is to be dismissed.

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



I. Aperribay

R. Moufang

Decision electronically authenticated