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**Datasheet for the decision
of 15 November 2018**

Case Number: T 0104/15 - 3.5.05

Application Number: 10178511.1

Publication Number: 2259492

IPC: H04L12/16

Language of the proceedings: EN

Title of invention:

User interface for integrating applications on a mobile communication device

Applicant:

BlackBerry Limited

Headword:

Populating data entry fields/BLACKBERRY

Relevant legal provisions:

EPC Art. 56, 111(1), 123(2)
RPBA Art. 15(3)

Keyword:

Oral proceedings - non-attendance of the appellant
Inventive step - main request (no)
Added subject-matter - auxiliary requests (yes)
Remittal for further prosecution - (no): introduction of new
evidence alone does not necessitate remittal

Decisions cited:

G 0009/91, G 0010/93



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Case Number: T 0104/15 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 15 November 2018

Appellant: BlackBerry Limited
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 20 June 2014
refusing European patent application
No. 10178511.1 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 to refuse the present European patent application for lack of inventive step (Article 56 EPC) with respect to the claims of a main request and four auxiliary requests, having regard to the disclosure of

D7: US-A-5 999 938,

and on the ground of added subject-matter (Article 123(2) EPC) in respect of the first to fourth auxiliary requests.

II. With its statement setting out the grounds of appeal, the appellant re-filed the claims according to the main request and first to fourth auxiliary requests underlying the appealed decision. It requested that the examining division's decision be set aside and that a patent be granted on the basis of one of those claim requests. In addition, oral proceedings were requested as an auxiliary measure.

III. In a communication under Rule 100(2) EPC, the board gave its preliminary opinion on the appeal. It introduced the following document into the appeal proceedings under Article 114(1) EPC:

D8: US-A-2002/0128036,

and raised objections under Articles 54, 56 and 123(2) EPC in respect of the claim requests on file.

IV. With a letter of reply, the appellant submitted counter-arguments to the objections raised in the board's communication under Rule 100(2) EPC, and

requested, as its "principal request", that the examining division's decision be set aside and that the case be remitted to the examining division for further prosecution, based on newly introduced document D8. In the alternative, it requested that a patent be granted on the basis of the claims of the main request or one of the four auxiliary requests on file.

- V. In a communication annexed to the summons to oral proceedings pursuant to Article 15(1) RPBA, the board indicated that it was minded not to remit the case for further prosecution and gave its reasons therefor. It further set out that it considered prior-art document D8 to be the most suitable starting point on file for the assessment of inventive step, that the main request did not appear to be allowable under Article 56 EPC and that the auxiliary requests on file did not appear to be allowable under Articles 123(2) and 56 EPC.
- VI. In its letter of reply dated 15 October 2018, the appellant submitted counter-arguments to the objections raised under Articles 56 and 123(2) EPC in the board's communication under Article 15(1) RPBA.
- VII. By a further letter, the appellant informed the board that it would not be attending the scheduled oral proceedings.
- VIII. Oral proceedings were held as scheduled on 15 November 2018 in the absence of the appellant. The board established from the file that the appellant's final requests were that the decision under appeal be set aside and that a patent be granted on the basis of the main request or any of the first to fourth auxiliary requests underlying the impugned decision and re-filed with the statement setting out the grounds of appeal.

After due deliberation on the basis of those requests and the written submissions, the decision of the board was announced at the end of the oral proceedings.

IX. Claim 1 of the **main request** reads as follows:

"A method of operating a mobile device, said method comprising:

receiving a communication comprising text, said text including at least one reference to a group of contacts in a first application;

displaying an indicator (3) of said group of contacts;

detecting a selection of the indicator;

in response to detecting selection of the indicator, displaying an option (7) in a menu (6); and

in response to detecting selection of the option in the menu, executing an action for the group of contacts in a second application, said action comprising populating an entry field (19) with said reference to said group of contacts."

Claim 1 of the **first auxiliary request** reads as follows (amendments to claim 1 of the main request indicated by the board):

"A method of operating a mobile device, said method comprising:

receiving a communication comprising text;

detecting in said text including, at least one reference to a group of contacts in a first application;

displaying an indicator (3) of said group of contacts;

detecting a selection of the indicator;

in response to detecting selection of the indicator, displaying an option (7) in a menu (6); and
in response to detecting selection of the option in the menu, executing an action for the group of contacts in a second application, said action comprising populating an entry field (19) with said reference to said group of contacts."

Claim 1 of the **second auxiliary request** reads as follows (amendments to claim 1 of the first auxiliary request indicated by the board):

"A method of operating a mobile device, said method comprising:

receiving a communication comprising text;
detecting in said text, at least one reference to a group of contacts in a first application;
displaying an indicator (3) of said group of contacts in a user interface comprising said text;
detecting a selection of the indicator;
in response to detecting selection of the indicator, displaying an option (7) in a menu (6); and
in response to detecting selection of the option in the menu, executing an action for the group of contacts in a second application, said action comprising populating an entry field (19) with said reference to said group of contacts."

Claim 1 of the **third auxiliary request** reads as follows (amendments to claim 1 of the second auxiliary request indicated by the board):

"A method of operating a mobile device, said method comprising:

receiving a communication comprising text;
detecting in said text, at least one reference to a

group of contacts in a first application;

displaying an indicator (3) of said group of contacts in a user interface comprising said text, wherein said indicator provides a selectable field in said text identifying said reference to said group of contacts;

detecting a selection of the indicator;

in response to detecting selection of the indicator, displaying an option (7) in a menu (6); and

in response to detecting selection of the option in the menu, executing an action for the group of contacts in a second application, said action comprising populating an entry field (19) with said reference to said group of contacts."

Claim 1 of the **fourth auxiliary request** reads as follows (amendments to claim 1 of the second auxiliary request indicated by the board):

"A method of operating a mobile device, said method comprising:

receiving a communication comprising text;

detecting in said text, a plurality of references, at least one reference corresponding to a group of contacts in a first application;

displaying an plurality of indicators (3) ~~of said group of contacts~~ corresponding to said plurality of references in a user interface comprising said text;

detecting a selection of the indicator corresponding to said group of contacts;

in response to detecting selection of the indicator, displaying an option (7) in a menu (6); and

in response to detecting selection of the option in the menu, executing an action for the group of contacts in a second application, said action comprising populating an entry field (19) with said reference to

said group of contacts."

Reasons for the Decision

1. *Non-attendance of the appellant at oral proceedings*
 - 1.1 The appellant decided not to attend the scheduled oral proceedings before the board (cf. point VII above). 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".
 - 1.2 In the present case, in response to the objections raised in the board's communication under Article 15(1) RPBA, the appellant filed arguments in support of the patentability of the pending claim requests (cf. point VI above). The board considered those arguments and found that the claim requests on file still gave rise to objections under Article 56 or 123(2) EPC (cf. points 3.1 and 4.1 below). So, in exercise of its discretion under Article 15(3) RPBA, the board took a decision at the end of the oral proceedings, in the absence of the duly summoned appellant.
2. PRINCIPAL REQUEST
 - 2.1 The appellant requested that the case be remitted to the examining division for further prosecution in the light of newly introduced document D8. The appellant argued that citing a document for the first time at this late stage of the proceedings effectively meant that prosecution of the application had to be condensed

down to one round of written communication during which the opportunities for amendment and for filing new requests were limited. Thus, immediate remittal was consistent with the principles of G 9/91 (OJ EPO 1993, 408).

2.2 The board, however, in the exercise of its discretion under Article 111(1) EPC, has decided not to remit the case in view of the following observations:

- Firstly, prior-art document D8, originating from the appellant, was introduced by the board in reaction to fresh arguments submitted with the statement setting out the grounds of appeal (see e.g. sections 2.1 and 2.3, referring to different figures of D7 such as Figs. 3C to 3E, and section 2.2 discussing the "Outlook" email program in connection with D7).
- Secondly, the board refers to G 10/93 (OJ EPO 1995, 172, Reasons 3) stating that, in *ex parte* proceedings (rather than in *inter partes* proceedings as dealt with in G 9/91), the Boards of Appeal are restricted neither to examination of the grounds for the contested decision nor to the facts and evidence on which the decision was based.
- Thirdly, the board, comprising technically qualified members, is in a position to properly judge the technical content of the present claims and the newly introduced prior-art document, and to deal with the merits of the present case without remittal.

3. MAIN REQUEST

Claim 1 of the main request comprises the following features (as labelled by the board):

A method of operating a mobile device, said method comprising the steps of:

- A) receiving a communication comprising text, said text including at least one reference to a group of contacts in a first application;
- B) displaying an indicator of said group of contacts;
- C) detecting a selection of the indicator;
- D) in response to detecting selection of the indicator, displaying an option in a menu;
- E) in response to detecting selection of the option in the menu, executing an action for the group of contacts in a second application, said action comprising populating an entry field with said reference to said group of contacts.

3.1 *Novelty and inventive step (Articles 54 and 56 EPC)*

3.1.1 The board considers that prior-art document **D8** (rather than document **D7**) constitutes the most suitable starting point on file for the assessment of inventive step. This is because the board agrees with the appellant that a representation of an e-mail message alone, as referred to in D7 (see e.g. Figs. 3A, 3C and 3D), cannot be equated with a reference to a group of contacts *within* the received text as claimed. Thus, D7 apparently fails to disclose not only the use of a mobile device (cf. appealed decision, Reasons 2.1) but also a reference to and an indication of a group of contacts within the received text to be used for data population as required by features A) and B) of present

claim 1.

3.1.2 The board finds that document **D8** discloses the following limiting features of claim 1 (see in particular Figs. 7 and 8 together with the respective description in paragraphs [0089] to [0094]):

A method of operating a mobile device ("mobile device 100"), said method comprising the steps of:

- A) receiving a communication comprising text (e.g. "Calendar Event Alarm" message; see Fig. 7, step 2), said text including references to a group of contacts in a first application (e.g. "calendar application") (see Fig. 7, box 930: references "User A (519) 555-1212"; "User B (905) 555-1212"; "User C (416) 555-1212");
- B) displaying an indicator ("attendee's names") of ~~said group of~~ contacts (see e.g. Fig. 7, box 930);
- C) detecting a selection of the indicator (see e.g. [0092], first sentence: *"... to select each of the attendee's names and request a 'Conference Call' be made ..."*);
- D) in response to detecting selection of the indicator, displaying an option in a menu (see e.g. [0092], second sentence: *"The selection might involve ... selecting a menu item."*);
- E) in response to detecting selection of the option in the menu, executing an action for the group of contacts in a second application ("conference-call application"), said action comprising populating an entry field with said reference to said group of contacts (see e.g. Fig. 7, box 940: reference "User A (519) 555-1212").

- 3.1.3 The appellant did not contest that D8 anticipates features A) and C) of present claim 1.
- 3.1.4 As to feature B), the board accepts that D8 does not directly and unambiguously disclose one indicator related to a *group* of contacts. Rather, it evidently relies on different individual indicators (i.e. references to phone numbers) for different contacts or group members (e.g. "Attendee 1, 2, 3" in Figs. 7 and 8).
- 3.1.5 As to feature D), the appellant argued that D8 did not disclose that a *menu* is displayed in response to the selection of a group member.

However, it is apparent to the board that D8 teaches that, after selecting an attendee's name, the user can select the "Conference Attendee" menu option (see e.g. paragraph [0094], third sentence: "*Just as in Fig. 7 each user is selected by rolling the cursor to the user's name or number and selecting the Conference Attendee menu item.*"). In the board's view, this necessarily implies that the menu option must be presented, i.e. displayed, to the user.

- 3.1.6 As to feature E), the appellant argued that in D8 no action was executed for the group of contacts in response to the user's selection of an indicator.

However, the board notes that Figure 7 of D8 clearly shows that, upon a user selecting the menu item "Conference Call", the respective phone numbers are directly copied from a calendar application to a conference-call application (see e.g. Fig. 7, step 3 and box 940). As a consequence, the entry field of the conference-call application is populated with a group

of contacts ("Attendee 1, 2, 3"), in accordance with feature E) of present claim 1.

- 3.1.7 As to features D) and E), the appellant submitted in its letter of 15 October 2018 (cf. point VI above) that the teaching disclosed in paragraph [0081] and Fig. 2b of D8 relating to the selection of a "call number" button was not equivalent to the claimed features D) and E) of claim 1.

In that regard, the board notes that the feature analysis and reasoning set out in point 3.1.2 above does not refer to the embodiment described in paragraph [0081] and Fig. 2b at all.

- 3.1.8 It follows from the above that the subject-matter of claim 1 differs from the disclosure of D8 in feature B), namely in providing only *one* indicator for a group of contacts and that the action is executed for that group of contacts, i.e. for *all* the members of that group at once. Hence, claim 1 is considered to be novel over D8 (Article 54 EPC).

- 3.1.9 As to inventive step, however, the board holds that the question whether one or more of the individual members of a certain group of users (like e.g. group members "Attendee 1, 2, 3" as in Figs. 7 and 8 of D8) are to be selected for executing a conference call or whether each member of that group is selected in one go, as implied by claim 1, is dictated purely by user preferences (i.e. choosing *one*, *multiple* or *all* members of a pre-defined group), rather than by considerations on technical improvements.

Furthermore, D8 includes the following statement (see

paragraph [0094], last sentence):

"Note that it is not essential that every single person on the workgroup actionable item to join the call, only the attendees the user deems necessary."

The board concludes therefrom that, if the person skilled in the field of GUI design were confronted with the scenario that the user may deem *all* the attendees (i.e. all the members of the respective group) of a conference call necessary, he would certainly apply the indication of a *single* group indicator associated with the phone numbers of *all* members of that group, without encountering technical difficulties and without exercising inventive skills. Consequently, the skilled person would come up with the solution based on feature B) in an obvious way.

3.1.10 Moreover, the board considers the objective technical problem formulated by the appellant as "how to more efficiently integrate applications on a device" not to be persuasive. This is because automatic data population between two distinct applications according to feature E) of claim 1 is already known from D8 (see point 3.1.6 above).

3.2 In view of the above, the main request is not allowable under Article 56 EPC.

4. AUXILIARY REQUESTS

Claim 1 of the present auxiliary requests differs from claim 1 of the present main request basically in that it further specifies that (emphasis added by the board)

- F) said at least one reference is detected in said text (*first to third auxiliary requests*);
- G) said indicator is displayed in a user interface comprising said text (*second to fourth auxiliary requests*);
- H) said indicator provides a selectable field in said text identifying said reference to said group of contacts (*third auxiliary request*);
- I) a plurality of references is detected in said text and a plurality of indicators corresponding to them is displayed (*fourth auxiliary request*).

4.1 *Added subject-matter (Article 123(2) EPC)*

4.1.1 As to added features F) and I), it is apparent to the board that the application merely teaches that, when the name of a group of contacts from the IM contact list or address book is displayed on the IM user interface, the interface creates a selectable field (cf. page 3, lines 8-11, as cited by the appellant). However, no detection whatsoever (and by whomever) of a reference or a plurality of references is disclosed in the entire application as filed.

4.1.2 The appellant argued that features F) and I) were implicitly disclosed since it was clear that the explicitly disclosed functionality as described by page 3, lines 8-11 of the present application as filed, according to which a text message is received from another person which contains a reference to a group of contacts and in which a selectable field and/or indicator is automatically created and displayed, had to implicitly involve a step of detecting the reference to the group of contacts.

The board is not convinced. The above-mentioned passage

reads as follows:

"... when the name of a contact or group of contacts from the instant messaging contact list or address book is displayed on the instant messaging user interface, the interface creates a selectable field 3, 4, such as a hypertext link, as illustrated in Figure 1 by the underlined contacts ...".

The board takes the view that this teaching at best provides an implicit support for detecting the user's selection of the "selectable field" but not for the detection of any "reference" as claimed.

- 4.2 In view of the foregoing, feature F) comprised in the first to third auxiliary requests and feature I) comprised in the fourth auxiliary request amount to unallowable amendments. Hence, the board concurs with the finding of the appealed decision (see Reasons 2.1) that claim 1 of the present auxiliary requests infringes 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