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Case Number: T 1208/15 - 3.5.03

Application Number: 06801953.8

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Language of the proceedings: EN

Title of invention:
TETHERED DIGITAL BUTLER CONSUMER ELECTRONIC DEVICE AND METHOD

Applicant:
NexStep, Inc.

Headword:
Digital butler/NEXSTEP

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - (no)

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Case Number: T 1208/15 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 19 December 2018

Appellant: (Applicant)	NexStep, Inc. 4134 Cranford Circle Suite A San Jose, CA 95124 (US)
Representative:	D Young & Co LLP 120 Holborn London EC1N 2DY (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 20 January 2015 refusing European patent application No. 06801953.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	F. van der Voort
Members:	K. Schenkel
	Y. Podbielski

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division refusing European patent application No. 06801953.8, with international publication number WO 2007/0022481 A2. The refusal was based on the ground that the subject-matter of the independent claims of a main request and an auxiliary request lacked inventive step having regard to the disclosure of document D3 (= WO 01/05155 A1) and taking into account the teaching of D2 (= US 2002/0174444 A1). The independent claims of the auxiliary request were also found to lack clarity (Article 84 EPC).

II. In its statement of grounds of appeal, 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, the auxiliary request, both requests having been the subject of the decision under appeal. Further, the appellant conditionally requested oral proceedings.

III. In a communication following a summons to oral proceedings, the board, without prejudice to its final decision, gave its preliminary opinion, *inter alia* that the subject-matter of claims 1 and 14 of the main request and of claims 1 and 12 of the auxiliary request did not appear to involve an inventive step when starting out from D3 and taking into account the teaching of D2.

IV. Oral proceedings were held on 19 December 2018.

The appellant maintained its original requests (see point II).

At the end of the oral proceedings, after due deliberation, the chairman announced the board's decision.

V. Claim 1 of the main request reads as follows:

"A multi-media and communications system, including:

a palm-held remote (100); and

a multi-media device (600) in wireless communication with the palm-held remote;

wherein the palm-held remote integrates at least

a fingerprint reader (121/721),

a speaker (152/752), microphone (151/751) and volume control adapted for use as a telephone,

a display (133) at least capable of showing a telephone number,

a cursor control and trigger (123/723) adapted to select and control resources of the multi-media device, and

a compact keypad (111/711) including numeric keys usable for telephone dialing and alphabetic keys usable for web browsing,

wherein the multi-media device integrates at least a network port and logic and resources (610) adapted to

personalize users' telephone network connection and their Internet browsing based on fingerprints received from the palm-held remote,

connect the palm-held remote to the telephone network, and

connect the palm-held remote to the Internet and display web pages on a monitor or television;

whereby the palm-held remote allows a user to select among and use the multi-media device's telephone network connection and Internet browsing."

VI. Claim 1 of the auxiliary request differs from claim 1 of the main request in that the following wording has been added at the end:

"wherein the palm-held remote is adapted to invoke glue logic running on the multi-media device by wirelessly directing input (132/732, 151/751) to the multi-media device and the glue logic is adapted to authenticate users of the palm-held remote and to perform the personalization of their telephone network connection and Internet browsing based on the fingerprints received from the palm-held remote".

Reasons for the Decision

1. Main request - claim 1 - inventive step

1.1 D3 is considered to represent the closest prior art. It relates to a multi-media and communications system including a multi-media device and a palm-held remote ("set-top-box (10)" and "remote control unit (14)", abstract).

More specifically, D3 discloses a system including:

a palm-held remote ("remote control unit", page 3, lines 19 to 21, Figs. 2 and 3),

a multi-media device ("set-top box (STB)") in wireless communication with the palm-held remote (page 3, lines 19 to 22 and 35 to 37, page 6, lines 20 and 21, and Fig. 1),

wherein the palm-held remote integrates at least

a speaker and a microphone, adapted for use as a telephone (page 4, lines 10 to 13),

a display at least capable of showing a telephone number (page 6, lines 34 to 36 - in a palm-held device which can be used as telephone and includes a display, it is implicit that the display is capable of showing the telephone number),

a cursor control and trigger adapted to select and control resources of the multi-media device (page 4, line 35, to page 5, line 6), and

a compact keypad including numeric keys usable for telephone dialing and alphabetic keys usable for web browsing (page 4, line 35, to page 5, line 15),

wherein the multi-media device integrates at least a network port and logic and resources (page 3, lines 19 to 34, the set-top box includes a tuner configured to communicate with an Internet service provider) adapted to

connect the palm-held remote to the telephone network (page 3, lines 22 to 25, page 3, line 34, to page 4, line 4 - the possibility to enter data to access the Internet via the remote control unit implies a connection between the latter and the telephone network via the set-top box), and

connect the palm-held remote to the Internet and display web pages on a monitor or television (page 3, line 34, to page 4, line 4, and page 4, lines 27 to 32),

whereby the palm-held remote allows a user to select among and use the multi-media device's telephone network connection and Internet browsing (page 4, line 34, to page 5, line 15).

1.2 The system of claim 1 thus differs from the system disclosed in D3 in that

(i) the palm-held remote further integrates a volume control, in which the volume control, the speaker, and the microphone are adapted for use as a telephone, and

(ii) the palm-held remote further integrates a fingerprint reader and the network port, logic and resources integrated in the multi-media device are further adapted to personalize users' telephone network connection and their Internet browsing based on fingerprints received from the palm-held remote.

1.3 Re. (i): It was well-known at the earliest priority date of the present application to provide a telephone

with a volume control. Hence, it would have been obvious to a person skilled in the art using common general knowledge to add this feature to the palm-held remote of D3, thereby increasing user's convenience when using the palm-held remote as a telephone.

1.4 Re. (ii): These features provide the technical effect that the multi-media device is adapted to personalize the Internet browsing and the telephone network connection based on user input which can be easily entered, namely by using a fingerprint reader.

The board notes that D3 discloses that a user, based on her/his identification number, may be allowed reward points or discounted prices (page 12, lines 6 to 9). Hence, D3 discloses a personalization of the user's online shopping or, in other words, the user's Internet browsing. D3 further discloses an Internet connection via a telephone subscriber line (page 3, lines 22 to 25). The term "subscriber" implies that the respective line is associated with information of a specific person or group of persons, e.g. in order to allow the billing by the telecommunications provider. Hence, D3 also discloses a personalization of the user's telephone network connection. In this respect, the board notes that the application in suit does not provide a definition or an example of a personalization of the users' telephone network connection which would go against the above interpretation of "personalize users' telephone network connection and their Internet browsing" in claim 1.

Further, the board notes that document D2 teaches the use of a fingerprint sensor integrated in a remote control for a set-top box for the purpose of authentication (paragraph [0077], lines 11 to 16, and

paragraph [0079], lines 7 to 11, "... to establish the identity of the user ...").

Both authentication and personalization are directed to determining the user's identity and to take actions accordingly. Means for determining the user identity for authentication can therefore be used for personalization purposes as well.

1.5 In view of the above, the skilled person, when starting out from the system of D3 and faced with the problem of adapting it to personal preferences of the user in order to increase user's convenience, would, based on common general knowledge, have provided a volume control for telephony and would have applied the teaching of D2 as regards the use of a fingerprint reader for user identification, to the system of D3, thereby arriving at a system which includes all the features of claim 1 without exercising inventive skill.

1.6 Appellant's arguments

1.6.1 The appellant argued that D3 did not disclose a personalization of the user but only the recognition of a particular user. In the system of D3 it was only decided whether or not a user has the right to interact with the server.

The board however notes that the question whether or not a user is entitled to reward points or discounted prices (D3, page 12, lines 6 to 9), i.e. personalizing the user's Internet browsing (see point 1.4 above), only becomes relevant after it has been determined that the user is entitled to interact.

1.6.2 The appellant further argued that in the systems of D2 and D3 the user credentials were taken into account at the web server, whilst the respective devices at the user's side were not adapted accordingly.

In support of this argument, the appellant referred to D2, page 3, left column, lines 2 to 20, which states that the information used for authentication ("user credentials") is transmitted to the server which provided the same interface for all users.

With reference to D3, page 12, lines 6 to 9 ("The processing might include extracting a customer ID number stored in the card and transmitting the ID to the Web server 72 for determining whether the user is a preferred customer participating in a preferred customer plan which might allow him or her reward points or discounted prices.") and Fig. 4, the appellant argued that the personalization took place at a remote web server ("ISP") and not in the set-top box.

The board however notes that in the system of D3 information used for the personalization is routed through the set-top box and information resulting from a personalization, namely the web pages provided during Internet shopping (page 12, lines 6 to 9), are displayed by the set-top box which therefore is involved in the personalization and is adapted accordingly. Claim 1 does not exclude that devices other than the multi-media device are adapted for the personalization too.

1.7 In view of the above, the board concludes that the subject-matter of claim 1 of the main request does not involve an inventive step (Articles 52(1) and 56 EPC). The request is therefore not allowable.

2. Auxiliary request - claim 1 - inventive step

2.1 Claim 1 of the auxiliary request essentially adds glue logic to the multi-media device, which can be invoked by the palm-held remote and which is adapted to perform the personalization and further to authenticate users of the palm-held remote.

2.2 The appellant argued that glue logic is to be understood as logic for use in asymmetric devices, here a capacity-limited palm-held remote which interacts with the multi-media device. By means of the glue logic complex operations could be shifted away from the palm-held remote towards the multi-media device.

2.3 The board notes that the term "glue logic" is very broad and can be applied to any circuit or circuit section connecting other circuits or circuit sections. Following this interpretation, D3 implicitly discloses a circuit section within the set-top box which is triggered by user input at the remote control unit and is later on used during the personalization. D3 thus implicitly discloses the above-mentioned added feature.

2.4 In view of the above, the board concludes that the subject-matter of claim 1 of the auxiliary request does not involve an inventive step (Articles 52(1) and 56 EPC). The request is therefore not allowable.

3. There being no allowable request, it follows that the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

G. Rauh F. van der Voort

Decision electronically authenticated