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Datasheet for the decision of 25 May 2022

Case Number: T 1988/20 - 3.5.07

Application Number: 14710478.0

Publication Number: 2973009

IPC: G06F17/30

Language of the proceedings: EN

Title of invention:
Device, method, and graphical user interface for organizing and presenting a collection of media items

Applicant:
Apple Inc.

Headword:
Image browser/APPLE

Relevant legal provisions:
EPC Art. 56
RPBA 2020 Art. 13(2)

Keyword:
Inventive step - main request and first and second auxiliary requests (no)
Amendment after summons - third auxiliary request - exceptional circumstances (no)

Decisions cited:
T 0643/00, T 1143/06, T 1741/08, T 1214/09, T 2073/12

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Case Number: T 1988/20 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 25 May 2022

Appellant: (Applicant)	Apple Inc. One Apple Park Way Cupertino CA 95014 (US)
Representative:	Barnfather, Karl Jon Withers & Rogers LLP 2 London Bridge London SE1 9RA (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 16 July 2020 refusing European patent application No. 14710478.0 pursuant to Article 97(2) EPC**

Composition of the Board:

Chair	J. Geschwind
Members:	R. de Man
	C. Barel-Faucheux

Summary of Facts and Submissions

I. The appellant (applicant) filed an appeal against the decision of the examining division refusing European patent application No. 14710478.0, which was published as international application WO 2014/149488.

II. The examining division decided that the subject-matter of the independent claims of the main request and the first and second auxiliary requests lacked inventive step over the following document:

D9: A. Gomi and T. Itoh: "A Personal Photograph Browser for Life Log Analysis based on Location, Time, and Person", Proceedings of the 2011 ACM Symposium on Applied Computing (SAC '11), March 2011, pp. 1245-1252.

III. In its statement of grounds of appeal, the appellant maintained its main request and first and second auxiliary requests.

IV. In a communication accompanying the summons to oral proceedings, the board expressed the preliminary view that the subject-matter of claim 1 of the main request and of the first and second auxiliary requests lacked inventive step over document D9.

V. With a letter filed in preparation for the oral proceedings, the appellant filed a third auxiliary request.

VI. Oral proceedings were held on 25 May 2022. At the end of the oral proceedings, the Chair announced the board's decision.

VII. 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 claims of the main request or, in the alternative, of one of the first, second and third auxiliary requests.

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

"A method, comprising:

at an electronic device with a display, one or more processors, and memory:

obtaining a collection of media items, wherein the media items are ordered in a chronological order in accordance with a time indicator associated with each of the media items;

determining one or more patterns in the collection of media items based at least in part on a comparison between properties of sequentially adjacent media items in the collection of media items;

dividing the collection of media items into multiple events that include a plurality of multi-item events, wherein:

the dividing is based on a plurality of transition points identified in the collection of media items;

one or more of the transition points each correspond to a respective change in a respective pattern of data that corresponds to the collection of media items that occurs at the transition point;

the multi-item events are divided, within the sequentially adjacent media items in the collection of media items, at the transition points;

each multi-item event includes a plurality of the media items with time indicators within a corresponding event time range; and

the event time range for a multi-item event is selected in accordance with the one or more patterns determined in the collection of media items;

receiving a request to display a first portion of the collection of media items; and,

in response to receiving the request to display the first portion of the collection of media items, displaying representations of a plurality of events that correspond to the first portion of the collection of media items on the display, wherein a displayed first representation of a first event of the plurality of events includes:

an identifier of the first event;

a plurality of locations of items in the first event, wherein the plurality of locations is an automatically generated subset, less than all, of the locations of items in the first event; and

one or more images that correspond to items in the first event."

IX. Claim 1 of the first auxiliary request differs from claim 1 of the main request in that the following text has been inserted before "and one ore more images that correspond to items in the first event":

"the location of items in the first event includes frequently visited locations and infrequently visited locations;

the plurality of locations include at least some locations selected as being infrequently visited locations; and

the plurality of locations does not include the frequently visited locations".

X. Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in that the following text has been inserted after "the event time range ... in the collection of media items;":

"and

two or more of the multi-item events are grouped into a respective pattern-based event group based at least in part on the one or more patterns determined in the collection of media items, wherein:

the pattern-based event group is divided from other event pattern-based groups in accordance with a change in a first pattern in the collection of media items that corresponds to the pattern-based event group; and

a respective multi-item event within the pattern-based event group is divided from other events in the pattern-based event group in accordance with a change in a second pattern in the collection of media items, wherein the change in the second pattern does not correspond to a change in the first pattern that corresponds to the pattern-based event group;".

In addition, the following text has been inserted after "receiving a request to display a first portion of the collection of media items":

", wherein the first portion of the collection of media items corresponds to the respective pattern-based event group".

XI. Claim 1 of the third auxiliary request differs from claim 1 of the second auxiliary request in that "one or more of the transition points ... that occurs at the transition point" has been replaced with:

"one or more of the transition points each correspond to a respective change in a respective pattern of metadata associated with a detected parameter that corresponds to the collection of media items that occurs at the transition point between a capture time of the respective media item and a capture time of a sequentially adjacent media item in the chronological order".

XII. The appellant's arguments, where relevant to the decision, are discussed in detail below.

Reasons for the Decision

1. The application relates to automatically organising a collection of media items into groups of related media items referred to as "events" and presenting the grouped media items to the user.

Main request

2. *The invention as defined by claim 1*

2.1 Claim 1 defines a method which is performed at an electronic device with a display, one or more processors, and a memory.

2.2 First, a collection of "media items" is obtained. The media items are associated with time indicators which define a chronological order on the media items. Each media item is also associated with a "location".

2.3 Based on a comparison of properties of media items which are adjacent in the chronological order, "patterns" are identified in the collection of media items. The points in the chronological order where a pattern changes, referred to as "transition points", divide the chronological order into "event time ranges". At these transition points, the collection of media items is divided into "events", i.e. each event corresponds to the items within a particular "event time range". Some of these events include multiple items and are referred to as "multi-item" events.

2.4 In response to the receipt of a request to display a first portion of the collection of media items,

representations of the events corresponding to the first portion are displayed.

2.5 The representation of a "first event" includes:
- an identifier of the first event;
- an "automatically generated subset, less than all" of the locations of the items in the first event;
- one or more images that correspond to the items in the first event.

3. *Inventive step - Article 56 EPC*

3.1 Document D9 discloses a photograph browser (see abstract) which runs on an implicitly disclosed electronic device with a display, one or more processors and a memory.

The photographs displayed by the photograph browser are media items associated with shooting times and locations (ibid.). Since the photographs are associated with their shooting times, and since time is by definition chronological, the photographs are chronologically ordered.

Photographs are first clustered on the basis of their locations (page 1246, left-hand column, lines 4 to 6). The photographs within a cluster are then grouped based on their times (page 1246, left-hand column, lines 6 and 7).

In response to a request to display a first portion of the photographs, representations of clusters and groups within clusters are displayed, the representations including one or more photographs (Figure 1, "LTView" display).

3.2 Hence, the subject-matter of claim 1 differs from what is disclosed in document D9 in two sets of distinguishing features:

(i) features relating to the manner in which the collection of media items is divided into clusters/events (see point 2.3 above); and

(ii) features specifying that the displayed representation of at least one event further includes an identifier of the event, an automatically generated proper subset of the locations of items in the event.

3.3 The board agrees with the examining division that the distinguishing features (i) and (ii) do not achieve a technical effect going beyond their implementation on a computer. The features (i) lead to a different clustering of the photograph media items, and the features (ii) result in the display of different information to represent the clusters, but neither of those effects is technical.

3.4 The appellant argued that the invention reduced the burden on a user when dividing a collection of media items into a plurality of multi-item events.

However, this is the inherent advantage of implementing the non-technical task defined by the features (i) on a computing device, i.e. of automating a manual task, not an advantage of the features (i) themselves.

Moreover, this advantage is also achieved in document D9. Since the photograph browser clusters the photograph media items, the user is relieved of this task.

3.5 The appellant argued that determining how to divide up a set of data into meaningful groups was technical, independent of whether the resulting groups were viewable. Reorganising data into groups based on data-dependent criteria addressed the technical problem of how to organise a set of information to facilitate efficient use of that information.

The board does not agree. A mere grouping or clustering of media items such as photographs in the memory of a computer without any specified further use of the rearrangement does not achieve any technical effect. In the present case, the claim does include a further use in that representations of the clusters are displayed to the user, but this presentation of clustering information does not achieve a technical effect, either.

3.6 The appellant argued that the method of claim 1 involved "better technical processing of data" compared to the disclosure of document D9, because it involved "the identification of changes in patterns of data that define events".

However, the identification of changes in patterns of data that define events is still mere data processing and does not by itself achieve a technical effect.

3.7 The appellant also argued that the claimed display of images resulted in "an improved input of functional data for display and subsequent representations and navigation of processed data". The invention provided the user with a tool for efficient search, retrieval and evaluation of images. This was a technical effect in view of decision T 643/00. By identifying additional information to associate with media items and

representing such additional information in a reduced format and by ensuring that media items belonging to the same event had a common property, the invention reduced the burden for a user to search/retrieve/ evaluate images effectively.

3.7.1 Decision T 643/00 held that arranging a predetermined plural number of images in a side-by-side manner at a low level of resolution and allowing selection and display of an image at higher resolutions contributed to the technical solution of the technical problem of an efficient search, retrieval and evaluation of images (see Reasons 17).

Hence, the technical effect in that case resided in an improved mechanism for selecting an image from a number of images, the mechanism being independent of the information content of the images and of any cognitive evaluation of those images by the user (see also decision T 1214/09, Reasons 4.8.6).

3.7.2 The effect considered to be technical in case T 643/00 was thus not the result of a reduction in the user's cognitive burden when evaluating the information being presented. The case law of the boards of appeal generally holds effects that do rely on a reduction in the user's cognitive burden to be non-technical (see decisions T 1143/06, Reasons 3.8; T 1741/08, Reasons 2.1.6; T 1214/09, Reasons 4.8.6 to 4.8.8; T 2073/12, Reasons 7.4 and 7.5).

3.7.3 In the present case, the only user input mentioned in the claim is a "request to display a first portion of the collection of media items", and the claim is silent on how this request is input by the user. There is no further selection of a cluster or of an item within a

cluster. Hence, the board cannot identify any improved user input or navigation, nor any search or retrieval of images.

Moreover, even if the claim had included a (generically defined) subsequent step of selecting a media item, the resulting mechanism for inputting the selection of an image would have been conventional and not different from how a user of the browser of document D9 selects a photograph.

3.8 In the absence of a technical effect achieved by the distinguishing features (i) and (ii), the objective technical problem may be formulated as how to modify the photograph browser of document D9 to implement these features. Since this represents a straightforward programming exercise, the skilled person would have arrived at the subject-matter of claim 1 without the exercise of inventive skill.

3.9 Hence, the subject-matter of claim 1 of the main request lacks an inventive step (Articles 52(1) and 56 EPC).

First auxiliary request

4. *Inventive step*

4.1 Claim 1 of the first auxiliary request adds features further defining the information being displayed as part of the representation of the first event. In particular, only "infrequently visited" locations are displayed.

4.2 The appellant essentially argued that limiting the displayed locations to only infrequently visited

locations made it easier for the user to distinguish events.

However, this alleged effect relies on a reduction in the user's cognitive burden when evaluating the information being presented and is therefore not a technical effect (see point 3.7.2 above).

4.3 The appellant further argued that not displaying the frequently visited locations reduced computational processing, since it was not required to process all the location items.

The board notes that the computational processing required to display the representation of the first event is dictated by the non-technical choice of the information being displayed and the unspecified implementation of the display of information. The mere fact that a different choice of the information being displayed affects computational processing does not render that choice technical.

4.4 Hence, the subject-matter of claim 1 of the first auxiliary request lacks an inventive step (Articles 52(1) and 56 EPC).

Second auxiliary request

5. *Inventive step*

5.1 Claim 1 of the second auxiliary request adds features introducing "pattern-based event groups" grouping two or more of the multi-events.

5.2 These added features further specify the manner in which the collection of media items is divided into

clusters/events and can therefore be grouped together with the distinguishing features (i) (see point 3.2 above). For the same reasons as given above for the main request, these added features do not contribute to any technical effect going beyond their straightforward, and thus obvious, implementation.

5.3 Hence, the subject-matter of claim 1 of the second auxiliary request lacks an inventive step (Articles 52(1) and 56 EPC).

Third auxiliary request

6. *Admission into the appeal proceedings*

6.1 The third auxiliary request was filed after the notification of the board's summons to oral proceedings. Under Article 13(2) RPBA 2020, such a request is, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons.

An example of exceptional circumstances within the meaning of Article 13(2) RPBA 2020 is given in the explanatory remarks on that provision, which mention that if a party submits that the board raised an objection for the first time in a communication, it must explain precisely why the objection is new and does not fall under a previously raised objection (OJ EPO 2020, Supplementary publication 2).

6.2 The appellant explained that the third auxiliary request had been filed in view of the board's communication, and in particular in view of the argument that the distinguishing features did not achieve a technical effect.

6.3 Since the examining division refused the application for lack of inventive step over document D9, the inventive-step objection raised in the board's communication, and maintained in this decision, was not a new objection. Moreover, in its decision the examining division already extensively explained why, in its view, the distinguishing features did not achieve a technical effect.

6.4 Hence, the board does not agree that its communication gave rise to an exceptional circumstance and therefore decides not to admit the third auxiliary request into the appeal proceedings (Article 13(2) RPBA 2020).

7. Since none of the requests admitted into the appeal proceedings is allowable, the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chair:

S. Lichtenvort J. Geschwind

Decision electronically authenticated