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Datasheet for the decision of 29 February 2024

Case Number: T 1042/22 - 3.5.05

Application Number: 12177322.0

Publication Number: 2555104

IPC: G06F3/0482, G06F3/0488

Language of the proceedings: EN

Title of invention:
Information processing device, information processing method, and program

Applicant:
Sony Group Corporation

Headword:
Coupling of list items/SONY

Relevant legal provisions:
EPC Art. 56
RPBA 2020 Art. 12(4)

Keyword:
Inventive step - main and 1st auxiliary request (no): "coupling of list items" on a screen is not a technical task
Admittance of claim amendments filed on appeal - 2nd and 3rd auxiliary requests (no): no reasons for late-filing provided

Decisions cited:
T 1802/13, T 0336/14, T 1681/18, T 1762/18

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Case Number: T 1042/22 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 29 February 2024

Appellant: (Applicant)	Sony Group Corporation 1-7-1 Konan Minato-ku Tokyo 108-0075 (JP)
Representative:	MFG Patentanwälte Meyer-Wildhagen Meggle-Freund Gerhard PartG mbB Amalienstraße 62 80799 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 16 December 2021 refusing European patent application No. 12177322.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair	K. Bengi-Akyürek
Members:	E. Konak
	C. Almberg

Summary of Facts and Submissions

I. The appeal is against the examining division's decision to refuse the present application. The examining division decided *inter alia* that auxiliary requests 4 and 5 then on file did not comply with Article 56 EPC in view of the following prior-art document:

D6: EP 1 942 401 A1.

II. Oral proceedings were held before the board on 29 February 2024.

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 a **main request** or one of **auxiliary requests 1 to 3** filed with the statement of grounds of appeal. The main request and auxiliary request 1 are identical to auxiliary requests 4 and 5 on which the contested decision was based.

At the end of the oral proceedings, the board's decision was announced.

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

"An information processing device comprising:
a display (15);
a touch panel (16) configured to detect a user operation;
a control unit (11) configured to
detect, on the touch panel (16), a pinch out operation when a distance increases between two objects touching the touch panel (16),

control to display a first list item and a second list item on the display (15); wherein

the control unit is configured to

when an amount of the pinch out operation in progress exceeds a first threshold, display an animation of coupling of list items in which the first list item appears gradually in a space, widened by the pinch out operation, between existing list items displayed on the screen; and

when the amount of the pinch out operation in progress exceeds a second threshold which is bigger than the first threshold, display an animation of coupling of list items in which the second list item appears gradually in a space, widened by the pinch out operation, between the existing list items displayed on the screen, wherein a number of list items after the animation of coupling of list items in which the second list item appears is increased compared to the number of list items after the animation of coupling of list items in which the first list item appears; wherein

an amount of the pinch out operation comprises: a movement amount or a movement speed of the two objects touching the touch panel (16); and

the animations of coupling of list items are displayed regardless of a position of the pinch out operation on the touch panel (16)."

Claim 1 of **auxiliary request 1** reads as follows:

"An information processing device comprising:

a display (15);

a touch panel (16) configured to detect a user operation;

a control unit (11) configured to

display, on the display (15), a first list item and

a second list item arranged such that neither of the first list item nor the second list item overlaps with any other list item on the display;

detect, on the touch panel (16), a pinch out operation when a distance increases between two objects touching the touch panel (16),

in response to detecting the pinch out operation, concurrently display, on the display,

a first animation of coupling of list items in which displayed list items are shrunk and a third list item appears gradually such that the third list item moves from a first position in which the first list item and the third list item partially overlap to a second position, in which the first list item and the third list item do not overlap, and

a second animation of coupling of list items in which displayed list items are shrunk and a fourth list item appears gradually such that the fourth list item moves from a third position in which the second list item and the fourth list item partially overlap to a fourth position, in which the second list item and the fourth list item do not overlap; and wherein

the control unit (11) is further configured to

detect, on the touch panel (16), a pinch in operation when a distance decreases between the two objects touching the touch panel (16) while the pinch out operation is in progress; and

in response to detecting the pinch in operation, cancel the coupling of list items."

Claim 1 of **auxiliary request 2** differs from claim 1 of the main request by the following text (with the additions underlined):

"An information processing device comprising:

a display (15);

a touch panel (16) configured to detect a user operation;
a control unit (11) configured to
detect, on the touch panel (16), a pinch out operation when a distance increases between two objects touching the touch panel (16),
control to display a first list item and a second list item on the display (15), the first list item and the second list item each being thumbnails; wherein [...]".

Claim 1 of **auxiliary request 3** differs from claim 1 of auxiliary request 1 by the following text (with the additions underlined):

"An information processing device comprising:
a display (15);
a touch panel (16) configured to detect a user operation;
a control unit (11) configured to
display, on the display (15), a first list item and a second list item arranged such that neither of the first list item nor the second list item overlaps with any other list item on the display, the first list item and the second list item each being thumbnails;
detect, on the touch panel (16), a pinch out operation when a distance increases between two objects touching the touch panel (16),
[...]".

Reasons for the Decision

1. Main request

1.1 Claim 1 of the **main request** contains the following features (board's labelling):

(a) An information processing device comprising: a display; a touch panel configured to detect a user operation;
(b) a control unit configured to
(i) detect, on the touch panel, a pinch-out operation when a distance increases between two objects touching the touch panel,
(ii) control to display a first list item and a second list item on the display; wherein the control unit is configured to
(iii) display an animation of coupling of list items in which the first list item appears gradually between existing list items displayed on the screen, when an amount of the pinch-out operation in progress exceeds a first threshold; and
(iv) display an animation of coupling of list items in which the second list item appears gradually between the existing list items displayed on the screen, when the amount of the pinch-out operation in progress exceeds a second threshold which is bigger than the first threshold, wherein a number of list items after the animation of coupling of list items in which the second list item appears is increased compared to the number of list items after the animation of coupling of list items in which the first list item appears;

(c) wherein an amount of the pinch-out operation comprises: a movement amount or a movement speed of the two objects touching the touch panel; and
(d) the animations of coupling of list items are displayed regardless of a position of the pinch-out operation on the touch panel.

1.2 The appellant argued that features (iii), (iv) and (d) were not disclosed by D6 and contributed to an inventive step.

1.3 Regarding **features (iii) and (iv)**, the appellant argued that they enabled the user to recognise the list items to be inserted by the "coupling" before the completion of the "coupling of list items". It formulated the objective technical problem solved by these features as how to allow a user to perform "coupling of list items" in an easy, intuitive and time-saving manner. The appellant did not contest that the display of "animations" within the meaning of features (iii) and (iv) constitutes a "presentation of information". Instead, referring in particular to **T 336/14** and **T 1802/13**, it argued that the presentation of information at hand credibly assisted the user in performing a "technical task" by means of a continued and guided human-machine interaction process. The appellant considered "controlling a device based on user input" to be the "technical task" in the case at hand. It argued that "the control of a device based on physical parameters" such as the "amount of the pinch-out operation" and "thresholds" was a "technical control operation". It further argued that, based on the "visual feedback" provided by the animations of features (iii) and (iv), the user had better control over the device and could, for example, "cancel the coupling of the lists" during the process and revert to

the previous state without finishing the coupling process.

However, the board holds that the animations at hand have obviously nothing to do with "controlling the display device"; neither the animations displayed nor the user's reaction to them are meant to "control" how the display technology behind the display device actually runs. Instead, the "visual feedback" provided by the "animations" of features (iii) and (iv) is related to the so-called operation of "coupling of list items", which is not a technical task. The fact that it is performed on a screen does not make the task technical. To the contrary, GUIs and associated user experiences belong to the sphere of non-technical artistic activity, graphic design and animation (see **T 1681/18**, Reasons 2 and **T 1762/18**, Reasons 3).

1.4 The appellant also emphasised that the "visual feedback" provided by the "animations" of features (iii) and (iv) gave the user better control of the result of their input, allowing more efficient and ergonomically improved interaction with the GUI. The appellant was aware that, according to the case law of the boards of appeal, GUIs were, as the appellant put it, at the "borderline of patentability". Indeed, most of the decisions it cited, including T 336/14 and T 1802/13, had come to a negative conclusion in this regard. However, repeating statements from the case law that leave an open door for "exceptional cases" and referring to the Guidelines for Examination, which indicate that features related to user input with physical ergonomic advantages were "more likely" to have technical character than those related to output or to subjective or aesthetic preferences, the appellant pleaded that the case at hand was such an

"exceptional case".

However, in the absence of a tangible and credible technical effect beyond the realm of the GUI, ergonomic improvements in interaction with GUIs remain non-technical improvements in design. Thus, features (iii) and (iv) do not contribute to the technical character of the invention.

1.5 Regarding **feature (d)**, besides stating that it "eliminated the problem" of the user "having to reach a potentially hard-to-reach area of the display with their fingers", the appellant reiterated the same arguments as for features (iii) and (iv), in particular that it relates to the "control of the device based on physical parameters" and to "technical control operations" and "improves the physical interactions between the finger and the display device". These arguments fail to convince the board for the same reasons as for features (iii) and (iv).

1.6 In consequence, since the distinguishing features of claim 1 of the main request do not contribute to its technical character, the subject-matter of claim 1 of the main request does not involve an inventive step (Article 56 EPC).

2. Auxiliary request 1

2.1 Claim 1 of **auxiliary request 1** contains the following features (board's labelling):

(a) An information processing device comprising: a display; a touch panel configured to detect a user operation;
(b) a control unit configured to

(v) display, on the display, a first list item and a second list item arranged such that neither of the first list item nor the second list item overlaps with any other list item on the display;

(vi) detect, on the touch panel, a pinch-out operation when a distance increases between two objects touching the touch panel,

(vii) in response to detecting the pinch-out operation, concurrently display, on the display, a first animation of coupling of list items in which displayed list items are shrunk and a third list item appears gradually such that the third list item moves from a first position in which the first list item and the third list item partially overlap to a second position, in which the first list item and the third list item do not overlap, and

(viii) a second animation of coupling of list items in which displayed list items are shrunk and a fourth list item appears gradually such that the fourth list item moves from a third position in which the second list item and the fourth list item partially overlap to a fourth position, in which the second list item and the fourth list item do not overlap; and

(e) wherein the control unit is further configured to detect, on the touch panel, a pinch-in operation when a distance decreases between the two objects touching the touch panel while the pinch-out operation is in progress; and

(f) in response to detecting the pinch-in operation, cancel the coupling of list items.

2.2 The appellant asserted that claim 1 of auxiliary request 1 was based on the embodiment of Figs. 24 to 26 and the corresponding description (paragraphs [0140] to [0145]) of the present application as filed. Regarding the "animations" mentioned in features (vii) and (viii), the appellant opined that these were based on the animation illustrated in Figs. 25 and 26, depicting two screens 203 and 205 at the beginning and at the end of that animation.

2.3 The appellant argued that these "animations" within the meaning of features (vii) and (viii) involved an inventive step for the same reasons as for the main request, in particular by providing a "visual feedback" to the user, which enabled them to "better control the results of a coupling operation", allowing a "more efficient user interaction", which was not "merely aesthetic". These arguments fail to convince the board for the same reasons as those given above as to the main request.

2.4 Therefore, the subject-matter of claim 1 of auxiliary request 1 does not involve an inventive step either (Article 56 EPC).

3. Admittance of auxiliary requests 2 and 3

3.1 The contested decision is not based on **auxiliary requests 2 and 3** which were first filed on appeal. Therefore, these requests are "amendments" within the meaning of Article 12(4), first sentence, RPBA, the examination of which would fall outside the primary object of these proceedings to review the appealed decision (Article 12(2) RPBA *e contrario*).

3.2 In its statement setting out the grounds of appeal, the appellant did not provide any reasons for submitting these "amendments" only at this late stage of the proceedings (cf. Article 12(4), third sentence, RPBA). At the oral proceedings before the board, it argued that it had intended to file similar requests in the examination proceedings to overcome the objections raised by the examining division but was "discouraged" by the latter. However, no such discouragement is apparent from the file including the minutes of the first-instance oral proceedings. The appellant's submission in this regard is not a justification for filing amendments for the very first time in appeal proceedings.

3.3 For this reason alone, the board did not admit auxiliary requests 2 and 3 into the appeal proceedings.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chair:

T. Buschek K. Bengi-Akyürek

Decision electronically authenticated