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# Datasheet for the decision
# of 29 July 2009

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| **Case Number:** | T 1671/06 - 3.5.01 |
| **Application Number:** | 01307006.5 |
| **Publication Number:** | 1197901 |
| **IPC:** | G06F 17/60 |
| **Language of the proceedings:** | EN |

**Title of invention:**
Reminders for a communication terminal

**Applicant:**
Nokia Corporation

**Opponent:**
-

**Headword:**
Reminders for portable phone/NOKIA CORPORATION

**Relevant legal provisions:**
-

**Relevant legal provisions (EPC 1973):**
EPC Art. 56

**Keyword:**
"Inventive step - entering reminder time without using calendar function (no - obvious possibility)"
"Inventive step - non-technical prejudice not relevant to inventive step"

**Decisions cited:**
-

**Catchword:**
See point 8 of the Reasons.

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**Case Number:** T 1671/06 **-** 3.5.01

**D E C I S I O N**
of the Technical Board of Appeal 3.5.01
of 29 July 2009

| | |
|---|---|
| **Appellant:** | Nokia Corporation<br>Keilalahdentie 4<br>02150 Espoo   (FI) |
| **Representative:** | Nordic Patent Service ApS<br>Pilestræde 58<br>1112 Copenhagen K   (DK) |
| **Decision under appeal:** | **Decision of the Examining Division of the European Patent Office posted 21 April 2006 refusing European patent application No. 01307006.5 pursuant to Article 97(1) EPC 1973.** |

**Composition of the Board:**

**Chairman:**      S. Steinbrener
**Members:**       W. Chandler
                   P. Schmitz

## Summary of Facts and Submissions

I.      This appeal is against the decision of the examining
        division to refuse the European patent application
        No. 01307006.5. The grounds for refusal were that the
        "disclaimer" that the communication terminal "does not
        have a calendar system" in independent claims 1 and 3
        of the main request rendered the claims unclear
        (Article 84 EPC 1973) and that these claims in the
        auxiliary request, with the disclaimer removed and some
        further details added, lacked inventive step
        (Article 56 EPC 1973) over the document "NOKIA 6110
        User's Guide, 9351506, Issue 2" NOKIA MOBILE PHONES,
        [Online] 1998, XP002260371 (D1) and the skilled
        person's common general knowledge. In an obiter dicta,
        the examining division gave reasons why they did not
        admit an additional request, filed at the oral
        proceedings, under Rule 86(3) EPC 1973, namely that the
        amendment to the re-introduced disclaimer was not
        unambiguously derivable from the description. They also
        considered that claim 1 of this request did not involve
        an inventive step over a combination of D1 and
        US-A-4 872 005 (D3).

II.     In the statement setting out the grounds of appeal, the
        appellant requested that the decision under appeal be
        set aside and that a patent be granted on the basis of
        claims 1 to 11 filed therewith. Claim 1 of this request
        corresponded to the claim found inadmissible by the
        examining division with a further amendment to the
        disclaimer.

III.    In the communication accompanying the summons to oral
        proceedings, the Board summarised the issues to be

discussed and tended to consider that the subject-
matter of the claims did not involve an inventive step
over D1 and US-A-4 890 258 (D2 - cited, but not used in
the decision under appeal).

IV.    In a response, the representative requested
       postponement of the oral proceedings, which the Board
       allowed in view of the evidence submitted. In a further
       response, he stated that he would not be attending the
       oral proceedings.

V.     At the oral proceedings, which took place in the
       appellant's absence, the Board discussed the
       appellant's request filed with the statement of grounds
       of appeal, dated 14 August 2006. At the end of the
       proceedings the Chairman announced the decision.

VI.    Claim 1 of the appellant's request reads as follows:

       "A method of handling reminders in a handportable phone
       that does not have a calendar application that provides
       for display a series of pages showing dates, comprising:
         manually entering characters into a text editor
       window (48) for providing a reminder text;
         manually entering numeric time information into a
       time entry window (48) for setting a reminder time;
         providing real time clock information from a clock
       application (21),
         comparing said time information with the real time
       clock information, and
         alerting when the real time clock has reached said
       reminder time."

VII.    The appellant argued essentially as follows:

The meaning of the term "calendar" had to be interpreted correctly. It was an overview of days, months and years, which could be in electronic form by showing pages with days, and/or months and/or years, or in paper form as sheets with days, and/or months and/or years. None of the features of claim 1 could be said to be so integrally connected with a calendar application that a lack of clarity arose by combing them with a disclaimer of a calendar application.

For a fair analysis of the presence of an inventive step in claim 1 it was necessary to carefully consider the starting point for the skilled person. As indicated in the introductory part of the present application, the realistic starting point for this invention was the existence of advanced high-end mobile phones that included a large number of functionalities and applications that required a lot of memory space and the existence of simple mobile phones in the basic (low-end) segment.

The mobile phone disclosed in document Dl corresponded to the high-end type of mobile phone at the filing date of the present application.

The method according to claim 1 differed from the method disclosed in Dl by two aspects:
1) there was no calendar application that provided for display a series of pages showing the dates
2) a reminder function that required the entry of only one date and one time.

Dl required the entry of a date and a time for the calendar entry itself, such as an appointment (cf. Dl, page 53 column 2, paragraph 4). For setting a tone alert preceding the calendar entry another alarm date and alarm time needed to be entered so that the phone would sound an alarm preceding the calendar entry (cf. Dl first paragraph on page 54).

The examining division had determined the problem to be solved as providing a reminder functionality in a more cost-effective way. However, this problem contained a part of the solution and therefore could not be the correct basis for the problem solution approach, which needed an objective problem derived from the differing features described above.

The technical effect of the first differing feature was a reduced consumption of memory. The technical effect of the second differing feature was that functionality was maintained with improved ease of use. The objective problem to be solved could be defined as reducing the costs of a high-end mobile phone with minimal sacrifice of functionality and an improved ease of use.

In order to solve this problem, the skilled person had an enormous number of possible solutions that could be divided into two categories:
1) to improve the efficiency of the memory consumption of the existing functionalities by improved programming and improved algorithms, or
2) to delete one or more of the functionalities in the high-end phone.
Solution 1) would most likely have appealed most to the skilled person since the sacrifice in functionality

would have been minimal. Speaking against solution 2) was the fact that by deleting the functionalities from the high-end phone one would end up with the functionalities of the low-end phone.

If the skilled person would, against expectations, have considered deleting one or more functionalities (solution 2), then this would have been by removing an application, i.e. one software block. In the field of the present invention, functionalities were usually part of an application. The applications were constructed such that they could be added or removed from the system independently, i.e. removing one application would not affect the other applications. Thus, the skilled person would have been a type of engineer who was used to work with a modular application structure, in which applications could be selectively included or not included in a mobile phone. When considering whether to delete an application (i.e. the calendar) to reduce memory consumption, it would have been standard procedure to remove the complete application and it would have been against normal practice to remove only a portion of such a module, since this was technically much more complicated to implement. As demonstrated by Dl, the known "pre-calendar event alarm" function was part of the calendar application. Removing a major part of the calendar application (the showing of pages with dates) whilst keeping an amended form of alarm function would not have been obvious for the skilled person without the benefit of hindsight.

The general trend in the field had been to ever expand the number of functionalities, deleting functionalities was atypical.

Document D3 did not disclose the concept of a reminder function that was independent from other applications. The skilled person would also not have expected to gain inspiration from devices like pagers, such as that disclosed in D3, that were significantly less sophisticated than a low-end mobile phone when trying to implement the functionality of a high-end mobile phone into a low-end mobile phone, since this would have been a move in the opposite direction.

**Reasons for the Decision**

1.      The appeal complies with the requirements referred to in Rule 65(1) EPC 1973 and is therefore admissible.

2.      This application concerns giving reminders (e.g. an alarm with a text message) in a mobile phone.

3.      Certain prior art phones already had a reminder feature as part of the calendar function. However, since the calendar function essentially involves some sort of data structure for storing/accessing/displaying all the days of the year, it is said to require a large amount of memory (paragraph 2 of the published application). The invention provides a simpler reminder system, without requiring a calendar. The user enters a reminder text and time, and when the real time clock reaches the entered time, the system provides an alert (Figure 4 and claims 1 and 3).

4. Claim 1 in appeal essentially corresponds to claim 1 of the request that the examining division did not admit with the difference that the pages of the (disclaimed) calendar show dates instead of each page showing a plurality of dates, which the examining division found not originally disclosed. Since the wording of the disclaimer now corresponds literally to the original disclosure at column 1, lines 3 to 5 and column 8, lines 53 and 54, this objection is apparently overcome. This leaves the question of whether the remainder of the disclaimer is unclear as the examining division considered in the case of claim 1 of the main request before them. However, in the Board's view this question can be left aside since, even based on the appellant's interpretation of the claim, its subject-matter does not involve an inventive step.

5. Starting from the prior art of the so-called "high-end" portable phone with reminders implemented using a calendar, such as that disclosed in D1 at pages 53 and 54, the invention differs simply by the idea of not using the calendar since, as acknowledged by the appellant, even in D1 a "pre-calendar event alarm" time must also be entered (albeit within the framework of a calendar). According to the appellant's interpretation of calendar, this difference must therefore imply the absence of the capability to store and display an overview of days, months and years.

6. The appellant appears to be proposing that this feature solves the problem of "reducing the costs of a high-end mobile phone with minimal sacrifice of functionality and an improved ease of use". However, the Board

considers that this problem is too general because it does not take into account that the concept of reminders (and thus entering them) is already known. The Board thus prefers a more specific problem acknowledging this feature, essentially along the lines of the examining division's formulation, namely an alternative way of providing the reminder function. The solution being to do away with going via the calendar function.

7.     However, D2, which deals with the general concept of "schedule setting", solves the converse problem of providing an alternative to entering manually schedule information, which is described as conventional, but complicated at column 1, lines 13 to 18, by using a calendar. In the Board's view, the skilled person would realise on reading D2 that entering the data for a reminder manually, or with the aid of a calendar are two possibilities having a trade-off between ease of operation and device complexity, e.g. memory utilization. In this respect, the Board disagrees with the appellant's view that the skilled person would follow the "general trend", or would not "move in the opposite direction" since in a trade-off situation he would appreciate the advantages and disadvantages of the various discrete possibilities (or in the continuous case, trade-off points).

8.     The appellant argues that the skilled person would only consider solutions at the modularity of complete applications. Thus the skilled person would not consider a reminder application without a calendar function. However, the Board does not agree with this because the decision at the application level is

largely governed by non-technical considerations that
may lead to the grouping of features into specific
applications to suit user's requirements or marketing
strategies, for example. This argument therefore
amounts to saying that there is a non-technical
prejudice against removing parts of an application.
However, in the Board's view, the only prejudice that
is relevant is a technical one that would prevent such
a modification. The skilled person is aware of and
operates at a technical level where "modules" have a
finer granularity. Such modules would be individual
software techniques such as the means for entering time
information, or comparing the time with a clock in the
claim. There is no evidence of any prejudice against
combining such known features in the known way to
implement the required manual entry system on the phone
of D1.

9.      Moreover, the Board considers that the invention is
        also obvious starting from a conventional so-called
        "low-end" mobile phone as a matter of normal design
        procedure. In this case, since reminders are known in a
        variety of portable devices (see e.g. the documents
        cited above), the problem could be formulated as how to
        implement reminders on a simple mobile phone. In the
        Board's view, it is common knowledge that a reminder
        can consist of text and a time (see e.g. D2, Figure 1
        or D3, Figure 4A) and that the time must be compared
        with a real time clock information. In order to handle
        reminders, it follows as a minimum requirement that one
        must somehow enter the text and the time. Manually
        entering information is the most basic possibility and
        is disclosed as conventional in D2 at column 1,
        lines 13 to 18.

10.     Accordingly, the subject-matter of claim 1 does not
        involve an inventive step (Article 56 EPC 1973).

11.     There being no further requests, it follows that the
        appeal must be dismissed.

**Order**

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

The appeal is dismissed.

The Registrar:                              The Chairman:

T. Buschek                                  S. Steinbrener