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**Datasheet for the decision
of 21 July 2011**

Case Number: T 1930/07 - 3.5.06

Application Number: 99301944.7

Publication Number: 0949557

IPC: G06F 1/32

Language of the proceedings: EN

Title of invention:

Power saving in a portable computer

Applicant:

SAMSUNG ELECTRONICS CO., LTD.

Headword:

Power saving/SAMSUNG

Relevant legal provisions (EPC 1973):

EPC Art. 56, 84

Keyword:

"Support by the description - no"
"Inventive step - no"
"Non-attendance at oral proceedings"

Decisions cited:

T 0653/91, T 1485/06

Catchword:

See reasons 3.



Case Number: T 1930/07 - 3.5.06

D E C I S I O N
of the Technical Board of Appeal 3.5.06
of 21 July 2011

Appellant: SAMSUNG ELECTRONICS CO., LTD.
416, Maetan-dong
Paldal-gu
Suwon
Kyunggi-do (KR)

Representative: N.N.
Harrison Goddard Foote
106 Micklegate
York YO1 6JX (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 2 May 2007
refusing European patent application
No. 99301944.7 pursuant to Article 97(1) EPC
1973.

Composition of the Board:

Chairman: D. H. Rees
Members: M. Müller
C. Heath

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division, delivered in oral proceedings on 15 March 2007 and dispatched with letter dated 2 May 2007, to refuse the European patent application no. 99301944.7 for lack of an inventive step.
- II. An appeal against this decision was filed on 28 June 2007, and the appeal fee was paid on the same day. It was requested that the decision be cancelled in its entirety, that the application be reinstated on the basis of the claims set out in the main request and first auxiliary request as refused, and that the appeal fee be reimbursed.
- III. A statement of grounds of appeal was received on 3 September 2007, along with two sets of claims labelled, respectively, "amended first" and "second" auxiliary requests. The appellant expressed that it would "withdraw [its] previous request for cancellation of the portion of [the decision under appeal] relating to the claims set out in the Main Request".
- IV. With summons to oral proceedings the board informed the appellant that it would take the appellant's request to be that the decision be set aside and a patent be granted based on the following documents:

description

2, 7-16 as originally filed

1, 1a, 5, 6 filed with letter dated 10 August 2005

3, 4 filed with letter dated 15 February 2007

drawings

1-6 as originally filed

claims

1-12 of either the "amended first auxiliary request" or the "second auxiliary request" as filed with the grounds of appeal.

V. The board cited *inter alia* the following documents from the examination procedure

D1: "Personal Computer Environmental Control via a Proximity Sensor", IBM Technical Disclosure Bulletin, vol. 36, no. 8, 1993, pp. 343-345

D2: EP 0 474 963 A2

and expressed its preliminary opinion that both requests appeared to violate Article 84 EPC 1973 for lack of support and not to comply with Article 56 EPC 1973 for lack of an inventive step in view of D1 on its own or in combination with D2. The board further indicated that the request for reimbursement of the appeal fee would probably have to be refused.

VI. The appellant did not respond in any way to the summons. When the registrar of the board contacted the appellant's representative by telephone shortly before the oral proceedings, no definite answer was received to the question whether the representative would attend.

VII. Claim 1 according to the "amended first auxiliary request" reads as follows:

"A portable computer including a display (6), further comprising:

a sensor (20) for sensing the presence or absence of a user within a sensing range (20a) and arranged to generate a signal (SENS) indicative of the presence or absence of the user;

control means (30, SW) arranged to interrupt power to the display in response to the signal (SENS) indicative of the absence of the user; and a basic input/output system (BIOS) (14)

characterised in that: the display (6) has a back light; the BIOS stores setup information regarding the enablement or disablement of the sensor and/or the control means; and said control means is a microcontroller and is arranged to determine from the BIOS if a user monitoring function has been disabled and inactivate said sensor if said user monitoring function is disabled and to cut off power to the back light of the display panel instantly if the signal (SENS) indicates that the user is absent."

VIII. Claim 1 according to the "amended second auxiliary request" coincides with claim 1 of the first one except that it specifies the control means to be

"... arranged to determine from the BIOS if a user monitoring function has been enabled or has been disabled and inactivate said sensor if said user monitoring function is disabled and activate the sensor if said user monitoring function has been enabled and to cut off power to the back light of the display panel instantly if the signal (SENS) indicates that the user is absent."

IX. The oral proceedings were held on 21 July 2011 as scheduled in absence of the appellant, and at the end the chairman announced the decision of the board.

Reasons for the Decision

1. The appeal is admissible (see points I-III above).

Appellant's absence at Oral Proceedings

2. The duly summoned appellant did not attend the oral proceedings. In accordance with Article 15 (3) RPBA the board relied for its decision only on the appellant's written submissions. The board was in a position to decide at the conclusion of the oral proceedings, since the case was ready for decision (Article 15 (5,6) RPBA), and the voluntary absence of the appellant was not a reason for delaying the decision (Article 15 (3) RPBA).

3. The board notes that a professional representative has a duty to inform the European Patent Office as soon as possible of a party's intention not to be represented at oral proceedings (cf. e.g. T 653/91, reasons 8, and T 1485/06, reasons 2.8; both not published). Article 6 of the code of conduct of members of the European Patent Institute (epi), of which the representative is obligatorily a member, stipulates that the members are required to act courteously in their dealings with the European Patent Office. The epi Council also issued the explicit recommendation that "if a party to an appeal decides that it will not attend a scheduled oral proceedings, the representative of the party should, as soon as possible ... before the oral proceedings ...

inform the board of the party's non-attendance" (epi Information 4/2009, pp. 133-134). The board considers it discourteous of the representative in the present case not even to have informed the board in time for the start of the oral proceedings that he would not attend.

Refund of the appeal fee

4. The appellant did not substantiate the request to have the appeal fee refunded, nor can the board determine any reason why it should be (cf. Rule 103 EPC). The board therefore concludes that this request is to be refused.

Article 84 EPC 1973

5. The invention concerns a portable computer enabled to switch off the display backlight when the user is absent. Presence or absence of the user is determined by a dedicated sensor. A BIOS setting is provided to enable or disable the user monitoring function. A microcontroller inspects the BIOS and activates or deactivates the sensor according to the setting (fig. 3, nos. 14, 20 and 30; p. 9, lines 9-23, and p. 11, lines 21-29).
6. Claim 1 according to both requests specifies that the BIOS stores setup information regarding the enablement or disablement of the sensor and/or the control means.
 - 6.1 This feature is disclosed in the original application documents in claim 3 and on page 3 (penult. par.) in a

- section which is entitled "Summary of the Invention" and essentially reproduces the original claims.
- 6.2 In the body of the description, however, it is only disclosed that the user monitoring function can be enabled or disabled (p. 9, lines 9-16). The sensor may be disabled (inactivated) by the control means if the BIOS settings indicate that user monitoring is disabled and enabled (activated) otherwise (p. 9, lines 18-23 and p. 11, lines 21-29).
- 6.3 It is nowhere disclosed, nor can it be intended, that the control means itself (*i.e.* the microcontroller 30 according to fig. 3) can be disabled because a disabled controller cannot (re-)activate a sensor when needed.
- 6.4 The board therefore concludes that the description does not support the feature that "the BIOS stores set up information regarding the enablement or disablement of ... the control means" and that, as a consequence, claim 1 according to both requests is not supported by the description as required by Article 84 EPC 1973.

Article 56 EPC 1973

7. The board further notes that it has no reason to deviate from its preliminary opinion expressed with the summons to oral proceedings that claim 1 according to both requests would lack an inventive step in view of D1 if it were limited to the extent to which it is supported by the description.

Order

For these reasons it is decided that:

1. The request for refund of the appeal fee is refused.
2. The appeal is dismissed.

The Registrar:

The Chairman:

B. Atienza Vivancos

D. H. Rees



Case Number: T 1930/07 - 3.5.06

D E C I S I O N
of the Technical Board of Appeal 3.5.06 of 05 December 2011
correcting an error in the decision
of 21 July 2011

Appellant:

SAMSUNG ELECTRONICS CO., LTD.
416, Maetan-dong
Paldal-gu
Suwon
Kyunggi-do (KR)

Representative:

Harrison Goddard Foote
106 Micklegate
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Decision under appeal:

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1973.

Composition of the Board:

Chairman: D. H. Rees
Members: M. Müller
C. Heath

Summary of Facts and Submissions

The Decision T 1930/07 - 3.5.06 of 21 July 2011 will be corrected in accordance with Rule 140 EPC as follows:

1. Page 2, Point VI., second sentence, "When the registrar of the board contacted the appellant's representative by telephone shortly before the oral proceedings, no definite answer was received to the question whether the representative would attend," is replaced by, "When the registrar of the board contacted the appellant's representative's firm of record by telephone shortly before the oral proceedings, no definite answer was received to the question whether a representative would attend."

The Registrar:

The Chairman:

B. Atienza Vivancos

D. H. Rees