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**Datasheet for the decision  
of 15 January 2013**

**Case Number:** T 0364/09 - 3.5.05  
**Application Number:** 00986570.0  
**Publication Number:** 1295196  
**IPC:** G06F3/00  
**Language of the proceedings:** EN

**Title of invention:**

Method and apparatus for acquiring and organizing ink information in pen-aware computer systems

**Applicant:**

Apple Inc.

**Headword:**

Pen-based ink management/APPLE

**Relevant legal provisions:**

EPC 1973 Art. 83, 84, 111(1)  
EPC Art. 123(2)

**Keyword:**

Sufficiency of disclosure - (yes, after amendment)  
Clarity and support by description (yes, after amendment)  
Added subject-matter (no, after amendment)  
Remittal to the first instance for further prosecution

**Decisions cited:**

**Catchword:**



**Beschwerdekammern  
Boards of Appeal  
Chambres de recours**

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Case Number: T 0364/09 - 3.5.05

**D E C I S I O N**  
**of the Technical Board of Appeal 3.5.05**  
**of 15 January 2013**

**Appellant:** APPLE INC.  
(Applicant) 1 Infinite Loop  
Cupertino, CA 95014 (US)

**Representative:** Lang, Johannes  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted 19 August 2008  
refusing European patent application No.  
00986570.0 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chair:** A. Ritzka  
**Members:** K. Bengi-Akyuerek  
G. Weiss

## **Summary of Facts and Submissions**

- I. The appeal is against the decision of the examining division, posted on 19 August 2008, refusing European patent application No. 00986570.0 on the grounds of lack of clarity and support by the description (Article 84 EPC 1973), lack of sufficient disclosure (Article 83 EPC 1973), and added subject-matter (Article 123(2) EPC) with regard to a sole request.
- II. Notice of appeal was received on 29 October 2008. The appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 24 December 2008. The appellant requested that the decision of the examining division be set aside and that a patent be granted on the basis of claims 1, 3, 11, and 18 submitted with the statement setting out the grounds of appeal and claims 2, 4 to 10, 12 to 17, and 19 to 24 underlying the appealed decision. In addition, oral proceedings were requested as an auxiliary measure.
- III. A summons to oral proceedings scheduled for 31 January 2013 was issued on 6 August 2012. In an annex to this summons, the board expressed its preliminary opinion on the appeal pursuant to Article 15(1) RPBA. In particular, objections were raised under Articles 84 and 83 EPC 1973 and the appellant was also informed that the case could be remitted to the department of first instance if those objections were overcome.
- IV. With a letter of reply dated 2 January 2013, the appellant submitted an amended set of claims (claims 1 to 23) as a sole request and gave its consent to a remittal of the application without oral proceedings

being held.

V. By communication dated 15 January 2013, the appellant was notified that the oral proceedings appointed for 31 January 2013 were cancelled.

VI. Independent claim 1 of the sole request reads as follows:

"A system for managing ink information in a computer system (100) having a pen based input tablet (118), the system comprising:

a pen driver (326) coupled to the pen-based input tablet (118) and configured to collect and organize the ink information entered at the pen-based input tablet (118) into ink strokes (506);

an ink memory area (330) organized into one or more ink phrase data structures (332); and

an ink manager (310) coupled to the pen driver (326) for receiving the ink strokes (506), the ink manager (310) having an ink phrase termination engine (312) configured to examine the ink information collected by the pen driver (326) and, upon detecting the occurrence of an ink phrase termination event, to identify a respective end of an ink phrase (332) to the ink manager (310),

one or more handwriting recognition engines (324) for generating hypotheses based on the ink information entered at the pen-based tablet (118); and

a handwriting recognition manager (320 322) coupled to both the ink manager (310) and the one or more handwriting recognition engines (324), the handwriting recognition manager (320 322) being configured and arranged to coordinate operation of the one or more handwriting recognition engines (324),

wherein the ink strokes (506), as they are received by the ink manager (310), are passed to the handwriting recognition manager (320, 322) which, in cooperation with the one or more handwriting recognition engines, processes the received ink strokes (506) to identify whether a word break has occurred and if so informs the ink manager, and

the ink manager (310) notifies the handwriting recognition manager (320,322) of the occurrence of each identified ink phrase termination event and, in response, the handwriting recognition manager (320, 322) is configured [sic] to direct a selected handwriting engine (324) to generate one or more hypotheses for the ink strokes (506) corresponding to the respective ink phrase (322) defined by the phrase termination event;

whereby the ink manager (310) is configured to store the ink strokes received prior to the ink phrase termination event in a selected ink phrase data structure (332), and to pass the ink strokes stored in the selected ink phrase data structure (332) to at least one client application (322,324) associated with the ink information entered at the pen-based input tablet (118), and

wherein the ink manager (310), is configured to associate, in response to receiving from the at least one client application (322,324) a reference context (508) affiliated with the unrecognized ink strokes (506) of the ink phrase (332), the reference context (508) with the ink strokes (506), and

wherein the ink manager (310) is configured, in response to a request from the client application (322, 324), to return the affiliated reference context (508) to the client application (322, 324) together with the one or more hypotheses."

The further independent claims 10 and 17 of the sole request are directed towards a corresponding method and a computer program, respectively.

## **Reasons for the Decision**

### 1. Admissibility of the appeal

The appeal complies with the provisions of Articles 106 to 108 EPC (cf. point II above) and is therefore admissible.

### 2. SOLE REQUEST

This request was filed in response to the objections raised in the appealed decision and to the board's communication under Article 15(1) RPBA, and was therefore admitted into the proceedings under Article 13(1) RPBA.

Independent claims 1, 10, and 17 as amended of this request differ from the independent claims underlying the appealed decision essentially in that the step of pre-recognition processing has been replaced by the feature specifying that

- (i) the received ink strokes are processed to identify whether a word break has occurred and if so informs the ink manager (emphasis added).

This amendment is supported by the disclosure of page 13, lines 14-23 and page 15, line 30 to page 16, line 2 of the application as filed.

2.1 Article 123(2) EPC

2.1.1 The examining division held that former dependent claim 5 contained added subject-matter as it referred only to an "out-of-proximity detection" rather than to a combination of out-of-proximity and time-out detection as originally claimed (cf. appealed decision, section 3).

2.1.2 In reaction to this objection, former claim 5 has been removed while the combined use of out-of-proximity and time-out detection is now comprised in dependent claim 3 as amended.

2.1.3 Consequently, the board is satisfied that this objection is overcome and that the application meets the provision of Article 123(2) EPC.

2.2 Article 84 EPC 1973

2.2.1 The examining division found that the use of the expression "pre-recognition processing" in the former independent claims gave rise to a lack of clarity since the term "pre-recognition processing" was vague and too broad. Also, those claims were not supported by the description because the feature of performing pre-recognition processing by the hand-writing recognition manager as claimed was in conflict with the description according to which this processing would be applied by both the handwriting recognition manager and the designated handwriting recognition engine (see appealed decision, section 1).

2.2.2 In response to that objection and to the objections raised in the board's communication, the independent claims have been amended such that they now comprise



feature (i) instead of the step of "pre-recognition processing".

2.2.3 As a result of this amendment, the board concludes that the above objections no longer apply and that the present claims are therefore clear and supported by the description within the meaning of Article 84 EPC 1973.

2.3 Article 83 EPC 1973

2.3.1 The examining division further held that the feature of performing "pre-recognition processing" specified in the former independent claims also amounted to a lack of sufficient disclosure, since the purpose of using average stroke or gap sizes or the implementation of the word segmentation model was not specified in the original disclosure (cf. appealed decision, section 2).

2.3.2 Owing to the amendments based on feature (i), the board holds that the above objection is remedied and that the present invention is therefore sufficiently disclosed as required by Article 83 EPC 1973.

2.4 Article 52(1) EPC: Novelty and inventive step

In the appealed decision, the questions of novelty and inventive step were not decided upon nor was any assessment of novelty and inventive step provided with respect to any prior-art document. Therefore, the board is not in a position to pass final judgment on the matters of novelty and inventive step.

3. Remittal to department of first instance

Following the substantial amendments made to the claims, the grounds for refusal given in the appealed

decision no longer apply in the present case.

However, a conclusive assessment of novelty and inventive step for the claimed subject-matter was not carried out during the first-instance proceedings (cf. point 2.4 above). The board therefore judges that under the present circumstances it is not appropriate to take a definitive decision on the matters of novelty and inventive step.

Since, in addition, the appellant agreed to a remittal of the application to the department of first instance (cf. point IV above), the board considers that it can decide on the present appeal without holding oral proceedings.

For these reasons, the board decides to exercise its discretion to remit the case to the department of first instance for further prosecution under Article 111(1) EPC 1973, on the basis of claims 1 to 23 submitted with the letter dated 2 January 2013.

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance for further prosecution on the basis of claims 1 to 23 filed with the letter dated 2 January 2013.

The Registrar:

The Chair:



K. Götz

A. Ritzka

Decision electronically authenticated