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**Datasheet for the decision
of 18 March 2014**

Case Number: T 1867/10 - 3.5.03

Application Number: 05024559.6

Publication Number: 1657897

IPC: H04M1/725

Language of the proceedings: EN

Title of invention:

Interruption of audio or video presentation on an high priority event

Applicant:

Fujitsu Mobile Communications Limited

Headword:

Communication apparatus/FUJITSU

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - (no)

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 1867/10 - 3.5.03

**D E C I S I O N
of Technical Board of Appeal 3.5.03
of 18 March 2014**

Appellant: Fujitsu Mobile Communications Limited
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Representative: HOFFMANN EITLÉ
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 19 April 2010
refusing European patent application No.
05024559.6 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: F. van der Voort
Members: K. Schenkel
M.-B. Tardo-Dino

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division refusing European patent application No. 05024559.6, publication number EP 1 657 897 A.

- II. The reason given for the refusal was that the subject-matter of claim 1 did not involve an inventive step (Articles 52(1) and 56 EPC) having regard to the disclosures of:

D8: XP009131286 Benutzerhandbuch, Sony-Ericsson P910i, Version 1, (Sony Ericsson) xx.06.2004; and

D1: EP 1 244 274 A.

- III. In the statement of grounds of appeal the appellant requested that the decision be set aside and that a patent be granted on the basis of claims 1 to 5 as filed with letter dated 13 November 2008. Oral proceedings were conditionally requested.

- IV. In a communication accompanying a summons to oral proceedings the board, without prejudice to its final decision, raised objections under Article 123(2) EPC and under Article 52(1) EPC in combination with Article 56 EPC (lack of inventive step) in respect of the subject-matter of claim 1. Reference was made to documents D8 and D1.

- V. The appellant did not file a substantive response but merely informed the board that it would not attend the scheduled oral proceedings and that it withdrew its request for oral proceedings. Further, a decision according to the state of the file was requested.

VI. Oral proceedings were held on 18 March 2014 in the absence of the appellant.

In accordance with the written submissions the board understood the appellant to be requesting that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 5 as filed with the letter dated 13 November 2008.

After due deliberation, the chairman announced the board's decision.

VII. Claim 1 reads as follows:

"A communication apparatus (1, 2) comprising:

a communication circuit (13) configured to receive a voice call and configured to receive an e-mail;

a memory (21) configured to store a plurality of pieces of audio contents (21a, 21b);

a display (32);

a speaker (14a);

an operating member (15);

a playing member (16) coupled to the speaker (14a) via an audio interface (31), the playing member (16) configured to produce a contents-based audio signal by playing one of the pieces of audio contents, the playing member (16) configured to provide the speaker (14a) with the contents-based audio signal; and

a management circuit (11) coupled to the communication circuit (13), the memory (21), the operating member (15) and the playing member (16), the management circuit (11) coupled to the display (32) via a display interface (34), the management circuit (11) coupled to the speaker (14a) via the audio interface (31), wherein

the management circuit (11) is configured to stop the playing member (16) from playing the audio contents upon being informed of an arrival of a voice call by the communication circuit (13), the management circuit (11) configured to sound the speaker (14a) so as to notify the voice call arrival, characterized in that

the management circuit (11) is configured

a) while playing audio contents

to keep the playing member (16) playing the audio contents upon being informed of an arrival of an e-mail by the communication circuit (13) during play of the audio contents, the management circuit (11) configured to indicate the e-mail arrival on the display (32) without interrupting the play of the audio contents, and

b) while not playing audio contents

to produce an event-associated audio signal to indicate the e-mail arrival."

Reasons for the Decision

1. Procedural matters

The present decision is based on an objection under Article 52(1) EPC in combination with Article 56 EPC. This objection already had been raised in the board's communication. The appellant had the opportunity to present its comments on this objection. However, no substantive submissions were filed in response to the communication. Further, in deciding not to attend the oral proceedings, the appellant chose not to make use of the opportunity to comment at the oral proceedings on the objection but, instead, chose to rely on arguments as set out in the statement of grounds, which the board duly considered. Under these circumstances, the board was in a position to give a decision in accordance with Article 113(1) EPC.

2. Inventive step

2.1 D8 discloses, using the language of claim 1, a communication apparatus comprising:
a communication circuit configured to receive a voice call and configured to receive an e-mail (p. 9);
a memory configured to store a plurality of pieces of audio contents (p. 228, p. 82);
a display (p. 11);
a speaker (p. 54);
an operating member (p. 11);
a playing member coupled to the speaker via an audio interface, the playing member configured to produce a contents-based audio signal by playing one of the pieces of audio contents, the playing member configured to provide the speaker with the contents-based audio signal (p. 82 and 83); and
a management circuit (p. 228) coupled to the communication circuit, the memory, the operating member

and the playing member, the management circuit being coupled to the display via a display interface, the management circuit being coupled to the speaker via the audio interface, wherein the management circuit is configured to stop the playing member from playing the audio contents upon being informed of an arrival of a voice call by the communication circuit (p. 82), the management circuit being configured to sound the speaker so as to notify the voice call arrival (p. 172), and wherein the management circuit is configured upon being informed of an arrival of an e-mail by the communication circuit to indicate the e-mail arrival on the display (p. 23) and may be configured to produce an event-associated audio signal to indicate the e-mail arrival (p. 172).

- 2.2 The subject-matter of claim 1 thus differs from the communication apparatus disclosed in D8 in that according to claim 1:

the management circuit is configured, while playing audio contents, to keep the playing member playing the audio contents upon being informed of the arrival of an e-mail by the communication circuit during play of the audio contents without interrupting the play of the audio contents.

- 2.3 D8 on pages 82 to 86 describes the operation of the audio player, i.e. the playing member, incorporated in the communication apparatus. On page 82 it is stated that if during audio playback a voice call arrives the audio player is stopped. The board notes that D8 does not provide details on the operation of the playing member in relation to the arrival of an e-mail.

Starting out from D8, the technical problem underlying the claimed subject-matter may therefore be seen in further specifying and accordingly implementing the playing member's operation.

- 2.4 Since at the priority date a person was commonly assumed to answer immediately on receiving a phone call, but not on receiving an e-mail, a person skilled in the art, when faced with the above-mentioned technical problem, would accordingly consider an implementation in which the arrival of a voice call would be the only event which required the audio player to be stopped and, hence, in which the audio player would keep playing audio contents upon the arrival of, e.g., an e-mail.

The skilled person would therefore have arrived at a communication apparatus which includes all the features of claim 1 without the exercise of inventive skill.

- 2.5 In the statement of grounds of appeal, the appellant argued, with respect to the mobile phone Sony Ericsson P910i, that a user could select a setting according to which the notifying sound for e-mails was muted, but that in such case there would be no notifying sound at all, even if no audio contents were playing, contrary to feature b) of claim 1 (see point VII above). The board notes however that claim 1 does not exclude that the management circuit of the claimed apparatus may be configured such that an event-associated audio signal to indicate an e-mail arrival is produced while audio contents are playing. This argument is therefore not convincing.

2.6 The board concludes that the subject-matter of claim 1 does not involve an inventive step (Articles 52(1) and 56 EPC).

3. As there is no allowable request, it follows that the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



G. Rauh

F. van der Voort

Decision electronically authenticated