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**Datasheet for the decision  
of 11 January 2018**

**Case Number:** T 1115/12 - 3.5.04  
**Application Number:** 09000146.2  
**Publication Number:** 2079055  
**IPC:** G06T11/60, G06T15/50, H04L29/08  
**Language of the proceedings:** EN

**Title of invention:**

Mobile terminal capable of providing weather information and  
method of controlling the mobile terminal

**Applicant:**

LG Electronics Inc.

**Headword:**

**Relevant legal provisions:**

EPC Art. 123(2)

**Keyword:**

Amendments - all requests - added subject-matter (yes)

**Decisions cited:**

**Catchword:**



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Case Number: T 1115/12 - 3.5.04

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.04**  
**of 11 January 2018**

**Appellant:** LG Electronics Inc.  
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Seoul 150-010 (KR)

**Representative:** Katérle, Axel  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted on 28 December  
2011 refusing European patent application  
No. 09000146.2 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman** C. Kunzelmann  
**Members:** B. Willems  
B. Müller

## **Summary of Facts and Submissions**

- I. The appeal is against the decision of the examining division dated 28 December 2011 refusing European patent application No. 09 000 146.2, which was published as EP 2 079 055 A1.
  
- II. The documents cited in the decision included the following:  
  
D1: US 2007/250591 A1.
  
- III. The application was refused on the grounds that the subject-matter of claim 1 of the main and auxiliary request lacked inventive step over the disclosure of D1 combined with the common general knowledge of a person skilled in the art (Article 56 EPC).
  
- IV. The applicant filed an appeal requesting that this decision be set aside. With the statement of grounds of appeal, the appellant submitted claims according to a main request and first, second and third auxiliary requests. It requested that a patent be granted on the basis of these claims and provided arguments as to why the subject-matter of the claims of all requests was new and involved an inventive step. In particular, the appellant submitted arguments as to why the subject-matter of the claims was inventive over the disclosure of the following document:  
  
D2: JP 2007110394 A.
  
- V. The board issued summons to oral proceedings. In a communication under Article 15(1) RPBA (Rules of Procedure of the Boards of Appeal, OJ EPO 2007, 536),

annexed to the summons to oral proceedings, the board gave its provisional opinion that:

- (a) claim 1 of the main and first to third auxiliary requests was not clear (Article 84 EPC);
- (b) the subject-matter of claim 1 of each request extended beyond the disclosure of the application as filed (Article 123(2) EPC);
- (c) the subject-matter of claim 1 of each request lacked inventive step over the combination of the disclosures of documents D2 and D1 and the common general knowledge of a person skilled in the art (Article 56 EPC).

Together with the communication, the board sent a machine translation of D2, D2T, which it had used for determining the disclosure of D2.

VI. With a reply dated 8 December 2017, the appellant filed amended claims according to a main request and first, second and third auxiliary requests, all requests replacing the previous requests on file. It submitted arguments as to why the amended claims met the requirements of Articles 54, 56, 84 and 123(2) EPC.

VII. The board held oral proceedings on 11 January 2018. The appellant was represented.

The appellant filed a new main request and requested that the decision under appeal be set aside and that a European patent be granted on the basis of the claims of the main request filed during the oral proceedings of 11 January 2018, version 1:30 p.m., or the first to

third auxiliary requests filed with the letter dated 8 December 2017.

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

VIII. Claim 1 of the main request reads as follows:

"A method of controlling a mobile phone (100), the method characterized by comprising:

displaying (S120) a first screen image as a first idle screen background when the mobile phone (100) is placed in an idle mode;

periodically receiving (S130), through a wireless communication network, weather information indicating that the weather is one of clear, rainy and snowy;

searching (S150) for a filtering effect, which is an image to be applied to the first screen image, corresponding to the weather being indicated as one of clear, rainy and snowy;

applying (S160) the searched filtering effect to the first screen image to form a composite image of the first screen image and the filtering effect;

displaying (S170) the composite image as a second idle screen background;

displaying an icon (152) corresponding to the weather being indicated as one of clear, rainy and snowy on the second composite image; and

removing the icon (152) in response to a manipulation of a user manipulation unit (130a),

wherein the filtering effect corresponding to the weather being indicated as one of clear, rainy and snowy includes a filtering effect for applying a halation effect to the first screen image in case the weather is indicated as clear, a filtering effect for overlaying an image of water drops over the first screen image in case the weather is indicated as rainy, and a filtering effect for overlaying an image of snow over the first screen image in case the weather is indicated as snowy."

IX. Claim 1 of the first auxiliary request reads as follows:

"A method of controlling a mobile phone (100), the method characterized by comprising:

displaying (S120) a first screen image as a first idle screen background when the mobile phone (100) is placed in an idle mode;

periodically receiving (S130) a weather phenomenon through a wireless communication network;

searching (S150) a filter effect corresponding to the weather phenomenon,;

applying (S160) the searched filter effect to the first screen image to form a composite image of the first screen image and the filter effect;

displaying (S170) the composite image as a second idle screen background;

displaying an icon (152) corresponding to the weather phenomenon on the second composite image, the icon (152) being varied according to the periodically received weather phenomenon; and

removing the icon (152) in response to a manipulation of a user manipulation unit (130a),

wherein the filter effect corresponding to the weather phenomenon includes at least one of a filter effect for applying a halation effect to the first screen image, a filter effect for overlaying an image of water drops over the first screen image, and a filter effect for overlaying an image of snow over the first screen image."

- X. Claim 1 of the second auxiliary request reads as follows (deletions with respect to claim 1 of the first auxiliary request are ~~struck out~~, additions are in *italics*):

"A method of controlling a mobile phone (100), the method characterized by comprising:

displaying (S120) a first screen image as a first idle screen background when the mobile phone (100) is placed in an idle mode;

periodically receiving (S130) a weather phenomenon through a wireless communication network;

searching (S150) a filter effect corresponding to the weather phenomenon,;



applying (S160) the searched filter effect to the first screen image to form a composite image of the first screen image and the filter effect;

displaying (S170) the composite image as a second idle screen background;

displaying an icon (152) corresponding to the weather phenomenon on the second composite image, ~~the icon (152) being varied according to the periodically received weather phenomenon;~~

removing the icon (152) in response to a manipulation of a user manipulation unit (130a);

*determining (S220) whether it is necessary to output alarm information based on the received weather phenomenon, wherein the necessity to output alarm information means the user being required to appropriately prepare for the weather phenomenon; and outputting (S240) the alarm information based on the received weather phenomenon if it is necessary to output the alarm information,*

wherein the filter effect corresponding to the weather phenomenon includes at least one of a filter effect for applying a halation effect to the first screen image, a filter effect for overlaying an image of water drops over the first screen image, and a filter effect for overlaying an image of snow over the first screen image."

XI. Claim 1 of the third auxiliary request reads as follows:

"A method of controlling a mobile phone (100), the method characterized by comprising:

storing, in a memory (160) of the mobile phone, a plurality of wireless communication devices (200, 300) each attached to a weather-related product of a user using the mobile phone appropriate for particular types of weather phenomena, said weather-related products being used for protecting the user from weather;

displaying (S120) a first screen image as a first idle screen background when the mobile phone (100) is placed in an idle mode;

periodically receiving (S130) a weather phenomenon through a wireless communication network;

searching (S150) a filter effect corresponding to the weather phenomenon,;

applying (S160) the searched filter effect to the first screen image to form a composite image of the first screen image and the filter effect;

displaying (S170) the composite image as a second idle screen background;

displaying an icon (152) corresponding to the weather phenomenon on the second composite image;

removing the icon (152) in response to a manipulation of a user manipulation unit (130a); and

in response to determining (S320) whether it is necessary to output alarm information based on the received weather phenomenon, wherein the necessity to

output alarm information means the user being required to appropriately prepare for the weather phenomenon, the method further comprises:

- selecting (S330) weather-related products from the memory that are appropriate for the determined type of weather condition; and

- outputting (S340) alarm information to the selected weather-related products among the plurality of weather-related products,

wherein the filter effect corresponding to the weather phenomenon includes at least one of a filter effect for applying a halation effect to the first screen image, a filter effect for overlaying an image of water drops over the first screen image, and a filter effect for overlaying an image of snow over the first screen image."

XII. The appellant's arguments that are relevant to the present decision may be summarised as follows:

(a) Paragraph [0057] of the application as filed disclosed that "*the mobile terminal 100 may be periodically provided with weather information*". Hence the mobile terminal periodically received weather information.

(b) The three if clauses listed in paragraphs [0077] and [0078] ("*If the received weather information indicates that the weather is clear ... that the weather is rainy ... that the weather is snowy*") implied that the periodically received weather information must indicate which of these three "weather phenomena" occurred. The phrase "unclear

weather" in paragraph [0076] ("*if the received weather information indicates that the weather is unclear, the controller 180 may apply a rain or snow effect to the first screen image*") did not refer to a further "weather phenomenon" but was a generic term covering both rainy and snowy weather. This interpretation was confirmed by the fact that if the received weather information indicated that the weather was unclear, either a snow or rain effect might be applied to the first screen image. The if clauses in paragraphs [0064] ("*if the received weather information indicates that the temperature is below a predefined level or the weather is cloudy*") and [0066] ("*if the received weather information indicates that a yellow dust warning has been issued or the ultraviolet (UV) index is high*") specified "weather conditions" not "weather phenomena".

- (c) Claim 1 specified a method of controlling a mobile phone, the method characterised by comprising the listed steps. In contrast to "consisting", "comprising" did not exclude further method steps such as receiving additional information. Hence, the claim did not rule out that in addition to weather information indicating that the weather was one of clear, rainy and snowy, weather information indicating other "weather phenomena" was also received.
- (d) In claim 1 of the auxiliary requests, "*periodically receiving a weather phenomenon*" was to be understood as periodically receiving information about one weather phenomenon, e.g. periodically receiving information about whether it was raining or not. The appellant argued that the "*reception of*

*a weather phenomenon (e.g. high UV radiation, rain, snow, etc...) ... is fully in line with original description [0061] and [0076]" (see reply dated 8 December 2017, page 5, second paragraph).*

## **Reasons for the Decision**

1. The appeal is admissible.
2. *Main request - added subject-matter (Article 123(2) EPC)*
  - 2.1 It is established case law that the mandatory prohibition on extension laid down in Art. 123(2) EPC means that an amendment can only be made within the limits of what a person skilled in the art would derive **directly and unambiguously** from the application as filed (see the Case Law of the Boards of Appeal of the European Patent Office, 8th edition 2016, II, E.1.2.).
  - 2.2 Claim 1 of the main request specifies "*periodically receiving (S130), through a wireless communication network, weather information indicating that the weather is one of clear, rainy and snowy*".
  - 2.3 According to the phrase quoted in point 2.2, pieces of information belonging to the following group must be received at regularly recurring intervals: it is clear, it is rainy, it is snowy.
  - 2.4 The board agrees with the appellant that the application as filed discloses periodically receiving weather information (see point XII(a) above).
  - 2.5 However, the board has not been persuaded that "*periodically receiving ... weather information*

*indicating that the weather is one of clear, rainy and snowy*" is directly and unambiguously derivable from the if clauses in paragraphs [0077] and [0078].

- 2.6 The application as filed discloses numerous examples of information indicating "weather phenomena": "*the temperature is below a predefined level*" (paragraph [0064]); "*the weather is cloudy*" and "*the weather is rainy or snowy*" (paragraph [0064]); "*a yellow dust warning has been issued*" (paragraph [0066]); "*the ultraviolet (UV) index is high*" (paragraph [0066]) and "*the weather is unclear*" (paragraph [0076]). Thus the three "weather phenomena" specified in claim 1 are not all the "weather phenomena" considered in the context of the application.

The application as filed, including paragraph [0066], consistently refers to "weather phenomena", not "weather conditions". Thus the appellant's statement that paragraphs [0064] and [0066] refer to "weather conditions" rather than "weather phenomena" (see point XII(b) above) has no basis in the application as filed.

- 2.7 Similarly, the assertion that "unclear weather" was a generic term for snowy or rainy weather (see point XII(b) above) has no basis in the application as filed.

First, the term "unclear weather", in common use, can also mean misty, foggy or cloudy weather.

Furthermore, the application as filed does not disclose a one-to-one mapping of received weather information and displayed effects. Therefore, it cannot be inferred

from "if the received weather information indicates that the weather is unclear, the controller 180 may apply a rain or snow effect" in paragraph [0076] that if the mobile terminal is displaying a snow effect or a rain effect, the received information must have indicated that the weather was snowy or rainy. It is rather the case that the quoted passage implies that since no specific effect has been attributed to "unclear weather", the mobile terminal displays either the snow effect or the rain effect.

- 2.8 Each of the if clauses in paragraphs [0077] and [0078] defines a condition for displaying an effect. This implies that the mobile terminal must verify whether one of these conditions is fulfilled, i.e. whether specific information has been received. This does not automatically mean though that the specific weather information must be periodically received.

Paragraphs [0077] and [0078] do not specify which effect is displayed if during a period no weather information indicating one of the three specific "weather phenomena" is received. Paragraph [0076] discloses that if the information indicates "unclear weather", a snow effect or a rain effect is displayed. Hence, this paragraph suggests that information indicating other "weather phenomena" may be received and that the mobile terminal matches effects to these other "weather phenomena".

- 2.9 Moreover, claim 1 does not specify that general weather information is periodically received whereas the specific information indicating that the weather is one of clear, rainy and snowy may be sporadically received. Even if the term "comprising" in claim 1 means that additional weather information indicating other

phenomena may also be received (see also point XII(c) above), the claim nevertheless specifies periodically receiving information indicating that the weather is clear, the weather is snowy or the weather is rainy. Hence, irrespective of the weather conditions that actually prevail, one of the mentioned pieces of information has to be periodically received. However, the application as filed does not disclose any compulsory transmission of particular weather information.

2.10 It follows from the above that claim 1 of the main request does not meet the requirements of Article 123(2) EPC. Hence, the main request is not allowable.

3. *First to third auxiliary requests - added subject-matter (Article 123(2) EPC)*

3.1 Claim 1 of the first to third auxiliary requests specifies:

*"periodically receiving (S130) a weather phenomenon through a wireless communication network".*

3.2 It is common ground that claim 1 should be construed to mean that information is received at regularly recurring intervals indicating whether a particular "weather phenomenon" has occurred or not (see point XII(d) above).

3.3 The board has not been convinced that "periodically receiving a weather phenomenon" is "fully in line with original description paragraphs [0061] and [0076]" (see point XII(d) above).



- 3.4 Paragraph [0061] refers to "received weather information" in general, without referring to a particular phenomenon or specifying that the information is periodically received.
- 3.5 Paragraph [0076] discloses that "*Once weather information is received, the controller 180 may analyze the received weather information [... and] apply different filtering effects to the first screen image for different weather phenomena*" (emphasis added). Thus, this passage refers to multiple different phenomena, not one single phenomenon. Moreover, analysing the received information to verify the presence of information indicating a specific phenomenon (namely one of the three phenomena discussed in the context of claim 1 of the main request) does not imply periodically receiving information indicating the phenomenon (see section 2 above).
- 3.6 It follows from the above that claim 1 of the first to third auxiliary requests does not meet the requirements of Article 123(2) EPC. Hence, the first, second and third auxiliary requests are not allowable.
4. Since none of the appellant's requests is allowable, the appeal is to be dismissed.

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

C. Kunzelmann

Decision electronically authenticated