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**Datasheet for the decision
of 6 May 2015**

Case Number: T 2232/12 - 3.5.05
Application Number: 09011680.7
Publication Number: 2256610
IPC: G06F3/048
Language of the proceedings: EN

Title of invention:

Method for unlocking screen-locked state of touch screen,
electronic device and recording medium using the same

Applicant:

HTC Corporation

Headword:

Unlocking touch screen/HTC

Relevant legal provisions:

EPC Art. 123(2), 54
RPBA Art. 15(3)

Keyword:

Added subject-matter - main request (yes)
Novelty - auxiliary requests (no)
Oral proceedings - non-attendance of the party

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 2232/12 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 6 May 2015

Appellant: HTC Corporation
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Taoyuan City 330 (TW)

Representative: Emde, Eric
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted on 24 May 2012 refusing European patent application No. 09011680.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: K. Bengi-Akyuerek
D. Prietzel-Funk

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division to refuse the present European patent application on the grounds of lack of inventive step (Article 56 EPC) with respect to the claims of a main request and two auxiliary requests, having regard to the disclosure of

D1: US-A-2007/0150842.
- II. With the statement setting out the grounds of appeal, the appellant requested that the decision of the examining division be set aside and that a patent be granted on the basis of the main request or either of two auxiliary requests, submitted in the first-instance proceedings by letter dated 20 March 2012 and refused by the examining division. In addition, oral proceedings were requested as an auxiliary measure.
- III. In an annex to the summons to oral proceedings pursuant to Article 15(1) RPBA, the board expressed its preliminary opinion on the appeal. In particular, it raised objections under Article 123(2) EPC and Articles 54 and 56 EPC, having regard to D1.
- IV. By its letter of reply, the appellant informed the board that it would not be attending the scheduled oral proceedings. Nor did it submit any comments on the substance of the board's communication under Article 15(1) RPBA.
- V. Oral proceedings were held as scheduled in the absence of the appellant. The board established from the file that the appellant's final request was that the decision under appeal be set aside and that a patent be

granted on the basis of the claim requests on file (cf. point II above).

After due deliberation on the basis of those requests and the written submissions, the decision of the board was announced at the end of the oral proceedings.

VI. Claim 1 of the **main request** reads as follows:

"A method for unlocking a screen-locked state of a touch screen (810), wherein the touch screen (810) in the screen-locked state has an unlocking area, the method comprising:

detecting (S104) a touch operation with the touch screen (810); and

unlocking (S108) the screen-locked state of the touch screen (810) when determining (S105) that the touch operation crosses a line separating a first portion (312) of the unlocking area from a second portion (314) of the unlocking area."

Claim 1 of the **first auxiliary request** reads as follows (amendments to the main request underlined by the board):

"A method for unlocking a screen-locked state of a touch screen (810), wherein the touch screen (810) in the screen-locked state has an unlocking area, the method comprising:

detecting (S104) a touch operation with the touch screen (810); and

unlocking (S108) the screen-locked state of the touch screen (810) when determining (S105) that the touch operation crosses a line separating a first portion (312) of the unlocking area from a second portion (314) of the unlocking area, with the touch

operation starting in said first portion (312) and ending in said second portion (314)."

Claim 1 of the **second auxiliary request** reads as follows (amendments to the main request underlined by the board):

"A method for unlocking a screen-locked state of a touch screen (810), wherein the touch screen (810) in the screen-locked state has an unlocking area, the method comprising:

detecting (S104) a touch operation with the touch screen (810); and

unlocking (S108) the screen-locked state of the touch screen (810) when determining (S105) that the touch operation is started from a first touch area (312) and ended in a second touch area (314);

characterized by:

dividing (S102) the unlocking area of the touch screen (810) into the first touch area (312) and the second touch area (314) by a separate line (330)."

Reasons for the Decision

1. The appeal is admissible.
2. *Non-attendance of the appellant at oral proceedings*
 - 2.1 The appellant decided not to attend the scheduled oral proceedings before the board (cf. point IV above). Pursuant to Article 15(3) RPBA, the board is not "obliged to delay any step in the proceedings, including its decision, by reason only of the absence at the oral proceedings of any party duly summoned who may then be treated as relying only on its written

case".

2.2 In the present case, the appellant did not submit any comments in response to the objections raised in the board's communication under Article 15(1) RPBA (cf. sections 3.1, 4.1 and 5.1). The board reconsidered those objections to the requests on file and did not see any good reason to depart from them. In the exercise of its discretion conferred by Article 15(3) RPBA, the board took a decision at the end of the oral proceedings held in the absence of the appellant (Article 15(6) RPBA).

3. MAIN REQUEST

3.1 Article 123(2) EPC

In spite of the fact that no objections under Article 123(2) EPC were raised in the decision under appeal, the board holds that independent claims 1 and 8 of this request indeed contain added subject-matter, for the following reasons:

3.1.1 Present claims 1 and 8 comprise the feature that, to unlock the screen-locked state of the touch screen, it is to be determined "that the touch operation crosses a line separating a first portion (312) of the unlocking area from a second portion (314) of the unlocking area", which was introduced for the first time with the applicant's letter of reply dated 20 March 2012.

3.1.2 However, the application as filed in fact teaches that the locked touch screen is only unlocked if the user's touch operation is started from the *first* touch area and ended in the *second* touch area, thereby crossing the separating line (cf. page 6, lines 8-10 and page 8,

lines 17-22 in conjunction with Fig. 1, steps S106 and S108; Fig. 2, steps S210 and S214; Fig. 3(d) and claim 1, lines 8-10 as filed). In this regard, the board finds that the fact that the user crosses the separating line, taken alone, does not necessarily mean that the user's touch operation is indeed started in the *first* touch area and ended in the *second* touch area in the event of more than two touch areas. Hence, that feature of claims 1 and 8 amounts to an inadmissible generalisation of the original content.

3.2 In conclusion, the main request is not allowable under Article 123(2) EPC.

4. FIRST AUXILIARY REQUEST

This request differs from the main request basically in that independent claims 1 and 8 further specify that

A) the touch operation starts in the first portion and ends in the second portion of the unlocking area.

As a result of amendment A), the objection raised under Article 123(2) EPC in point 3.1 above is held to be overcome.

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

In the board's judgment, independent claims 1 and 8 of this auxiliary request do not meet the requirements of Article 52(1) EPC in conjunction with Article 54 EPC, for the following reasons:

4.1.1 Contrary to the finding in the decision under appeal (see sections 2.1 and 2.2), the board considers that

document D1 indeed discloses all the limiting features of claim 1 in its phraseology:

A method for unlocking a screen-locked state ("lock state") of a touch screen, wherein the touch screen in the screen-locked state has an unlocking area (see e.g. Fig. 2, steps 202 and 204), the method comprising:

- a) detecting a touch operation with the touch screen (see Fig. 2, step 208);
- b) unlocking the screen-locked state of the touch screen when determining that the touch operation crosses a line separating a first portion of the unlocking area (e.g. "left edge") from a second portion (e.g. "opposite edge") of the unlocking area, with the touch operation starting in said first portion and ending in said second portion (see e.g. paragraph [0055]: *"... the unlock action is a predefined gesture performed on the touch screen ... the predefined gesture may include a contact of the touch screen on the left edge (to initialize the gesture), a horizontal movement of the point of contact to the opposite edge while maintaining continuous contact with the touch screen, and a breaking of the contact at the opposite edge ..."* in conjunction with Fig. 2, step 210).

4.1.2 The examining division held that D1 did not explicitly disclose feature b), since D1 taught that the user had to start its unlock gesture over an unlock image such as the button of a slider (cf. appealed decision, sections 2.2 and 2.3).

However, it is evident to the board that D1 also covers the case that any point of contact on the touch screen, i.e. without necessarily using a specific unlock image

402, may trigger an unlocking operation (see e.g. paragraphs [0052] to [0061] in conjunction with Fig. 2). Furthermore, the board takes the view that detecting a move from one edge or corner to another, as deployed in D1 (see in particular D1, paragraphs [0055] and [0068]), inherently comprises the crossing of a borderline - regardless of the shape of the line and whether or not it is displayed on the touch screen (see also page 5, line 23 to page 6, line 1 of the application as filed) - between the respective edge or corner areas. Hence, in the absence of any further information in the present application as to the implementation of detecting line crossings, the teaching of D1 falls within the terms of claims 1 and 8.

4.1.3 Consequently, the board finds that the subject-matter of independent claims 1 and 8 of this auxiliary request lacks novelty.

4.1.4 The appellant argued that the unlock operation in D1 was entirely driven by first reaching, via a touch operation, a specific end location within the touch screen and then releasing the touch operation at that end location, while the present invention was concerned with merely detecting the crossing of the separating line as claimed (cf. statement setting out the grounds of appeal, page 2, last paragraph to page 5, first paragraph).

Nevertheless, the application as filed and present claim 1 also specify that the unlock operation is based on a touch operation starting and ending at a certain location according to feature b). Moreover, the board holds that *ending* a touch operation typically

corresponds to *releasing* the touch operation.

4.1.5 The board would like to add, for the sake of completeness, that, even if feature b) were not anticipated by D1, the board considers that the skilled person in the field of touch-screen systems would be aware from his common general knowledge that detecting the crossing of a predetermined line on a touch screen may be achieved by obvious and equally feasible implementation measures such as directly monitoring the interaction with regard to the specific line or comparing the respective interaction coordinates at the start and at the end of the interaction (see also appealed decision, section 2.4.2).

4.2 In conclusion, the first auxiliary request is not allowable under Article 54 and/or 56 EPC.

5. SECOND AUXILIARY REQUEST

This request differs from the first auxiliary request essentially in that independent claims 1 and 8 have been brought into the two-part form and no longer include the step of determining that the touch operation crosses the separating line.

Thus, the objection under Article 123(2) EPC raised in point 3.1 above is held to be overcome.

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

The amendments made to claims 1 and 8 of this auxiliary request do not add anything of substance to the claimed subject-matter. Accordingly, the feature analysis and reasoning with respect to the independent claims of the first auxiliary request outlined in point 4.1 above

apply *mutatis mutandis* to claims 1 and 8 of this auxiliary request.

5.2 Hence, the second auxiliary request is likewise not allowable under Article 54 and/or 56 EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated