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**Datasheet for the decision
of 8 June 2018**

Case Number: T 1134/14 - 3.5.05

Application Number: 09834535.8

Publication Number: 2372502

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H03M11/04, G06F3/01

Language of the proceedings: EN

Title of invention:

INPUT DEVICE

Applicant:

Kyocera Corporation

Headword:

Touch key activation/KYOCERA

Relevant legal provisions:

EPC Art. 56

RPBA Art. 13(1)

Keyword:

Inventive step - (no)

Late file request - admitted (no)

Decisions cited:

Catchword:



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Case Number: T 1134/14 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 8 June 2018

Appellant: Kyocera Corporation
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Kyoto 612-8501 (JP)

Representative: Schwabe - Sandmair - Marx
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 5 December 2013
refusing European patent application No.
09834535.8 pursuant to Article 97(2) EPC**

Composition of the Board:

Chair A. Ritzka
Members: P. Cretaine
G. Weiss

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division, posted on 5 December 2013, refusing European patent application No. 09834535.8. The decision was a decision according to the state of the file with reference to the communications dated 16 August 2013 and 4 November 2013, each dealing with different sets of claims. In the latter communication, the sole objection raised by the examining division was an inventive step objection (Article 56 EPC), with respect to a main request and an auxiliary request, based on the disclosure of

D1: US 6 295 052 or

D2: JP 2005 332063 as closest prior art,

in combination with the disclosure of

D3: US 2008/0216001.

II. Notice of appeal was received on 5 February 2014, and the appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 3 April 2014. The appellant requested that the decision be set aside and that a patent be granted on the basis of the claims of the main request on which the decision was based, or of the claims of auxiliary requests 1 and 2 filed with the statement setting out the grounds of appeal. Oral proceedings were requested as an auxiliary measure.

III. A summons to oral proceedings was issued on 22 January 2018. In an annex to this summons the board gave its preliminary opinion that the subject-matter of the

claims of the main request and auxiliary requests 1 and 2 did not involve an inventive step, having regard to the disclosure of

D4: US 2008/024459, cited in the supplementary European search report.

IV. In a letter of reply dated 20 March 2018, the appellant addressed arguments presented by the board in the annex to the summons.

V. Oral proceedings were held on 8 June 2018, during which the appellant submitted a new set of claims according to auxiliary request 3. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request on which the decision was based, or of the claims of auxiliary requests 1 and 2 filed with the statement setting out the grounds of appeal, or of the claims of auxiliary request 3 submitted at the oral proceedings before the board. The board's decision was announced at the end of the oral proceedings.

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

"An input apparatus (10) comprising:
a display unit (32) for displaying an input object;
an input unit (34) for receiving a contact input at a position corresponding to the input object displayed on the display unit (32);
a load detection unit (40) for detecting a pressure load on the input unit (34); and
a control unit (20) for controlling to receive the contact input if the pressure load detected by the load detection unit (40) reaches or exceeds a pressure load threshold, characterized in that

the control unit (20) controls such that a pressure load threshold for receiving a contact input to the input object is different from a pressure load threshold for receiving a contact input to another input object, based on whether the input object is adjacent to the another input object."

Claim 1 of auxiliary request 1 adds to claim 1 of the main request, after the feature "a load detection unit for detecting a pressure load on the input unit", the wording "by an object pressing the input unit".

Claim 1 of auxiliary request 2 replaces the wording "based on whether the input object is adjacent to the another input object" of claim 1 of the main request with the wording "when the input object and the another input object are arranged at intervals shorter than a predetermined interval".

Claim 1 of auxiliary request 3 adds at the end of claim 1 of the main request the wording "wherein each input object has exactly one pressure load threshold assigned thereto".

Reasons for the Decision

1. The appeal is admissible.
2. Closest prior art

D4 discloses a touch input apparatus with a graphical user interface (GUI) where the command or function associated with a GUI object is executed when the pressure load on the object reaches or exceeds a pressure load threshold (see paragraphs [0056], [0066])

and [0068]). In a first embodiment, each GUI object can be first selected by touching it, i.e. applying to it a pressure above a first threshold, and the associated command can be executed by applying a pressure above a second threshold higher than the first threshold (see paragraphs [0074] and [0077]). In a second embodiment, a third pressure threshold, or confirmation threshold, above the second pressure threshold is needed in order to effectively execute the associated command. This confirmation threshold is added to avoid any accidental activation of a GUI object (see paragraphs [0087] and [0118] to [0120]).

Among the cited documents D1 to D4, D4 represents the closest prior art to the subject-matter of the application, since it requires the minimum of structural and functional modifications to arrive at the claimed input apparatus. The board notes that this finding was not challenged by the appellant.

3. Main request

3.1 The only difference between the subject-matter of claim 1 and the disclosure of D4 according to the second embodiment is thus that two adjacent input objects are assigned to two different pressure load thresholds for defining that a contact input has been received on the input object. In that respect, the appellant argued that each GUI object in D4 has two (first embodiment) or three (second embodiment) pressure load thresholds assigned to it, instead of a single pressure load threshold in claim 1. The board however holds that the pressure load threshold assigned to an input object in claim 1 is the pressure load which is necessary to activate the associated function of the input object.

This pressure load threshold can thus be read into the confirmation threshold of the second embodiment of D4.

- 3.2 The technical effect of this distinguishing feature is that activation of one of the input objects requires a higher pressure load than activation of the other, adjacent, object.

The appellant argued that one advantage of this technical effect was that false activation of the object which had been assigned the higher pressure load threshold was prevented. As an example, the appellant quoted the case of two adjacent input objects, one for accepting a deletion command, the other for rejecting the deletion command. In that case, allocating a higher pressure load to the accepting object would prevent erroneous activation of the deletion command.

The board is not convinced by this line of argument, since the second embodiment of D4 is able to provide the same technical effect for any GUI objects by providing the additional confirmation threshold to avoid accidental activation of the GUI objects (see paragraph [0120]). With respect to the example quoted by the appellant, the accepting object, if present on the display of the second embodiment of D4, is protected by the allocation of the confirmation threshold, irrespective of the functions and the thresholds allocated to the GUI objects adjacent to it.

- 3.3 The board thus considers that, on the basis of the above-mentioned technical effect, the objective technical problem must be formulated as finding a mere alternative to the device according to the second embodiment of D4.

The skilled person would obviously allocate the confirmation threshold to the GUI objects it desires to protect. Contrary to what the appellant asserts, the skilled person would not be prevented by the overall teaching of D4 from allocating different thresholds to different objects: the first embodiment does not provide for any confirmation threshold, and paragraph [0125] further teaches that the examples of the description, i.e. in particular the first embodiment with no confirmation threshold and the second embodiment with a confirmation threshold, may be applicable to various GUI objects. So having different thresholds allocated to adjacent objects represents a mere alternative to the input device of D4 which is directly linked to the design of the GUI display and the allocation of functions to the GUI objects on that display.

For these reasons the board judges that the subject-matter of claim 1 does not involve an inventive step, having regard to the disclosure of D4 (Article 56 EPC).

4. Auxiliary request 1

Compared to claim 1 of the main request, claim 1 of auxiliary request 1 comprises the additional feature whereby the pressure load is caused by an object pressing the input unit. Such a feature is however already disclosed in paragraph [0049] of D4 ("pointing device touches the screen").

Therefore, claim 1 does not meet the requirements of Article 56 EPC, having regard to the disclosure of D4, for the reasons given in point 3 above.

5. Auxiliary request 2

Claim 1 comprises the feature that the input object and the another input object which are assigned different pressure thresholds are input objects arranged at intervals shorter than a predetermined interval. Since the interval is not defined in the claim, the feature is broader than the feature of claim 1 of the main request whereby the two objects are adjacent.

Therefore, claim 1 does not meet the requirements of Article 56 EPC, having regard to the disclosure of D4, for the reasons given in point 3 above.

6. Auxiliary request 3

This request was filed late during the oral proceedings before the board.

Claim 1 adds to claim 1 of the main request the feature that each input object has exactly one pressure load threshold assigned to it. The appellant argued that this additional feature clearly distinguished the subject-matter of claim 1 from the disclosure of D4 since each GUI object in D4 had two (first embodiment) or three (second embodiment) pressure load thresholds assigned to it. The board however notes that it has already taken this argument into account in its assessment of the subject-matter of claim 1 of the main request (see point 3.1), and so is not convinced that the addition of this feature could overcome the inventive step objection raised in respect of the main request (Article 56 EPC).

Further, paragraphs [0045] and [0057], in combination with Figure 4, cited by the appellant as support for the additional feature, do not appear to clearly and unambiguously disclose that "exactly one" pressure load threshold is assigned to an input object. In that respect, these passages do not rule out the possibility that another threshold associated with a function other than receiving a contact input, e.g. a colour change for the GUI object, may be assigned to an input object. Thus, the amendments introduced by auxiliary request 3 raise new issues under Article 123(2) EPC.

For these reasons, the board decided in accordance with Article 13(1) RPBA not to admit auxiliary request 3 into the proceedings.

7. Conclusion

The main request and auxiliary requests 1 and 2 are not allowable under Article 56 EPC. Auxiliary request 3 is not admissible under Article 13(1) RPBA.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated