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Datasheet for the decision of 16 May 2017

Case Number: T 1450/15 - 3.5.05

Application Number: 12169786.6

Publication Number: 2495647

IPC: G06F3/048

Language of the proceedings: EN

Title of invention:
Portable electronic device, method and graphical user interface for displaying structured electronic documents

Applicant:
Apple Inc.

Headword:
Enlarging web-page boxes/APPLE

Relevant legal provisions:
EPC 1973 Art. 76(1), 111(1)

Keyword:
Added subject-matter - (no, after amendments)
Remittal to the first instance for further prosecution - (yes)

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Case Number: T 1450/15 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 16 May 2017

Appellant: (Applicant)	Apple Inc. 1 Infinite Loop Cupertino, CA 95014 (US)
Representative:	Barton, Russell Glen Withers & Rogers LLP 4 More London Riverside London SE1 2AU (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 26 February 2015 refusing European patent application No. 12169786.6 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 to refuse the present European patent application, divided from its parent application EP 07814690.9, on the sole ground that the amended claims of a main request and first to fifth auxiliary requests extended beyond the content of the parent application as originally filed (Article 76(1) EPC 1973).

II. With the statement setting out the grounds of appeal, the appellant re-filed the claims of the main request and the auxiliary requests underlying the appealed decision. It requested that the decision of the examining division be set aside and that a patent be granted on the basis of one of those claim requests.

III. In an annex to the summons to oral proceedings pursuant to Article 15(1) RPBA, the board gave its preliminary opinion on the appeal. In particular, it confirmed the decision's objections under Article 76(1) EPC 1973, and raised further objections under Article 123(2) EPC. The board also informed the appellant that, in view of the numerous objections raised, it appeared to be impracticable to carry out a detailed assessment of novelty and inventive step with respect to the present claim sets.

IV. With a letter of reply, the appellant filed an amended set of claims according to a new main request.

V. Oral proceedings were held on 16 May 2017, during which the appellant filed another main request in response to the objections raised by the board under Articles 76(1) EPC 1973 and 123(2) EPC, and withdrew all the other

claim requests on file. This new main request was admitted into the proceedings and discussed.

The appellant's final request was that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 11 filed as main request at the oral proceedings before the board.

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

VI. Claim 1 of the new **main request** (sole claim request) reads as follows:

"A portable electronic device (100), comprising:
a touch screen display (112);
one or more processors (120);
memory (102); and
one or more programs, wherein the one or more programs are stored in the memory (102) and configured to be executed by the one or more processors (120), the one or more programs including instructions for:

displaying at least a portion of a structured electronic document (3912) on the touch screen display (112), wherein the structured electronic document (3912) comprises a plurality of boxes (3914) of content with defined positions relative to each other;

detecting a first gesture at a location on the displayed portion of the structured electronic document (3912);

determining which box of the plurality of boxes (3914) is at the location of the first gesture, the determined box having a first size;

enlarging the boxes (3912) to be displayed on the touch screen display and centering the determined box

on the touch screen display whilst maintaining the defined positions of the boxes on the display, so that the determined box is a[sic] second size greater than the first size;

while the boxes are enlarged, detecting a second gesture on the enlarged determined box; and in response to detecting the second gesture, reducing in size the displayed boxes whilst maintaining the defined positions of the boxes on the display (3912)."

The further independent claim 6 of the main request is directed to a corresponding method.

Reasons for the Decision

1. MAIN REQUEST

This claim request was filed during the oral proceedings before the board with the aim of overcoming the objections raised under Articles 76(1) EPC 1973 and 123(2) EPC. It differs from the set of claims underlying the appealed decision essentially in that present independent claims 1 and 6 now specify that (emphasis added by the board)

A) the structured electronic document comprises a plurality of boxes of content with defined positions relative to each other;
B) it is determined which box of the plurality of boxes is at the location of the first gesture, the determined box having a first size;
C) the boxes to be displayed on the touch screen display are enlarged and the determined box is centered on the touch screen display whilst maintaining the defined positions of the boxes on

the display.

1.1 *Basis for the amendments*

1.1.1 The amendment relating to feature A) is supported e.g. by page 23, lines 22-23 in conjunction with Figure 5A (see boxes "Block 1" to "Block 8") of the parent and present application as originally filed.

1.1.2 The amendment relating to feature B) finds its basis in page 27, lines 29-31 and page 28, lines 4-5 in conjunction with Figure 6A (see steps 6010 and 6012) of the original parent and present application.

1.1.3 Lastly, the amendment relating to feature C), i.e. enlarging the determined box together with the adjacent boxes *to be displayed* and centering the determined box on the touch-screen display is based in particular on Figure 5C (see enlarged and centered "Block 5" together with the adjacent and enlarged blocks "Block 4" and "Block 6") and paragraph [0093] of the parent and present application as originally filed.

1.1.4 Thus, the board is satisfied that the above amendments now comply with Articles 76(1) EPC 1973 and 123(2) EPC.

2. *Remittal of the case for further prosecution*

2.1 Given that the sole ground for refusal, i.e. added subject-matter under Article 76(1) EPC 1973, no longer applies, the decision under appeal has to be set aside.

2.2 However, the compliance of the present application with the requirements of Article 52 EPC, in particular novelty and inventive step, was neither analysed nor decided in the decision under appeal. As regards

feature C) of the present independent claims, point 8 of the impugned decision (under the heading "Obiter dicta for the main request) included merely a cursory and speculative statement in that regard:

> *"Should the enlargement of the first box be introduced in claim 1 instead of the enlargement of the document, then claims 1-15 would not be inventive in view of document D2 and common general knowledge."*

Yet at no stage in the examination proceedings was a complete assessment of novelty and inventive step carried out for the claimed subject-matter.

2.3 In view of the foregoing, the board does not consider itself in a position to assess the correctness of any conclusion of the examining division as regards novelty and inventive step, nor to pass final judgment on that issue for the very first time in these appeal proceedings. Rather, the board has decided, in the exercise of its discretion under Article 111(1) EPC 1973, to remit the case to the examination division for further prosecution, on the basis of the claims of the present main request.

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 11 filed as main request at the oral proceedings before the board.

The Registrar: The Chair:

K. Götz-Wein A. Ritzka

Decision electronically authenticated