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**Datasheet for the decision
of 7 April 2021**

Case Number: T 2426/17 - 3.5.05

Application Number: 09166052.2

Publication Number: 2177979

IPC: G06F3/048

Language of the proceedings: EN

Title of invention:

Display apparatus and user interface display method thereof

Applicant:

Samsung Electronics Co., Ltd.

Headword:

Grouped services icons/SAMSUNG

Relevant legal provisions:

EPC Art. 54

Keyword:

Novelty - (no)



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Case Number: T 2426/17 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 7 April 2021

Appellant: Samsung Electronics Co., Ltd.
(Applicant) 129, Samsung-ro
Yeongtong-gu
Suwon-si, Gyeonggi-do, 443-742 (KR)

Representative: Appleyard Lees IP LLP
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 2 August 2017
refusing European patent application No.
09166052.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: P. Cretaine
F. Blumer

Summary of Facts and Submissions

I. This appeal is against the examining division's decision, posted on 2 August 2017, refusing European patent application No. 09166052.2. A main request was refused for lack of novelty over the disclosure of

D3: US 2004/212640.

A first auxiliary request was refused for lack of compliance with Article 123(2) EPC.

II. The notice of appeal was received on 28 September 2017 and the appeal fee was paid on the same day. With the notice of appeal, the appellant requested that the decision be set aside and a patent be granted. The statement setting out the grounds of appeal was received on 13 October 2017. The appellant refiled the main request on which the decision was based, along with new first to third auxiliary requests. The appellant repeated its request that the decision be set aside and further requested that the case be remitted to the examining division to "*continue the examination proceedings*". Oral proceedings were requested in the event that the decision was not set aside. Moreover, the appellant argued in substance that the examining division had erred in deciding that the main request did not meet the requirement of Article 54 EPC and had thus committed a procedural violation that would justify remittal of the case to the department of first instance and reimbursement of the appeal fee.

III. A summons to oral proceedings was issued on 18 March 2020. In a communication pursuant to

Article 15(1) RPBA, sent on 23 April 2020, the board gave its preliminary opinion that the main request did not meet the requirements of Article 54 EPC having regard to the disclosure of D3. The board also expressed the opinion that the provisions of Rule 103(1)(a) EPC for a reimbursement of the appeal fee were not met.

- IV. With a letter of response dated 20 January 2021 the appellant withdrew the request for oral proceedings and requested that the proceedings be continued in writing.
- V. By communication sent on 25 January 2021, the board announced that the oral proceedings had been cancelled.
- VI. The appellant requested (see point II) that the decision under appeal be set aside and a patent be granted on the basis of the claims of the main request or one of the first to third auxiliary requests filed with the statement setting out the grounds of appeal.
- VII. Claim 1 according to the main request reads as follows:

"A user interface display method comprising:
checking frequency of use of services of a display apparatus (100);
classifying the services according to a frequency of use of the services:
generating a menu (210) having icons (211-218) corresponding to the classified services; and
displaying the generated menu (210) on a screen of the display apparatus;
characterized in that
the step of generating the menu (210) comprises:
generating an icon corresponding to a first service, among the services, of which the frequency of use is

more than a pre-set reference, and generating a representative icon corresponding to second services, among the services, of which the frequency of use are less than the pre-set reference; and
in response to a command of selecting the icon corresponding to the first service from the menu (210), a first sub window (210) displays information regarding the first service corresponding to the selected icon; and
in response to a command of selecting the representative icon, a first sub window (220) displays icons corresponding to the second services, wherein in response to a command of selecting an icon corresponding to the second service, a second sub window displays information regarding the second service corresponding to the selected icon."

Claim 1 of the first auxiliary request differs from claim 1 of the main request in that the last two steps beginning with the words "in response to a command of selecting" have been replaced with the steps of:
"in response to a command of selecting the icon from the menu (210), the first service corresponding to the selected icon is provided, and
in response to a command of selecting the representative icon, the second services are displayed."

Claim 1 of the second auxiliary request differs from claim 1 of the main request in that the last two steps beginning with the words "in response to a command of selecting" have been replaced with the steps of:
"in response to a command of selecting the icon from the menu (210), the first service corresponding to the selected icon is provided and in response to a command of selecting the representative icon a sub-menu is

displayed, the sub-menu includes icons corresponding to the second services."

Claim 1 of the third auxiliary request differs from claim 1 of the second auxiliary request in that the wording "the method is operable on a television and comprises tuning a broadcast and displaying a video data corresponding to the broadcast signal;" has been added after "characterized in that".

The main request and the first to third auxiliary requests contain a further independent claim (claim 7 of the main request and the first auxiliary request; claim 8 of the second and third auxiliary requests) directed to a corresponding apparatus.

Reasons for the Decision

1. Admissibility of the appeal

The appeal complies with Articles 106 to 108 EPC (see point II above) and is therefore admissible.

2. Main request - Article 54 EPC

2.1 Prior art

D3 discloses a method for displaying controls, status and application interfaces as vertically listed tiles in a sidebar of a display screen (see paragraphs [0073] and [0078], Figures 4 and 6A to 6C). To cope with the increased number of tiles needed by a user, D3 proposes moving the less frequently used tiles away from the sidebar and representing them with icons placed in an overflow area (see paragraphs [0021], [0046], [0072] and [0078] to [0080], and reference sign 614 in Figures

6B and 6D). The same overflow area is shown in the sidebar 412 in Figure 4 with several icons; as shown in Figure 4, clicking on the icon on the far right-hand side leads to the display of two further controls, "Links" and "Money".

- 2.2 The board agrees with the decision that D3 discloses all the features of claim 1. In particular, a representative icon corresponding to second services can be read onto the icon represented in Figure 4 on the far right-hand side of the overflow area. In that respect, Figure 4 clearly shows that clicking on that icon leads to the display of two icons, "Links" and "Money". It is implicit that clicking on "Links" or "Money" would lead to the display of information regarding the links or money fields.

The appellant did not dispute that Figure 4 discloses a representative icon, as defined in claim 1, corresponding to groups of less frequently used services. Yet it argued that the examining division had combined two different embodiments of D3, illustrated by Figures 4 and 6C, and that this was not a suitable basis for a novelty objection. However, the board holds that Figures 4 and 6C do not relate to different embodiments but rather show different screens generated by the method of D3. In that respect, the overflow area is mentioned in paragraph [0046] before the detailed description of the invention, and is thus to be seen as a feature present in all display screens generated by the method of D3. Furthermore, paragraph [0047] mentions that an embodiment of the invention is discussed with reference to all of Figures 1 to 12. Figure 3B, which paragraph [0070] specifies as describing the framework of the invention, also provides extensive teaching on the use of an overflow

area. Paragraphs [0073] and [0078] to [0082], related to Figures 4 and 6A to 6D, respectively, do not mention that they refer to different, alternative embodiments. Therefore, it is clear that the line of icons in Figure 4 which, when clicked, generates the sub-window containing "Links" and "Money" is the overflow area defined throughout the disclosure of D3.

For these reasons, the board holds that the subject-matter of claim 1 is already disclosed in D3 (Article 54 EPC). Independent claim 7 contains the same features as claim 1 but expressed in terms of an apparatus claim, so it does not meet the requirements of Article 54 EPC either.

3. Auxiliary requests

The first to third auxiliary requests were filed with the statement setting out the grounds of appeal.

Claim 1 of the first auxiliary request differs from claim 1 of the main request in that:

- a) upon selecting the first icon, the first service corresponding to the icon is provided, and
- b) upon selecting the representative icon, the second services are displayed.

Feature a) is disclosed in D3 since the tiles in the sidebars are icons providing access to controls, i.e. services; see paragraph [0070].

Feature b) is disclosed in D3 since clicking on the icon in the overflow area of Figure 4 leads to the display of the services "Links" and "Money".

The first auxiliary request thus does not meet the requirements of Article 54 EPC.

Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in that:

- upon selecting the representative icon, a sub-menu including icons corresponding to the second services is displayed.

This feature is, however, disclosed in D3 since clicking on the icon in the overflow area of Figure 4 leads to the display of a sub-menu including the icons of the services "Links" and "Money".

The second auxiliary request thus does not meet the requirements of Article 54 EPC either.

Claim 1 of the third auxiliary request differs from claim 1 of the second auxiliary request in that:

- the method is operable on a television and involves tuning a broadcast and displaying video data corresponding to the broadcast signal.

This feature was present in the former first auxiliary request on which the decision is based. The board agrees with the findings of the examining division in point 21.2 that this feature is not supported in the application documents as originally filed.

The third auxiliary request thus does not meet the requirements of Article 123(2) EPC.

4. Conclusion

The main request and the first and the second auxiliary requests are not allowable under Article 54 EPC. The third auxiliary request is not allowable under Article 123(2) EPC.

5. Procedural matters

The appellant argued in substance that the examining division had erred in deciding that the main request did not meet the requirement of Article 54 EPC and had therefore committed a procedural violation that would justify remittal of the case to the department of first instance and reimbursement of the appeal fee. However, it is established case law (see Case Law of the Boards of Appeal of the EPO, 9th edition, 2019, page 1308, V.A.9.5.10 b)) that a wrong assessment of prior art does not constitute a procedural violation.

The appellant's request for remittal has to be rejected for this reason. Since the appeal is dismissed, the request for reimbursement of the appeal fee cannot be allowed for this reason alone (Rule 103(1)(a) 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