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Datasheet for the decision of 1 February 2021

Case Number: T 0049/19 - 3.5.05

Application Number: 11176471.8

Publication Number: 2416239

IPC: G06F3/12

Language of the proceedings: EN

Title of invention:
Controlling device mounted on portable type terminal device

Applicant:
Brother Kogyo Kabushiki Kaisha

Headword:
Printing from portable device/BROTHER

Relevant legal provisions:
EPC Art. 56, 84

Keyword:
Claims - clarity - main request (yes)
Inventive step - main request (yes)

Decisions cited:

Europäisches Patentamt
European Patent Office
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Beschwerdekammern

Boards of Appeal

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Case Number: T 0049/19 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 1 February 2021

Appellant: (Applicant)	Brother Kogyo Kabushiki Kaisha 15-1 Naeshiro-cho, Mizuho-ku Nagoya, Aichi 467-8561 (JP)
Representative:	J A Kemp LLP 14 South Square Gray's Inn London WC1R 5JJ (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 31 July 2018 refusing European patent application No. 11176471.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair	A. Ritzka
Members:	P. Cretaine
	D. Prietzel-Funk

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division posted on 31 July 2018 refusing European patent application No. 11176471.8. A main request and first and second auxiliary requests were refused for not fulfilling the requirements of Article 84 EPC and Article 56 EPC having regard to the disclosure of:

D2: US 2007/0035917

During the course of the examination, the following document had also been cited:

D1: EP 1 469 668

II. The notice of appeal was received on 28 September 2018, and the appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 29 November 2018. The appellant requested that the decision be set aside and that a patent be granted based on the main request or the first or second auxiliary request on which the decision was based and which were refiled with the statement setting out the grounds of appeal. The appellant also requested reimbursement of the appeal fee. Furthermore, oral proceedings were requested if the main request was not allowed.

III. A summons to oral proceedings was issued on 13 December 2019. In a communication pursuant to Article 15(1) RPBA, sent on 20 December 2019, the board gave its preliminary opinion that the main request and the first and second auxiliary requests did not meet

the requirements of Article 84 EPC and Article 56 EPC in light of the disclosure of D2 in combination with D1. The board also expressed the opinion that the provisions of Rule 103(1)(a) EPC for reimbursement of the appeal fee were not met.

IV. With a letter of response dated 17 February 2020, the appellant provided further arguments with respect to the requirements of Article 84 and 56 EPC.

V. Oral proceedings were held on 1 February 2021. The appellant requested that the decision under appeal be set aside and that a patent be granted based on the main request submitted with the statement setting out the grounds of appeal. The first and second auxiliary requests and the request for reimbursement of the appeal fee were withdrawn. The decision of the board was announced at the end of the oral proceedings.

VI. Claim 1 according to the main request reads as follows:

"A computer program for a portable type terminal device (10), the portable type terminal device (10) including: a display (12) having a rectangular shape defined by a long side (L2) along a first direction and a short side (LI) along a second direction, the second direction being perpendicular to the first direction; and a display controlling unit (30) configured to: in a state where the posture of the portable type terminal device (10) is vertically oriented with the long side (L2) of the display (12) extending along a perpendicular direction relative to the ground surface, create image data for vertical orientation such that the up-down direction of an image (80) represented by Web data is along the long side of the display (12), and the left-right direction of the image (80) is along the short

side (L1) of the display (12), and cause the display (12) to show the image (80) represented by the Web data in the vertical orientation; and in a state where the posture of the mobile terminal device (10) is horizontally orientated with the short side (LI) of the display (12) extending along the perpendicular direction relative to the ground surface, create image data for horizontal orientation such that the up-down direction of the image (90) represented by the Web data is along the short side (LI) of the display (12), and the left-right direction of the image (90) is along the long side (L2) of the display (12) and cause the display (12) to show the image (90) represented by the Web data in the horizontal orientation,
the computer program including instructions for ordering the portable type terminal device (10) to perform:
creating display data representing a preview image (100, 110, 200, 210) indicating a print result of the image (80, 90) so as to supply the display data to the display (12) in the case where the print of the image (80, 90) is instructed;
creating print data by utilizing the Web data in the case where the print of the image (80, 90) is instructed, the print data having a format that a printer (60) is capable of interpreting; and
sending the print data to the printer (60), wherein:
in both of a first case where the print of the image (80) is instructed without designation of a print orientation in a first state and a second case where the print of the specific Web image (90) is instructed without designation of a print orientation in a second state, a first type of the print data for causing the printer (60) to perform a first type of a print is created,

the first state is a state in which the image (80) is shown in the display (12) such that the up-down direction of the image (80) is along the long side (L2), and the left-right direction of the image (80) is along the short side (LI),
the second state is a state in which the image (90) is shown in the display (L2) such that the up-down direction of the image (90) is along the short side (LI), and the left-right direction of the image (90) is along the long side (L2), and
in the first type of the print, the left-right direction of the image (80. 90) is along a short side of a print medium (300), and an entire length of the image (80. 90) in the left right direction corresponds to the short side of the print medium (300),
wherein in the first case, a first type of the display data is supplied to the display (12), the first type of the display data being for causing a first type of the preview image (100) indicating a print result of one piece of the print medium (300) to be shown in the display (12), such that an up- down direction of the first type of the preview image (100) is along the long side (L2) of the display (12), and a left-right direction of the first type of the preview image (100) is along the short side (LI) of the display (12), the first type of the display data being data for causing an entirety of the first type of the preview image (100) to be simultaneously shown in the display (12), and
wherein in the second case, a second type of the display data is supplied to the display (12), the second type of the display data being for causing a second type of the preview image (110) indicating a print result of one piece of the print medium (300) to be shown in the display (12), such that an up-down direction of the second type of the preview image (110)

is along the short side (LI) of the display (12), and a left-right direction of the second type of the preview image (110) is along the long side (L2) of the display (12), the second type of the display data being data for causing an entirety of the second type of the preview image (110) to be simultaneously shown in the display (12)."

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. Article 84 EPC

The impugned decision found that the claims were not clear, in particular due to the wordy definitions of the device and display orientations. However, the board concurs with the appellant that the meaning and scope of claim 1 would have been clearly understandable for the skilled person, despite its lengthy formulation.

Indeed, it would have been clear to the skilled person that claim 1 defines that the terminal device has a rectangular display that may be used according to two postures:
- In the posture where the terminal is vertically oriented, an image is displayed such that its up-down direction is along the long side of the display, its left-right direction is along the short side of the display, and the image is shown in the vertical orientation. This manner of displaying an image is

commonly denominated "portrait mode" with respect to rectangular displays.
- In a posture where the terminal is horizontally oriented, an image is displayed such that its up-down direction is along the short side of the display, its left-right direction is along the long side of the display, and the image is shown in the horizontal orientation. This manner of displaying an image is commonly denominated "landscape mode" with respect to rectangular displays.
The computer program of claim 1 instructs the terminal to display a preview image indicating a print result of the displayed image and create print data to be sent to a printer.
In both cases, where an image is displayed in portrait or landscape mode and no other print orientation is instructed by the user, the print data always makes the printer print the image in portrait mode for rectangular print media having a short side and a long side.
The displayed preview image on the terminal is in portrait mode when the displayed image is in portrait mode. It is in the landscape mode when the displayed image is in the landscape mode. In both cases, it contains the entirety of the image.

The board is thus satisfied that claim 1 meets the requirements of Article 84 EPC.

3. Article 56 EPC

3.1 Prior art

D1 discloses a print terminal which reads rectangular image data from a memory, displays the image and sends the image data to a printer. The terminal enables the

user to independently rotate the displayed image to be printed (17) and the image of the print medium (18) which corresponds to the feeding direction of the print medium in a printer (see paragraphs [0009] and [0021] and Figures 4B and 5). The image to be printed can thus be changed between landscape and portrait modes with respect to the orientation of the print medium to be used (see paragraphs [0005] and [0033]).

D2 discloses a portable device operable in vertical and horizontal orientations that displays content in a upright manner in landscape or portrait mode depending on the orientation of the device (see paragraphs [0009], [0029], [0048] and [0049], and Figures 2A and 2B). A docking station receives the terminal for transferring data to a printer (see paragraphs [0002] and [0102]).

3.2 D2 was used in the reasoning of the examining division in respect of inventive step. D2 discloses in paragraphs [0049] and [0052] that the portable device is capable of displaying content in an upright position no matter what orientation the device is in. A precise definition of the content is not given in the description. However, it can be seen in Figures 2A and 2B, which are the sole figures in D2 showing the display of content, that the images of the same smiley sign displayed in landscape and portrait mode do not have the same content. The image content situated above and under the smiley sign in portrait mode (Figure 2B) is obviously not rendered in landscape mode (Figure 2A). Such a loss of image content is also shown in Figure 7 of the current application, in which the entirety of an image 80 is displayed in portrait mode whereas only a part 90 of the image 80 is displayed in landscape mode.

Furthermore, since D2 is silent about any print preview image and any print command, it may be considered that the print data sent to the printer corresponds to the displayed image. Thus, the content printed from a landscape displayed image (Figure 2A) differs from the content printed from a portrait displayed image (Figure 2B).

The differences between the subject-matter of claim 1 and the disclosure of D2 are thus that:

a) the printing of an image displayed in portrait or landscape mode is always instructed to be in portrait mode with respect to the print medium
b) a preview image indicating the print result is displayed in the same mode (portrait or landscape) as the displayed image and shows the entirety of the image
c) the image represents web data

Feature a) is illustrated in Figure 7 of the application at issue, in which printing the image displayed in portrait mode 80 or landscape mode 90 is always instructed in portrait mode 300.

Feature b) is illustrated in Figure 7 in which the preview images in portrait mode 100 and the preview image in landscape mode 110 both show the entirety of the content of the image to be printed.

The technical effect of these differences is that the print result is always in portrait mode with respect to the print medium and contains the entirety of the image content displayed in portrait mode.

The objective technical problem can thus be formulated, as proposed by the appellant, as how to program the device of D2 to improve the printing process of the displayed image, the image representing web data.

The skilled person, starting from the teaching of document D2 and faced with this objective technical problem, would not have looked at the teaching of document D1 since this document does not relate to printing from a portable device.

Moreover, even if the skilled person would have contemplated a combination of D2 with D1, they would only have arrived at the portable electronic device of document D2 incorporating the print preview and print arrangement as taught by document D1. However, this arrangement does not consider printing systematically in portrait mode with respect to the print medium. Moreover, for a device not displaying the entirety of the image content in landscape mode, as shown for instance in Figure 7 (reference sign 90) of the current application, D1 does not teach to present a print preview in landscape mode showing the print result and comprising the entirety of the image content as shown in Figure 7 (reference sign 110).

Furthermore, the appellant plausibly argued that images representing web data are likely to have a comparatively long data configuration in their up-down direction. Thus, printing in portrait mode leads to a clear reduction in the number of pages of print medium needed for printing. Moreover, in Figure 7 the entire length of the image 80 in the left-right direction is approximately equal to the length of the short side of the print medium 300. Thus, the situation in which the entire length of the image 80 in the left-right

direction is significantly smaller than the length of the short side of the print medium 300 - which would be the case if the image 110 were printed - can be prevented.

For these reasons, the board holds that the subject-matter of claim 1 involves an inventive step (Article 56 EPC) having regard to the prior art on file. Claims 2 to 8 are dependent claims and, as such, also meet the requirements of Article 56 EPC.

Order

For these reasons it is decided that:

1. The decision under appeal be set aside.

2. The case is remitted to the examining division with the order to grant a patent based on the claims of the main request and the description and drawings to be adapted.

The Registrar: The Chair:

K. Götz-Wein A. Ritzka

Decision electronically authenticated