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**Datasheet for the decision  
of 10 November 2023**

**Case Number:** T 0952/20 - 3.5.06

**Application Number:** 16155933.1

**Publication Number:** 3207823

**IPC:** A46B15/00, G06K9/00

**Language of the proceedings:** EN

**Title of invention:**  
INTERACTIVE SYSTEM SETUP CONCEPT

**Applicant:**  
Braun GmbH

**Headword:**  
System setup/BRAUN

**Relevant legal provisions:**  
EPC Art. 56, 84, 111(1)  
RPBA 2020 Art. 11, 12(4)

**Keyword:**  
Claims - interpretation of ambiguous terms - clarity after amendment (yes)  
Remittal - special reasons for remittal  
Amendment to case - suitability of amendment to address issues (yes)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
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Case Number: T 0952/20 - 3.5.06

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.06**  
**of 10 November 2023**

**Appellant:**  
(Applicant)

Braun GmbH  
Frankfurter Str. 145  
61476 Kronberg (DE)

**Representative:**

P&G Patent Germany  
Procter & Gamble Service GmbH  
Sulzbacher Straße 40  
65824 Schwalbach am Taunus (DE)

**Decision under appeal:**

**Decision of the Examining Division of the  
European Patent Office posted on 11 December  
2019 refusing European patent application No.  
16155933.1 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** M. Müller  
**Members:** T. Alecu  
K. Kerber-Zubrzycka

## **Summary of Facts and Submissions**

- I. The appeal is against the decision of the Examining Division to refuse the application. The Examining Division refused the sole request underlying the decision for lack of compliance with Article 84 EPC. In an "Obiter dictum" section the Examining Division provided further objections under Article 84 EPC and under Article 56 EPC.
- II. With the grounds of appeal the Appellant requested that the decision of the Examining Division be set aside, that a patent be granted on the basis of the main request or of one of two auxiliary requests, all filed with the grounds of appeal, and oral proceedings on an auxiliary basis.
- III. In a communication pursuant to Rule 100(2) EPC the Board informed the Appellant that oral proceedings were necessary only in order to discuss clarity of dependent claims of the main request, and that, should the main request be withdrawn, the Board was minded to decide the case without holding oral proceedings and remit on the basis of the first auxiliary request for a complete examination of novelty and inventive step.
- IV. In response the Appellant withdrew the previous main request and made the previous first auxiliary request its main request.
- V. Claim 1 of the main request defines:
1. *A device (1) comprising  
a camera (4) configured to capture a body portion (2)  
of a user (3) to obtain a pictorial representation (5)*

*of the body portion (2) of the user (3), where the pictorial representation (5) is the picture of the user (3) that is captured by the camera (4) of the device (1),*

*a display (6) for providing visual feedback to the user (3),*

*at least one sensor (7) for determining at least one of a roll angle, a pitch angle and a yaw angle of the device (1),*

*an interface (8) for receiving picture data related with the pictorial representation (5) of the body portion (2) captured by the camera (4) and for receiving sensor data related with the determined angle of the device (1) determined by the at least one sensor (7), the sensor data being angle data corresponding to at least one of the roll angle, the pitch angle and the yaw angle and*

*an analyzer (9) to analyze, based on the picture data, whether the captured body portion (2) is within a predetermined region (34) of the picture captured by the camera (4), and to analyze, based on the sensor data, whether the roll angle and/or the pitch angle and/or the yaw angle of the device (1) is within a predetermined angle range.*

VI. The wording of the other request is not pertinent for the current decision.

## **Reasons for the Decision**

### *The application*

1. The application relates generally to a device (e.g. a smartphome) for determining how a personal care device (e.g. a toothbrush) is utilized. The prior art teaches a determination performed using images captured by a

camera of the device and requires "*certain cooperation from the consumers*" (bottom of page 1).

2. The invention relates to a guided system setup process, whereby the device determines - and gives feedback as to - whether the image of the user is in a predetermined region of the screen and whether the device itself is in certain orientation based on roll/pitch/yaw angles determined by a sensor within the device (see paragraph bridging pages 2 and 3).

*The decision under appeal: Article 84 EPC*

3. In the grounds for refusing the application, at point 11, the Examining Division made four objections (with reference to the Extended European Search Report and to its previous communication).

- 3.1 The first two (11.1 and 11.2) related to the expression "*picture data related with the pictorial representation*", considering that the difference between the two was unclear (lack of clarity), and that picture data might mean anything, so the invention would not work over the "*entire claim range*" (lack of support).

- 3.2 A similar lack of support objection (11.3) was made in respect of the expression "*sensor data related with the determined angle of the device (1)*".

- 3.3 The Examining Division also objected to a feature in dependent claim 4 for lack of clarity (11.4).

*"Obiter dictum": Article 84 EPC*

4. In the "Obiter dictum" section the Examining Division raised an objection (12.1) to the feature of "*a pre-*

*determined region (34) of the picture captured by the camera (4)", considering that it was unclear "to which picture the above expression refer[red]", the claim only defining "pictorial representation" and "picture data", but not "picture".*

5. It also objected (12.2 and 12.3) to dependent claims 2, 3, 4, and 9.

*The main request: admittance and Article 84 EPC*

6. The first auxiliary request was amended in respect of the request underlying the decision by defining in claim 1 that

*"the pictorial representation (5) is the picture of the user (3) that is captured by the camera (4) of the device (1)" and*

*"the sensor data being angle data corresponding to at least one of the roll angle, the pitch angle and the yaw angle".*

Also, dependent claims 2, 3, 4, 5 and 9 were deleted.

7. In the Board's view, these amendments are suitable to, and do, overcome all the objections under Article 84 EPC formulated in the decision under appeal, be it in the grounds for the refusal, or in the "Obiter dictum" section.
  - 7.1 They overcome all objections related to the dependent claims 4 by deleting them.
  - 7.2 It is now clear to the skilled person that the pictorial representation is the image data representing the

user ("*picture of the user that is captured by the camera*"), as opposed to the full image captured, and that "*picture*" is what is captured by the camera, i.e. image data.

- 7.3 It is also clear now that the sensor data is data corresponding to at least one angle of the device (roll, pitch, or yaw) comprising both the camera and the sensor (e.g. a smartphone).
8. The Board also sees no new issues caused by these amendments. Thus it decides to admit this request (Article 12(4) RPBA 2020).

*Remittal for analysis of inventive step*

9. The Examining Division discussed inventive step only in its "*Obiter dictum*" section, without deciding on the matter. This suggests that novelty and inventive step may not have not been exhaustively discussed during examination.
- 9.1 This impression is supported by the fact that the Examining Division introduced two new documents in that section, which have not been discussed with the applicant.
- 9.2 The Board also notes that the objections under Article 84 EPC may have prevented an exhaustive discussion of novelty and inventive step. Claim interpretation in particular may influence not only the evaluation of novelty and inventive step of a given claim, but also how an applicant responds e.g. when amending its requests.

10. The Board considers that these circumstances are special reasons justifying a remittal to the first instance for further prosecution (Article 111(1) EPC; Article 11 RPBA 2020).

## Order

### **For these reasons it is decided that:**

1. The decision under appeal is set aside.
2. The case is remitted to the Examining Division for further prosecution.

The Registrar:

The Chairman:



L. Stridde

Martin Müller

Decision electronically authenticated