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**Datasheet for the decision
of 12 May 2023**

Case Number: T 1313/20 - 3.5.07

Application Number: 16186824.5

Publication Number: 3144830

IPC: G06F17/30

Language of the proceedings: EN

Title of invention:

ELECTRONIC DEVICE AND METHOD OF TAGGING DIGITAL PHOTOGRAPH
INFORMATION

Applicant:

BlackBerry Limited

Headword:

Tagging digital photograph information/BLACKBERRY

Relevant legal provisions:

EPC Art. 56

RPBA 2020 Art. 11, 12(2), 13(2)

Keyword:

Amendment after summons - exceptional circumstances (yes)

Inventive step - independent claims 1 and 7 of the main
request (yes)

Remittal - (yes) - special reasons for remittal



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Case Number: T 1313/20 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 12 May 2023

Appellant: BlackBerry Limited
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Representative: Murgitroyd & Company
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 8 January 2020
refusing European patent application
No. 16186824.5 pursuant to Article 97(2) EPC**

Composition of the Board:

Chair R. de Man
Members: C. Barel-Faucheux
E. Mille

Summary of Facts and Submissions

- I. The appeal lies from the examining division's decision to refuse European patent application No. 16186824.5.
- II. The examining division decided that the subject-matter of the claims in the sole request lacked an inventive step (Article 56 EPC) over the disclosure of the following prior-art document:
D1: WO 2007/149609 A2, published on 27 December 2007
- III. In its statement of grounds of appeal, the appellant requested that the contested decision be set aside and that a patent be granted on the basis of the main request that was the subject of the contested decision or on the basis of a newly filed first auxiliary request.
- IV. In a communication accompanying the summons to oral proceedings, the board expressed its preliminary opinion that the main request did not comply with Article 123(2) EPC and that the subject-matter of claim 1 of the main request was not inventive (Article 56 EPC). It further questioned whether the first auxiliary request should be admitted into the appeal proceedings (Article 12(4) and (6) RPBA 2020) and expressed the view that the subject-matter of claim 1 of the (first) auxiliary request was not inventive.
- V. With a letter dated 11 April 2023, the appellant filed an amended main request and maintained the (first) auxiliary request.

VI. Oral proceedings were held as scheduled. At the end of the oral proceedings, the chair announced the board's decision.

VII. The appellant's final requests were that the contested decision be set aside and that a patent be granted on the basis of the set of claims in the main request submitted with the appellant's letter dated 11 April 2023 or, alternatively, on the basis of the first auxiliary request filed with the statement setting out the grounds of appeal.

VIII. Claim 1 of the main request reads as follows (with itemisation provided by the board):

A A method of providing information relating to a digital photograph on an electronic device (100), the method comprising:

B detecting (302), by a processor of the electronic device, a digital photograph sharing event for sharing the digital photograph, the sharing event comprising attaching the digital photograph to a message;

C in response to detecting the digital photograph sharing event, monitoring for text input in a message field related to the digital photograph sharing event and identifying a text input related to the digital photograph,

D wherein identifying the text input comprises receiving (304), by the processor, the text input related to the digital photograph sharing event, the text input comprising text entered, at the electronic device, into the message field of the message to which the digital photograph is attached;

- E in response to detecting the sharing event and identifying the text input related to the digital photograph sharing event, extracting (306), by the processor, the information relating to the digital photograph from the text related to the digital photograph utilizing natural language processing;
- F storing (308) the information that is extracted in association with the digital photograph by writing the extracted information as tags, into a digital photograph file stored in memory of the electronic device coupled to the processor,
- G wherein the information that is extracted and stored in association with the digital photograph is searchable;
- H sharing the digital photograph with a third party device; and
- I subsequently receiving a search term, and in response to determining an at least partial match between the search term and the information that is extracted and stored in association with the digital photograph, displaying a thumbnail image of the digital photograph on a display of the electronic device.

IX. Independent claim 7 of the main request reads as follows:

"An electronic device (100) comprising:

a camera (122) for obtaining digital photographs;

a memory (108, 110) for storing digital photographs in a database thereon;

a communication system (104) for coupling the electronic device to a network (150); and

a processor (102) coupled to the memory and to the communication system to:

detect (302) a digital photograph sharing event for sharing a digital photograph of the digital photographs, the sharing event comprises attaching the digital photograph to a message;

in response to detecting the digital photograph sharing event, monitoring for text input in a message field related to the digital photograph sharing event and identify a text input related to the digital photograph, wherein identifying the text input comprises receiving (304), by the processor, the text input related to the digital photograph sharing event, the text input comprising text entered at the electronic device;

in response to detecting the sharing event and identifying the text input related to the digital photograph sharing event, extract (306), by the processor, the information relating to the digital photograph from the text related to the digital photograph utilizing natural language processing;

store (308) the information that is extracted in association with the digital photograph by writing the extracted information as tags, into a digital photograph file stored in memory of the electronic device coupled to the processor, wherein the

information that is extracted and stored in association with the digital photograph is searchable;

share the digital photograph with a third party device; and

subsequently receiving a search term, and in response to determining an at least partial match between the search term and the information that is extracted and stored in association with the digital photograph, display a thumbnail image of the digital photograph on a display of the electronic device."

- X. In view of the outcome of the proceedings, it is not necessary to reproduce the dependent claims of the main request and the set of claims of the first auxiliary request here.

Reasons for the Decision

Application

1. The application relates to the storage of digital photographs on electronic devices (paragraph [0001] of the description as filed).

The description explains that with the ever-increasing number of digital photographs being captured by, and stored on an electronic device, the organisation of such storage and the ability to search through large numbers of digital images is desirable (paragraph [0003]).

Admissibility - main request

2. In the communication accompanying the summons to oral proceedings, the board raised a new objection under Article 123(2) EPC since it was of the opinion that feature I of claim 1 of the then main request did not have a basis in the application as originally filed.
3. The amended main request was filed to address the objection under Article 123(2) EPC raised for the first time in the board's communication.
4. The board concurs with the appellant that this constitutes an exceptional circumstance justifying the admission of the main request into the appeal proceedings (Article 13(2) RPBA 2020).

Added subject-matter - main request

5. With its letter of 11 April 2023, the appellant amended claim 1 by replacing the text "a match" with the text "an at least partial match" in feature I and made a similar amendment to independent claim 7. These amendments have a basis in paragraph [0032] of the description as filed. As a consequence of these amendments, the objection under Article 123(2) EPC raised in the board's communication against the previous text of the main request no longer applies.

Inventive step - main request

6. The examining division considered document D1 to be the prior art closest to the subject-matter of claim 1 of the main request.

6.1 Document D1 relates to cataloguing media files such as pictures (paragraphs [0001] and [0005]). It discloses a method that includes converting a "context reference" to a text representation and tagging the media file name with the text representation. The "context reference" is a reference that is likely to be more recognisable to a user than a simple numeric reference (paragraphs [0004] and [0028]).

6.2 The method also includes a step of "voice cataloging" a currently acquired media file with a voice tag. The voice tag is translated into text and applied to the media file name (paragraphs [0005] to [0007] and [0029]).

For example, when a user takes a picture with a camera, a voice (Java) applet "record picture name" is activated to give the user the opportunity to voice record the name of the picture file as a file name. The picture is saved with the user's chosen file name (for example "johnny first birthday.jpg") in a picture storage engine or database by using a voice to text converter 106 and a tagging engine 108 (paragraph [0019]). Alternatively, the tag can be appended to the picture file as searchable metadata (paragraph [0020]), in accordance with features F and G.

6.3 The tagging engine 108 can also operate cooperatively with a sharing engine 110 that enables access, storage, and easy retrieval of the picture(s) 104 with third parties or services (paragraphs [0019] and [0020] together with Figures 2 and 3), in accordance with feature H.

6.4 Since document D1 is concerned with the problem of providing user-friendly searches for pictures

(paragraph [0002]) and discloses that tags are appended to pictures as searchable metadata (paragraphs [0019] and [0020]), document D1 implicitly discloses a subsequent step of receiving a search term and, in response to determining an at least partial match between the search term and the tag stored in association with the picture, displaying information about the picture on an electronic device (cf. features A and I).

6.5 Therefore, document D1 discloses features A, F, G and H as well as the following features (deleted text is part of claim 1 of the main request, while underlined text has been added by comparison with claim 1 of the main request):

- B' detecting (302), by a processor of the electronic device, a digital photograph sharing event for sharing the digital photograph (detecting a sharing event being implicitly disclosed), ~~the sharing event comprising attaching the digital photograph to a message;~~
- C' ~~in response to detecting the digital photograph sharing event, monitoring for text input in a message field related to the digital photograph sharing event and identifying a text voice input related to the digital photograph,~~
- D' wherein identifying the text voice input comprises receiving (304), by the processor, the text voice input related to the digital photograph ~~sharing event~~, the text voice input comprising text voice entered, at the electronic device, ~~into the message field of the message to which the digital photograph is attached;~~

E' in response to ~~detecting the sharing event~~ and identifying the ~~text~~ voice input related to the digital photograph ~~sharing event~~, extracting (306), by the processor, the information relating to the digital photograph from the ~~text~~ voice input related to the digital photograph ~~utilizing natural language processing~~;

I' subsequently receiving a search term, and in response to determining an at least partial match between the search term and the information that is extracted and stored in association with the digital photograph, displaying ~~a thumbnail image of~~ (information related to) the digital photograph on a display of the electronic device.

7. Hence, the distinguishing features of claim 1 of the main request from document D1 are as follows:

DF1 the sharing event comprises attaching the digital photograph to a message

DF2 text input [instead of a voice input translated into a text input in D1] is monitored for and received in a message field related to the digital photograph sharing event

DF3 then, in response to identifying the text input related to the digital photograph sharing event, the information relating to the digital photograph is extracted from the text input by utilizing natural language processing

DF4 the (retrieved) picture is displayed as a
 thumbnail

8. Concerning feature DF4, the board is of the opinion that, on the priority date (16 September 2015), it was obvious to display the (retrieved) picture as a thumbnail.

9. Concerning features DF1 to DF3, the appellant argued that document D1 disclosed an arrangement for sharing newly taken pictures only after they had been tagged, i.e., in document D1, tagging and sharing were separate user operations. By contrast, the invention allowed a picture to be tagged in an efficient manner as part of user operations for sharing the picture by attaching it to a message. This was achieved by monitoring for text input entered into message fields of messages to which the picture was attached and automatically extracting tagging information from the text. The invention therefore solved the problem of providing an efficient tagging mechanism.

10. In the statement of grounds, the appellant argued that the combination of features in claim 1 was such that they provided a functional link between the tag string and a further application, said further application being the digital photograph database. The tagging arrangement in claim 1 provided a technical effect by associating a tag (i.e. a text string) with a separate application, i.e. the digital photograph file stored in the memory of the electronic device (page 2).

11. The board notes that, on the priority date, it was well known to the skilled person to share a digital photograph with another user by attaching the digital

photograph to a message such as an email and inputting text into a message field giving information relating to the digital photograph; however, document D1, in paragraph [0019], only briefly mentions that the tagging engine can "operate cooperatively with a sharing engine 110" and, in Figure 1, shows information flowing only from the tagging engine 108 to the sharing engine 110, and so this document does not suggest combining the tagging and sharing operations into one user interaction in accordance with features DF1 to DF3. The board further accepts that this solution involves technical considerations regarding user-interaction mechanisms. Document D1 therefore does not render the claimed solution obvious.

12. While it might be argued that a person receiving a message could also look in the message field to find out some information about a digital photograph attached to the message by reading and semantically and/or syntactically analysing the text in the message, and while "natural language processing" of a text aims to implement this processing on and by a computer, the skilled person is not prompted to do so by document D1.
13. Hence, the subject-matter of method claim 1 and of the corresponding independent device claim 7 of the main request involves an inventive step over the disclosure of document D1.

Remittal

14. In view of the above, the decision under appeal has to be set aside; however, the dependent claims and the description may still need to be adapted to the independent claims. Since the primary purpose of the appeal proceedings is to review the decision under

appeal in a judicial manner, special reasons present themselves for remitting the case to the examining division for further prosecution on the basis of the main request (Articles 11 and 12(2) 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 Chair:



S. Lichtenvort

R. de Man

Decision electronically authenticated