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**Datasheet for the decision
of 9 December 2022**

Case Number: T 1545/20 - 3.5.05

Application Number: 11781329.5

Publication Number: 2569681

IPC: G06F3/01, G06F3/048, G06F17/30,
G10L15/00, H04L12/28,
G10L13/033

Language of the proceedings: EN

Title of invention:
ELECTRONIC PERSONAL INTERACTIVE DEVICE

Applicant:
Poltorak, Alexander

Headword:
ELECTRONIC PERSONAL INTERACTIVE DEVICE / Poltorak

Relevant legal provisions:
EPC Art. 56, 123(2)

Keyword:
Inventive step - (no) - effect not made credible within the
whole scope of claim
Amendments - extension beyond the content of the application
as filed (yes)



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Case Number: T 1545/20 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 9 December 2022

Appellant: Poltorak, Alexander
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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.
11781329.5 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: N. H. Uhlmann
E. Mille

Summary of Facts and Submissions

- I. The applicant appealed against the examining division's decision to refuse the European patent application in suit.
- II. The examining division decided that the main request and the first and second auxiliary requests did not meet the requirements of Article 56 EPC and that the main request and the first auxiliary request did not meet the requirements of Articles 123(2), 83 and 84 EPC either.
- III. The examining division made reference, *inter alia*, to the following documents:
- D1 WO 2009/077901
D2 Enrico Sandali et al.: "A 3D character animation engine for multimodal interaction on mobile devices", PROCEEDINGS OF SPIE, vol. 5684, 17 January 2005, ISSN: 0277-786X, DOI: 10.1117/12.596705
D4 US 2010/100828
D5 GB 2 458 388
- IV. With the statement setting out the grounds of appeal the appellant submitted a main request, corresponding to the second auxiliary request considered in the decision under appeal, and an auxiliary request. Those are the appellant's final requests.
- V. The board summoned the appellant to oral proceedings. In a communication under Article 15(1) RPBA 2020, the board set out its provisional opinion on the case.
- VI. With a letter dated 27 October 2022, the appellant stated that it would not be attending the oral proceedings and that "the Applicant has lost interest

in prosecuting the present appeal proceedings and wishes to abandon it".

When asked by the board, the appellant explained that it did not wish to withdraw the appeal.

VII. The board cancelled the oral proceedings and continued the appeal proceedings in writing by issuing the present decision.

VIII. Claim 1 of the main request is worded as follows:

"A user interface device (100) comprising:

an audio visual information input interface configured to receive audio (110, 420) and visual (120, 410) information sufficient to determine at least one of a topic of interest to a user and a user query (210) from a user;

at least one automated processor (21), configured to:

process the received audio (110, 420) and visual (120, 410) information to determine the at least one of the topic of interest to the user and the user query from the user,

generate at least one automated search engine request (240) based on the at least one of the topic of interest and the user query from the user,

communicate the at least one automated query to at least one search engine through a computer communication network (320, 454),

receive responses from the at least one search engine responsive to the at least one automated query (210), and

implement a conversational agent (250, 450), based on at least an automatically generated user profile based on at least prior interaction of the user interface

device with the user, the topic of interest or user query from the user, and the received responses;

at least one audio visual output interface configured to interactively present an anthropomorphic object representing (150, 560, 700) the conversational agent (250, 450) dynamically controlled by the at least one automated processor (21), conveying information of interest to the user; and

an audio visual telecommunication interface (310),

wherein the audio visual information input interface is configured to further receive audio (110, 420) and visual (120, 410) information sufficient to determine a current mood of the user, and

the at least one automated processor is further configured to process the received audio and visual information, to:

determine a current mood of the user based on at least an analysis of voice features and facial expressions, recognize speech (440) in the received audio and visual information,

select a determined at least one of the topic of interest to the user and the user query from the user, dependent on at least the received audio (110, 420) and visual (120, 410) information, the recognized speech, and a history of interaction with the user,

and

implement the conversational agent further in dependence on the determined current mood of the user (220, 250), the recognized speech, and the received responses, according to conversation logic (450) controlled in a manner predicted to improve the mood of

the user by at least a mood-dependent conversationally-relevant presentation of the information of interest."

- IX. Claim 1 of the auxiliary request is based on claim 1 of the main request. The following wording has been added to claim 1:

"wherein the audio visual information input interface and audio visual output interface are implemented on a self-contained cellular telephone communication device and the at least one automated processor is further configured to:

respond to spoken commands in the recognized speech, process the received responses, determine an emergency condition, and automatically telecommunicate to a selected receiver the determined emergency condition without requiring human intervention."

Reasons for the Decision

1. The application in hand pertains to a user interface device. It receives audio and visual information and determines a topic of interest for a user and a user query. An anthropomorphic object representing a conversational agent is displayed on the basis of the topic of interest, the query, the results of the query and a user profile. The user's mood is determined, speech is recognized and the conversational agent is controlled so as to improve the user's mood. Furthermore, an emergency condition is determined and communicated to e.g. a medical emergency organisation.
2. Document D1 discloses a chat system which is adapted to determine topics of interest to the user.

Main request

3. Inventive step
- 3.1 The board confirms the analysis in the decision under appeal with regard to what was then the second auxiliary request, on which the current main request is based.
- 3.2 The board agrees with the decision under appeal and with the appellant that document D1 forms a suitable starting point for the inventive-step analysis.
- 3.3 The appellant argued that D1 did not disclose the following features of claim 1:

"[information] sufficient to determine a current mood of the user, and

the at least one automated processor is further configured to process the received audio and visual information, to:

determine a current mood of the user based on at least an analysis of voice features and facial expressions, recognize speech (440) in the received audio and visual information,

select a determined at least one of the topic of interest to the user and the user query from the user, dependent on at least the received audio (110, 420) and visual (120, 410) information, the recognized speech, and a history of interaction with the user,

and

implement the conversational agent further in dependence on the determined current mood of the user (220, 250), the recognized speech, and the received responses, according to conversation logic (450) controlled in a manner predicted to improve the mood of

the user by at least a mood-dependent conversationally-relevant presentation of the information of interest."

- 3.4 The board is not convinced. D1 discloses recognizing speech, responding to commands and processing further input by the user (page 7, lines 10 and 11, page 8, lines 28 to 31, page 9, lines 20 to 25 and page 12, lines 21 to 24). Furthermore, D1 discloses audio- and video-based chat systems (page 12, lines 28 and 29). This implies the presence of a microphone and a camera. Hence, D1 does not disclose the following features:

"determine a current mood of the user based on at least an analysis of voice features and facial expressions"
"implement the conversational agent further in dependence on the determined current mood of the user, the recognized speech, and the received responses, according to conversation logic controlled in a manner predicted to improve the mood of the user by at least a mood-dependent conversationally-relevant presentation of the information of interest."

- 3.5 The appellant stated that the objective technical problem solved was:

"providing a user interface device having an information input interface which allows to determine [sic] the emotional state of a user during a conversation with higher accuracy and greater precision so that to [sic] follow emotional state change of the user during the conversation"

- 3.6 The board is not convinced that this problem is indeed solved.

The application as filed does not refer to any higher accuracy or greater precision.

Furthermore, and considering that "emotional state" is somehow related to the claimed "mood", the claimed features pertaining to the determination of a mood

"determine a current mood of the user based on at least an analysis of voice features and facial expressions"

do not set out any details which could potentially improve the accuracy and precision. Additionally, according to paragraphs 7 and 8 of the description of the application in suit, determining a mood on the basis of an analysis of voice features and facial expressions was known from the prior art. The description, including the paragraphs referred to by the appellant on pages 5 to 7 of the statement of grounds, does not disclose any technical details which could lead to any improvements.

3.7 The appellant argued that the automated measurement of mood was technical.

The board agrees that the measurement of mood might involve technical features, in particular a microphone, camera, processor, etc. However, neither the claims nor the description disclose any technical features which go beyond the prior art as described in the background of the invention. Furthermore, as pointed out by the examining division, document D5 (page 160, lines 20 to 22) discloses determining a mood on the basis of video information.

3.8 The appellant stated further that the logic and interface control required to change a user's mood were technical.

In the board's view, changing a user's mood is not a technical effect. Furthermore, the application as filed does not disclose any technical details regarding the

logic and interface control which go beyond the prior art as described in the background of the invention.

3.9 For these reasons, the board holds that the distinguishing features do not lead to any technical effect which is credibly achieved over the claimed scope; thus, they cannot contribute towards an inventive step (Case Law of the Boards of Appeal of the EPO, 10th edition, July 2022, chapter I.D.9.2.8).

3.10 Consequently, the subject-matter of claim 1 does not involve an inventive step. Hence, the main request is not allowable.

Auxiliary request

4. Amendments

4.1 Claim 1 specifies further

"wherein the audio visual information input interface and audio visual output interface are implemented on a self-contained cellular telephone communication device and the at least one automated processor is further configured to:

respond to spoken commands in the recognized speech, process the received responses, determine an emergency condition, and automatically telecommunicate to a selected receiver the determined emergency condition without requiring human intervention."

The appellant submitted that these features were supported in claims 3 to 5 and paragraphs 139 and 141 of the application as filed.

4.2 The board does not agree.

First, these passages do not disclose that the processor responds to spoken commands **in the recognized speech**.

Second, according to original claim 4, the processor processes the received **information**, not the received responses.

Third, there is no apparent basis for communicating with a **selected receiver**. Instead, original claim 6 and paragraphs 139 and 141 refer to a number of a specific responder, i.e. police, fire and emergency medical.

5. For these reasons, the auxiliary request does not meet the requirements of Article 123(2) EPC and is thus not allowable.

6. Conclusion

None of the appellant's requests is allowable.

7. Partial reimbursement of the appeal fee

By letter dated 27 October 2022, the appellant stated that it would not be attending the oral proceedings. The appellant's indication that it would not be attending the scheduled oral proceedings is taken as an implicit withdrawal of its request for oral proceedings for the purposes of Rule 103(4)(c) EPC. Thus, the board cancelled the oral proceedings, continued the examination of the appeal in writing and orders the reimbursement of the appeal fee at 25%.

Order

For these reasons it is decided that:

The appeal is dismissed.

The appeal fee is reimbursed at 25%.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated