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**Datasheet for the decision
of 23 November 2022**

Case Number: T 1589/20 - 3.5.05

Application Number: 14804869.7

Publication Number: 3005068

IPC: G06F3/0488, G06Q30/06,
G06Q20/12, G06Q20/32

Language of the proceedings: EN

Title of invention:

TAP AND HOLD

Applicant:

eBay Inc.

Headword:

Selection of content with tap/hold/release gesture /EBAY

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - (yes)



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Case Number: T 1589/20 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 23 November 2022

Appellant: eBay Inc.
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Representative: Müller-Boré & Partner
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 17 March 2020
refusing European patent application No.
14804869.7 pursuant to Article 97(2) EPC.

Composition of the Board:

Chair A. Ritzka
Members: P. Cretaine
E. Mille

Summary of Facts and Submissions

- I. This appeal is against the examining division's decision posted on 17 March 2020, refusing European patent application No. 14804869.7. The application was refused on the grounds that a main request and the first and second auxiliary requests lacked inventive step (Article 56 EPC) in view of the disclosure of:
- D1: US 2011/282785
- II. Notice of appeal was received on 13 May 2020, and the appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 13 July 2020. The appellant requested that the decision be set aside and that a patent be granted on the basis of a main request or first and second auxiliary requests filed with the statement setting out the grounds of appeal. Oral proceedings were requested in the event that the main request was not allowed.
- III. A summons to oral proceedings was issued on 10 March 2022. In a communication pursuant to Article 15(1) RPBA, sent on 12 October 2022, the board gave its preliminary opinion, which was that the main request and the first and second auxiliary requests did not meet the requirements of Article 56 EPC in the light of the disclosure of D1 and the common general knowledge illustrated by:
- D5: US 2012/0254808
- IV. By letter dated 7 November 2022, the appellant provided further arguments with respect to inventive step.

V. Oral proceedings were held on 23 November 2022. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the set of claims of a main request or, alternatively, of the first or second auxiliary request, all requests filed with the statement setting out the grounds of appeal. The board's decision was announced at the end of the oral proceedings.

VI. Claim 1 of the main request reads as follows:

"A system comprising:

one or more memories storing user account information, where the user account information comprises payment method information and shipping address information; and

one or more hardware processors in communication with the one or more memories and operable to read instructions from the one or more memories to perform the steps of:

receiving an indication that a user has tapped and held an active portion of a display on a user device;

displaying content to the user when the active portion is being held by the user, the content comprising a plurality of sequential selections presented on a series of different screens;

receiving an indication that the user has released the hold on the active portion of the display;

determining whether the user maintained the hold on the active portion for a predetermined time; and

displaying content to the user on the display based, in part, on whether the user maintained the hold on the active portion for the predetermined time,

when the user has not maintained the hold on the active portion for the predetermined time, displaying a static screen of content to the user on the display according

to the selection displayed when the user released the hold on the active portion."

The main request comprises further independent claims directed to a corresponding computer-readable medium (claim 5) and a corresponding method (claim 7).

Due to the outcome of the appeal, there is no need to set out the claims of the auxiliary requests.

Reasons for the Decision

1. Technical features

The board agrees with the appellant that the following features of claim 1 contribute to the technical character of its subject-matter:

- "- receiving an indication that a user has tapped and held an active portion of a display on a user device;
- displaying content to the user when the active portion is being held by the user, the content comprising a plurality of sequential selections presented on a series of different screens;
- receiving an indication that the user has released the hold on the active portion of the display;
- determining whether the user maintained the hold on the active portion for a predetermined time; and
- displaying content to the user on the display based, in part, on whether the user maintained the hold on the active portion for the predetermined time,
- when the user has not maintained the hold on the active portion for the predetermined time, displaying a static screen of content to the user on the display

according to the selection displayed when the user released the hold on the active portion."

In substance, these features define a man-machine interaction whereby an input by the user on an active portion of a display of a device in the form of a specific tap-and-hold gesture provokes a response by the device that involves displaying content to the user. These features thus assist the user in performing the technical task of selecting an item of content on the display and, as per the case law of the boards of appeal related to graphical user interfaces (see 10th edition, July 2022, section I.D.9.2.10(b)), produce a technical effect.

2. Closest prior art

The decision (Reasons 3.2) held that the closest prior art was a notorious data processing system notoriously known before the priority date of the application. However, it was common ground at the oral proceedings that document D1 had more features in common with claim 1 than a generic data processing system does and thus represented the closest prior art.

In that respect, D1 discloses (see Figure 8 and paragraph [0066]) a method of gesture-based authentication for wireless payment by a mobile device. The method of D1 includes determining that an applied gesture above a touch-receptive area of a target device is associated with a user-defined payment gesture stored locally within the mobile device. If the applied gesture above the touch-receptive input area of a mobile device matches the user-defined payment gesture stored locally within the mobile device, the method includes the wireless transfer of protected payment

data resident on the mobile device to an external reader. A particular gesture used in D1 for selecting a particular payment method is shown at the bottom of Figure 8: a hold on a point of the display, i.e. a tap-and-hold gesture, at the same time as a swipe gesture on the display leads to the selection of a specific item of content, namely a specific payment method.

3. The differences between the subject-matter of claim 1 and the disclosure of D1 are as follows.
 - a) The device stores shipping address information in the user account information.
 - b) When the hold on an active portion of the display is maintained, the content displayed comprises a plurality of sequential selections presented on a series of different screens.
 - c) When the hold is released before a predetermined time, the content displayed at the time of release is a static screen depending on the selection displayed when the user released the hold.

Feature a) is a mere administrative feature which does not provide any technical effect.

The technical effects of features b) and c) are that different items of content are successively displayed for a predetermined period of time so that the user may decide, by releasing the hold, which content should be statically displayed. The user is thus relieved of the need to define and remember specific gestures to display and select each item of content, as is the case in D1.

The objective technical problem can thus be formulated as improving the mobile device of claim 1 so that content can be selected more quickly and easily.

The skilled person starting from D1 would not find any hint in the prior art to replace the content selection based on user-defined gestures in order to arrive at the content selection process of claim 1 based on a tap/hold/release gesture temporally combined with a successive display of items of content. In particular D5 discloses a device with a touch screen whereby a tap/hold gesture on an icon is used for initiating a hover mode of interaction with the icon and a release of the hold disables the hover mode. However, D5 does not disclose the successive display of different items of content to be selected by releasing the hold.

The appellant also plausibly argued that, for a mobile device with an inherently small screen size, selecting an item of content in the manner defined in claim 1 is much easier than if all items of content were displayed simultaneously for selection, each with a smaller size, as was commonly the case at the priority date of the application in hand.

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.

For the same reasons, corresponding independent claims 5 and 7 also meet the requirements of Article 56 EPC. Claims 2 to 4, 6 and 8 to 15 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 is set aside.
2. The case is remitted to the examining division with the order to grant a patent based on the following documents:

Claims: 1 to 15 of the main request filed with the statement setting out the grounds of appeal

Description: pages 1 to 17 as originally filed

Drawing sheets: 1/4 to 4/4 as originally filed

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated