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**Datasheet for the decision
of 2 December 2022**

Case Number: T 1742/20 - 3.5.05

Application Number: 15722895.8

Publication Number: 3103006

IPC: G06F3/0488

Language of the proceedings: EN

Title of invention:

DISPLAYING INTERACTIVE NOTIFICATIONS ON TOUCH SENSITIVE
DEVICES

Applicant:

Apple Inc.

Headword:

Notification of received message/APPLE

Relevant legal provisions:

RPBA 2020 Art. 12(6)

Keyword:

Late-filed requests - should have been submitted in first-
instance proceedings (yes)



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Case Number: T 1742/20 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 2 December 2022

Appellant: Apple Inc.
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Cupertino CA 95014 (US)

Representative: Wardle, Callum Tarn
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 16 March 2020
refusing European patent application No.
15722895.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: P. Cretaine
K. Kerber-Zubrzycka

Summary of Facts and Submissions

- I. This appeal is against the examining division's decision, posted on 16 March 2020, refusing European patent application No. 15 722 895.8. The application was refused for lack of inventive step (Article 56 EPC) of the main request and of the first to fourth auxiliary requests in view of the disclosure of:
- D4: EP 2 584 770.
- II. Notice of appeal was received on 19 May 2020, and the appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 23 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 a first auxiliary request, both of which had been 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 25 October 2022, the board set out its preliminary opinion, which was that the main request and the first auxiliary request should not be admitted into the appeal proceedings under the provisions of Article 12 RPBA. Further, the board expressed its view that, even if the main request and the first auxiliary request were admitted into the appeal proceedings, these requests would not appear to meet the requirements of Article 56 EPC, having regard to the disclosure of D4.

IV. Oral proceedings were held on 2 December 2022. The appellant requested that the decision under appeal be set aside and that a patent be granted based on the main request or the first auxiliary request filed with the statement setting out the grounds of appeal. The board's decision was announced at the end of the oral proceedings.

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

"A method for providing interactive notification elements, comprising:
at an electronic device (1101) with one or more processors and memory:
receiving a first message;
after receiving the first message:
without opening an application associated with the first message in a foreground of the electronic device, concurrently displaying;
in a first area (1110) of a user interface, a first notification element (1120) comprising information about the received first message and a first user interface element (1130) for displaying a reply to the first message, and
in a second area of the user interface, a portion of a home screen of the electronic device that includes a plurality of application icons (1105),-
receiving a selection of the first user interface element; and
responsive to receiving the selection of the first user interface element, displaying, in a third area of the user interface, a keyboard element (1150) for inputting text;
while displaying the first notification element (1120), the first user interface element (1130), a portion of

the home screen of the electronic device that includes a plurality of the application icons (1105), and the keyboard element (1150): receiving information corresponding to a user-generated reply to the first message;

responsive to receiving the information corresponding to the user-generated reply to the first message, displaying in the first user interface element a representation of the information corresponding to the user-generated reply to the first message; and while displaying the first notification element, the first user interface element, and, in the first user interface element, the representation of the information corresponding to the user-generated reply to the first message, receiving a selection of the first notification element; and responsive to receiving the selection of the first notification element, opening an application associated with the first message in the second area of the user interface."

Claim 1 of the first auxiliary request differs from claim 1 of the main request in that the wording

"receiving a selection of the first notification element; and responsive to receiving the selection of the first notification element, opening an application associated with the first message in the second area of the user interface"

at the end of the claim has been replaced by the wording

"if a send input is received, providing the user-generated reply for transmission; and

if a selection of the first notification element is received, opening an application associated with the first message in the foreground, wherein opening the application associated with the first message includes maintaining information for the user-generated reply that has already been received."

The main request and the first auxiliary request include further independent claims directed to a corresponding computer program medium (claim 14) and a corresponding device (claim 15).

Reasons for the Decision

1. Main request and first auxiliary request - admission

The claims of the main request and the first auxiliary request have been amended with respect to the claims of the main request and the first to fourth auxiliary requests on which the decision was based.

In view of the primary object of the appeal proceedings being to review the decision under appeal in a judicial manner, an appellant's appeal case must be directed to the requests on which the decision under appeal was based (Article 12(2) RPBA). Any part of an appellant's appeal case which does not meet this requirement is to be regarded as an amendment, unless the appellant demonstrates that this part was admissibly raised and maintained in the proceedings leading to the decision under appeal. Any such amendment may be admitted only at the discretion of the board.

In the present case, the contested decision is not based on the present main and first auxiliary request.

These requests were not raised in the examination proceedings. Therefore, they are amendments within the meaning of Article 12(2) and (4) RPBA.

In particular, the feature according to which the first notification element, the first user interface element and the portion of the home screen of the electronic device are concurrently displayed without opening an application associated with the first message in a foreground of the electronic device, which was introduced in claim 1 of both pending requests, is not present in any of the requests on which the decision is based. However, this newly introduced feature, which was presented by the appellant as being a main distinguishing feature over D4, plays a crucial role in the appellant's argumentation in respect of inventive step as set out in its statement setting out the grounds of appeal (see section 1.2)).

The appellant argued that the objections of the examining division had not been explained prior to the oral proceedings before the examining division and were only addressed during said oral proceedings. It was not realistic to submit amendments during the hearing. In that respect, the appellant indicated that the examining division expressed for the first time in the oral proceedings its view that the command icon for a full composition screen was a command icon for launching the messaging application, thereby implying that in D4 a notification of a message could be received without the messaging application being opened.

The board is not convinced by these arguments. The objection of a lack of inventive step based on D4 as the closest prior art was raised by the examining

division in the written and oral examination proceedings and formed the basis of the decision refusing the application. Moreover, the particular issue, related to the above-mentioned feature, of whether D4 discloses that the messaging application related to the message has already been opened when the notification of the message is received was addressed by the examining division in its communication dated 15 January 2020. In that respect, the examining division expressed its view in section 6.1 of that communication that the command icon 643 in Figure 6C, which is used for invoking a full message composition screen, represents a command for launching the messaging application associated with the message whose notification is displayed on the screen. Therefore, the examining division was of the opinion that the messaging application associated with the notification message was not opened when the notification message was received. This issue was discussed with the appellant in the oral proceedings (see section 5.1 of the minutes), whereby the examining division maintained its view on that issue after the discussion (see section 5.8) and the applicant did not present any further arguments (see section 5.9).

Thus, the board holds that the appellant should have submitted the main request and the first auxiliary request in the proceedings before the department of first instance.

For these reasons, neither the main request nor the first auxiliary request are admitted into the appeal proceedings under the provisions of Article 12(6) RPBA.

2. Conclusion

There are no admissible requests on file.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated