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Datasheet for the decision of 12 December 2022

Case Number: T 1756/20 - 3.5.05

Application Number: 17167821.2

Publication Number: 3239823

IPC: G06F3/041, G06F3/048, G06F1/16, G06F9/44

Language of the proceedings: EN

Title of invention:
DISPLAY CONTROL APPARATUS, METHOD AND PROGRAM

Applicant:
Sony Group Corporation

Headword:
Proximity touch/SONY

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - (yes)

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Case Number: T 1756/20 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 12 December 2022

Appellant: (Applicant)	Sony Group Corporation 1-7-1 Konan Minato-ku Tokyo 108-0075 (JP)
Representative:	MFG Patentanwälte Meyer-Wildhagen Meggle-Freund Gerhard PartG mbB Amalienstraße 62 80799 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 20 February 2020 refusing European patent application No. 17167821.2 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 20 February 2020, refusing European patent application No. 17167821.2. The application was refused for lack of inventive step (Article 56 EPC) of a main request and first to third auxiliary requests in view of the disclosure of:

D1: EP 2 104 019.

D5: Microsoft: "Windows XP, Student Edition Complete", 1 January 2004

was cited in the decision as an illustration of the common general knowledge.

II. Notice of appeal was received on 27 April 2020, and the appeal fee was paid on the same date. The statement setting out the grounds of appeal was received on 30 June 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, all requests filed with the statement setting out the grounds of appeal. Oral proceedings were requested as an auxiliary measure.

III. A summons to oral proceedings was issued on 10 March 2022. In a communication pursuant to Article 15(1) RPBA, sent on 16 November 2022, the board gave its preliminary opinion 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 as illustrated by D5.

IV. By letter dated 28 November 2022, the appellant provided further arguments in relation to inventive step.

V. Oral proceedings were held on 12 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 on the first and second auxiliary requests. The board's decision was announced at the end of the oral proceedings.

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

"A display control apparatus comprising:
a proximity detector (2) configured to detect proximity of an indicator to a display surface;
a touch detector (3) configured to detect touch of the indicator against the display surface; and
a control unit (4) configured to control display of a plurality of thumbnail images on the display surface when the proximity detector detects that the indicator is in proximity within a predetermined distance to the display surface for a predetermined period of time, to determine whether one of the plurality of thumbnail images is selected based on detection of the touch of the indicator against the display surface by the touch detector subsequent to the proximity of the indicator to the display surface, each thumbnail having a reduced size and shape of an original launch image and being an indicant being used for displaying the original launch image; and
when one of the plurality of thumbnail images has been selected, to cause displaying of content data corresponding to the selected thumbnail image as well

as terminating the display of the plurality of thumbnail images."

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. Main request

1.1 The claims of the main request are identical to the claims of the second auxiliary request on which the decision is based.

1.2 It was common ground in the oral proceedings before the board that D1 represented the closest prior art.

D1 discloses a mobile terminal with a touch screen, comprising a proximity detector (see paragraph [0094]) and a touch detector (see paragraph [0096]). As described in paragraph [0108] and illustrated in Figure 10, when the proximity detector detects a proximity touch to an item (e.g. "Sounds") on the screen, a plurality of sub-items corresponding to the item are displayed (sub-items 1 to 6: "Hotel California", ...). When the touch detector detects a touch on one of the plurality of sub-items, a function associated with the touched sub-item is performed (see paragraphs [0119] to [0126] and Figure 5).

1.3 The differences between claim 1 and D1 are in substance that:

a) in response to detecting the proximity of an indicator, the device displays a plurality of thumbnail

images, as opposed to a plurality of sub-items in D1, each thumbnail having a reduced size and shape of an original launch image and being an indicant used for displaying the original launch image,

b) the display of the plurality of thumbnail images is terminated when one of the plurality of thumbnail images is selected with a touch,

and that

c) the plurality of thumbnail images is displayed only when the proximity detector detects that the indicator is in proximity to the display surface within a predetermined distance to the display surface for a predetermined period of time, instead of displaying the plurality of sub-items in D1 as soon as the indicator is within a predetermined distance.

1.4 The technical effect of feature c) is that a proximity touch is detected as such only if the indicator stays in proximity within the predetermined distance for a minimum duration, otherwise there is no proximity touch, and, as a consequence, no display of the plurality of thumbnails.

The appellant plausibly argued that a first advantage provided by feature c) is that the inadvertent actuation of the display due to unintended approach of the indicator (stylus or finger) at the required distance to the display is avoided. As a result, there is power saving since unwanted program steps, namely the display of the plurality of thumbnails, are not carried out. A further advantage is that a user deciding to input a real touch on a portion of the display surface is not bothered by the display of the

plurality of thumbnails when its indicator (stylus or finger) approaches the display surface, since the display of the thumbnail images is not started as long as the indicator is in proximity but the predetermined time is not yet reached.

The objective technical problem can thus be formulated as being how to improve the touch input of the mobile terminal of D1.

The skilled person would not find in D1 any incentive to modify the proximity touch detection process so as to achieve feature c).

In that respect, the only passages of D1 describing that time is taken into account in the proximity touch detection process are paragraphs [0007], [0101], [0109], [0118] and [0123]. It is described in these passages that after a proximity touch has been detected and when the indicator (stylus or finger) is positioned again outside a predetermined distance from the display for a predetermined time, the previously activated proximity touch may be released. Then the piece of information associated with the displayed specific items is removed from display. However, these passages do not relate to the detection of a proximity touch when the indicator approaches the display surface. Rather, they relate to the removal of the indicator from the near area of the display surface in order to modify the content of the display caused by a previously detected proximity touch.

Moreover, a single passage in D1, namely paragraph [0101], teaches that the sensing unit can sense the speed at which the indicator approaches the display surface instead of the proximity distance. D1 is

however entirely silent about how the measured speed is used to detect a proximity touch, so the skilled person could not obtain any teaching from this passage about a proximity touch detection based on a predetermined distance and a predetermined time as defined in feature c).

1.5 For these reasons, the board holds that the skilled person, starting from the display control apparatus of D1, would not arrive at an apparatus comprising a control unit providing the functionality of feature c). Therefore the subject-matter of claim 1 involves an inventive step, having regard to the disclosure of D1 (Article 56 EPC).

Claims 2 to 13 are dependent claims and, as such, they 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 in the following version:

Description:
pages 1, 4-252 as originally filed
pages 2 and 3, as filed on 3 July 2019

Claims:
1-13 of the main request submitted with the statement setting out the grounds of appeal

Drawings:
drawing sheets 1/46 to 46/46 as originally filed.

The Registrar: The Chair:

K. Götz-Wein A. Ritzka

Decision electronically authenticated