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**Datasheet for the decision
of 15 February 2023**

Case Number: T 2022/20 - 3.5.05

Application Number: 08845230.5

Publication Number: 2214095

IPC: G06F3/048, G06F3/033

Language of the proceedings: EN

Title of invention:

METHOD AND DEVICE FOR INPUTTING INFORMATION BY DESCRIPTION OF
THE ALLOWABLE CLOSED TRAJECTORIES

Applicant:

Klaviatura 21, SIA

Headword:

INPUTTING INFORMATION BY DESCRIPTION OF THE ALLOWABLE CLOSED
TRAJECTORIES / Klaviatura

Relevant legal provisions:

EPC Art. 123(2)

Keyword:

Amendments - broadening of claim (yes) - allowable (no)



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Case Number: T 2022/20 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 15 February 2023

Appellant: Klaviatura 21, SIA
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 14 September
2020 refusing European patent application No.
08845230.5 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: N. H. Uhlmann
F. Blumer

Summary of Facts and Submissions

- I. The appellant appealed against the examining division's decision refusing the European patent application in suit.
- II. The application was refused under Article 56 EPC (main request, auxiliary requests 1 and 2), Article 123(2) EPC (main request) and Article 84 EPC (main request and auxiliary request 1).
- III. With the statement setting out the grounds of appeal the appellant submitted a main request, auxiliary requests 1 and 2 and an annex.
- IV. The board summoned the appellant to oral proceedings.
In a communication under Article 15(1) RPBA, the board set out its provisional opinion on the case.
- V. By letter dated 13 January 2023 and at the oral proceedings, the appellant submitted further arguments.
- VI. Final requests
The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the main request or on the basis of one of auxiliary requests 1 and 2, all requests as filed with the statement setting out the grounds of appeal.
- VII. Claim 1 of the main request and claim 1 of auxiliary request 2 are worded as follows:
"A method for inputting information by description of allowable trajectories "AT", comprising:

- inputting information, which is a finite sequence of symbols and/or symbols of commands, by describing AT on

a device for inputting information "DII", the DII comprising a controller "MU" with numbered sensors by moving finger, finger with a stylus or a pen, hand, hand with a stylus or a pen, or foot;

- determining a number of the described AT according to a sequence of the sensors actuated during the description of the AT;

- determining inputted symbol and/or symbol of command by the number of the described AT;

characterized in that:

- the AT is described from at least one finite numbered set of the allowable closed trajectories "ACT", for this purpose using MU of the DII; wherein the numbered set of the ACTs is characterized by: (a) presence of common initial point "IP" from which description of ACTs starts; (b) closeness, wherein description of all trajectories ends in the IP; (c) presence of a set of numbered characteristic points "CP", located at the intersections between rays that start at the IP and at least one circle having centre in the IP, the number of rays being 3, 4, 6, 8, or 12; (d) existence of a set of elements of trajectories "ET", which are line segments, connecting the IP with the CPs, the arcs of circles or line segments, connecting CP between themselves;

- description of the ACT is performed starting from the IP to one of neighbouring CP, then from the CP to one of neighbouring CPs or IP where the description of the ACT ends;

- actuation of the sensors associated with IP and CPs upon passage of a finger, finger with a stylus or a pen, hand, hand with a stylus or pen, or foot through the IP and the respective CPs;

- a number of the described ACT is determined by software according to a table of the numbered trajectories "TNT", establishing an univocal correspondence between a number of the ACT and the sequence of the numbers of sensors actuated during description of the ACT."

VIII. Claim 1 of auxiliary request 1 differs from claim 1 of the main request in that the following further clause has been inserted at the end:

"- the ACTs are being described with delays in CPs or with different pressure force at the CPs, wherein the sensors are actuated n or m times respectively:

$$n = \min (k, 1 + E(T/\Delta T)),$$

$$m = \min (k, 1 + E(G/\Delta G)),$$

where: k is the maximum accountable number of actuations of the sensors at the CP, which may be different for different CPs,

E(x) is the integer part of x,

T is time of delay in this CP,

ΔT is the period between actuations of sensors,

G is the pressure force on sensor in the CP,

ΔG is the increment of pressure on sensor."

Reasons for the Decision

1. The present application pertains to a method and to a device for inputting information. A user is "describing" an "allowable trajectory" on an input device. The device comprises a number of sensors which are actuated by the user. A symbol is determined according to the sequence of the actuated sensors. The "allowable trajectories" have a common initial point.

Main request

2. Amendments
- 2.1 According to the appellant's letter dated 13 May 2020, the description, claims and drawings submitted in one PDF document (32 pages) as an annex to this letter are a "certified translation" from Russian into the language of the proceedings. This translation is used by the board as a basis for verifying the compliance with Article 123(2) EPC.
- 2.2 The claims submitted with the same letter, and the claims of the current main request, have been heavily amended compared with the claims as filed and translated. The appellant argued that the claims have been amended by "deletion of optional features or moving them into the dependant claims"; however, merely providing indications of the origin of separate features in the claims does not demonstrate that there is a basis for the currently claimed **combination of features**. In particular, it is not apparent how the skilled person would derive directly and unambiguously, using common general knowledge, and seen objectively and relative to the date of filing, from the whole of the application documents as filed and translated, the subject-matter specifically claimed (see the Case Law of the Boards of Appeal, 10th edition July 2022, chapter II.E.1.3.1).

The board notes that claim 1 as originally filed includes substantially more features than the present claim 1. Many features which are not optional have been removed, *inter alia*, the feature whereby the possibility of description of only such trajectories is ensured.

2.3 The appellant declared that such features "are non-essential and are evident in view of the description for the skilled in the art".

As discussed during the oral proceedings, it is noted that the feature

"which ensures possibility of description of only such trajectories"

is referred to on page 3, number 1 of the description. "Such trajectories" in this wording refers to the allowable closed trajectories. According to this passage of the description, the allowable closed trajectories are different from the allowable trajectories utilised in the prior art. Accordingly, this feature relates to a difference from the prior art and is therefore essential to the definition of the invention.

2.4 The appellant also argued that the feature referred to above was implied by the claimed features pertaining to sensors.

The board disagrees. A user is evidently able to actuate the sensors in any sequence and the claimed subject-matter does not include any features which ensure that the sequence corresponds to allowable closed trajectories only.

2.5 The appellant submitted that the features removed from the claims were still mentioned in the description.

The board agrees that the features removed from claim 1 are still disclosed in the description; however, this does not mean that there is a basis for the currently claimed combination of features.

2.6 For these reasons the board holds that claim 1 does not meet the requirements of Article 123(2) EPC.

Auxiliary requests 1 and 2

3. Amendments

3.1 The feature referred to in point 2.3 above is not found in claim 1 of both auxiliary requests. Therefore, the board's arguments set out in points 2.2 to 2.5 apply similarly to claim 1 of auxiliary requests 1 and 2.

3.2 For these reasons the board holds that claim 1 of these requests does not meet the requirements of Article 123(2) EPC.

Conclusion

Since there is no allowable request on file, the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated