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**Datasheet for the decision  
of 10 October 2023**

**Case Number:** T 0191/21 - 3.5.07

**Application Number:** 14766298.5

**Publication Number:** 3039580

**IPC:** G06F17/30

**Language of the proceedings:** EN

**Title of invention:**

Modifying search results based on dismissal action associated with one or more of the search results

**Applicant:**

Google LLC

**Headword:**

Dismissal action/GOOGLE LLC

**Relevant legal provisions:**

EPC Art. 56

**Keyword:**

Inventive step - main request (no) - first and third auxiliary requests (no)  
Amendment to case - fourth auxiliary request - reasons for submitting amendment in appeal proceedings (no) - amendment admitted (no)

**Decisions cited:**

T 0641/00



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Case Number: T 0191/21 - 3.5.07

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.07**  
**of 10 October 2023**

**Appellant:** Google LLC  
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**Representative:** Shipp, Nicholas  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 5 October 2020  
refusing European patent application  
No. 14766298.5 pursuant to Article 97(2) EPC**

**Composition of the Board:**

**Chair** E. Mille  
**Members:** P. San-Bento Furtado  
C. Barel-Faucheux

## Summary of Facts and Submissions

- I. The appeal lies from the decision of the examining division to refuse European patent application No. 14 766 298.5.  
The following documents were cited in the decision under appeal:  
D1: US 2004/254932 A1, published on 16 December 2004;  
D2: US 2009/0216749 A1, published on 27 August 2009.
- II. The examining division decided that the subject-matter of the independent claims of the main request and of the first and third auxiliary requests was not inventive over the prior art disclosed in document D1. The second auxiliary request was not admitted into the proceedings. As *obiter dicta* the examining division expressed the opinion that none of the dependent claims of the main request was inventive either.
- III. In the statement of grounds of appeal, 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 one of the first or third auxiliary requests considered in the appealed decision or a fourth auxiliary request filed with the statement of grounds of appeal.
- IV. In a communication accompanying a summons to oral proceedings, the Board introduced the following document into the proceedings:  
D4: US 8 451 246 B1, published on 28 May 2013.

The board expressed the preliminary opinion that the subject-matter of claim 1 of the main request was not inventive over document D1 in combination with

document D2 and that the subject-matter of claim 1 of the first and third auxiliary requests was not inventive over the combination of documents D1 and D2, when taking into account the common general knowledge illustrated by document D4. The board was of the view that the fourth auxiliary request was not admissible and did not *prima facie* overcome the objection of lack of inventive step raised against the higher ranking requests.

- V. In a letter of reply, the appellant provided arguments in support of inventive step of the subject-matter of the third auxiliary request.
- VI. Oral proceedings were held as scheduled. At the end of the oral proceedings the Chair announced the board's decision.
- VII. The appellant's final requests were that the contested decision be set aside and that a patent be granted on the basis of the main request or one of the first or third auxiliary requests, all three requests considered in the appealed decision, or the fourth auxiliary request filed with the statement of grounds of appeal.
- VIII. Claim 1 of the main request reads as follows:  
"A computer implemented method, comprising:  
    providing initial search results (108) that are responsive to a search query (104), the initial search results including a first set of search results that are each associated with a first entity and a second set of search results that are each associated with a second entity;  
    wherein the first entity is distinct from the second entity; and  
    wherein the first set of search results include one or more search results that are distinct from one or

more of the search results of the second set of search results;

determining a dismissal action associated with a first search result (1A; 2A) of the first set of search results, the dismissal action indicative of lack of user interest in the first search result; and

modifying, based on the dismissal action, the initial search results to create modified search results, wherein modifying the initial search results includes omitting the first search result and omitting one or more other search results of the first set of search results (1B, 1F; 2B, 2E) based on the one or more other search results being in the same set as the first search result with which the dismissal action was associated."

IX. claim 1 of the first auxiliary request differs from claim 1 of the main request in that, apart from a minor editorial change, the two instances of the phrase "or demoting" have been deleted and the following text has been added at the end of the claim:

"providing the modified search results in response to the dismissal action associated with the first search result (1A; 2A)."

X. Claim 1 of the third auxiliary request differs from claim 1 of the first auxiliary request in that the following text has been added after the text "that are each associated with a second entity":

", wherein the initial search results are provided to a client device to present the initial search results to a user";

the following text has been added after the text "indicative of lack of user interest in the search result":

", wherein the dismissal action is a swiping away action of the first search result by a user"; and the following text has been added at the end of the claim:

" , wherein the modified search results are provided to the user in place of the initial search results."

- XI. Claim 1 of the fourth auxiliary request differs from claim 1 of the third auxiliary request in that the following text has been added after the text "a swiping away action of the first search result by a user":
- " , wherein the swiping away action is one of:
- a swiping away gesture over the first search result (1A; 2A) by a finger of the user on a presence-sensitive input mechanism, or
  - an eye-movement based swiping away directed toward the first search result (1A; 2A)".

## **Reasons for the Decision**

### *Application*

1. The application concerns the efficient dismissal or demotion of search results from a list of search results e.g. from an internet search.
- 1.1 According to the invention as described in the application, a "dismissal action" is supported for letting the user express their lack of interest in a search result and other search results that are associated with a same entity (see the description as originally filed, paragraphs [0003] and [0004]).

- 1.2 Initially provided search results are included in different sets of search results that are associated with different entities. For example, an initial display of search results for a search query of "penguins" may include a first set of search results that are associated with the bird penguin, and a second set of search results that are associated with the publishing group Penguin Group (paragraph [0003]).
- 1.3 In response to a user's dismissal action associated with one or more of the search results of the first set, the search results may be modified to demote and/or omit also one or more other search results of the first set (paragraphs [0003] and [0004]).

*Main request*

2. *Inventive step - claim 1*
- 2.1 Document D1 discloses a method for displaying search results ordered according to the countries associated to the search results and the preferred countries of the user (abstract and paragraphs [0039], [0041] and [0043]). When a user performs a search, initial search results of the search query are determined and ordered by the search engine based on the degree to which the results match the search query. The countries associated with the results are then determined (paragraphs [0057] to [0059] and Figure 4). Therefore, the initial results of the search query include distinct sets of search results associated with different countries.
- 2.2 In the system of D1, a "toggle" of the user interface may be used to enable or disable the ordering of the search results according to the degree of matching to the user's preferred country or countries



(paragraph [0060]). The routine for (re-)ordering the search results according to the preferred countries is described in paragraphs [0073] to [0082] with reference to Figures 8 to 10. The initial search results are re-ordered by shifting or demoting results within the ordered search results or by recalculating the numerical scores of the initial search results. This can be considered a form of modification of the initial search results, but not by omitting individual results.

2.3 Therefore, the board agrees with the examining division's conclusion in the decision under appeal that the subject-matter of claim 1 differs from the method of D1 in that

- (a) a dismissal action is determined, the dismissal action being associated with a first search result of the first set of search results and being indicative of lack of user interest in the first search result;
- (b) modifying the initial search results includes omitting the first search result and omitting one or more other search results of the first set of search results based on the one or more other search results being in the same set as the first search result with which the dismissal action was associated.

2.4 The appellant did not contest these distinguishing features. It argued that the difference to the prior art achieved a technical effect over the method of document D1. The claimed invention provided a more efficient user interface for omitting multiple search results with a single interaction between the human and the computer. In the user interface of claim 1, dismissing multiple search results with a single human-computer interaction happened irrespective of

subjective aspects. The specific search result to be dismissed could be subjective, but whoever was using the user interface and whatever their subjective choice was regarding which result to dismiss, the user interface worked in exactly the same way to perform the dismissal of the selected search result and one or more other search results in the same set of search results as the selected search result. The objective technical problem solved by the invention was how to provide a more efficient user interface for search results.

- 2.5 The board agrees with the appellant insofar as the distinguishing features refer to a user interaction of a technical nature and provide a more efficient way of omitting search results. However, the distinguishing features also include non-technical aspects. They are based on the principle that if a user has lack of interest in a first search result of a set of search results related to an entity, then the user has no interest either on one or more other search results of the same set as the first search result. This principle is based on non-technical considerations regarding the user's informational interests and the non-technical content of the search results in a set of search results related to the same entity. These non-technical aspects do not contribute to an inventive step and can legitimately appear in the formulation of the technical problem given to the skilled person as part of the framework of the technical problem that is to be solved (T 641/00, Reasons 7). The appellant's argument that the technical effect of the distinguishing features is a reduction in processing, and thus a more efficient use of the computing power, is not convincing. The distinguishing features are not purposively directed to

reducing computer processing but rather to improve user interaction.

2.6 The board is therefore of the opinion that the distinguishing features solve the problem of finding an efficient manner of showing the search results of interest for the user taking into account that the user's lack of interest in a first search result of a first set of search results corresponds to lack of interest in "one or more other search results of the first set of search results based on the one or more other search results being in the same set as the first search result".

2.7 At the oral proceedings, the appellant further argued that the distinguishing features solved the technical problem of reducing processing. The system of document D1 merely reordered the search results based on metadata, the geographical origin of the search result, which was invisible to the user. The toggle of D1 applied to all search results in one go (the appellant cited paragraph [0060] of D1). This was incompatible with the idea of paragraphs [0031] and [0032] of document D2, which relied on the content being visible to the user. In the system of document D2, the user interacted with individual search results. The skilled person would not look at document D2 for a solution. Even if the skilled person looked at document D2, they would only add deletion of a single item to the system of D1.

2.8 The board does not find these arguments convincing, which are based on the assumption that there are no non-technical constraints behind the distinguishing features. From the prior art, for example as disclosed in paragraph [0032] of document D2, it was known to provide the user with the ability to dismiss a search

result of no interest for the user in order to omit it from the search results of a search query. The skilled person would thus consider providing such an ability in the method of D1. The board does not see any incompatibility between D1 and D2, independently of whether the grouping in document D1 is based on invisible metadata or not.

In view of the non-technical principle given in the technical problem according to which lack of interest in one object corresponds to lack of interest in one or more other objects of the same set, the skilled person would consider omitting not only the dismissed first search result but also "one or more other search results of the first set of search results based on the one or more other search results being in the same set as the first search result". The skilled person would immediately recognise that it would be efficient to omit at the same time more than one search result of no interest for the user.

- 2.9 Therefore, the subject-matter of claim 1 is not inventive and the main request does not meet the requirements of Article 56 EPC.

*First auxiliary request*

3. Compared to claim 1 of the main request, claim 1 of the first auxiliary request further specifies the following step:
- (c) providing the modified search results in response to the dismissal action associated with the first search result.

4. *Inventive step - claim 1*

4.1 Feature (c) has already been considered in the inventive-step assessment for the main request and is known from the prior art (e.g. document D2, paragraph [0032]).

4.2 Therefore, the subject-matter of claim 1 of the first auxiliary request is not inventive either (Article 56 EPC).

*Third auxiliary request*

5. Compared to claim 1 of the first auxiliary request, claim 1 of the third auxiliary request further specifies the following features:

(d) the initial search results are provided to a client device to present the initial search results to a user;

(e) the modified search results are provided to the user in place of the initial search results;

(f) the dismissal action is a swiping away action of the first search result by a user.

5.1 According to the description, "a swiping away dismissal action may include, for example, a mouse click on a search result followed by dragging away of the search result, a swiping away gesture by a user's finger on a presence-sensitive input mechanism, an eye-movement based swiping away, and/or any other appropriate swiping away mechanism" (paragraph [0044]).

6. *Inventive step - claim 1*

6.1 Feature (d) is disclosed in document D1, which describes search interfaces in a web environment with a client/server architecture, for example search

interfaces of a web browser running on a client (see e.g. paragraphs [0004] and [0037] of document D1). Feature (e) is disclosed in document D1 with regard to the toggle button. Feature (f) is not disclosed in document D1.

- 6.2 At the oral proceedings the appellant argued that the distinguishing features contributed to the technical effect of a more efficient processing. The computer would have to do more work if the user had to delete each item individually. Deleting several items at the same time was technical.

The board does not find this argument convincing. The purpose of the distinguishing features, including feature (f), is to provide a more efficient user interaction mechanism for the user to omit elements from the list in accordance with the non-technical requirements mentioned above.

- 6.3 Therefore, the technical problem solved by the distinguishing features is essentially the same as that given under point 2.6 above.

The skilled person facing this technical problem would consider the teaching of document D4. This prior-art document confirms that it was well known to use swipe gestures for deleting graphical objects (column 1, lines 11 to 24). In addition, document D4 discloses concrete examples of omitting items from a list using a "swiping away" gesture (see e.g. column 6, line 57, to column 7, line 59 and Figures 2C to 2F).

It would be obvious for the skilled person facing the problem formulated above to use a swiping away mechanism in the system of D1 in order to give the user the ability to omit a search result from the search

results and, if the non-technical user requirements so specified, omit at the same time one or more other search results of the same set.

- 6.4 The appellant contested the examining division's opinion that "swiping away" was a mere alternative to the "toggle" feature disclosed in document D1. The two features could not be seen as alternatives because the toggle was not a user interface gesture but a user interface element, which required part of the screen real estate. Replacement of one with the other would require a complete overhaul of both the visual design and the operation of the user interface. Furthermore, the examining division had considered the newly added feature in isolation rather than within the context of the claim as a whole. The toggle of document D1 was a user interface element to turn on and off the reordering of search results based on geographical information derived from metadata.

The board agrees with the appellant that feature (f) cannot be seen as a mere alternative to the toggle feature of document D1. The toggle is not used to dismiss and consequently omit search results, either individually or in group. However, in its assessment of inventive step the board does not rely on the interchange of the toggle by the swiping away gesture.

- 6.5 The appellant also argued that there was no suggestion in document D1 that a user could directly interact with a search result. In fact, given the act of toggling in D1 related to reordering of search results based on metadata, which was something the user would not be able to see, it would make no sense for the user to interact with the search results because the user would

not know the relationship between the search results and their geography from the user interface.

In the board's opinion, however, there is no reason why a user interaction function for omitting elements of the list, including a swiping away gesture, cannot or would not be added to the user interface of document D1, even in the presence of the toggle button. The swiping away gesture works independently of whether the list is ordered or not, and independently of whether the metadata is visible to the user or not. The board notes that claim 1 does not exclude the displayed list of initial search results being ordered and associating search results to sets based on invisible metadata.

- 6.6 In view of the above, the subject-matter of claim 1 of the third auxiliary request is not inventive either (Article 56 EPC).

*Fourth auxiliary request*

7. Claim 1 of the fourth auxiliary request differs from claim 1 of the third auxiliary request in that it further specifies that the swiping away action is one of:
- (g) a swiping away gesture over the first search result by a finger of the user on a presence-sensitive input mechanism, or
  - (h) an eye-movement based swiping away directed toward the first search result.

8. *Admittance*

- 8.1 The fourth auxiliary request is an amendment within the meaning of Article 12(4) RPBA 2020 which may be admitted only at the discretion of the board.



- 8.2 With its grounds of appeal, the appellant did not provide any arguments why the fourth auxiliary request should be admitted into the proceedings and, contrary to the requirements of Article 12(4) RPBA 2020, did not provide any reasons for submitting the fourth auxiliary request in the appeal proceedings and not before.
- 8.3 Furthermore, the fourth auxiliary request does not *prima facie* overcome the objection of lack of inventive step of the decision under appeal. Presence-sensitive input mechanisms were well known at the date of priority of the current application and document D4 discloses the use of swiping away gestures in touch screens for omitting items of a list (see e.g. column 6, line 57, to column 7, line 59 and Figures 2C to 2F).
- 8.4 At the oral proceedings the appellant relied on its written submissions regarding admittance of this request, and had no further comments.
- 8.5 Taking the above into account, the board does not admit the fourth auxiliary request into the proceedings (Article 12(4) RPBA 2020).

### *Conclusion*

9. Since the main request and the first and third auxiliary requests are not allowable, and the fourth auxiliary request is not admitted into the proceedings, the appeal is to be dismissed.

**Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chair:



S. Lichtenvort

E. Mille

Decision electronically authenticated