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**Datasheet for the decision
of 14 December 2023**

Case Number: T 0493/21 - 3.5.03

Application Number: 16895248.9

Publication Number: 3435639

IPC: H04M1/2745, H04L29/12

Language of the proceedings: EN

Title of invention:

Mobile terminal and contact adding and sharing method thereof

Applicant:

Gree Electric Appliances, Inc. of Zhuhai

Headword:

Contact adding and sharing/GREE ELECTRIC

Relevant legal provisions:

RPBA 2020 Art. 12(8), 13(2)

Keyword:

Admittance of claim amendments after the summons - (no): no exceptional circumstances



Beschwerdekammern

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Case Number: T 0493/21 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 14 December 2023

Appellant: Gree Electric Appliances, Inc. of Zhuhai
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 1 December 2020
refusing European patent application
No. 16895248.9 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair K. Bengi-Akyürek
Members: N. H. Uhlmann
C. Heath

Summary of Facts and Submissions

- I. The applicant appealed against the examining division's decision to refuse the European patent application in suit. The examining division found that a main request did not meet the requirements of Articles 56 and 84 EPC and that an auxiliary request did not meet the requirements of Article 56 EPC.
- II. With the statement setting out the grounds of appeal, the appellant submitted a main request and auxiliary requests 1 to 3.
- III. The board summoned the appellant to oral proceedings. In a communication pursuant to Article 15(1) RPBA 2020, it gave its negative preliminary opinion.
- IV. With letter dated 11 October 2023, the appellant submitted an amended claim request together with counter-arguments.
- V. On 12 October 2023, it withdrew its request for oral proceedings.
- VI. The oral proceedings were thus cancelled (cf. Article 12(8) RPBA 2020).
- VII. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the **sole request** on file.

VIII. Claim 1 of the **sole request** reads as follows:

"A method for adding a contact of a mobile terminal, comprising:

sending, by a first mobile terminal, a location of the first mobile terminal to a service system, wherein the service system is used for detecting a mobile terminal within a preset distance range around the location of the first mobile terminal, providing the mobile terminal for the first mobile terminal, and the mobile terminal detected by the service system is the mobile terminal that is visible to the service system;

determining, by the first mobile terminal, a second mobile terminal according to the mobile terminal within the preset distance range;

receiving, by the first mobile terminal, first target contact information from the second mobile terminal, wherein the first target contact information is information of a contact needing to be added to the first mobile terminal, and the first target contact information is pre-stored in the second mobile terminal; and

adding, by the first mobile terminal, the first target contact information to an address book;

wherein after adding, by the first mobile terminal, the first target contact information to the address book, the method further comprises:

querying, by the first mobile terminal, whether updated first target contact information exists, wherein the updated first target contact information is contact information obtained after updating the first target contact information by the second mobile terminal; and

updating the first target contact information in the address book according to the updated first target contact information when a query result of the first mobile terminal is that the updated first target contact information exists."

Reasons for the Decision

1. The present application concerns a method for adding a contact which is stored in a second mobile terminal to a first mobile terminal. The first mobile terminal searches for the second mobile terminal within a preset distance range by sending a request to a third-party service system.
2. **Sole request - admittance**
 - 2.1 The sole request on file was filed in response to the board's communication under Article 15(1) RPBA 2020 (cf. point IV above) and replaced all previous claim requests (cf. the unambiguous statement on page 1 of the amended claims "The following Listing of Claims replaces all prior versions in the application").
 - 2.2 The request on file was filed on 11 October 2023, i.e. after the notification of a summons to oral proceedings and after the board issued a communication under

Article 15(1) RPBA 2020. Hence, the provision of Article 13(2) RPBA 2020 are applicable.

2.3 According to this provision, any amendment to a party's appeal case made after the notification of a summons to oral proceedings shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party.

2.4 The current claim request appears to be based on auxiliary request 3 submitted with the statement of the grounds of appeal. The independent claims have been modified by adding features from a dependent claim. A claim request including such independent claims was not decided upon by the examining division and was not presented with the statement of grounds of appeal. Thus, the claim request submitted on 11 October 2023 amounts to an "amendment" of the appellant's appeal case within the meaning of Article 12(4), first sentence, RPBA 2020.

2.5 The appellant did not submit any reasons for filing the claim request belatedly in the appeal proceedings. The board is likewise not aware of any "exceptional circumstances" within the meaning of Article 13(2) RPBA 2020. In this regard, it is noted that in the communication under Article 15(1) RPBA 2020 the board essentially confirmed the findings in the decision under appeal.

2.6 Furthermore, the board indicated in this communication that it was minded not to admit the then auxiliary request 3 into the appeal proceedings under Article 12(4) RPBA 2020 and raised an objection under Article 123(2) EPC (see point 10 of the communication).

The present claim 1 does not *prima facie* overcome the latter objection (cf. Article 13(1) RPBA 2020, last paragraph) and the appellant did not submit any arguments in this regard.

- 2.7 The board is therefore faced with a situation where a new claim request has been filed to replace all previous claim requests on file, where no reasons have been submitted why this request was filed at such a late stage and where this sole and late-filed request does not *prima facie* overcome the objections the board had raised in its communication in regard of the previous requests on file. The Board therefore sees neither procedural nor substantive reasons why this new claim request should be admitted into the proceedings and therefore exercises its discretion not to admit the sole claim request into the appeal proceedings.
3. As there is no admissible request on file, it follows that the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



B. Brückner

K. Bengi-Akyürek

Decision electronically authenticated