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**Datasheet for the decision
of 26 June 2023**

Case Number: T 0599/21 - 3.5.05

Application Number: 13896197.4

Publication Number: 3065038

IPC: G06F3/048

Language of the proceedings: EN

Title of invention:

METHOD FOR PRESENTING TERMINAL DEVICE AND TERMINAL DEVICE

Applicant:

Huawei Technologies Co., Ltd.

Headword:

Terminal allowing restricted user input when locked / Huawei

Relevant legal provisions:

EPC Art. 56

RPBA 2020 Art. 13(2)

Keyword:

Inventive step - (no)

Amendment after summons - exceptional circumstances (no) -

cogent reasons (no) - taken into account (no)

Catchword:

Using a passage of the description to interpret a term in the claims does not constitute an "exceptional circumstance" which could justify amendments to the appeal case in the present case (see reasons point 5).



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Case Number: T 0599/21 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 26 June 2023

Appellant:
(Applicant)

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Decision under appeal:

**Decision of the Examining Division of the
European Patent Office posted on 13 January 2021
refusing European patent application No.
13896197.4 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: P. Tabery
E. Mille

Summary of Facts and Submissions

- I. The appeal is directed against the examining division's decision to refuse the European patent application.
- II. The examining division decided that the application did not involve an inventive step.
- III. The documents referred to by the examining division included:
- D2** US 2011/256848 A1
 - D4** US 2012/331548 A1
- IV. The following document has been introduced into the proceedings by the board:
- DA** Wikipedia: "Lock screen", revision of 31 October 2013
- V. In its statement of grounds of appeal, the appellant requested that a patent be granted on the basis of the claims in accordance with either the main request or one of the first to third auxiliary requests underlying the decision under appeal. If none of the requests was found to be allowable, oral proceedings were requested. Furthermore, remittal to the examining division and reimbursement of the appeal fee were requested.
- VI. The board issued a summons to oral proceedings. It also set out its preliminary opinion on the case (Article 15(1) RPBA 2020).
- The board concurred with the findings of the examining division that none of the requests met the requirements of Article 56 EPC.

Furthermore, it informed the appellant that it did not intend to grant the requests for remittal and reimbursement.

VII. In a reply dated 14 April 2023, the appellant submitted auxiliary requests 2.1, 2.2, 3.1 and 3.2 as well as further arguments.

VIII. Oral proceedings were held on 26 June 2023. The appellant requested that the decision under appeal be set aside and that the case be remitted to the examining division for further prosecution, that a patent be granted on the basis of the set of claims of a main request or, alternatively, any of the first, second, 2.1, 2.2, third, 3.1 and 3.2 auxiliary requests, the main, first, second and third auxiliary requests being those on which the impugned decision was based and auxiliary requests 2.1, 2.2, 3.1 and 3.3 being filed with the appellant's letter dated 14 April 2023. The appellant also requested the reimbursement of the appeal fee.

IX. **Claim 1** of the **main request** reads as follows:

"A method for presentation by a terminal device, wherein the method comprises:

when the terminal device is in a locked state, presenting (S101) content of a first interface; acquiring user input (S102);

if the user input meets a preset first condition, switching (S103) the terminal device to an unlocked state; and

presenting (S104) content of the first interface after the terminal device is switched to the unlocked state;

wherein the user input to which the terminal device can respond in the unlocked state is more than the user

input to which the terminal device can respond in the locked state, and

the content that is of the first interface and presented when the terminal device is in the unlocked state is the same as the content that is of the first interface and presented when the terminal device is in the locked state;

-wherein the presenting (S104) content of the first interface after the terminal device is switched to the unlocked state specifically comprises:

in response to that the terminal device is switched to the unlocked state, presenting content of a second interface; and

after presenting the content of the second interface, presenting the content of the first interface, wherein the content of the first interface is different from the content of the second interface."

Independent claim 4 is directed to a corresponding terminal device.

X. **Claim 1** of the **first auxiliary request** comprises, in addition to the re-ordered features of **claim 1 of the main request**, the additional steps of:

"wherein the user input to which the terminal device can respond in the locked state comprises: the terminal device can start an application program according to the user input, and after the acquiring user input (S102), and when the terminal device is in the locked state, the method further comprises:

starting the application program according to the user input; and

presenting an interface of the application program; and

wherein when the terminal device presents the interface of the application program, because the terminal device is in the locked state, the user input to which the terminal device can respond is less than the user input to which the terminal can respond in the unlocked state."

- XI. **Claim 1** of the **second auxiliary request** comprises, in addition to a subset of the features of **claim 1 of the main request** and the features added with the **first auxiliary request** (diff₂), the additional feature (labelled diff₃ by the appellant) of:

"wherein after the acquiring user input (S102), and when the terminal device is in the locked state, the method further comprises:

if the user input meets a preset second condition, presenting, according to the user input, content that is of the first interface and outside a current presentation range of the terminal device."

- XII. **Claim 1 of the third auxiliary request** comprises, in addition to the features of **claim 1 of the first auxiliary request**, the additional feature of the second auxiliary request (diff₃).

- XIII. The wording of the claims of **auxiliary requests 2.1, 2.2, 3.1 and 3.2** is of no importance for this decision.

Reasons for the Decision

1. The application concerns a terminal device, e.g. a mobile phone with a touch screen, allowing a restricted range of user input when in a locked mode.

2. Main request

2.1 Novelty (Article 54(1) EPC)

In the decision under appeal, the examining division held that the subject-matter of claim 1 differed from what was known from document **D2** in that the second interface was displayed in response to being switched to the unlocked state.

The appellant essentially agreed with these distinguishing features.

The board concurs with the examining division and the appellant that the distinguishing feature of the subject-matter of claim 1 over the disclosure of document **D2** resides in that the second interface is displayed *in response to* switching to the unlocked state, rather than *before* the switching, as in document **D2**.

2.2 Inventive step (Article 56 EPC)

In the decision under appeal, the examining division held that the distinguishing feature was an arbitrary modification and thus did not involve an inventive step.

The appellant submitted that the distinguishing feature had the technical effect of providing a visual feedback that a transition from the locked state to the unlocked state had taken place. The problem solved by the distinguishing feature was how to prolong the maximum run time of the device of document **D2** when it was powered by a battery. Since document **D2** disclosed that the locking state had two layers, a user interface and a translucent layer, what was claimed provided an alternative energy-saving solution.

The board holds that the distinguishing feature relates to an alternative manner of presenting the same information (i.e. unlocking the device) as displayed in document **D2**. Since the difference merely resides in the timing of when that same information is presented, the board considers that it does not cause a technical effect and thus cannot contribute to an inventive activity. Moreover, the board is not convinced that the objective technical problem identified by the appellant is credibly solved by the distinguishing feature. As argued by the examining division, the wording of claim 1 is silent about what happens during the user input for unlocking the device, and it may thus also comprise what is disclosed in document **D2**. In that case, the claimed method would be consuming just as much power as the method of document **D2**.

Consequently, the board considers that the subject-matter of **claim 1** is not inventive over the disclosure of document **D2**.

2.3 In view of the above, the **main request** is not allowable.

3. First auxiliary request

3.1 Novelty

In the decision under appeal, the examining division held that the additional steps were not known from document **D2** and thus constituted additional distinguishing features (denoted diff_2 by the examining division), in addition to the distinguishing features of claim 1 of the main request (diff_1).

The appellant agreed with the additional distinguishing features.

The board holds that the additional steps constitute additional distinguishing features over the disclosure of document **D2**.

3.2 Inventive step

In the decision under appeal, the examining division considered that differences diff_1 and diff_2 did not combine in a synergistic manner. Since diff_2 was an alternative manner of accessing device functionality known from document **D4**, it could not contribute to an inventive activity. Document **D4** disclosed in paragraph [0029] a device by which a user could directly reply to e.g. an SMS message in the locked state without unlocking the device beforehand.

The appellant submitted that difference diff_2 had the technical effect of providing a mechanism to allow the user to start and interact with an application program to a limited extent in the locked state of a terminal device, thus realising ease of use while maintaining security. The objective technical problem was how to facilitate use of a terminal device for a user without jeopardising the security of the terminal device. The appellant noted that document **D4** did not disclose starting the application program according to the user input since document **D4** only disclosed switching between running applications. The appellant also argued that it was not known before the priority date (1 November 2013) of the current application that "*when the terminal device is in the locked state, the method further comprises: starting the application program according to the user input*". Therefore, document **D4** failed to suggest diff_2 .

The board concurs with the appellant that document **D4** does not disclose starting an application which is then

accessed. It appears that, in paragraph [0029], document **D4** teaches interacting with content of an item displayed on the locked screen without having to provide the security code. Replying to an incoming SMS is given as an example. However, the board considers that it is commonly known, e.g. from document **DA**, that icons for starting applications may be presented on the lock screen (see page 2, lines 7-8, 14-16 and 20 of **DA**). Thus, the board is of the opinion that it is immediately apparent from the passage of document **D4** that other applications may also be accessed from the locked screen, including applications started upon the user's action. Therefore, the board is not convinced by the arguments of the appellant.

For the sake of completeness, the board notes that documents **D2** and **D4** both relate to locking the touch-screen of a phone or tablet. The board holds that, starting from document **D2**, the skilled person would have considered the problem of enhancing usability of the device. To solve this problem, they would have considered the teaching of document **D4**. This way, they would have arrived at difference diff_2 without employing any inventive skill. For this reason and the considerations presented for the main request, the board holds that the subject-matter of claim 1 is not inventive in view of the teaching of document **D2** in combination with document **D4**.

3.3 Therefore, the **first auxiliary request** is not allowable as well.

4. Second auxiliary request

4.1 Interpretation of the additional feature (diff₃)

Due to the repetitions of the term "[*after the*] *acquiring user input*", each of which is followed by a respective condition ("*meets a preset first condition*", "*starting the application program according to the user input*", "*meets a preset second condition*"), the board interprets claim 1 as relating to different types of user input, each of which causes different actions to be performed: the first type of user input ("*first condition*") causes unlocking of the device, the next type ("*start an application program*") causes the starting of an application in a limited mode and the last type ("*second condition*") causes displaying "*content that is of the first interface and outside a current presentation range of the terminal device*".

The board notes that the last type of user input is explained in the description as follows: "*the user input may be a frequently-used downward sliding gesture, page flipping gesture, or zooming-in or zooming-out gesture, or the like*" (see page 14, lines 6-8 of the translation). In view of the "*page flipping gesture*", the board holds that the term "*content of the first user interface*" allows for a broader interpretation than is *prima facie* apparent. Thus, in light of the description, it may amount to a mere matter of definition whether what is shown after the flipping of a page is denoted as a different user interface or as a previously not displayed part of the same interface. Consequently, the board is of the opinion that diff₃ may be interpreted as comprising any content which is somehow related to the first interface but not part of the displayed first interface.

4.2 Novelty

In the decision under appeal, the examining division held that diff_3 was known from document **D2** (see paragraph [0092] and Figure 12), which describes that in response to a moving gesture (step 1104) on a list, a detailed page of the selected list item is displayed (step 1107).

The appellant argued that this passage of document **D2** was irrelevant to diff_3 . This list was part of the translucent layer, which equated to the second interface and was thus different from the first interface. Moreover, the purpose of the moving gesture was to check an item from the list in the unlocked state rather than presenting content outside a current presentation range.

Due to its broad possible interpretation of diff_3 (see above), the board is not convinced by the appellant's arguments. In paragraph [0093] of document **D2**, the list is mentioned separately from the translucent cover layer. Contrary to the appellant's assertion, the list may thus be part of the first interface's content. Moreover, the moving gesture may be equated to the "*page flipping gesture*", which is disclosed in the application as an example of the user input causing the presenting of out-of-range content of the first user interface. Consequently, displaying a different page in response to the user input falls within the definition of diff_3 . Therefore, the board holds that diff_3 is not novel over the disclosure of document **D2**.

Consequently, the subject-matter of claim 1 differs from the disclosure of document **D2** in a subset of the distinguishing features identified with respect to claim 1 of the first auxiliary request.

4.3 Inventive step

In the decision under appeal, the examining division held that claim 1 had no distinguishing features which had not already been considered in the higher ranking requests. Therefore, it was not inventive for the same reasons as claim 1 of the first auxiliary request.

The appellant argued that diff_3 caused the technical effect of improving the user experience when viewing large content.

The board concurs with the examining division that the distinguishing feature of claim 1 is broader than the distinguishing feature of claim 1 of the first auxiliary request. Thus, the board holds that the subject-matter of claim 1 lacks an inventive step for at least the same reasons. For the sake of completeness, the board notes that according to the description, the user input may comprise both a zooming-in and a zooming-out gesture. Therefore, the effect brought forward by the appellant is not derivable over the entire claimed range.

4.4 Consequently, the **second auxiliary request** is not allowable as well.

5. Auxiliary requests 2.1 and 2.2

Auxiliary requests 2.1 and 2.2 were filed in response to the board's preliminary opinion.

5.1 The appellant argued that auxiliary request 2.1 should be admitted into the proceedings since the preliminary opinion of the board contained new arguments. In particular, the reference to page 14 of the description had not been brought up by the examining division.

Thus, the appellant could not have commented on this argument earlier.

Finally, the term "*content of the first interface*" had been interpreted by the examining division to comprise content of some other interface and thus differently.

5.2 The board notes that its preliminary opinion confirmed the decision under appeal. The examining division had already considered that the wording of the claims was too broad, in particular due to the broad possible interpretation of the term "*content of the first interface*". The board using the description to confirm the examining division's broad interpretation of this term could not have taken the appellant by surprise. The board's citation of a passage of the description did not confront the appellant with facts previously unknown to it. In consequence, it does not constitute an "*exceptional circumstance*" which could justify amendments to the appeal case.

Finally, the board notes that, in its feature analysis, the examining division mapped the claimed "*content of the first interface*" to the "*specific underlying screen*" disclosed in [0010] and the "*application execution screen*" disclosed in [0038] of document **D2**. The board considered in its preliminary opinion that, in light of the description, this term could be interpreted as comprising any content which was somehow related to the first interface but not part of the displayed first interface. However, this is merely a supplementary explanation of the mapping provided by the examining division. It does not constitute an alteration of the line of reasoning or a new argument and thus also cannot serve as a cogent reason for

amending the appeal case at this late stage of the proceedings.

The same considerations apply to **auxiliary request 2.2**.

5.3 In view of the above, the board decides not to admit **auxiliary requests 2.1 and 2.2** into the proceedings.

6. Third auxiliary request

In the decision under appeal, the examining division held that claim 1 did not involve an inventive step for the reasons given for the previous requests.

The appellant referred to its arguments for the first and second auxiliary requests.

Thus, the board holds that for the reasons provided for the second auxiliary request, diff_3 is known from document **D2**, and therefore claim 1 is not inventive for the same reasons as claim 1 of the first auxiliary request.

Consequently, the **third auxiliary request** is not allowable as well.

7. Auxiliary requests 3.1 and 3.2

To these requests, the same considerations apply as for auxiliary request 2.1.

The board thus decides not to admit auxiliary requests 3.1 and 3.2 into the proceedings.

8. Request for remittal

Under Article 11 RPBA, the board may remit the case to the department whose decision was appealed if there are special reasons for doing so.

The board notes that the appellant did not present any reasons as to why the board should remit the case to the examining division, and the board fails to perceive any such reasons. Therefore, the board refuses the appellant's request for remittal.

9. Consequently, the appeal is not allowable.

10. Request for reimbursement of the appeal fee

Under Rule 103 EPC, "[the] appeal fee shall be reimbursed in full [...] where the Board of Appeal deems an appeal to be allowable, if such reimbursement is equitable by reason of a substantial procedural violation".

In the current case, the appeal is not allowable. Furthermore, the appellant did not argue that a substantial procedural violation had happened, and the board fails to perceive a substantial procedural violation.

Consequently, the board declines the appellant's request for reimbursement of the appeal fee.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



L. Stridde

A. Ritzka

Decision electronically authenticated