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

Case Number: T 1988/21 - 3.5.05

Application Number: 15748122.7

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Language of the proceedings: EN

Title of invention:
SEMANTIC FRAMEWORK FOR VARIABLE HAPTIC OUTPUT

Applicant:
Apple Inc.

Headword:
Haptic output setting/APPLE

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - (yes)



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Case Number: T 1988/21 - 3.5.05

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

Appellant: Apple Inc.
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Representative: Gillard, Matthew Paul
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 1 July 2021
refusing European patent application No.
15748122.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair E. Konak
Members: P. Cretaine
K. Kerber-Zubrzycka

Summary of Facts and Submissions

- I. This appeal is against the examining division's decision posted on 1 July 2021 refusing European patent application No.15748122.7. The application was refused on the grounds that the main request and the first to third auxiliary requests did not meet the requirements of Article 56 EPC in view of the disclosure of:
- D5: US 2011/053577, taking into account the common general knowledge as illustrated by
- D8: US 2014/055358.
- II. The notice of appeal was received on 20 August 2021, and the appeal fee was paid on the same date. The statement setting out the grounds of appeal was received on 10 November 2021. The appellant requested that the decision under appeal be set aside and a patent be granted based on the claims of the main request or one of the first to fifth auxiliary request filed with the statement setting out the grounds of appeal. Oral proceedings were requested if the main request was not allowed.
- III. A summons to oral proceedings was issued on 24 January 2023. In a communication pursuant to Article 15(1) RPBA, sent on 21 September 2023, the board gave its preliminary opinion that the main request and the second and fourth auxiliary requests did not meet the requirements of Article 56 EPC in view of D5. Further, the board announced that it was minded not to admit into the appeal proceedings the first and third auxiliary requests under the provisions of Article

12(4) RPBA and the fifth auxiliary request under the provisions of Article 12(6) RPBA.

IV. By letter dated 23 October 2023, the appellant withdrew the first, third and fifth auxiliary requests.

V. Oral proceedings were held on 15 November 2023. The appellant withdrew the main request and the fourth auxiliary request and requested that the decision under appeal be set aside and a patent be granted on the basis of the second auxiliary request filed with the statement setting out the grounds of appeal. The board's decision was announced at the end of the oral proceedings.

VI. Claim 1 of the second auxiliary (sole) request reads as follows:

"A method, comprising:

at a computing device (100) with a tactile output generator (167):

detecting an occurrence of a first event associated with haptic output; and

in response to detecting the occurrence of the first event, generating haptic output associated with the first event, including:

in accordance with a determination that the first event is a first type of event of a plurality of types of events that are affected by an alert-salience setting (2710) of the device, providing a first alert with the tactile output generator that includes a first haptic output selected based at least in part on the alert-salience setting of the device, wherein, when the alert-salience setting of the device has an "on" value, the first alert has an increased salience; and when the alert-salience setting of the device has an "off" value

different from the "on" value, no alerts of the first type have increased salience; and in accordance with a determination that the first event is a second type of event of a plurality of types of events that are not affected by the alert-salience setting, providing a second alert with the tactile output generator that includes a second haptic output selected without regard to the alert-salience setting of the device."

The second auxiliary request includes further independent claims directed to a corresponding device (claim 11) and a corresponding computer-readable storage medium (claim 13).

Reasons for the Decision

1. Prior art

D5 was regarded as the closest prior art in oral proceedings and discloses a method for generating haptic outputs on a mobile device when communication data is received. The haptic outputs are selected from a database and are dependent on the type of communication data received. Figure 4 shows an example of such a database, wherein the haptic outputs are characterized by their time pattern, in seconds, which are dependent on the type of communication data received, e.g. "phone call", "E-mail", "SMS", etc. The patterns of Figure 4 may be customised, i.e. set, by the user, as disclosed in paragraphs [0048] and [0067].

2. The events associated with alerts including haptic outputs as defined in claim 1 can be read onto the different communication types shown in Figure 4 of D5.

The differences between the subject-matter of claim 1 and the disclosure of D5 are that:

- the events are divided into two types: the first type of events is affected by an alert-salience setting of the device, whereas the second type of events is not affected by this setting,
- when the alert salience setting has an "on" value, the alerts of the first type of events have an increased salience, whereas when the alert salience setting has an "off" value, the alerts of the first type of events have no increased salience.

3. The board agrees with the appellant that the salience of an alert clearly defines the prominence, the importance, or the quality of being noticeable of the alert. When the alert is provided by a haptic generator as in claim 1, the salience of the alert may be expressed through the magnitude, frequency of repetition, and/or duration of the haptic output.
4. The appellant plausibly argued that the technical effect of the distinguishing features is that the user was able to dynamically increase the importance of the alerts linked to some predefined events, by switching the alert salience setting from "off" to "on", for instance with a binary touch key as illustrated in Figure 27. Events which were regarded as important by the user were first classified in the first type so that the user could temporarily increase the salience of their associated haptic output alerts if desired. This was important for users with sensory impairments which, in some circumstances, cannot hear audible alerts or have reduced sensitivity to haptic output alerts (see paragraph [0492]). By contrast, the device of D5 stored a single haptic output pattern for each event type (see "communication type" in the table of

Figure 4) so that, if the user desired to temporarily have an increased salience of the alerts for some event types, they had to re-customise the haptic outputs for these event types, i.e. they had to modify the stored table of Figure 4. Moreover, not providing an alert salience setting possibility for the second type of events in claim 1 saved device resources.

5. The board thus agrees with the appellant that the distinguishing features offer an efficient level of customisation for the user, enabling them to control the salience of alerts without adversely affecting the usage of the device. The objective technical problem can thus be defined as how to provide a more sophisticated alert system than that disclosed in D5.

The skilled person would have found no motivation in D5 to implement a binary selection by a user of an alert salience, in addition to the customised alert settings shown in Figure 4. In particular, suggesting that the skilled person might have implemented a toggle between two different stored tables, depending on the desired salience for some events, would be based on hindsight.

6. For these reasons, the board holds that the subject-matter of claim 1, and of corresponding independent claims 11 and 13, involves an inventive step over the disclosure of D5 (Article 56 EPC). Claims 2 to 10, 12 and 14 are dependent claims and, as such, 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 based on auxiliary request 2 filed with the statement setting out the grounds of appeal and a description and drawings to be adapted thereto.

The Registrar:

The Chair:



B. Brückner

E. Konak

Decision electronically authenticated