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**Datasheet for the decision  
of 13 June 2025**

**Case Number:** T 1606/22 - 3.4.03

**Application Number:** 16780226.3

**Publication Number:** 3284081

**IPC:** G09G5/373, G09G3/20, G06F1/16

**Language of the proceedings:** EN

**Title of invention:**  
DISPLAY APPARATUS AND METHOD FOR DISPLAYING

**Applicant:**  
Samsung Electronics Co., Ltd.

**Headword:**

**Relevant legal provisions:**  
EPC Art. 123(2)  
RPBA 2020 Art. 12(4), 12(6), 13(1), 13(2)

**Keyword:**

Extension beyond the content of the application as filed - main request underlying the decision (yes)

Amendment to appeal case - admitted (no) - should have been filed during examination and does not solve issues without giving rise to new ones

Amendments after summons - no exceptional circumstances and not overcoming objections

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

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Case Number: T 1606/22 - 3.4.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.4.03**  
**of 13 June 2025**

**Appellant:** Samsung Electronics Co., Ltd.  
(Applicant) 129, Samsung-ro,  
Yeongtong-gu,  
Suwon-si,  
Gyeonggi-do 16677 (KR)

**Representative:** Nederlandsch Octrooibureau  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 3 February 2022  
refusing European patent application No.  
16780226.3 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** T. Häusser  
**Members:** M. Papastefanou  
E. Mille

## Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division refusing the European patent application No. 16 780 226 (published as WO 2016/167503 A1) on the ground that the subject-matter of the claims of the main request then on file contained added subject-matter (Article 123(2) EPC), lacked clarity (Article 84 EPC) and did not involve an inventive step (Articles 52(1) and 56 EPC).

An auxiliary request filed during the oral proceedings was not admitted by the examining division under Rules 116(2) and 137(3) EPC because it was late filed and the claimed subject-matter was clearly not allowable.

- II. The appellant applicant requested that the decision under appeal be set aside and a patent be granted on the basis of the new main request submitted with the appellant's letter dated 10 April 2025. In the alternative the appellant requested that a patent be granted on the basis of one of the main request underlying the impugned decision, the (first) auxiliary request filed with the statement of grounds of appeal or the 2<sup>nd</sup> auxiliary request filed during the oral proceedings before the board.

- III. Claim 1 of the **main request underlying the impugned decision** reads as follows:

*A display device (100) comprising:  
a flexible display (110) configured to display an image;  
a driver (120) comprising a roller configured to roll or unroll the flexible display;*

*a main body configured to contain the flexible display;  
and  
at least one processor (130) configured to:  
based on a first mode being selected, control the  
roller to unroll the flexible display in an upward  
vertical direction to expose a first area of the  
flexible display over the main body,  
while in the first mode, control the flexible display  
to display a video content on the first area of the  
flexible display,  
based on a second mode being selected while in the  
first mode, control the roller to roll the flexible  
display in a downward vertical direction to expose a  
second area smaller than the first area of the flexible  
display over the main body by reducing an area in which  
the flexible display is exposed over the main body, and  
while in the second mode, control the flexible display  
to display a text corresponding to information of a  
selected audio content including a title and a singer  
of the audio content on the second area of the flexible  
display.*

IV. Claim 1 of the **main request filed with the letter dated 10 April 2025** has the following wording (differences from claim 1 of the main request underlying the impugned decision marked by the board):

*A display device (100) comprising:  
a flexible display (110) configured to display an  
image;  
a driver (120) comprising a roller configured to roll  
or unroll the flexible display;  
a main body configured to contain the flexible display;  
and  
at least one processor (130) configured to:*

in response to a user's selection of a video content reproduction mode based on a first mode being selected,  
control the ~~roller~~ driver to unroll the flexible display in an upward vertical direction to expose a first area of the flexible display over the main body, ~~while in the first mode,~~ control the flexible display to display a video content on the first area of the flexible display,  
in response to a user's selection of a music reproduction mode, based on a second mode being selected while in the first mode, control the ~~roller~~ driver to roll the flexible display in a downward vertical direction to expose a second area smaller than the first area of the flexible display over the main body by reducing an area in which the flexible display is exposed over the main body, and ~~while in the second mode,~~ control the flexible display to display a text corresponding to information of a ~~selected music~~ audio content including a title and a singer of the ~~audio~~ music content on the second area of the flexible display.

- V. Claim 1 of the (first) **auxiliary request** is worded as follows (differences from claim 1 of the main request underlying the impugned decision marked by the board):

A display device (100) comprising:  
a flexible display (110) configured to display an image;  
a driver (120) comprising a ~~roller~~ rotation roller, wherein a motor is configured to drive the rotation roller in order to roll or unroll the flexible display;  
a main body configured to contain the flexible display when it is rolled into the rotation roller; and  
at least one processor (130) configured to control the driver (120) and the flexible display (110) to control

a user interface, UI, element corresponding to a particular event to be displayed at a screen size corresponding to the UI element, wherein the at least one processor is further configured to:  
~~based on~~ in response to receiving a first user input, via the UI, for selecting a first mode-being selected,  
~~control for displaying a video content, determine a screen ratio of a video content,~~  
in response to selecting the first mode, calculate a first horizontal length for a first area of the flexible display (110) based on the vertical length and a screen ratio of the video content,  
control the driver to drive the roller rotation roller to unroll the flexible display in an upward vertical direction to expose a first area of the flexible display over the stored in the main body, in order to enlarge an area in which the flexible display is exposed, thereby exposing the first area of the flexible display, such that the first area has the first horizontal length, wherein a ratio of the first area corresponds to the determined screen ratio,  
while in the first mode, control the flexible display to display a-the video content on the first area of the flexible display,  
in response to receiving a second user input, via the UI, for selecting a second mode for changing an audio content corresponding to the displayed video content on the first area of the flexible display,  
~~based on a second mode being selected while in the first mode,~~ calculate a second horizontal length for a second area of the flexible display (110),  
control the driver to drive the roller rotation roller to roll the flexible display in a downward vertical direction to expose into the rotation roller within the main body in order to gradually reduce an area in which the flexible display is exposed, thereby exposing a-the

~~second area smaller than the first area of the flexible display over the main body by reducing an area in which the flexible display is exposed over the main body,~~  
such that the second area has the second horizontal length, and  
while in the second mode, control the flexible display to display a text corresponding to information of a selected audio content including a title and a singer of the audio content on the second area of the flexible display.

- VI. Claim 1 of the **2<sup>nd</sup> auxiliary request** has the following wording (differences from claim 1 of the main request underlying the impugned decision marked by the board):

A display device (100) comprising:  
a flexible display (110) configured to display an image;  
a driver (120) comprising a roller configured to roll or unroll the flexible display;  
main body configured to contain the flexible display;  
and  
at least one processor (130) configured to:  
based on a ~~first mode~~ video content being selected, control the ~~roller driver~~ driver to unroll the flexible display in an upward vertical direction to expose a first area of the flexible display over the main body so that a size of the first area is identical to a screen size corresponding to the video content,  
~~while in the first mode,~~ control the flexible display to display a the video content on the first area of the flexible display,  
based on a ~~second mode~~ music content being selected ~~while in the first mode,~~ control the ~~roller driver~~ driver to roll the flexible display in a downward vertical direction to expose a second area smaller than the

*first area of the flexible display over the main body by reducing an area in which the flexible display is exposed over the main body, and ~~while in the second mode,~~ control the flexible display to display a text corresponding to information of ~~a~~ the selected audio music content including a title and a singer of the ~~audio music~~ content on the second area of the flexible display, wherein the second area is configured to only display said text corresponding to information of the selected music content.*

## **Reasons for the Decision**

### 1. The claimed invention

The claimed invention relates to a display device comprising a flexible display that can be rolled and unrolled so that its size can be modified. The device adapts the display size according to the image size of the content to be displayed. The user selects a content to be displayed (e.g. video, text, etc.) and the size of the screen is adapted to it automatically.

### 2. To facilitate the understanding of the decision, the appellant's requests are dealt with in the chronological order they were submitted rather than in their hierarchical order intended by the appellant.

### 3. Main request underlying the impugned decision

#### 3.1 According to claim 1 of this request, the user selects between a first mode and a second mode. When the first mode is selected, the flexible display is unrolled and video content is displayed. When the second mode is

selected, the flexible display is rolled so that its display area is smaller than in the first mode and text is displayed (see the claim wording under point III. above).

- 3.2 This definition does not correspond to the disclosure of the application as originally filed.
- 3.2.1 The application describes repeatedly that the user selects a content to be displayed and the size of the flexible display is adapted accordingly (see for example paragraphs [52] and [55] of the application as published). Although the device can display different types of content such as video or text, there is no distinction between a first and a second mode. The user does not select a *mode* where video (or text) is to be displayed but rather a video (or text) *content* to be displayed.
- 3.2.2 Moreover, there is no rolling or unrolling of the flexible display that takes place independently of the content. According to claim 1, when the first or second mode are selected the display is automatically unrolled or rolled respectively.

According to the description as originally filed, however, when the user selects a content to be displayed, the processor of the device first determines whether the selected content can be displayed with the current size of the flexible display and only when this is not possible, it rolls or unrolls the flexible display accordingly (see paragraphs [111] to [113]).

- 3.2.3 The application also mentions user interface ("UI") elements that are displayed on the flexible display. These UI elements have an associated preset screen size

(see paragraph [54]). When the user selects such a UI element to be displayed, the flexible displayed is adjusted to the corresponding size (paragraphs [114] and [115]).

- 3.3 The appellant made reference to paragraphs [133] and [135] and argued that the claimed device had two operational states, one state displaying video content with a large display area and another state displaying a UI element, such as information of a music content being currently reproduced, with a smaller display area. These distinct operational states constituted thus different "modes" in the technical sense, even if the term "mode" was not explicitly disclosed. The first mode corresponded to the state where video content was displayed on a larger display area while the second mode corresponded to the state where text information about audio content was displayed on a smaller display area.

Paragraph [133] described that the user gave instructions to the device to display a music video corresponding to the audio content being reproduced. This indicated, according to the appellant, a deliberate choice of the user to change from one mode (displaying information about audio content) to the other mode (displaying video content). The application as originally filed disclosed thus the contested features.

- 3.4 The board does not find these arguments persuasive. Even if it were to be accepted that displaying UI elements and displaying video content constitute two different display modes, claim 1 does not mention any UI elements at all. Moreover, as mentioned previously, the application discloses only the user selecting

content and the processor adapting the display size accordingly, and this only if necessary. The application does not disclose, for example, that changing from displaying video content to displaying a UI element would necessarily cause the flexible screen to roll and decrease its area. According to the application as originally filed (see passages cited in point 3.2.2 above), the size of the flexible display is adapted once it is determined that the selected content cannot be displayed with the actual size of the display area.

- 3.5 The board thus agrees with the examining division that claim 1 of the main request underlying the impugned decision contains subject-matter extending beyond the originally filed content of the application, contrary to the requirements of Article 123(2) EPC.
  
- 4. Auxiliary request filed with the statement of grounds of appeal
  - 4.1 The auxiliary request was filed for the first time with the statement setting out the grounds of appeal. It constitutes thus an amendment to the appeal case according to Article 12(4) RPBA, which is to be admitted at the board's discretion.
  
  - 4.2 The appellant argued that it fully realised the scope of the examining division's objections during the oral proceedings. The appellant (then applicant) tried to respond to those objections by a filing an auxiliary request during the oral proceedings, which, however, was not admitted by the examining division.

The current auxiliary request (which is not the same as the auxiliary request not admitted by the examining

division) was filed to address those objections. The board should admit it into the proceedings because the proposed amendments were "not too complex", "adequately address[ed] all first instance issues" and the "current procedure [did] not get too complex" (see the statement of grounds of appeal, page 14 under "AR1-Admissibility").

4.3 Regarding the objections by the examining division, the board notes that they were all raised in advance of the oral proceedings, see the examining division's first preliminary opinion annexed to the summons to oral proceedings (dated 10 February 2021) and the second preliminary opinion annexed to the result of a consultation by telephone (dated 2 November 2022). Objectively, thus, the appellant had had the opportunity to address these objections in preparation to the oral proceedings. It was rather its own decision to submit an auxiliary request only during the oral proceedings, where the risk that it would not be admitted by the examining division was higher. The fact that the examining division's objections were only fully understood by the appellant during the oral proceedings does not change this.

4.4 Moreover, several new features from the description have been added to claim 1 of the current auxiliary request. These features were not present in the claims before, not even in the auxiliary request not admitted by the examining division (see the statement of grounds of appeal, section titled "AR1 - Amendments and basis" starting on page 5). If, as the appellant argued, the amendments carried out in this auxiliary request were supposed to overcome all the examining division's objections, this is another indication that such request should have been submitted during the

examination procedure.

The board concludes thus that the auxiliary request should have been filed during the first instance examination proceedings and does not admit it into the appeal proceedings under Article 12(6) RPBA.

- 4.5 For the sake of completeness, it is also noted that although some of the objections under Articles 84 and 123(2) EPC that led to the refusal of the application are overcome by the amendments carried out in the auxiliary request, at least one new issue *prima facie* arises.
- 4.5.1 Claim 1 of the auxiliary request defines, among others, that the processor of the display device is configured to "... *in response to receiving a second user input, via the UI, for selecting a second mode for changing an audio content corresponding to the displayed video content on the first area of the display, while in the first mode ...*".
- 4.5.2 There seems to be however no disclosure of such a possible input by the user to select a second mode for changing an audio content corresponding to the displayed video content. Paragraphs [53] and [133] to [137] of the originally filed description, which were indicated by the appellant as basis for this amendment, do not disclose anything relevant. Paragraph [136] discloses merely that the size of the flexible display may be reduced as a result of a user's manipulation, but there is no disclosure or suggestion that the user can instruct the device to display the audio content corresponding to the video content being currently displayed, as claim 1 defines.

4.5.3 In addition, claim 1 still defines the user selecting a first and a second mode, so that the corresponding objections against the main request are not overcome.

4.5.4 Since the auxiliary request does not address all the outstanding issues and gives *prima facie* rise to new ones, it is not admitted under Article 12(4) RPBA, either.

5. New main request, filed with letter dated 10 April 2025

5.1 This request was filed after the board issued its preliminary opinion and is thus an amendment to the appellant's case under Article 13(2) RPBA.

5.2 The appellant argued that this request should be admitted into the proceedings because exceptional circumstances according to Article 13(2) RPBA existed.

The new main request was drafted to address the issues identified by the board in its preliminary opinion with *targeted and limited amendments that [did] not alter fundamentally the scope or nature of the claimed invention*. The language used was aligned to the language used in the application as originally filed, particularly paragraphs [0133] and [0135]. The appellant submitted this request *promptly after receiving the board's preliminary opinion, allowing sufficient time for consideration prior to the oral proceedings. The timing demonstrate[d] the appellant's commitment to procedural efficiency and good faith engagement with the issues raised by the board* (see appellant's letter dated 10 April 2025, page 2 first four paragraphs).

5.3 The board does not doubt the appellant's good faith or its commitment to procedural efficiency. However, it cannot recognise any exceptional circumstances in the present case. The board's main objections in its preliminary opinion were not new. The objection regarding the first and second modes and their selection was raised by the examining division in its preliminary opinion annexed to the summons to oral proceedings.

The board cannot identify any exceptional circumstances in the appellant's arguments, either, despite its assertion that they existed. The appellant merely stated that it submitted amendments addressing the board's objections. Even if these amendments were "limited" and "targeted" and did not introduce any complexity, there is nothing exceptional in the sense of Article 13(2) RPBA about them.

5.4 Even if the criteria under Article 13(1) RPBA are taken into account, the board notes that the outstanding objections are not *prima facie* overcome.

Claim 1 defines a "video reproduction mode" and a "music content reproduction mode" which can be selected by the user. The board does not see any essential difference in these terms compared to the first and second modes of the main request underlying the impugned decision. Moreover, the claim defines that, when the user selects one of the modes, the flexible display screen is unrolled or rolled accordingly. As discussed previously (see point 3.2.2 above) the flexible display screen is rolled or unrolled depending on the size of the selected content to be displayed, and only if necessary, and not when a certain "mode" is

selected.

5.5 The board, hence, exercising its discretion under Articles 13(1) and (2) RPBA does not to admit the new main request into the proceedings.

6. 2<sup>nd</sup> auxiliary request filed during the oral proceedings before the board

6.1 During the oral proceedings, and after the board had decided not to admit the new main request filed with the letter dated 10 April 2025, and the auxiliary request, the appellant submitted a 2<sup>nd</sup> auxiliary request.

The appellant argued that it was only during the discussion with the board that it formed "a clear picture" of the objections. Compared to the main request underlying the impugned decision, the amendments carried out were "minimal". There were no "modes" defined in claim 1 any more, but the definition of the user selecting video or music content to be displayed and the size of the flexible display being related to the size of the content. The board's objections were thus overcome and the request should be admitted into the proceedings.

6.2 In the board's opinion, the fact that it was only during the oral proceedings that the appellant had understood the pending objections does not constitute exceptional circumstances in the sense of Article 13(2) RPBA. Otherwise every appellant could claim this and Article 13(2) RPBA would become irrelevant. It is expected that parties to proceedings before the EPO in general and the Boards of Appeal in particular are familiar with the nature of the discussed issues and

the legal framework. In general, therefore, a subjective impression about the discussed matters cannot justify any exceptional circumstances.

The pending objections relating to the definition of the two modes were raised and discussed already during the examination procedure and in the board's preliminary opinion. There can thus be no exceptional circumstances in this aspect, either.

- 6.3 For the sake of completeness, it is noted that the pending objections are not overcome by the amendments carried out in the 2<sup>nd</sup> auxiliary request, either. According to claim 1, when a video content is selected the flexible display is automatically unrolled and when music content is selected the screen is automatically rolled. As discussed previously (see point 3.2.2 above) this does not correspond to the disclosure in the application as originally filed, where upon the selection of a content to be displayed, the processor first determines whether it can be displayed on the display in its current size and only if it cannot be displayed then it rolls or unrolls the display accordingly.

Claim 1 of the 2<sup>nd</sup> auxiliary request, therefore, still contains added subject-matter, contrary to the requirements of Article 123(2) EPC.

- 6.4 In view of the above, the board, exercising its discretion under Articles 13(1) and (2) RPBA does not admit the 2<sup>nd</sup> auxiliary request into the proceedings.
7. In conclusion, the main request underlying the impugned decision is not allowable because it does not meet the requirements of Article 123(2) EPC. The (first)

auxiliary request is not admitted into the proceedings under Articles 12(4) and (6) RPBA, while the new main request and the 2<sup>nd</sup> auxiliary request are not admitted under Article 13(1) and (2) RPBA. Since there is no admissible and allowable request on file, the appeal must fail.

## Order

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

The appeal is dismissed.

The Registrar:

The Chairman:



S. Sánchez Chiquero

T. Häusser

Decision electronically authenticated