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**Datasheet for the decision  
of 21 March 2025**

**Case Number:** T 0722/23 - 3.5.05

**Application Number:** 10811494.3

**Publication Number:** 2472366

**IPC:** G06F3/01, G06F3/041

**Language of the proceedings:** EN

**Title of invention:**

Tactile sensation imparting device and control method of  
tactile sensation imparting device

**Patent Proprietor:**

Kyocera Corporation

**Opponent:**

Preh GmbH

**Headword:**

Tactile sensation/KYOCERA

**Relevant legal provisions:**

EPC Art. 54, 123(2)

RPBA 2020 Art. 12(8)

**Keywords:**

Novelty - main request (no)

Added subject-matter - all auxiliary requests (yes)

**Decisions cited:**

T 0142/19



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

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Case Number: T 0722/23 - 3.5.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.05**  
**of 21 March 2025**

**Appellant:** Kyocera Corporation  
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**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 21 February  
2023 revoking European patent No. 2472366  
pursuant to Article 101(3)(b) EPC.**

**Composition of the Board:**

**Chair** K. Bengi-Akyürek  
**Members:** N. H. Uhlmann  
F. Bostedt

## Summary of Facts and Submissions

- I. The patent proprietor (appellant) appealed against the opposition division's decision to revoke the present European patent under Articles 101(3)(b), 54 and 123(2) EPC.
- II. The following prior-art document is referred to in this decision:
- D1:** US 2008/0202824 A1.
- III. The appellant requests that the decision under appeal be set aside and that the patent be maintained in amended form according to one of the following claim requests:
- **main request:** filed on 31 January 2019;
  - **auxiliary request 1:** filed on 25 May 2018;
  - **auxiliary request 2:** filed on 23 January 2023;
  - **auxiliary requests 2a and 2b:** filed with the statement of grounds of appeal on 20 June 2023;
  - **auxiliary request 3:** filed on 24 November 2022;
  - **auxiliary requests 3a and 3b:** filed with the statement of grounds of appeal on 20 June 2023.
- IV. The opponent (respondent) did not submit a written reply to the statement of grounds of appeal, and indicated that it will not participate in the scheduled oral proceedings.
- V. The board summoned the parties to oral proceedings and set out its provisional opinion in a communication under Article 15(1) RPBA.

VI. In response to the board's communication, the appellant stated that it will not attend the scheduled oral proceedings. It did not make any submissions as to the substance of the case.

VII. The arranged oral proceedings were then cancelled.

VIII. Claim 1 of the **main request** reads as follows (board's labelling):

- (a) "A tactile sensation providing apparatus comprising:
- (b) a load detection unit (12) configured to detect a pressure load generated when an object presses by a certain pressure a touch face (11a) of a touch sensor (11) configured to detect a touch input,
- (c) wherein the detected pressure load differs, for the certain pressure, depending on a pushed position of the object on the touch face (11a);
- (d) a tactile sensation providing unit (13) configured to provide a tactile sensation to the object pressing the touch face (11a) of the touch sensor (11),
- (e) without supporting the touch sensor (11); and
- (f) a control unit (16) configured to control the tactile sensation providing unit (13) according to the pushed position on the touch face (11a),
- (g) so as to cause the tactile sensation providing unit (13) to provide the tactile sensation to the object when the object, applying the certain pressure at which the tactile sensation is to be provided, presses any position on the touch face (11a) for providing the tactile sensation."

IX. Claim 1 of **auxiliary request 1** differs from claim 1 of the main request in that features (d) and (e) have been modified as follows (board's labelling and emphasis):

(d1) "a tactile sensation providing unit located on the touch sensor close to one or more sides of the touch sensor and outside of the touch face, and configured to provide a tactile sensation to the object pressing the touch face of the touch sensor;"

(e1) "~~without supporting~~ wherein the touch sensor is not supported inside of the touch face."

X. Claim 1 of **auxiliary request 2** corresponds to claim 1 of the main request to which the following features were added (board's labelling):

(h) "a display unit;"

(i) "a touch sensor disposed on the display unit only via four or six insulators made of elastic members, wherein four of the insulators are arranged at the four corners outside a display area of the display unit and the optional fifth and sixth insulators are at a center of the left and right periphery, respectively."

XI. Claim 1 of **auxiliary request 2a** corresponds to claim 1 of auxiliary request 2 and includes the following modified features (board's labelling and emphasis):

(b2a) "~~a load detection unit~~ piezoelectric elements configured to detect a pressure load generated when an object presses by a certain pressure a

touch face of the touch sensor configured to detect a touch input;"

- (d2a) "~~the tactile sensation providing unit~~ piezoelectric elements are further configured to provide a tactile sensation to the object pressing the touch face of the touch sensor;"
- (f2a) "a control unit configured to control the ~~tactile sensation providing unit~~ piezoelectric elements according to the pushed position on the touch face;"
- (g2a) "so as to cause the ~~tactile sensation providing unit~~ piezoelectric elements to provide the tactile sensation to the object when the object, applying the certain pressure at which the tactile sensation is to be provided, presses any position on the touch face for providing the tactile sensation;"
- (i2a) "a touch sensor disposed on the display unit only via four or six ~~insulators made of~~ elastic members, wherein four of the ~~insulators~~ elastic members are arranged at the four corners outside a display area of the display unit and the optional fifth and sixth ~~insulators~~ elastic members are at a center of the left and right periphery, respectively."

XIII. Claim 1 of **auxiliary request 2b** corresponds to claim 1 of auxiliary request 2a and includes the following modified feature (board's labelling and emphasis):

(b2b) "two piezoelectric elements arranged at centers of two opposing sides of the touch sensor and configured to detect a pressure load generated when an object presses by a certain pressure a touch face of the touch sensor configured to detect a touch input".

XIII. Claim 1 of **auxiliary request 3** corresponds to claim 1 of auxiliary request 2 and includes the following modified feature (board's labelling and emphasis):

(f3) "a control unit configured to receive the pushed position from the touch sensor and to control the tactile sensation providing unit according to the pushed position on the touch face".

XIV. Claim 1 of **auxiliary requests 3a and 3b** corresponds to claim 1 of auxiliary request 3 and includes the same further amendments as set out above with regard to claim 1 of auxiliary requests 2a and 2b.

### **Reasons for the Decision**

1. This is the second appeal case concerning the patent in suit. In the first appeal case **T 142/19**, the competent board decided that claim 1 of the main request complied with Article 123(2) EPC and remitted the case to the opposition division for further prosecution.
2. The patent in suit pertains to a "tactile sensation providing apparatus" comprising a display, a touch sensor, a "load detection unit" and a "tactile

sensation providing unit" providing a tactile sensation to e.g. a user's finger.

3. **Main request - claim 1 - Article 54 EPC**

3.1 The board confirms the opposition division's finding that the subject-matter of claim 1 is not new (Article 54 EPC).

3.2 The appellant argued that document **D1** did not disclose **feature (e)** (cf. point VIII above). The board is not convinced.

3.3 The skilled reader would understand the wording of feature (e) "without supporting the touch sensor" to mean that the "tactile sensation providing unit" (cf. feature (d)) does not mechanically support the "touch sensor". This understanding is in agreement with the preceding decision **T 142/19** (cf. Reasons 2). The interpretation set out in the impugned decision and in the statement of grounds of appeal, i.e. "not providing mechanical input signals to the touch sensor which could excite the sensor", is not supported by the actual wording of claim 1.

3.4 Document D1 discloses a "haptic device" 51 which is in contact only with "PCB substrate" 52 or a "graphic display" 74 (cf. Figures 3, 16A, 16B and 17A and paragraph [0078]). Hence, the "haptic device" 51 supports mechanically neither the "sensing surface" 81 nor the "position sensing element" 60 and 60a. Hence, document D1 anticipates also feature (e).

3.5 For these reasons, the subject-matter of claim 1 is not new. Thus, the main request is not allowable under Article 54 EPC.

**4. Auxiliary requests 1 and 2 - claim 1 - Article 123(2) EPC**

4.1 The board endorses the finding in the impugned decision that claim 1 of auxiliary requests 1 and 2 does not comply with Article 123(2) EPC.

4.2 As to **auxiliary request 1**, no basis is present in the application as originally filed for the limitation provided in **feature (d1)** (cf. point IX above) that "a tactile sensation providing unit [is] located on the touch sensor close to one or more sides of the touch sensor" in combination with the "tactile sensation providing unit" and the "load detection unit" (cf. **feature (b)**) being not integrated into one unit.

4.2.1 Indeed, paragraph [0065] of the application as filed discloses the contested feature, but only in the second embodiment and in combination with a "piezoelectric element 17" which detects the pressure load and vibrates the touch sensor. According to the first embodiment (i.e. relating to the "piezoelectric element 32" mentioned in paragraph [0055]), the tactile sensation providing unit "is provided, adhered or the like, on the rear face of the touch sensor 11 close to each of two opposite sides" (emphasis added). Yet, this teaching does not constitute a basis for the less specific wording "on the touch sensor close to one or more sides of the touch sensor" of feature (d1).

4.2.2 The appellant argued that both embodiments were covered by present claim 1 and that the "tactile sensation providing units" of both embodiments were close to the sides of the "touch sensor". Hence, the skilled person would generalise the embodiments to the claimed wording.

The board is not convinced. The combination of features in present claim 1 cannot be derived, directly and unambiguously, from the application documents. Whether a number of embodiments is covered by an amended claim does not play a decisive role in that regard. In addition, the position of the "tactile sensation providing unit" is disclosed in the first embodiment in more specific terms (cf. point 4.2.1 above).

4.3 As to **auxiliary request 2, feature (i)** (cf. point X above) includes two alternatives, referring to *four* or *six* "insulators" respectively.

4.3.1 The alternative relating to "four insulators" is based on paragraph [0052] and Figure 2 of the application as filed. However, according to the embodiment disclosed in this paragraph, both the "touch sensor" and the "display unit" are "rectangular in shape". Figures 5 and 9 to 11 disclose this shape in combination with four insulators or support members, too. There is however no basis for the limitation introduced in feature (i), according to which "insulators are arranged at the four corners outside a display area of the display unit" without specifying the rectangular shape of the "touch sensor" and the "display unit". Indeed, feature (i) adds the technical information that four insulators could be "arranged at the four corners

outside a display area of the display unit" wherein the "display unit" is, for example, rhombus-shaped.

4.3.2 The alternative relating to "six insulators" is based on paragraph [0046] and Figures 12 and 13 of the application as originally filed. These parts of the application documents disclose the six insulators in combination with two "piezoelectric elements" which are disposed on "the center of each opposing periphery of the touch sensor", in particular the centre of the periphery sides without insulators. Furthermore, there is a functional relationship between the positions of the "support members" and the "piezoelectric elements" (cf. the passage of paragraph [0046] at lines 1 to 9 of page 17 of the original description). Hence, there is no basis for the alternative relating to "six insulators" without specifying the "piezoelectric elements" and their positions. This amounts to an unallowable intermediate generalisation of the original content.

4.4 For these reasons, auxiliary requests 1 and 2 are not allowable under Article 123(2) EPC.

**5. Auxiliary requests 2a and 2b - admittance and Article 123(2) EPC**

5.1 Auxiliary requests 2a and 2b were filed only with the statement of grounds of appeal thus constituting an "amendment", the consideration of which is at the board's discretion (Article 12(2) and (4) RPBA).

5.2 As to admittance, the appellant argued that the issue of the "elastic members" not being "insulators" was raised for the first time during the oral proceedings before

the opposition division. Thus, there had been no possibility and therefore no need to file this new auxiliary request earlier. The appellant further submitted that claim 1 of **auxiliary request 2a** included features similar to those in claim 1 of auxiliary request 4 which had been filed in the course of the first-instance oral proceedings and had not been admitted into the opposition proceedings. The reasons given in the decision under appeal for not admitting auxiliary request 4 were however not convincing. Thus, it was allowable to introduce the arrangement of *four* or *six* "elastic members" in claim 1 of auxiliary request 2a. The appellant also submitted that claim 1 of **auxiliary request 2b** comprised a further technical limitation compared to claim 1 of **auxiliary request 2a**. As a consequence, there was no possibility and no need to file this claim request earlier in the proceedings.

5.3 These arguments are not persuasive, because claim 1 of both claim requests includes also amendments that are not related to "elastic members" or "insulators".

5.4 At any rate, irrespective of the admittance issues under Article 12 RPBA, claim 1 of auxiliary requests 2a and 2b is not allowable under Article 123(2) EPC for the same reasons as set out in point 4.3 above with regard to auxiliary request 2.

**6. Auxiliary request 3 - claim 1 - Article 123(2) EPC**

Claim 1 of auxiliary request 3 (cf. point XIII above) is not allowable under Article 123(2) EPC for the reasons set out in point 4.3 above with regard to auxiliary request 2.

**7. Auxiliary requests 3a and 3b - claim 1 - admittance and Article 123(2) EPC**

The above observations on admittance and allowability of claim 1 of auxiliary requests 2a and 2b (cf. point 5 above) apply similarly to claim 1 of auxiliary requests 3a and 3b (cf. point XIV above). Hence, auxiliary requests 3a and 3b are not allowable under Article 123(2) EPC either.

**8. Decision in written proceedings (Article 12(8) RPBA)**

With the appellant's notice of non-attendance at the arranged oral proceedings before the board (see point VI above), it must be assumed that the appellant no longer wishes to present its arguments orally before the board and that it no longer has any interest in the requested oral proceedings. The respondent did not request oral proceedings. Hence, this decision was handed down in written proceedings (cf. Article 12(8) RPBA).

**9. Conclusion**

Since none of the appellant's claim requests on file is allowable, 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