

The examination is being carried out on the **following application documents**

Description, Pages

1-54 as originally filed

Claims, Numbers

1-7 as originally filed

Drawings, Sheets

1/15-15/15 as originally filed

1 Reference is made to the following documents; the numbering will be adhered to in the rest of the procedure.

- D1 "N1 Quick Start Guide",
, 29 July 2004 (2004-07-29), XP055249230,
Retrieved from the Internet:
URL:http://www.instructionsmanuals.com/download/telefonos_movil/Neonode-N1-en.pdf
[retrieved on 2016-02-11]
- D2 EP 1 462 920 A2 (MICROSOFT CORP [US]) 29 September
2004 (2004-09-29)
- D3 David A Carr ET AL: "Using Interaction Object Graphs to Specify
Graphical Widgets",
CR-TR-3344, 30 September 1994 (1994-09-30), XP055527045,
Retrieved from the Internet:
URL:<http://www.cs.umd.edu/hcil/trs/94-09/94-09.pdf>
[retrieved on 2018-11-26]
- D4 PLAISANT C ET AL: "TOUCHSCREEN TOGGLE DESIGN",
STRIKING A BALANCE. MONTEREY, MAY 3 - 7, 1992;
[PROCEEDINGS OF THE CONFERENCE ON HUMAN
FACTORS IN COMPUTING SYSTEMS], READING, ADDISON
WESLEY, US,
vol. -, 3 May 1992 (1992-05-03), page 667/668, XP000426849,

2 **Divisional Application (Art. 76 EPC)**

- 2.1 The present application has been filed as a divisional application of the earlier application EP10194359.5. Under the provisions of Article 76(1) EPC, a divisional application may be filed only in respect of subject-matter which does not extend beyond the content of the earlier application as filed.
- 2.2 For the present set of claims, the examining division failed to identify a basis in the earlier application. In particular, the features a.) "detecting ... at a location remote from an unlock image" and b.) "ceasing to display the unlock image" appear not to be directly and unambiguously derivable from the application as originally filed.
- 2.3 Regarding feature a.), all embodiments appear to disclose the opposite, namely that the user performs the gesture by touching the unlock image (or a screen portion in proximity to the image).
- 2.4 It is noted that Regarding feature b.), it may be understood from the description of the earlier application that the unlock image disappears after completion of the gesture, because after completion the device enters the unlocked state in which the image is not shown. However, the claim only defines "ceasing to display the unlock image" without moving the device into an unlocked state.
- 2.5 Should the applicant decide to proceed with the prosecution of the present application, then they are asked to provide a basis for all claims in the earlier application. The search of the invention defined by the present set of claims has been based on the assumption that the subject-matter of the claims has a basis in the earlier application.

3 **Clarity and Conciseness (Art. 84 EPC)**

- 3.1 The application does not meet the requirements of Article 84 EPC, because **claims 1, 6 and 7** are not clear.
- 3.2 Following from Article 84 EPC, taken in combination with Rule 43(1) and (3) EPC, any independent claim must contain all the technical features essential to the definition of the invention. Essential features of a claim are those necessary for achieving a technical effect underlying the solution of the technical problem with which the application is concerned, whereby the

problem is usually being derived from the description (see Guidelines F-IV. 4.5.2.).

The current application is concerned with the problem of *increasing the user-friendliness of unlocking devices* (see description par. 6). In order to solve this problem, it is required to define in the independent claim a feature that is directed to unlocking the device (e.g. transitioning to the unlocked state). Current independent **claim 1** does not contain any features which would create such a technical effect. It is not sufficient to define only a condition in which the device remains in the locked state.

Therefore, the application does not meet the requirements of Article 84 EPC, taken in combination with Rule 43(1) and (3) EPC.

- 3.3 Claim 1 comprises the feature "continuously modifying the unlock image on the touch-sensitive display in accordance with the predefined gesture", which renders the scope of the claim unclear for the following reasons: The skilled reader would have difficulties in understanding how to "modifying" and the "predefined gesture" relate to each other. Due to the vague term "in accordance with", the claim may be understood in many different ways. For example, it could be understood that the "modifying" is done according to the progression of finishing the gesture. It could also mean that the gesture defines how the unlock image is to be modified, irrespective of the progression of the input.

This vague way of claiming does not only lead to a lack of clarity, but also to a lack of support. Not all (it appears: none of the) embodiments falling under the scope of the claim are supported by the description.

4 **Novelty and Inventive Step (Art. 52(1), 54 and 56 EPC)**

- 4.1 The present application does not meet the requirements of Article 52(1) EPC because the subject-matter of **claim 1** does not involve an inventive step within the meaning of Article 56 EPC.
- 4.2 **D1** may be considered to be the prior art closest to the subject-matter of **claim 1**, and discloses:

A method of controlling an electronic device with a touch-sensitive display (**the Neonode N1**), comprising:
while the electronic device is in a user-interface lock state, detecting a predefined gesture on the touch-sensitive display (**page 9: "Right sweep to unlock"; page 14 shows a right sweep**) ~~at a location remote from an unlock image;~~
~~continuously modifying the unlock image on the touch-sensitive display in accordance with the predefined gesture;~~
in response to detecting that the predefined gesture ends after moving to at least a predetermined location (**page 14 notes that the right sweep is "over the screen" and shows a movement from the left side of the screen to the right side; this implies that the phone has some location on the screen designated as a location at which it can be said that the right sweep is finished**):
ceasing to display the unlock image (**page 9 discloses that the text "Right sweep to unlock" appears on the screen; the text is an "unlock image"; pages 10 and 11 show the phone in an unlocked state, in which no text is shown; this implies that after unlocking the image is not shown anymore**); and

in response to detecting that the predefined gesture ends before moving to the predetermined location: maintaining the electronic device in the user-interface lock state (**it is implicit that an unsuccessful execution of the right sweep gesture lets the phone to be maintained in the locked state**).

- 4.3 The subject-matter of **claim 1** therefore differs from this known method in that:
- a.) the predefined gesture on the touch-sensitive display is detected *at a location remote from an unlock image*
 - b.) continuously modifying the unlock image on the touch-sensitive display in accordance with the predefined gesture;
- 4.4 Concerning feature a.), no technical effect can be derived from the application. The feature is therefore considered a mere question of graphical design. Should the applicant be of the opinion that the feature contributes, in the context of the claim, to a technical effect, then they are invited to cooperate in the determination of such an effect (see Case Law Book 2016,

I.D.9.1.5.). As a matter of principle, any technical effect used in the formulation of the objective technical problem has to be derivable from the application as filed (see Guidelines G-VII.5.2.).

- 4.5 Concerning feature b.), in the broad way claimed, also no technical effect can be derived. In particular, the feature does not have to be understood such that any feedback about the internal state of the device or the unlock operation is provided. In a broad sense, also an embodiment in which a blinking text (i.e. it is continuously modified) asked the use to "Sweep to unlock" would fall under the scope of the claim.
- 4.6 As both distinguishing features do not make any technical contribution, the subject-matter of **claim 1** lacks an inventive step (Guidelines G-VII.5.4. , step (III).(b).
- 4.7 In anticipation of potential amendments and arguments, the following considerations may also be relevant: providing a continuous feedback about the progress of a gesture is known, for example from **D2**, par. 35-38 or **D3**, pages 15-16 (the text output changes according to the slider movement).
- 4.8 An argument that "*a location remote from an unlock image*" allows for a better visibility of the feedback would not convince, since the visibility of the feedback provided by the unlock image depends on the exact extent of "remote" and the size relationship of the finger and the input region.
- 4.9 The above arguments apply also to **claims 6 and 7**.
- 4.10 Dependent **claims 2-5** do not appear to contain any additional features which, in combination with the features of any claim to which they refer, meet the requirements of the EPC with respect to inventive step.
- 4.11 Claims 2 and 3 define the implicit behaviour of a locked mobile phone, such as the phone of **D1**. The user cannot execute/use any applications before the phone is unlocked.
- 4.12 Claim 4 does not limit the scope of claim 1 further, as "first state" does not have any specific meaning.
- 4.13 Claim 5 defines an obvious way of providing graphical feedback about the execution of a gesture, see for example **D4**, page 668, left-hand column: "springs back".

5 Other Objections

- 5.1 To meet the requirements of Rule 42(1)(b) EPC, **D1** should be identified in the description and its relevant contents should be briefly discussed.
- 5.2 The features of the claims should be provided with reference signs placed in parentheses to increase the intelligibility of the claims (Rule 43(7) EPC). This applies to both the preamble and characterising portion (see Guidelines F-IV, 4.19).

6 Procedure

- 6.1 It is not at present apparent which part of the application could serve as a basis for a new, allowable claim. Should the applicant nevertheless regard some particular matter as patentable, an independent claim should be filed taking account of Rule 43(1) EPC. The applicant should also indicate how the subject-matter of the new claim differs from the state of the art and the significance thereof.

To aid the examination procedure, the applicant may:

- Indicate which cited document should be considered as the closest prior art
- Indicate the difference of the claimed subject-matter over the closest prior art
- Demonstrate the technical effect(s) achieved by determined difference
- Provide a formulation of the objective technical problem based on the technical effect(s) in view of the closest prior art
- Comment why the claimed solution of the objective technical problem is non-obvious.

- 6.2 The attention of the applicant is drawn to the fact that the application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed (Article 123(2) EPC).
- 6.3 In order to comply with the requirements of Rule 137(4) EPC, the applicant should clearly identify the amendments made, irrespective of whether they concern amendments by addition, replacement or deletion, and indicate the passages of the application as filed on which these amendments are based (see Guidelines H III, 2.1).

- 6.4 When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims. Care should be taken during revision, especially of the introductory portion and of any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC).