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

Description, Pages

1-54   as originally filed

Claims, Numbers

1-8   filed in electronic form on   29-07-2019

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   The amendments and arguments filed by letter on 29-07-2019 have been carefully considered. However, they <u>fail to place the application in a condition for the grant of a patent</u>.

3   Divisional Application (Art. 76 EPC)

3.1   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.

3.2   In the European Search Opinion, an objection under Article 76(1) EPC concerning the feature "detecting ... at a <u>location remote</u> from an unlock image" has been raised. In response thereto, the applicant has indicated in the letter of 29-07-2019 that par. 78 and para. 56-62 of the earlier application would disclose the feature in question. In particular, the applicant points to the statement "In some embodiments, the user may unlock the device 400 by <u>making contact anywhere on the touch screen 408</u> and moving the point of contact horizontally as if he or she were following the channel 404".

3.3   The isolating extraction of specific features from an embodiment is only allowable under the provisions set forth in Guidelines H-V.3.2.1.

Par. 78 discloses an embodiment in which a channel is used, and the point of contact may be moved horizontally as if the user was following the channel. In this embodiment, the point of contact may be anywhere on the touch screen, i.e. not necessarily on the unlock image of the channel. However, from par. 78 it has to be understood that the free choice of contact ("anywhere") is inextricably linked with the use of a channel. In particular, pars. 74-79 discuss different options of implementing the channel and specific problems that may arise therefrom. Par. 78 then discloses that in this context a user may not necessarily interact directly with the channel/unlock image. The skilled reader would not (in the sense of "has to") understand from par. 78 that any kind of remote location from an unlock image is detected, irrespective of the use of a channel and horizontal movement. Claim 1 neither contains the limitation to a horizontal movement nor the use of a channel. Hence, the provisions of Guidelines H-V. 3.2.1. are not fulfilled.

Among the other passages indicated by the paragraph, only par. 62 refers to the "unlock image". In this paragraph the opposite of claim 1 is disclosed, namely that the user interacts with the unlock image. Therefore, pars. 56-62 do not

disclose the feature in question either.

Consequently, the provisions of Article 76(1) EPC are not fulfilled.

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 first user-interface state, detecting a predefined gesture on the touch-sensitive display at a location remote from an unlock image (**page 9: "Right sweep to unlock"; page 14 shows a right sweep**);
~~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; and
transitioning the electronic device from the first user-interface state to a second user-interface state (**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 first user-interface 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 *continuously modifying the unlock image on the touch-sensitive display in accordance with the predefined gesture.*

4.4 As the image merely reflects past inputs, it does not guide the user towards the successful input of the gesture. Therefore, the modification of the image does not produce a technical effect. Consequently no technical problem is solved. Therefore, the subject-matter of **claim 1** lacks an inventive step.

4.5 The above objection also applies to claims 7 and 8.

4.6 **Discussion of the arguments of the applicant**

4.7 In the letter the applicant argues that *performing the gesture anywhere on the screen means the user can be less precise in the positioning of the gesture and allows the user to see the changing unlock image to confirm that gesture progress is being made.* Thus the two distinguishing features are said to *work together to guide continued human-machine interaction, which is a recognised technical effect.*

4.8 The examining division disagrees. Concerning the change of the unlock image to confirm that progress is being made, the applicant is pointed to T 2630/17, grounds for decision, points 10.2 and 10.3. In this decision that it was re-affirmed that *providing reassuring feedback - i.e. a confirmation that the user has been doing the right thing so far - is not in itself a technical effect,* because the user does *not need the feedback in order to successfully enter the required gesture.* This analysis also applies to the present case. Hence, the aspect of changing the unlock image does not contribute to a technical effect.

4.9 When it comes to the aspect of performing the gesture anywhere on the screen, the applicant states that this feature achieves the effect of *allowing the user to be less precise about the positioning of the gesture, whilst still providing feedback to guide the interaction,* irrespective of the exact definition of "remote".

While admittedly allowing a user to perform a gesture remote from a given point may improve the tolerance to imprecise input of the gesture, in the present case no such technical effect cannot be derived. In particular, **D1** does not require that the user starts the gesture at a specific point. It is merely required that a movement from left to right is performed. The claim only states "detecting a predefined gesture on the touch-sensitive display at a location remote from an unlock image". The claim does not require that it is detected that a predefined

gesture starts at a location remote from the unlock image. Any gesture detection that simply ignores the location of the unlock image hence also falls within the scope of the claim. Hence, when compared to **D1**, there can be no effect of allowing less precise inputs, because **D1** does not require the precise inputs.

5 Procedure

5.1 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 <u>closest prior art</u>
- Indicate the <u>difference</u> of the claimed subject-matter over the closest prior art
- Demonstrate the <u>technical effect(s)</u> achieved by determined difference
- Provide a formulation of the <u>objective technical problem</u> based on the technical effect(s) in view of the closest prior art
- Comment why the claimed solution of the objective technical problem is <u>non-obvious</u>.

5.2 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).

5.3 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).

5.4 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).