

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

Description, Pages

3-40, 42, 48-50	as originally filed		
41, 43-47	received on	26-09-2011	with letter of 23-09-2011
1, 2, 2a, 2b	filed in electronic form on		22-01-2016

Claims, Numbers

1-15	filed in electronic form on	22-01-2016
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Drawings, Sheets

1/15-15/15	as originally filed
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1 Reference is made to the following documents; the numbering will be adhered to in the rest of the procedure.

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|----|---|
| D1 | WO 2004/001560 A (NOKIA CORP [FI]; RYTIVAARA MARKKU [FI]; MUSTONEN MIKA [FI]; TOKKONEN T) 31 December 2003 (2003-12-31) |
| D2 | US 5 821 933 A (KELLER NEAL MARTIN [US] ET AL) 13 October 1998 (1998-10-13) |
| D3 | "ACCESS/CONTROL ICONS (ICON KEYS)",
IBM TECHNICAL DISCLOSURE BULLETIN, IBM CORP. NEW YORK, US,
vol. 38, no. 4, 1 April 1995 (1995-04-01), pages 407-409,
XP000516196,
ISSN: 0018-8689 |
| D4 | US 5 907 327 A (OGURA TSUYOSHI [JP] ET AL) 25 May 1999 (1999-05-25) |
| D5 | WO 01/77792 A2 (RSA SECURITY INC [US]) 18 October 2001 (2001-10-18) |

- D6 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,
- D7 US 2002/191029 A1 (GILLESPIE DAVID W [US] ET AL) 19
December 2002 (2002-12-19)

The following document is cited by the Examiner. A copy of the document is annexed to the communication and the numbering will be adhered to in the rest of the procedure.

- D8 "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](http://www.instructionsmanuals.com/download/telefonos_movil/Neonode-N1-en.pdf)
[retrieved on 2016-02-11]

- 2 Oral proceedings according to Article 116(1) EPC are convened at the Applicants request, since the amendments and arguments submitted with the letter of 22-01-2016 do not put the application in a state for grant. Based on the present state of the file, a refusal of the application is to be expected. The Examining Division intends to arrive at a decision at the end of the oral proceedings (Rule 111(1) EPC) without granting further extension of time to file additional arguments or evidence.
- 3 Considering that the EPO aims in the interest of the public to bring the proceedings to a conclusion as rapidly as possible and to avoid unnecessary costs, the Applicant is invited to declare within the given time limit whether, in view of the provisional conclusion set forth herein above, the request for Oral Proceedings is maintained. His attention is drawn to the fact that a decision according to the state of the file can be requested, which can be appealed before a higher instance (see Articles 106-109 EPC and Guidelines C-V, 15). However, such a request can only be honoured if the applicant at the same time withdraws his request for Oral Proceedings and refrains from filing further amendments and arguments.

4 At least the following points will need to be discussed during the oral proceedings:

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

5.1 The application does not meet the requirements of Article 84 EPC, because **claims 1, 6 and 11** are not clear.

5.2 Independent claims 1, 6 and 11 comprise the feature "one or more user interface objects associated with the second user-interface state without being associated with the first user interface state", which renders said claims unclear.

5.3 A claim's subject-matter is normally defined in terms of positive features indicating that certain technical elements are present (see Guidelines F-IV.4.20). A negative limitation is exceptionally allowable, provided the conditions listed in Guidelines F-IV.4.20 are fulfilled. One condition for allowing a negative limitation is that it has to be clear what is excluded by means of the disclaimer. This condition is not fulfilled in the present case, for the following reasons:

5.4 The independent claims specify that a user interface object is associated with a second user-interface state. The claims neither explicitly nor implicitly define what the association between the user interface object and the user-interface state is. The claims also do not define what the user interface state is.

Construing the claim with a mind willing to understand, the person skilled in the art would understand a "user interface" to be *the means by which the user and a computer system interact*. The person skilled in the art would further understand that the "user interface state" refers to *a configuration of the user interface*. The person skilled in the art would understand a "user interface object associated with the second user-interface state" to be an element in or of a user-interface, the element being logically connected to the second state of the user interface. It is not clear what the logical connection between the state of the user interface and the user interface object is. It appears not to relate to the visibility status, as according to the claim, the user interface object is shown in the first and the second user interface state.

5.5 Due to the unclear scope of the positive case ("associated with"), it is not clear what is meant by a disclaimer ("without being associated") that specifies the absence of any kind of logical connection between the first state of the user-interface and the user-interface object.

5.6 Since one of the conditions for allowing a negative limitation is not fulfilled, **claims 1, 6, and 11** are not clear.

5.7 The "Further embodiments" in claim form on pages 34-50 cast doubt on the scope of the claims and must be deleted.

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

6.1 Based on the arguments of put forward in the letter of 22-01-2016, a new closest prior art (**D8**) is hereby introduced into the procedure. It is customary practice in the examination procedure before the EPO that a new closest prior art document is not introduced in summons to oral proceedings. However, in the present case the applicant is aware of the document from the family member EP09170574 and its relevance with respect to unlock operations on touch-screen devices. It is therefore not considered disadvantaging to the applicant to introduce the document at this stage of the procedure.

6.2 Document **D8** discloses on page 9 an unlocking mechanism for touch screen devices. The device is unlocked by first pressing an "ON/OFF switch" and then performing an unlocking gesture (page 9: "Press the power button once ... "). When the device goes into key-locked state, the screen turns dark (page 8: "screen turns dark"). When the power button is pressed, the text "Right sweep to unlock appears" (see page 9). In addition, the screen used during the unlock operation also shows the menu bar on the bottom of the screen (see the figure on page 9 and the annotated copy of the figure below). The menu bar is also shown once the device is unlocked (see page 10 and 11). The menu bar is part of the screen (page 10: "... a symbol in the lower part of the screen"). When the screen is dark, the menu bar is not shown (see

also the figure on page 4, which fails to show the buttons on the bottom of the screen).

KEYLOCK - UNLOCKING THE UNIT



The ON/OFF switch is located on the left side of the N1, below the screen.

1. Press the power button once.
2. The text "Right sweep to unlock" appears on the screen. Sweep right to unlock your unit.

Menu bar

6.3 The present application does not meet the requirements of Article 52(1) EPC because the subject-matter of **claim 1** is not new within the meaning of Article 54(1) and (2) EPC.

6.4 **D8** discloses:

A computer-implemented method, comprising:

while an electronic device is in a first user-interface state (**the key-locked state**), detecting progress towards satisfaction of a user input condition

needed to transition to a second user-interface state (**the user presses the ON/OFF switch and causes to show the screen with the text**);

while the device is in the first user-interface state,

indicating progress towards satisfaction of the condition by transitioning an optical intensity of one or more user interface objects (**the menu bar on the bottom of the screen; the menu bar is part of the screen**) associated with the second user-interface state (**the state in which the device is unlocked**)

without being associated with the first user interface state (**the menu bar allows the user to start and select applications and is hence associated with the unlocked state, not the locked state**), wherein at least one of the one or more user interface objects associated with the second user interface

state is not displayed prior to detecting progress toward satisfaction of the user input condition (**the menu bar is not shown when the screen is dark**) and, wherein transitioning the optical intensity includes the one or more user interface objects associated with the second user-interface state appearing and increasing in optical intensity (**before the ON/OFF switch is pressed, the screen is dark; transitioning from a dark screen to a screen that shows GUI elements such as the menu bar implies to increase the optical intensity of the GUI elements**); and transitioning the device to the second user-interface state if the condition is satisfied (**once the user has performed the swipe gesture, the device is unlocked**).

- 6.5 Independent **claims 6 and 11** express the features of **claim 1** in terms of a portable electronic device and a computer readable medium, which are also disclosed by **D8**. For this reason and the arguments brought forward above, the subject-matter of **claims 6 and 11** is also not new (Article 54(1) and (2) EPC).
- 6.6 Dependent **claims 2-5, 7-10, 12-15** 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. The additional features of the dependent claims relate to obvious implementation options, which are known from **D6** or to graphical details, which are based on aesthetic but not technical considerations.
- 7 **Procedure**
- 7.1 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.
- 7.2 In case the applicant will amend the claims, 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).

- 7.3 Handwritten amendments are no longer accepted at oral proceedings. The European Patent Academy has prepared a brief tutorial that assists the applicant in fulfilling the requirements, indicating how to obtain the electronically editable versions and how to print documents when at the EPO facilities. At the time of issuing those summons, it is available via the following URL: <https://e-courses.epo.org/course/view.php?id=274>.
- 7.4 If the applicant should decide to renounce the oral proceedings, he is asked to inform the office at the earliest possible.
- 7.5 The applicant's attention is drawn to the fact that if a party duly summoned does not appear as summoned, the proceedings may continue in absentiam (Rule 115(2) EPC).