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PATENTS ACT 1977

IN THE MATTER OF

Patent Applications Numbers

9205818.9, 9300377.0 and

9400294.6 in the name of

Mr Harold Birkett.

DECISION

In a written decision dated the 10th July 1996 I found that the claims as they then stood in all three of the applications in suit were not new as is required by section 1(1)(a) and, on the basis that the description of the second of these applications, number 9300377, could not support a valid claim, I refused that application. However, I gave the applicant, Mr H Birkett, an opportunity to amend the other two applications with a view to overcoming my finding, indicating that unless suitable amendments were submitted within the timetable I set out, I would refuse those applications.

In subsequent correspondence Mr Birkett, who is acting on his own behalf without professional assistance, enclosed further revised claims and in relation to application number 9205818, the examiner has now reported that the application complies with the requirements of the Act and accordingly, that application is proceeding to grant.

However, in relation to the other application 9400294, the examiner objected that the revised claims were not new and/or did not involve an inventive step and offered a further hearing to decide the matter. Mr Birkett replied enclosing further revised claims but without any other comment or argument. The examiner replied restating the objections and indicating that a hearing had been appointed to decide whether or not the application should be refused. Mr Birkett telephoned to say that he would not be attending the hearing so it now falls to me to decide the matter on the papers on file.

All three of Mr Birkett's applications concern the idea of reducing the size of a keyboard or switch unit so that an operator's finger print area covers, and actuates, more than one key or switch, and providing logic circuits to determine which individual key or switch the operator intended to actuate. The present application, 9400294, is concerned with using this idea in a standard 'Qwerty' keyboard layout and also shows the use of the idea in the handset of a cellular telephone. The final form of claim submitted by Mr Birkett reads :

1. An input keyboard assembly for a cellular telephone handset consisting of individual keypads each with its own symbol arranged to form the required display the total area and size of this display being a function of the sum total of each empirical area covered by each individual keypad and its symbol and is not restricted by the size of the finger used to depress each keypad in its operation due to the required signal being transmitted from the keypad most central to those pressed by the digit whilst maintaining in most cases the original keyboard layout but of reduced empirical size.
2. An input keyboard assembly wherein the size and weight of the cellular telephone would be reduced.
3. An input keyboard assembly wherein only the required signal is transmitted.
4. An input keyboard assembly as claimed in any preceding claim substantially as described herein with reference to Figures 4 to 11.

Figures 4 to 11 show external views of the arrangement of the keypads on cellular telephone handsets of different sizes and circuit diagrams of logic circuits suitable for resolving which one of the plurality of simultaneously actuated keys the operator intended to actuate.

Throughout the prosecution of this application Mr Birkett has not submitted any arguments explaining why he considers his claims are distinguished from the prior art which has been cited by the examiner, or why he considers they involve an inventive step having regard to that cited art. As far as I can see, Mr Birkett believes that his basic idea of reducing the size of

a keyboard by reducing the size of the individual keys and placing them close together so that an operator's finger print area covers, and actuates, more than one key, and providing logic circuits to determine which one of the simultaneously actuated keys the operator intended to actuate, is novel and inventive. However, as I explained in my decision of the 10th July, this idea is not in fact new but is disclosed in prior British patent application GB 2125199A. Beyond that, I also indicated in my decision that I had grave doubts as to whether Mr Birkett's description could support any claim involving an inventive step. However, at that stage and since this point had not then been fully aired, particularly in relation to the application of Mr Birkett's basic idea to the keyboard in the handset of a cellular telephone, I did not feel able to say that the description certainly could not support a valid claim.

Looking now at the revised claims, claim 1 seems to me to amount to no more than applying Mr Birkett's basic idea, which I have found is not new, to a keyboard for a cellular telephone. On that basis, the examiner has argued that given that it has been common knowledge for a long time that cellular telephone handsets have keyboards and must be small, and given that one of the other prior documents he previously cited, viz GB 1492538, specifically mentions the use in a "telephone system" of a keyboard whose size is reduced by using arrangements whereby certain signals are produced by actuating more than one key at once, it would have been obvious to the notional skilled person to apply Mr Birkett's basic idea to the handset of a cellular telephone and that accordingly, the invention of claim 1 does not involve an inventive step. Having considered this, and in the absence of any argument to the contrary, I am satisfied that the examiner is right and that claim 1 does not involve an inventive step.

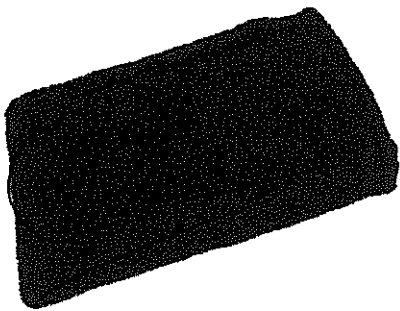
Claims 2 and 3 are seemingly of very wide scope and, in the case of claim 2, difficult to construe sensibly. Indeed, claim 3 seems to be so broad as to be anticipated by essentially any keyboard. In any event, I can see nothing in either of these claims to suggest that they could amount to anything more than the application of Mr Birkett's basic idea to a cellular telephone handset and accordingly, I do not believe that they involve any inventive step.

Claim 4 is an omnibus claim. Having considered Mr Birkett's specification very carefully and apart from a description of the application of Mr Birkett's basic idea to a cellular telephone

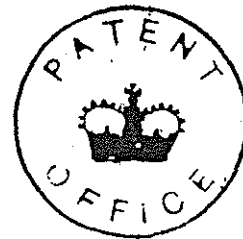
handset which I have already decided does not involve an inventive step, I can see nothing further falling within the scope of claim 4 other than particular forms for the logic circuits used to determine which key the operator intended to actuate and I am confident that these circuits simply involve routine logic development and do not involve any inventive step. Consequently, I do not believe that claim 4 involves an inventive step. Thus, I have found that none of the claims involves an inventive step. Moreover, as I can see nothing else in the description which could support a claim involving an inventive step, I hereby refuse application number 9400294.6.

Any appeal from this decision must be lodged within six weeks of the date of this decision.

Dated this 3 day of October 1996.



D M HASELDEN
Principal Examiner, acting for the Comptroller.



THE PATENT OFFICE