

GERMANY

## Technical character of graphic feedback

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*method/HITACHI* or in T 641/00 – *Two identities/COMVIK*, or more recently in T 1741/08 – *GUI layout/SAP*.

In the court decision X ZR 110/13, the Federal Supreme Court discussed the technical character of the graphical presentation of information. The patent in suit related to a device with a touch-sensitive display that could be unlocked via gestures performed on the touch-sensitive display. As a result of user input, sensory feedback is provided by the device. In its decision, the Federal Supreme Court confirmed the revocation of the patent at first instance by the Federal Patent Court in respect of obviousness.

In the opinion of the Federal Supreme Court, the subject matter of the main claim only differed from the state of the art in that the unlocking was displayed to the user by a graphical representation. In particular, a graphical feedback was provided to the user with respect to a required user input. This feature was not to be considered when assessing the patentability because it did not solve a technical problem, but merely simplified the operation of the device for the user by graphical measures.

The decision is in line with an earlier judgement of the Federal Supreme Court. In its decision *Wiedergabe topographischer Informationen* (X ZR 47/07), the Federal Supreme Court emphasised that the geometric projection of a part of a topographic map was to be considered as representing non-technical features. Also in this case, for assessing inventive step, these non-technical features were taken as being disclosed by the state of the art.

Consequently, the Federal Supreme Court has maintained its previous rulings, and follows the European perspective regarding the technical character of displaying information and the mixture of technical and non-technical features as established by the EPO Boards of Appeal settled in T 258/03 – *Auction*