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**Datasheet for the decision
of 20 March 2019**

Case Number: T 0493/13 - 3.5.04

Application Number: 07794577.2

Publication Number: 2022013

IPC: G06T17/40, G06F17/00

Language of the proceedings: EN

Title of invention:

EDITING TEXT WITHIN A THREE-DIMENSIONAL GRAPHIC

Applicant:

Microsoft Technology Licensing, LLC

Headword:

Relevant legal provisions:

EPC 1973 Art. 54(1), 54(2), 56

Keyword:

Remittal to the department of first instance - special reasons
for not remitting the case: obiter dictum

Novelty - main request and first auxiliary request (no)

Inventive step - second to fifth auxiliary requests (no)

Decisions cited:

T 0473/98

Catchword:



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Case Number: T 0493/13 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 20 March 2019

Appellant: Microsoft Technology Licensing, LLC
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Redmond, WA 98052 (US)

Representative: Grünecker Patent- und Rechtsanwälte
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 9 October 2012
refusing European patent application No.
07794577.2 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman R. Gerdes
Members: A. Dumont
B. Müller

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division to refuse European patent application No. 07 794 577.2, which was published as international application WO 2007/130622 A2.

- II. The decision under appeal was based on the grounds that the subject-matter of the independent claims of the main and first auxiliary requests then on file lacked support by the description and that the invention was not disclosed in a manner sufficiently clear and complete for it to be carried out by the skilled person (objections under Articles 84 and 83 EPC, respectively). In an *obiter dictum* the examining division noted that the claimed subject-matter of all requests did not involve an inventive step starting from document D3 as the closest prior art (Article 56 EPC). D3 is the following patent document:

US 7,009,611 B2

- III. In addition, the examining division refused to admit a second auxiliary request into the proceedings because it did not *prima facie* overcome the objections under Articles 84 and 83 EPC and the claimed subject-matter did not have any prospect of grant (Rule 137(3) EPC).

- IV. The applicant filed notice of appeal against this decision, requesting that it be set aside. It maintained the sets of claims of the main and first auxiliary requests underlying the decision under appeal and submitted claims of a second auxiliary request with the statement of grounds of appeal. The claims of the second auxiliary request were identical to those of the second auxiliary request underlying the decision under

appeal. In addition, the appellant requested that the case be remitted to the department of first instance, should the objections under Articles 83 and 84 EPC be found to be not applicable.

- V. In an annex to the summons to oral proceedings, the board expressed the preliminary opinion that claim 1 of the main and first auxiliary requests fulfilled the requirements of Articles 84 and 83 EPC. Before addressing novelty and inventive step, the board made the preliminary remark that it intended to consider the reasons given in the *obiter dictum* in the impugned decision and to exercise the power within the competence of the examining division in the interest of procedural economy (Article 111(1) EPC). It expressed the preliminary view that the subject-matter of claim 1 according to all requests on file, including the second auxiliary request, appeared to lack novelty over document D3.
- VI. By letter of 20 February 2019, the appellant submitted further amended claims according to third to fifth auxiliary requests, and additional arguments regarding novelty and inventive step.
- VII. Oral proceedings took place on 20 March 2019.

The appellant requested that the decision under appeal be set aside and

- that a European patent be granted on the basis of the claims according to the main request or the first or second auxiliary requests filed with the statement of grounds of appeal,

- to remit the case to the department of first instance, should the objections under Articles 83 and 84 EPC be found to be not applicable, or
- to grant a patent based on the claims of the third to fifth auxiliary requests filed with the reply dated 20 February 2019.

VIII. Claim 1 according to the main request reads as follows:

"A method for editing text that is displayed three-dimensionally, comprising:

receiving an indication to edit the text that is displayed three-dimensionally (410),

wherein the text is positioned on a three-dimensional shape, and wherein to both the text and the shape on which the text is positioned one or more three-dimensional effects of the group consisting of bevels, extrusions, lighting and material is/are applied;

entering a two-dimensional text editing mode; wherein the two-dimensional text editing mode displays the text two-dimensionally for editing (420);

exiting the two-dimensional text editing mode when edits have been completed to the text (450); and thereafter,

displaying the text and the shape three-dimensionally (450) according to their three dimensional properties."

IX. Claim 1 according to the first auxiliary request differs from claim 1 according to the main request in the following addition as identified in bold:

"A method for editing text that is displayed three-dimensionally, **wherein the text has been provided by an application program (10)**, comprising: ..."

- X. Claim 1 according to the second auxiliary request differs from claim 1 according to the first auxiliary request in the addition of the following features identified in bold:

"... wherein the text is positioned on a three-dimensional shape **(230)**, and wherein to both the text and the shape on which the text is positioned one or more three-dimensional effects of the group consisting of bevels, extrusions, lighting and material is/are applied;

entering a two-dimensional text editing mode; wherein the two-dimensional text editing mode displays the text two-dimensionally for editing (420) **within a two-dimensional outline (235) which is a two-dimensional representation of the three-dimensional shape (230);**

wherein two-dimensional properties that are associated with the text such as font, text color or shape color are also displayed within the two-dimensional text editing mode;

wherein the text within the outline (235) is updated as the edits to the text are being made;

exiting the two-dimensional text editing mode when ..."

- XI. Claim 1 according to the third auxiliary request differs from claim 1 according to the second auxiliary request in the addition of the following feature identified in bold:

"... upon selecting by a user the text on the three-dimensional shape (230), entering a two-dimensional text editing mode; wherein the two-dimensional text editing mode displays the text two-dimensionally for editing (420) within a two-dimensional outline (235) which is a two-dimensional representation of the three-dimensional shape (230); ..."

- XII. Claim 1 according to the fourth auxiliary request differs from claim 1 according to the third auxiliary request in the addition of the following features identified in bold:

"...

wherein displaying the outline (235) and the text two-dimensionally comprises utilizing corresponding two-dimensional properties that are associated with three-dimensional properties that relate to the three-dimensional shape (230) and the three-dimensional text;

wherein two-dimensional properties that are associated with the text such as font, text color or shape color are also displayed within the two-dimensional text editing mode; ..."

- XIII. Claim 1 according to the fifth auxiliary request differs from claim 1 according to the fourth auxiliary request in the addition of the following features identified in bold:

"... upon selecting by a user the text on the three-dimensional shape (230), entering a two-dimensional text editing mode; **wherein the three-dimensional shape (230) and its text are displayed two-dimensionally,**

wherein the two-dimensional text editing mode displays the text two-dimensionally for editing (420) within a two-dimensional outline (235) which is a two-dimensional representation of the three-dimensional shape (230); ..." and by

"... **redisplaying** the text and the shape three-dimensionally (450) according to their three dimensional properties."

XIV. The appellant submits that the second auxiliary request should have been admitted into the examination proceedings because it was filed in response to Article 56 EPC objections based on the late introduction of the highly relevant document D3.

XV. In the *obiter dictum* to its decision, the examining division held that the subject-matter of the independent claims did not involve an inventive step for the following reasons:

- Document D3 as the closest prior art related to a generally known 2-D and 3-D text formatting application, where text strings were previewed in a 2-D window and editable in a 2-D editing mode.
- In such applications, text and shape 3-D properties, such as bevels, extrusions, lighting and material, reflected user requirements, which were non-technical or aesthetic.
- The skilled person would choose the 3-D formatting in accordance with those requirements.
- The implementation of such requirements was, *per se*, trivial.

XVI. The appellant's arguments in support of novelty and inventive step, where relevant for the present decision, may be summarised as follows:

- The present invention solved the objective technical problem of improving the editing of text having three-dimensional properties. This was achieved by providing various features, all of which facilitated editing by providing better feedback to the user on the effect of the edits.
- In D3, several three-dimensional objects could be displayed as distinct entities. The three-dimensional template in D3 could not be equated with the three-dimensional shape within the meaning of the invention, on which the text was positioned. Starting from D3, the skilled person would implement any additional visible 3-D property for a shape with a separate 3-D object. This object would not be related to the text object.
- In D3, there was no two-dimensional representation of the shape in the editing mode. In the invention, the representation as an outline provided a visual context for the text improving the feedback for the user to determine the visual effect of their edits on the text.
- In D3, text strings were not editable in the 2-D preview window, which is not selectable for editing.

Reasons for the Decision

1. The appeal is admissible.
2. Remittal to the department of first instance

- 2.1 The appellant requests remittal to the department of first instance, should the objections under Articles 83 and 84 EPC be found not to be applicable. The board considers it expedient to deal with this procedural request before dealing with the issues of novelty and inventive step.
- 2.2 In an *obiter dictum* the examining division gave reasons why the claimed subject-matter of all requests then admitted into the proceedings did not involve an inventive step, starting from document D3. The objection was raised by the examining division very late, in an annex to the "short communication" of 17 September 2012 in advance of the oral proceedings scheduled for 25 September 2012 and held as a video conference on that date.
- 2.3 On the one hand, the relevance of D3 was not discussed in the proceedings at first instance and it is not part of the grounds for refusing the present application. However, this does not oblige the board to remit the case since parties do not have an absolute right to proceedings at two instances. On the other hand, *obiter dicta* serve overall procedural economy and effectiveness in that they provide the boards with reasons that might obviate remittals (see T 473/98, OJ EPO 2001, 231).
- 2.4 In the present circumstances, the board considers it appropriate, in relation to aspects of procedural economy and effectiveness, to exercise the power within the competence of the examining division (Article 111(1) EPC) and to decide on novelty and inventive step, also considering the reasons given in the *obiter dictum*. The objections raised under Articles 84 and 83 EPC (lack of support by the description and

insufficient disclosure, respectively) are no obstacle to a proper claim construction.

3. Main request

3.1 Document D3 reflects the closest prior art. It discloses a method for editing text that is displayed three-dimensionally, comprising:

- receiving an indication to edit the text that is displayed three-dimensionally in a visualisation window (502 in Figures 13 and 14 and column 13, lines 46 to 57),
- wherein the text is positioned on a three-dimensional shape, the 3-D earth object ((1511) in Figures 15 to 17), and wherein to both the text and the shape on which the text is positioned one or more three-dimensional effects of the group consisting of bevels, extrusions, lighting and material is/are applied (see column 5, lines 12 to 23);
- entering a two-dimensional text editing mode; wherein the two-dimensional text editing mode displays the text two-dimensionally for editing (see column 13, lines 27 to 37 and lines 46 to 57);
- exiting the two-dimensional text editing mode when edits have been completed to the text; and thereafter,
- displaying the text and the shape three-dimensionally according to their three dimensional properties (see column 4, lines 61 to 64 together with Figure 4 and column 14, lines 50 to 62 together with Figure 15).

Both the text and the shape have their own 3-D effects (see column 4, lines 54 to 56 for the text object and

the description of Figure 15 in column 14 for the earth object). In particular, properties are also defined for the text (see step 405 in Figure 4), such as text font and size (see steps 901 and 902 in Figure 9).

- 3.2 The appellant argues that the earth object is a separate object occupying a different spatial position than the text. The board agrees that the text and the shape are different objects in D3, which in principle could be positioned independently from each other. However, Figures 15 to 17 show that the text "is positioned on" the earth object as set out in claim 1, albeit only partially.
- 3.3 As a result, the subject-matter of claim 1 according to the main request lacks novelty over D3 (Article 54 (1) and (2) EPC 1973).
4. First auxiliary request
 - 4.1 Claim 1 according to the first auxiliary request differs from claim 1 according to the main request in that it additionally sets out that "the text has been provided by an application program (10)".
 - 4.2 The method in D3 is implemented with a regular computer with an operating system: see Figures 1 and 3 and their respective description in columns 3 and 4. The additional feature is known from D3: see Figure 3 and its description, especially column 4, lines 27 to 31, which mention a "3-D text application" to "visualise ASCII characters inputted by means of keyboard". Furthermore, D3 expressly mentions a (2-D) word processor (see column 9, lines 27 to 46).

4.3 As a result, the subject-matter of claim 1 according to the first auxiliary request lacks novelty over D3 (Article 54 (1 and 2) EPC 1973).

5. Second auxiliary request

5.1 Admissibility

The second auxiliary request corresponds to the second auxiliary request not admitted by the examination division into the examination proceedings on the grounds that it did not *prima facie* overcome the objections under Articles 84 and 83 EPC. The board considers that those objections do not apply to the main and first auxiliary requests, so that they cannot be an obstacle to admittance of the second auxiliary request. The board does not see any other reason not to admit it into the proceedings.

As a result, the second auxiliary request is not held inadmissible under Article 12(4) of the Rules of Procedure of the Boards of Appeal of the European Patent Office (OJ EPO 2007, 536), hereinafter referred to as "RPBA", and is therefore taken into account in the appeal proceedings as part of the appellant's complete case (Article 12(2) RPBA).

5.2 Novelty

5.2.1 Compared with claim 1 according to the first auxiliary request, claim 1 according to the second auxiliary request sets out the additional feature that two-dimensional properties that are associated with the text, such as font, text color or shape color, are also displayed within the two-dimensional text editing mode. This feature is disclosed in D3 ("text content and

formatting" in column 14, lines 58 to 62), with formatting comprising at least the definition of a font (see column 9, lines 27 to 29). Claim 1 of the second auxiliary request also specifies that the text within the outline (235) is updated as the edits to the text are being made. This feature is disclosed in D3, column 13, lines 50 to 57, and column 14, lines 58 to 62.

- 5.2.2 Claim 1 according to the second auxiliary request additionally sets out that, when entering the two-dimensional text editing mode, the two-dimensional text editing mode displays the text within a two-dimensional outline, which is a two-dimensional representation of the three-dimensional shape.
- 5.2.3 In the foregoing, the earth object in prior-art document D3 has been considered as constituting the three-dimensional shape according to claim 1. When entering a two-dimensional text editing mode, the earth object is not displayed at all. Instead, the text is displayed two-dimensionally within a two-dimensional outline ("wireframe outline" 512) in a third window (1305) (see also Figures 13 and 14). The outline in the third window is a two-dimensional representation of a template with three-dimensional properties, also represented in the visualisation window (502 in Figures 13 and 14).
- 5.2.4 The template in D3 has 3-D properties, essentially geometric ones defining the position of the text within it in the 3-D space by rotating and scaling operations (see column 4, lines 44 to 56; column 8, lines 42 to 58; see also step 404 in Figure 4). It has a corresponding representation in the 2-D view (see column 5, lines 38 to 44) but no representation after

the two-dimensional text editing mode has been exited. Moreover, it is not a shape having any of the effects / properties of the group consisting of bevels, extrusions, lighting and material that is/are applied, as set out in claim 1.

5.2.5 The subject-matter of claim 1 is therefore novel over the method disclosed in D3.

5.3 Inventive step

5.3.1 According to the invention, the text is included in and associated with the shape (see paragraph [0024] in the description). In the editing mode, some additional contextual properties of the shape are reflected in the 2-D view as an outline to maintain the context, i.e. to create a 2-D display that more closely resembles what the final result will look like (see paragraph [0025] in the description). It provides feedback to the user about the visual effect of the editing actions and makes editing easier.

5.3.2 For instance, a user would see that the edited text would not fit within the shape and could correct the problem before committing to the edits (see the sentence bridging pages 7 and 8, in paragraph [0022] of the description of the present application). This basic feedback is also provided in D3, in which the geometric outline visible in the 2-D representation reflects the dimensions of the template. Similar to the present invention, D3 also aims to provide feedback to the user by immediately updating the content as text edits are being made, especially to allow the user to ascertain that the text remains contained within the template both in the third window 1305 and in the visualisation window 502 (see point 5.2.1 above).

- 5.3.3 In D3, the list of 3-D properties for either the text or the template must be defined. For the text, properties such as extrusion, texture and lighting are expressly defined (see column 11, lines 59 to 61 and Figure 11). For the template, geometric properties such as 2-D rotation, scaling and page behaviour are expressly defined (see column 8, lines 66 to 67 and Figure 8).
- 5.3.4 Users of 3-D applications increasingly demand enhanced presentation for text with additional effects. For instance, texts can be contained in frames (e.g. boxes or logos), which are equipped with additional properties (e.g. shading or texture) to confer depth to the presentation. The person skilled in the art of designing methods for editing text (objects) is therefore faced with those additional constraints / requirements, which they are expected to implement or at least make possible.
- 5.3.5 From a technical standpoint, the technical problem can be seen in providing features in the text editing method that allow the user to define additional visual effects relating to an object. Effects from the group consisting of bevels, extrusions, lighting and material are merely possibilities for such additional visual effects.
- 5.3.6 The list of properties for the template is limited to geometrical effects in D3. In order to meet those additional requirements, the person skilled in the art of designing methods for editing text would adapt the type and list of the properties to the effects required by users. For instance, they would consider providing

the appropriate properties for making visible the frame containing the text with a desired 3-D effect.

5.3.7 The implementation and rendering of those effects do not pose any technical problem per se. Such effects are well known and the present invention does not disclose any particulars as to their implementation either.

5.3.8 The appellant argues that the skilled person would not envisage adding visible properties to an invisible template but would instead create a distinct visible object (similar to the earth object mentioned in the foregoing) that was equipped with those properties. That argument is not convincing for the following reason. In D3, the template is directly related to the text by defining 3-D geometric properties in order to contain the text. Equipping a separate object that was totally unrelated to the text object with the additional properties would break that relationship and go against D3's teaching. Rather, the board considers that equipping the containing template with those additional properties would be an obvious solution to generate the effects required by the user.

5.3.9 As a result, the subject-matter of claim 1 according to the second auxiliary request does not involve an inventive step within the meaning of Article 56 EPC 1973.

6. Third auxiliary request

6.1 Compared with claim 1 according to the second auxiliary request, claim 1 according to the third auxiliary request sets out the additional feature that the two-dimensional text editing mode is entered when a user

selects the text on the three-dimensional shape ("upon selecting" in the claim).

- 6.2 This feature further improves the ease and speed of editing text on 3-D objects, especially when several objects are displayed at the same time. This is not disclosed in D3. However, the two-dimensional text editing mode must also be entered somehow in D3, in a context in which several objects might simultaneously co-exist in a 3-D representation. D3 is about editing various 3-D objects representing text, using a graphical user interface on a computer with a windowing operating system and input devices such as a mouse or a stylus (see D3, column 8, lines 17 to 24 and Figure 7D). On this background, entering an editing mode by selecting the text to be edited is considered a straightforward option. It does not pose any technical problem per se and the present invention does not disclose any particulars as to the implementation either.
- 6.3 The appellant argues that editing is performed in D3 using a different procedure, namely by directly selecting the text in a further 2-D window. This argument is not convincing because this procedure relates to text editing itself, after the two-dimensional text editing mode has been entered, and not to entering the text editing mode.
- 6.4 As a result, the subject-matter of claim 1 according to the third auxiliary request does not involve an inventive step within the meaning of Article 56 EPC 1973.
7. Fourth auxiliary request

- 7.1 Compared with claim 1 according to the third auxiliary request, claim 1 according to the fourth auxiliary request sets out the additional feature that displaying the outline and the text two-dimensionally comprises utilising corresponding two-dimensional properties that are associated with three-dimensional properties that relate to the three-dimensional shape and the three-dimensional text.
- 7.2 According to the appellant, this feature further facilitates the editing of text on 3-D objects, by mapping or associating 3-D properties with a 2-D representation thereof. For instance, in the case of bevels with rounded corners, as shown in Figure 3 of the present application, this feature would allow for better feedback on the position of the text.
- 7.3 Regardless of whether the wording of claim 1 properly supports the specific interpretation made by the appellant, D3 ensures immediate feedback for the user to assess any text-editing action, by maintaining an immediate correspondence between an editing action, its representation in the simplified 2-D preview window (1305) and its 3-D representation in the visualisation window (502). Furthermore, D3 discloses the step of displaying corresponding two-dimensional properties that are associated with properties of the 3-D text in both windows to partly maintain the context between the 2-D and 3-D representations. In practice, the 3-D geometric properties of the template are mapped into the 2-D representation by a rectangular frame having the appropriate dimensions (see, for example, the wireframes in windows 502 and 1305 of Figure 14).
- 7.4 It is considered obvious that the skilled person would reflect in the 2-D window any additional 3-D property

of relevance for the purpose of editing, as a "corresponding" 2-D property. This does not pose any technical problem per se and the present invention is silent as to any particulars on implementation or the association of 3-D with 2-D properties.

7.5 As a result, the subject-matter of claim 1 according to the fourth auxiliary request does not involve an inventive step within the meaning of Article 56 EPC 1973.

8. Fifth auxiliary request

8.1 Compared with claim 1 according to the fourth auxiliary request, claim 1 according to the fifth auxiliary request sets out the additional first feature that the three-dimensional shape and its text are displayed two-dimensionally. Additionally, it sets out that the text and the shape are redisplayed three-dimensionally according to their three-dimensional properties after the editing mode has been exited.

8.2 According to the appellant, these features further facilitate the editing of text on 3-D objects and provide immediate, accurate, effective and efficient feedback to the user on the outcome of the edits.

8.3 The first feature is a reformulation of the additional feature identified with respect to claim 1 of the second auxiliary request. The second feature ("redisplaying") makes the effect intended in the present invention clear. The same effect is implicit in D3: after exiting the editing mode, the result of any edit should be displayed/redisplayed as intended by the user.

8.4 As a result, the subject-matter of claim 1 according to the fifth auxiliary request does not involve an inventive step within the meaning of Article 56 EPC 1973 for the same reasons as those given in relation to claim 1 according to the fourth auxiliary request.

9. Since none of the appellant's requests is allowable, the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

R. Gerdes

Decision electronically authenticated