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**Datasheet for the decision
of 1 October 2019**

Case Number: T 1750/13 - 3.5.01

Application Number: 09755574.2

Publication Number: 2304658

IPC: G06Q10/00

Language of the proceedings: EN

Title of invention:
SCHEDULING OPPORTUNITY PREVIEWER

Applicant:
Microsoft Technology Licensing, LLC

Headword:
Scheduling opportunity previewer/Microsoft Technology
Licensing, LLC

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - previewing a scheduling opportunity in a
mini-calendar format (no - presentation of information)

Decisions cited:
T 0643/00, T 0928/03, T 1575/07, T 1749/06, T 2019/12



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Case Number: T 1750/13 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 1 October 2019

Appellant: Microsoft Technology Licensing, LLC
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Representative: Grünecker Patent- und Rechtsanwälte
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 28 February
2013 refusing European patent application No.
09755574.2 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman W. Chandler
Members: N. Glaser
C. Schmidt

Summary of Facts and Submissions

- I. This appeal is against the examining division's decision to refuse European patent application 09755574.2 pursuant to Article 97(2) EPC on the ground of lack of inventive step (Article 56 EPC).

The examining division found that claim 1 of the main and first auxiliary request did not involve an inventive step (Article 56 EPC). The second and third auxiliary requests were not admitted into the proceedings under Rule 137(3) EPC.

- II. In the statement setting out the grounds of appeal, the appellant requested that the decision of the examining division be set aside and that a patent be granted on the basis of the main request, or a first or second auxiliary request all filed therewith. These requests correspond to the refused ones, except for the replacement of "context" with "content" in line 7 of claim 1 of the second auxiliary request. On an auxiliary basis, the appellant requested remittal of the case to the first instance for performing a prior art search and continuing examination. Oral proceedings were requested on an auxiliary basis.

- III. In the annex to the summons to oral proceedings, the Board expressed its preliminary view that the refusal of the application for lack of inventive step was justified for the main, first and second auxiliary requests. In addition, the second auxiliary request was found not to comply with Article 123(2) EPC.

- IV. In a response, the appellant filed a revised version of the second auxiliary request.

V. Oral proceedings were held on 1 October 2019. The appellant requested that the decision under appeal be set aside and that the patent be granted on the basis of the main request or the first auxiliary request, both filed on 2 July 2013 with the statement setting out the grounds of appeal, or the second auxiliary request, filed on 19 August 2019. As a further auxiliary request the appellant requested remittal of the case to the department of first instance for performing a prior art search and continuing examination.

VI. At the end of the oral proceedings the Chairman announced the Board's decision.

VII. Claim 1 of the main request reads as follows (enumeration (i) to (iii) by division):

"A computer-implemented scheduling opportunity previewer system comprising means adapted to perform the steps of:

(i) receiving (202) a scheduling opportunity,

(ii) retrieving (204) a context of one or more surrounding appointments to the scheduling opportunity

(iii) displaying (206) the scheduling opportunity in a mini-calendar format with the context of surrounding appointments."

Claim 1 of the first auxiliary request corresponds to claim 1 of the main request with the following changes:

(a) addition of *"in an email box of a user"* at the end of the first feature,

(b) addition of *"the context of the one or more surrounding appointments including conflicting and adjacent appointments"* at the end of the second feature,

(c1) deletion of *"mini"* from calendar format and replacement of *"with the context of surrounding appointments"* with *"and only the conflicting and adjacent appointments [...] in a preview pane (326)"* in the third feature, and

(c2) addition of *"within the user's email inbox"* at the end of the claim.

Claim 1 of the second auxiliary request corresponds to claim 1 of the first auxiliary request with the additional step *"receiving (208) input from the user to accept or decline the scheduling opportunity, wherein the user does not have to open up their calendar module"*.

Reasons for the Decision

1. The invention
 - 1.1 The invention relates to a previewer which displays a request to add a new appointment or meeting ("scheduling opportunity") to the user's calendar in the context of the surrounding appointments in the user's calendar. The preview is displayed in a "mini-calendar format" which is a miniature view of the user's calendar in the user's current context. The "mini-calendar format" shows conflicting and/or adjacent appointments (see Figure 6 and paragraph [0020] of the originally filed application).

1.2 The invention allows a user to make a decision on how to handle a request for a new appointment, e.g. to accept, decline, propose new time, without having to switch the "context", in other words, the user does not have to open their calendar module in order to make this decision.

2. Main request - Article 56 EPC

2.1 In order to make an informed decision, any kind of scheduling and planning activity requires a user to have information at hand about appointments in his or her calendar which are potentially conflicting or surrounding the new appointment. In the Board's judgement this information and its provision simply form part of an administrative or business scheme and a presentation of information. The features of claim 1 of receiving a proposed scheduling opportunity or appointment (feature i), retrieving the context of one or more surrounding appointments [from the user's calendar] (feature ii) and displaying the result (feature iii) to the user in a specific format [for allowing it to make a decision about whether to accept or decline the new appointment] are a computer implementation of this scheme.

2.2 The established approach for dealing with mixed-type inventions is the "COMVIK approach" (T 641/00 - *Two identities / COMVIK*), according to which the non-technical features cannot contribute to inventive step.

The issue in this appeal is thus whether the above mentioned scheme has any technical features or effects. If not, then claim 1 of the main request is merely a straightforward implementation of the scheme on a general purpose computer, which would not involve an inventive step.

- 2.3 The appellant argued that a "previewer system" and a "mini-calendar format" should be regarded as technical features.

Previewer system

- 2.4 The Board notes that in text processing, *previewing* a document means displaying it on a screen instead of, or prior to, printing it. The purpose is to inform a user about the look of a document, whether the formatting is correct, thereby avoiding the waste of paper. In other fields, a *preview* of information is a visualisation of a subset of information, such as a summary of the content of a book on a book cover, of selected fields of its bibliographic data. The purpose is to inform a person about a book without obliging him to read its full content.

In the Board's judgement, both are *a mere presentation of information* which does not lead to a technical effect and therefore does not have technical character.

Mini-calendar format

- 2.5 The feature "*mini-calendar format*" refers to a miniature view of the user's calendar in the user's current context, see paragraph [0020]. It is employed in the application to limit the information to be displayed to those appointments which are in conflict or which are close to the proposed appointment. However, in the context of scheduling appointments, which is an administrative activity, a user evidently only needs to consider the "surrounding" and "conflicting" appointments, other appointments are not relevant for him to decide. In the Board's view, a requirement for describing what a user wants to see is

a non-technical rule or scheme and its arrangement on a display resulting in a "mini-calendar" format is a mere presentation of information.

2.6 The appellant argued that displaying the "scheduling opportunity" in a mini-calendar format with the context of surrounding appointments achieved three technical effects: it saved time and resources because only a minimum number of surrounding appointments needed to be retrieved, it improved user-friendliness and usability because the context of surrounding appointments for a "scheduling opportunity" was retrieved, and it saved resources because a user did not need to open a separate calendar.

2.7 However, in the Board's view, the effects identified are too vague and would be mere bonus effects. They depend on the underlying computer system on which the information is to be displayed, which means that on certain devices resources may be saved, while on others there may be no such saving effect. For example, the need for less storage space is an (inevitable) bonus effect of choosing which data to consider. Moreover, the effects have a subjective aspect, depending on the respective user. For example, while a miniature display may be user-friendly for one user, it may not be the case for another user who prefers to handle his or her appointments in a separate calendar application.

Furthermore, the Board notes that the application does not explicitly disclose any of these effects, let alone how to achieve them. On the contrary, paragraph [0027] explicitly discusses that "the user is saved from having ..." which is neither a technical resource nor a technical effect.

Closest prior art

- 2.8 The closest prior art is a standard computer system, as known and in use in a vast number of companies for office automation well before the priority year 2008. Such a computer system and its use were common general knowledge, see paragraphs [0042] to [0044] of the application, and the Board believes that no further evidence is required.

Problem-solution approach

- 2.9 The objective technical problem is how to implement the administrative scheme defined by features (i) to (iii), see paragraph 2.1 above, on such a general purpose computer system. From the point of view of the relevant person skilled in the art, the task of implementing these features on such a general purpose computer system is *per se* a normal and obvious aim. The claimed technical solution does not go beyond the mere automation of constraints imposed by the administrative aspects. Such automation using conventional hardware and programming methods must be considered obvious to a skilled person.
- 2.10 The Board does not see any other technically relevant subject-matter which may have to be taken into account and concludes that the subject-matter of claim 1 of the main request lacks an inventive step (Article 56 EPC).
3. The Board is not convinced by the appellant's argumentation based on the case law of the Boards of Appeal.
- 3.1 The appellant referred to a passage at point 4.1.1 of T 928/03, which states that "The functional quality [of

a feature] is not cancelled by the fact that the visualised information will also enter into a decision of the user interacting with the video game displayed on the screen." The Board, however, does not consider that this reasoning applies in the present case because, as mentioned above, displaying information about appointments does not have a corresponding "functional [technical] quality" comparable to the interactivity in a video game, in which a user controls at least one player character displayed on screen.

3.2 Similarly, the reasoning in T 1749/06 cannot be applied in this case either because the format of arranging information on a display screen is a presentation of information with the non-technical effect of helping a user to take a decision. In T 1749/06 the feature of modifying the edge of an icon with alternate dark and light stripes were technical elements which contributed to creating the three-dimensional effect and therefore had technical character (reasons, point 4.2.2).

3.3 The Board rather considers that the present case is comparable to T 2019/12 where the invention related to the input of data values by selecting a point on a chart curve. The decision, reasons paragraph 20, applied the COMVIK approach and defined the non-technical task given to the technical expert as follows: a trader describes his problems by pointing to the chart curve and explaining how, for example, he determines a price level that is significant for the trader and then types it into the order program. In the present application a user describes his problem to a technical expert as follows by pointing to his calendar: when he receives a new appointment, he requires - prior to taking a decision whether to accept or decline it - information about other appointments in

his calendar which are already scheduled at the same time (conflicting appointments) or which are scheduled close to the new one (adjacent appointments). The way of arranging scheduling information on a preview pane, which is a presentation of information, results from the business requirements.

4. First auxiliary request - Article 56 EPC

4.1 Claim 1 of this request essentially further specifies the surrounding appointments as "conflicting and adjacent appointments" (b) and (c1) and that the displaying is "in a preview pane (326) within the user's email inbox" (a) and (c2). The appellant stated that this reflected the embodiment shown in Figure 6, and detailed in paragraph [0037], but excluded the embodiment of Figure 7.

4.2 Figure 6 illustrates a graphical user-interface (GUI) of an email client. The GUI has various areas, one area, the preview pane 326, visualises calendar information in a mini-calendar format. However, there is nothing specific in the design of this area enabling it to visualise this sort of data, compared to the visualisation of the content of email messages.

The term "within" a user's email inbox does not imply any further technical detail about how the calendar functions should be integrated with an email client. The term can be interpreted as defining a graphical location "within" the extensions of the GUI of an email client, as illustrated in Figure 6. The panes in Figure 6 appear to be non-overlapping, as argued by the appellant, but it would go too far to exclude "non-overlapping windows", see paragraph [0030] of the application.

The Board therefore interprets this feature broadly, as encompassing a pane or a (pop-up) window which is displayed within the limits set by the width and height of the GUI interface.

- 4.3 Personal information managers, like Microsoft Outlook, were known to enable users to manage their calendars, see paragraphs [0001], [0002] and [0018] of the application. While not mentioned explicitly, the Board cannot think of another obvious implementation other than "email" when the application talks about the feature "a scheduling opportunity arrives", see paragraph [0002], and considers this feature to be implicitly disclosed in the background art.
- 4.4 The Board agrees with the division that email was a well-known means for the exchange of information between users at the priority date of the application. The GUIs of email clients usually comprised various panes for the visualisation of email inboxes, their content and for the previewing of in-line images and attachments, as well as buttons for the management of emails.
- 4.5 The Board agrees with the division that features (b) and (c1) are of a mere cognitive nature and relate to a presentation of information, and can therefore not contribute to invention step. The Board refers to paragraphs 2.5 to 2.7 above.
- 4.6 The Board therefore concludes that claim 1 of the first auxiliary request lacks inventive step (Article 56 EPC), because the implementation was common in the field of technology.

5. Second auxiliary request - Article 56 EPC
- 5.1 Claim 1 attempts to clarify with a functional definition that the user can make a decision about the received "scheduling opportunity" without the need to open up their calendar module.
- 5.2 The application gives no technical details about this feature other than Figure 6, which illustrates the GUI with, in the same row, standard email management functions and functions specific to the management of appointments, such as the ability to accept, decline or tentatively accept, to propose a new time, and to visualise the calendar of a user. The Board therefore interprets this feature in that calendar functions are integrated in the GUI of the email client which avoids a user having to open up their calendar module.
- 5.3 The application tells the reader, see paragraphs [0001] and [0002], that personal information managers were known to provide calendar management functions. The Board doubts that the combination of calendar management functions with email functions in a same GUI has any technical effect. It appears rather to be an aspect of presentation of information according to a user's preferences. Moreover, in the Board's view this would have been an obvious consideration for the person skilled in the art.
- 5.4 Similarly, no technical effect can be derived from the feature "without having to open up their calendar module", so that the feature cannot contribute to inventive step.

5.5 The Board therefore concludes that claim 1 of the second auxiliary request lacks an inventive step (Article 56 EPC).

6. Remittal

The Board does not allow the appellant's request to remit the case for performing a prior art search and continuing examination because none of the requests contain subject-matter which could justify a remittal and because the Board is in a position to take a decision with the prior art at hand.

Order

For these reasons it is decided that:

The appeal is dismissed

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated