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Datasheet for the decision
of 28 November 2019

Case Number:	T 2741/16 - 3.5.05
Application Number:	11191507.0
Publication Number:	2461228
IPC:	G06F3/01, G06F3/048, G06F17/24
Language of the proceedings:	EN

Title of invention:
Haptic feedback assisted text manipulation

Applicant:
Immersion Corporation

Headword:
Haptic feedback assisted text manipulation / Immersion

Relevant legal provisions:
EPC Art. 56, 84
RPBA Art. 13(1), 13(3)

Keyword:
Inventive step - obvious modification
Late-filed auxiliary requests - admitted (no) - amendments
after arrangement of oral proceedings - diverging versions of
claims - request clearly allowable (no)

Decisions cited:

Catchword:

Case Number: T 2741/16 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 28 November 2019

Appellant: (Applicant)	Immersion Corporation 50 Rio Robles San Jose, CA 95134 (US)
Representative:	Hofstetter, Schurack & Partner Patent- und Rechtsanwaltskanzlei PartG mbB Balanstrasse 57 81541 München (DE)

Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 11 July 2016 refusing European patent application No. 11191507.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair	A. Ritzka
Members:	N. H. Uhlmann
	D. Prietzel-Funk

Summary of Facts and Submissions

I.   The appeal lies from the decision of the examining
        division to refuse European patent application
        No. 11191507.0 because the main request and the first
        auxiliary request do not meet the requirements of
        Articles 123(2) and 84 EPC.

II.   The reasons for the decision refer to the following
        prior-art documents:

        D1 EP 2 105 844;
        D2 US 2009/167508.

III.   In its notice of appeal, the appellant submitted an
        amended main request and auxiliary requests 1 and 2.

IV.   In its statement setting out the grounds of appeal, the
        appellant submitted amended versions of the main
        request and auxiliary request 1, with arguments.
        Auxiliary request 2 was maintained.

V.   The board arranged for oral proceedings to be held.

VI.   In the summons, the board set out its provisional view
        of the case. Among other things, it considered that the
        main request did not meet the requirements of Article
        56 EPC and that auxiliary request 1 did not comply with
        the requirements of Articles 56 and 84 EPC. Moreover,
        the admissibility of auxiliary request 1 under Article
        12(4) RPBA was addressed.

VII.   By letter dated 28 October 2019, the appellant filed an
        amended main request and auxiliary requests 1 and 2, to
        replace all requests previously on file.

VIII.   In a letter dated and received on 27 November 2019, the
        appellant's representative informed the board that he
        would not be attending the hearing on 28 November 2019.

IX.   Oral proceedings were held on 28 November 2019. As
        announced, no one attended on behalf of the appellant.

X.   The appellant requested in writing that the decision
        under appeal be set aside and that a patent be granted
        based on the claims of the main request or of auxiliary
        request 1 or 2, all submitted with the letter dated
        28 October 2019.

XI.   Claim 1 of the main request reads as follows:

        "A computer readable medium having instructions stored
        thereon that, when executed by a processor (22), cause
        the processor (22) to provide haptic feedback on a
        device (50) comprising a touchscreen (55), the
        instructions comprising:

        displaying dynamically generated text (58) comprising a
        plurality of characters; and
        sensing a touch by a user's finger (56) within the
        dynamically generated text (58);

        characterized by

        determining if the touch is a manipulation of the
        dynamically generated text (58) and a type of the
        manipulation, wherein the manipulation comprises a
        selection of the dynamically generated text (58) by
        sliding the finger (56) across the dynamically
        generated text (58); and

        while the finger (56) is being slid across the
        dynamically generated text (58) right or left from a
        handle (78) which is displayed when the user initially
        touches the dynamically generated text (58) and which
        indicates the initial position of the cursor,

        highlighting (74) that portion of the text, indicating
        that the user is selecting that portion of the text,
        and

generating a type of haptic event based at least in
part on the type of the manipulation, wherein the
haptic event generates the haptic feedback with an
actuator (26), wherein as the finger slides across the
text (58), different haptic events are generated."

XII.   Claim 1 of auxiliary request 1 corresponds to claim 1
         of the main request with following features added at
         the end:

         "wherein the selection of the text (58) comprises one
         of selecting a character, a word, a sentence, or a
         paragraph, and a first haptic event is generated for
         each of the characters, the word, the sentence, or the
         paragraph or

         wherein the selection of text (58) comprises selecting
         an item comprising a word, sentence or paragraph, and
         haptic event is generated when the touch reaches an end
         of the item."

XIII.   Claim 1 of auxiliary request 2 corresponds to claim 1
         of the main request with following features added at
         the end:

         "wherein if a user is slowly moving a finger across
         text, the type of haptic event varies when encountering
         the space between characters, and if the user is more
         quickly moving a finger across text, the type of haptic
         event varies when encountering the space between
         words."

         Moreover, the "sensing" feature was moved to the
         characterising portion.

Reasons for the Decision

1. The invention as described relates to a device
    comprising a touch screen that provides tactile
    feedback upon sensing a touch by a user's finger.
    The addressed problem is to support the user as he or
    she manipulates text.
    The solution as claimed provides for adapting the type
    of tactile feedback to the type of manipulation and to
    specific touch gestures.

2. Prior Art

    Document D2 discloses a device with a touch screen. The
    device is adapted to provide tactile feedback in
    different situations.

Main request

3. Amendments

    The board considers that the feature "as the finger
    slides across the text (58), different haptic events
    are generated" added to the present independent claims
    meets the requirements of Article 123(2) EPC. In
    particular, the last sentence of paragraph 21:

    "As finger 56 slides across text 58, different haptic
    events are generating indicating, for example, whether
    finger 56 is covering a text character, or at a space
    between characters or between words",

    and the first sentence of paragraph 23:

    "As finger 56 touches or slides across text 58,
    different haptic events can be generated depending on

the position of finger 56, the context of the text, etc"

form a proper basis for deriving this feature.

4.   Patentability

4.1   The board agrees with the appellant that document D2 forms a suitable starting point for analysing patentability.

4.2   The appellant argued (first paragraph on page 4 of the statement setting out the grounds of appeal; and letter dated 28 October 2019, first paragraph on page 3) that two distinguishing feature were present:

        (a) "sensing a touch by a user's finger within the dynamically generated text"; and

        (b) "as the finger slides across the dynamically generated text, different haptic events are generated".

        The appellant did not argue that there were other differences.

4.3   While the board accepts that the subject-matter of claim 1 is new, it does not agree that those are the distinguishing features.

4.4   The claimed concept of "dynamically generated text" is explained as follows in paragraph 27 of the description:

        "In general, the text is dynamically generated, and is different from more static input controls or other types of user interfaces that are used to control or modify text or data. In most embodiments, the text is displayed in a region of the display that is separate from UI controls and other non-textual areas."

In view of this explanation, the board holds that the
text in preview window 970 (D2, Figure 9B) and in text
box 1020 (D2, Figure 10) qualifies as dynamically
generated text in the sense of claim 1.

Furthermore, paragraph 83 of D2 teaches that tactile
feedback is provided to a user in response to detecting
the user's finger over preview window 970 and that the
tactile feedback is provided to indicate the placement
of a cursor or marker in preview window 970.
Considering that placing a cursor in a part of the
preview window where no text is displayed would not
make sense, the board holds that document D2 discloses
feature (a). Additionally, paragraph 87, first two
sentences, comprises a similar teaching.

The fact that a separate touch keyboard is provided in
document D2 is not at odds with this finding.

4.5   With regard to feature (b), claims 8 and 9 of document
        D2 disclose that different tactile feedback is provided
        when a portion of a user's hand is positioned on
        different, first and second, locations, and that
        tactile feedback is provided as the portion is moved
        from the first to the second location. In view of the
        board, D2's "portion of a user's hand" anticipates the
        user's finger recited in claim 1. Hence, document D2
        discloses that as the finger slides across the display,
        different haptic events are generated, but does not
        disclose that the finger slides across the dynamically
        generated text.

4.6   Consequently, the subject-matter of claim 1 differs
        from the disclosure of document D2 in that

        (m1) the user's finger is being slid across the
        dynamically generated text and the corresponding
        portion of the text is highlighted.

4.7   The technical effect of distinguishing feature (m1) is that the user is enabled to efficiently select a text portion.

4.8   The objective technical problem is considered to be how to enable the user to efficiently select a text portion.

4.9   Faced with this problem, the person skilled in the art would consider, based on his or her common general knowledge, that by dragging a selection cursor on a touch screen text can be selected and highlighted.

        Similarly, document D1, which falls within the same technical field and discloses techniques for selecting information on a touch screen, discloses selecting and highlighting a region of text by a proximity-drag touch operation (Figures 45 and 46, paragraph 201). In this regard, the appellant confirmed (page 4, last paragraph of the statement of grounds) that document D1 discloses that "text may also (be) directly selected by sliding the finger over the text".

        Consequently, to solve the problem posed, the person skilled in the art would modify the teaching of document D2 by providing a possibility for the user to slide his or her finger across the text and thereby highlight the corresponding text's portion. Moreover, the different haptic events of document D2 would clearly result as the finger slide across the text. In this way, the skilled person would arrive at the subject-matter of claim 1 in an obvious manner.

4.10   The appellant argued that the prior art did not disclose evaluation of a relative position (or distance) of the finger with respect to dynamically generated content, but only of absolute position on the screen.

4.11   In the board's view, this aspect is not decisive,
        because the claims do not require evaluation of a
        relative position, either explicitly or implicitly.
        Claim 1 states that "as the finger slides across the
        text, different haptic events are generated" but does
        not require the different haptic events to depend on
        position relative to characters or words in the text.

        Hence, D2's evaluation of an absolute position is not
        excluded by the wording of the claim.

4.12   For these reasons, the subject-matter of claim 1 does
        not involve an inventive step under Article 56 EPC.

Auxiliary request 1

5.   The board considers that claim 1 is not clear.

        According to lines 23 and 24 of claim 1, "different
        haptic events are generated", but according to lines 26
        and 27, "a first haptic event is generated for each of
        the characters, the word, the sentence, or the
        paragraph".

        It is not clear how to reconcile "different haptic
        events", which implies events of different kinds, and
        "first haptic event", which implies the same kind of
        event for each of the characters, the word, the
        sentence, or the paragraph.

6.   Patentability

        In the board's view, the features added to claim 1
        (lines 25 to 30) do not contribute towards inventive
        step.

        With regard to the first "wherein" clause (lines 25 to
        27), "selecting a character" is disclosed in document
        D1, and widely known. The fact that a haptic event is
        generated for each of the characters appears to be a

trivial modification which the skilled person would carry out to provide a further indication to the user regarding the progress of selecting text.

The appellant argued that the relevant feature was "the relative position or distance of the user's finger with regard to the single words / sentences of the dynamically generated text". However, claim 1 does not refer to any relative position or distance and does not specify any point of origin for evaluating any relative position or distance. Moreover, generating a haptic effect for each of the characters suggests that the relative distance from the beginning of the text is not relevant.

Auxiliary request 2

7.   The appellant filed this request by letter dated 28 October 2019, after the board had issued summons to oral proceedings. Thus, the admissibility of this request is at the discretion of the board (Article 13(1) and (3) RPBA).

8.   Contrary to the submission of the appellant in its letter dated 28 October 2019, the claims of auxiliary request 2 do not go even further than those of auxiliary request 1. In fact, the two last "wherein" clauses of claim 1 of auxiliary request 1 (lines 25 to 30) have been replaced by different features (lines 25 to 28). Consequently, there is no convergence of the claims of auxiliary requests 1 and 2.

9.   According to lines 21 and 22 of claim 1, one type of haptic event is generated, based on the "selection" manipulation. However, the claim requires that the type of haptic event varies (lines 25 and 27). Hence, claim 1 comprises contradictory teaching and is thus prima facie not clear.

10.   Consequently, the board did not admit auxiliary
        request 2, pursuant to Article 13(1) and (3) RPBA.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chair:

K. Götz-Wein   A. Ritzka

Decision electronically authenticated