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**Datasheet for the decision  
of 19 June 2012**

**Case Number:** T 2203/09 - 3.5.05

**Application Number:** 05108175.0

**Publication Number:** 1632839

**IPC:** G06F 3/023

**Language of the proceedings:** EN

**Title of invention:**

System and method for inserting a graphic object into a text based message

**Applicant:**

Research In Motion Limited

**Headword:**

Inserting emoticons in text message/RIM

**Relevant legal provisions (EPC 1973):**

EPC Art. 56

**Keyword:**

"Oral proceedings held in the absence of the appellant"  
"Inventive step (no)"



Case Number: T 2203/09 - 3.5.05

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.05  
of 19 June 2012

**Appellant:** Research In Motion Limited  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 21 July 2009  
refusing European patent application  
No. 05108175.0 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chair:** A. Ritzka  
**Members:** P. Cretaine  
D. Prietzel-Funk

## Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division to refuse European patent application No. 05 108 175.0, published as EP 1 632 839. The decision was announced in oral proceedings held on 23 June 2009 and written reasons were dispatched on 21 July 2009.
- II. The application was refused because of lack of clarity (Article 84 EPC) and non-compliance with the requirements of Article 123(2) EPC in claim 1 according to the then main request, and because of lack of inventive step (Article 56 EPC 1973) in the independent claims according to an auxiliary request filed with a letter dated 14 May 2009, having regard to the disclosure of
- D1: GB 2 376 379 in combination with the disclosure of
- D5: WO 01/63392,
- or, as an *obiter dictum*, in view of the disclosure of D1 alone.
- III. The notice of appeal was submitted on 18 September 2009 and the appeal fee was paid on the same day. In the statement setting out the grounds of appeal, submitted with a letter dated 10 November 2009, the appellant (applicant) requested that the appealed decision be set aside and that a patent be granted on the basis of claims 1 to 33 originally filed as an "auxiliary request" by letter dated 14 May 2009. As a

precautionary measure, the appellant also requested oral proceedings.

- IV. A summons to oral proceedings to be held on 19 June 2012 was issued on 15 February 2012. In an annex accompanying the summons the board expressed the preliminary opinion that the subject-matter of independent claims 1, 16 and 31 of the sole request did not involve an inventive step having regard to the disclosure of D1 in combination with D5.
- V. With a letter of reply dated 14 May 2012, the appellant filed claims 1 to 33 according to a new auxiliary request, together with arguments in favour of the allowability of this request.
- VI. By letter dated 18 June 2012, the appellant informed the board that it would not be attending the scheduled oral proceedings and requested that it consider its submissions on file before issuing a decision.
- VII. The appellant requested in writing that the decision under appeal be set aside and that a patent be granted on the basis of the main request submitted with the letter dated 14 May 2009 (then: "auxiliary request") or, as an auxiliary request, on the basis of the ("further") auxiliary request submitted with the letter dated 14 May 2012.
- VIII. Claim 1 of the appellant's main request reads as follows:
- "A system for selecting graphic objects (402) to insert in a text message when composed on a wireless device

(100), each of the graphic objects (402) representing a set of individual alphanumeric characters, the system comprising:

- an initial symbol table (400) for display on a display (308) of the device (100) in response to a first input event, the initial symbol table (400) configured for displaying a plurality of individual alphanumeric character selections;
- an object table (410) for display on the display (308) of the device (100) in response to a second input event, the object table (410) configured for displaying a plurality of the graphic objects (402) and a plurality of predefined inputs (403), each of the predefined inputs (403) associated with only one of the plurality of the graphic objects (402);
- a first input event component associated with the first input event and the second input event;
- a second input event component associated with a third input event, the third input event mapped to a predefined input of one of the plurality of predefined inputs (403);
- wherein the third input event selects a graphic object associated with the predefined input from the plurality of graphic objects (402) and inserts the selected graphic object in the text message."

Claim 1 of the appellant's auxiliary request reads as follows:

"A system for selecting graphic objects (402) to insert in a text message when composed on a wireless device (100), each of the graphic objects (402) representing a

set of individual alphanumeric characters, the system comprising:

an initial symbol table (400) for display on a display (308) of the device (100) in response to a first input event, the initial symbol table (400) configured for displaying a plurality of individual alphanumeric characters, some of the characters can be inserted in sequence to create an emoticon, and a plurality of predefined inputs (403), each of the predefined inputs (403) associated with one of the plurality of the alphanumeric characters;

an object table (410) for display on the display (308) of the device (100) in response to a second input event, the object table (410) configured for displaying a plurality of the graphic objects(402) and the plurality of predefined inputs (403), each of the predefined inputs (403) associated with only one of the plurality of the graphic objects (402);

a first input event component associated with the first input event and the second input event;

a second input event component associated with a third input event, the third input event mapped to a predefined input of one of the plurality of predefined inputs (403);

wherein the third input event selects a graphic object associated with the predefined input from the plurality of graphic objects (402) and inserts the selected graphic object in the text message."

Independent claims 16 and 31 of each request contain the same features as claim 1 of the respective request,

but are worded as a claim for a method and a claim for a computer program, respectively.

- IX. Oral proceedings were held as scheduled on 19 June 2012 in the absence of the appellant. After deliberation on the basis of the written submissions, the chair announced the board's decision at the end of the oral proceedings.

### **Reasons for the Decision**

1. The appeal is admissible.
2. *Non-attendance at oral proceedings*

The appellant decided not to attend the oral proceedings. According to Article 15(3) RPBA the board is not obliged to delay any step in the proceedings, including its decision, by reason only of the absence at the oral proceedings of any party duly summoned who may then be treated as relying only on its written case. In the present case, the board was in a position to take a decision at the end of the hearing.

3. *Inventive step*

- 3.1 Prior art:

D1 discloses a mobile phone device comprising a keyboard with a specific emotion key (reference sign 56, figure 4) for inserting emoticons in a text message. Emoticons may be represented in the message either as strings of alphanumeric characters or as graphic

objects corresponding to the graphical representation of said strings in the form of so-called smilies. In one variant of the device (see page 21, lines 15 to 22), upon pressing the emotion key, the device's display shows the mapping between the keyboard keys and emoticons by displaying the graphic objects in the pattern of the keyboard keys, each graphic object being located in the position of the key that represents the corresponding graphic object.

D5 discloses a mobile device having a numbered keypad with several selectable functional modes. A display shows a representation of the keypad for indicating to the user the functions of the keys of the numbered keypad in the selected functional mode. As a further help for the user, the identity, i.e. the number, of an associated number key is shown in phantom in the background of the corresponding region of the displayed representation (see figure 11A for instance).

D1 represents the closest prior art since it is directed to a similar purpose as the alleged invention, i.e. facilitating the insertion of emoticons in a text message by displaying to the user a mapping between the emoticons and the keys of the corresponding keyboard. The appellant argued that D1 is instead directed to a text messaging device for use in connection with text messages intended to be converted to audio form for presentation to a recipient. According to the appellant, D1 merely describes the insertion of emotion tags into a text message which is to be used during the conversion of the text message into an audio format but does not relate to text strings to be displayed together with a text message as described in the



present application. The board is not convinced by this argument, since D1 explicitly discloses that the user may also receive the emotion indicator in text form (see the abstract; page 5, lines 13 to 16; page 11, lines 18 to 19; page 13, lines 14 to 17).

### 3.2 Main request

3.2.1 The differences between the subject-matter of the independent claims 1 (system), 16 (method), and 31 (computer program) and the disclosure of D1 are the following:

a) in response to a first input event, the display of an initial symbol table for displaying a plurality of individual alphanumeric character selections;

b) in the table displaying the graphic objects (e.g. graphical representation of the emoticons), the display of a plurality of predefined inputs, each associated with a graphic object of the table;

c) the use of the same input event component for initiating the display of both the initial symbol table and the object table.

3.2.2 The appellant argued that features a), b) and c) were not juxtaposed but interacted with each other and provided the user with a useful and advantageous choice of entering either the ASCII characters of emoticons or graphic objects. The board, however, finds that the interaction of features a), b) and c) does not provide a technical effect which goes beyond the sum of the technical effects provided by each feature. In

particular, the content of the tables according to features a) and b) do not interact with each other. Rather, they are displayed successively, in response to activation of the same key (feature c)). Displaying successive screens in response to activation of the same input key is, however, a well-known feature (see, for instance, D1, page 12, line 31, to page 13, line 8). There is therefore no interaction between features a), b) and c) that results in a technical effect going beyond the sum of their individual effects, the features a), b), and c) being merely juxtaposed. For the assessment of inventive step, the contribution of each distinguishing feature may thus be analysed separately.

3.2.3 The technical effect of feature a) merely amounts to the display of alphanumeric symbols to the user, without giving him any indication as to how to enter these symbols into a text message. Based on this technical effect, the objective technical problem can thus be formulated as being how to present the user with a list of individual alphanumeric symbols, and the proposed solution of displaying them on the device's screen is straightforward for the skilled person.

3.2.4 The technical effect of feature b) is that each graphic object (i.e. an emoticon) and its corresponding input (i.e. a physical keyboard key) are presented in pairs at the position of the physical keyboard key on the graphical representation of the keyboard. In D1, by contrast, only the graphic object is represented at said position. The objective technical problem may thus be seen as how to facilitate the selection of graphic objects by the user, especially since, as the appellant

mentions in the statement of grounds of appeal, the keyboards for wireless devices are evolving towards more complexity and a reduced size. Starting from the mapping between emoticons and the physical keyboard regions disclosed in D1, page 21, lines 15-20, and faced with this problem, the skilled person would look into prior art documents dealing with the graphical layout of visual displays in wireless devices and come across document D5. According to the teaching of D5 (see, for instance, figure 11A, page 11, lines 13 to 24), a mapping between physical keyboard key regions (reference sign 32) and the functions of these keys in a particular functional mode of a wireless device may be displayed on the screen. The identity of some physical keyboard keys may be shown in phantom form in the background of regions in which their associated function is displayed, with the obvious aim of helping the user to enter a chosen function. The skilled person would also contemplate that this purpose is achieved by the display of D5, irrespective of the specific function attributed to the key. In order to improve the visual help provided by the mapping of D1, the skilled person would thus use the teaching of D5 in that respect and implement the phantom display of the physical keyboard on the visual display of D1, thereby associating the graphic objects with the physical keys and arriving at the subject-matter of feature b).

The appellant argued that the approach of D5 was only applicable to a simple 12-key keypad of a mobile phone since superimposing a complex QWERTY keypad as phantoms onto graphic objects and alphanumeric characters would distract and confuse the user, unlike the claimed system. The board, however, is not convinced by this

argument because the formulation used in claim 1 ("inputs associated with...graphic objects") does not preclude displaying the image of the keypad in the background of the graphic objects. Moreover, the board considers that the skilled person would contemplate positioning the display of the keypad rows below, and not behind, the graphic objects rows, as shown in figures 3 to 5 of the present application, as a straightforward measure to facilitate the reading of the display.

3.2.5 The technical effect of feature c) is the use of a single keyboard key for displaying two tables successively. Associating a keyboard key with a first function when pressed a first time and with a second function when pressed a second time was well known in the computer field at the priority date of the present application (2004) (see, for instance, D1, as cited in section 3.2.2). Applying this known feature to the display of the two tables in D1 is therefore within the general design competence of the skilled person.

3.2.6 Therefore the subject-matter of independent claims 1 (system), 16 (method) and 31 (computer program) according to the main request does not involve an inventive step (Article 56 EPC 1973).

### 3.3 Auxiliary request

In claim 1 according to the auxiliary request, the wording of claim 1 according to the main request was amended so as to define further that:

- the alphanumeric characters of the initial symbol table can be inserted in sequence to create an emoticon,

- and the initial symbol table further comprises predefined inputs, each predefined input being associated with one of the alphanumeric characters.

The first added feature is well known in the field of text messaging and has also been acknowledged as such in the description of the present application (see, for instance, paragraphs [0001] and [0020] of the published application).

The second added feature merely amounts to defining a mapping of the alphanumeric characters with the keyboard keys similar to the mapping defined by feature b). This mapping does not confer any inventive activity on the subject-matter of claim 1, for the same reasons as set out with respect to feature b) (see section 3.2.4 above).

Therefore the subject-matter of independent claims 1 (system), 16 (method) and 31 (computer program) according to the auxiliary request does not involve an inventive step (Article 56 EPC 1973).

4. In the absence of an allowable request the appeal must be dismissed.

**Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chair:

K. Götz

A. Ritzka