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# D E C I S I O N
## of 21 September 1998

**Case Number:** T 0364/98 - 3.5.1

**Application Number:** 92202577.0

**Publication Number:** 0529729

**IPC:** G06F 3/16

**Language of the proceedings:** EN

**Title of invention:**
Device having functional means supported by ancillary message reproduction means

**Applicant:**
Koninklijke Philips Electronics N.V.

**Opponent:**
-

**Headword:**
-

**Relevant legal provisions:**
EPC Art. 56

**Keyword:**
"Inventive step (no)"

**Decisions cited:**
-

**Catchword:**
-

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**Case Number:** T 0364/98 - 3.5.1

# D E C I S I O N
## of the Technical Board of Appeal 3.5.1
## of 21 September 1998

**Appellant:** Koninklijke Philips Electronics N.V.
Groenewoudseweg 1
5621 BA Eindhoven (NL)

**Representative:** Groenendaal, Antonius Wilhelmus Maria
Internationaal Octrooibureau B.V.
Prof. Holstlaan 6
5656 AA Eindhoven (NL)

**Decision under appeal:** **Decision of the Examining Division of the European Patent Office posted 26 September 1997 refusing European patent application No. 92 202 577.0 pursuant to Article 97(1) EPC.**

**Composition of the Board:**

**Chairman:** P. K. J. van den Berg
**Members:** R. S. Wibergh
S. C. Perryman

## Summary of Facts and Submissions

I. This appeal is against the decision of the Examining Division to refuse European patent application No. 92 202 577.0.

II. The grounds for the refusal were, inter alia, that the invention as set out in claims 1 to 8 filed with letter of 23 January 1995 (with the amendment to claim 2 as requested by letter of 12 December 1995) did not involve an inventive step having regard to the prior art documents

D1: EP-A-0 402 911

D2: WO-A-91/02433

D3: Research Disclosure No. 263, March 1986, Emsworth, UK, page 115, "Audio help for computer users".

The subject-matter of claim 1, in particular, was regarded as obvious in view of a combination of D1 and D2.

III. Claim 1 read as follows (omitting the reference signs):

"A device having user interface means, coupled for communication both
- with functionality means for executing a main function of the device, and
- with help means which are ancillary to the functionality means comprising
- message selection means, for selecting, on the basis of a received identification of a control communication command for activating a function of the

functionality means, a help message from a plurality of help messages providing an elaboration upon an aspect current in said functionality means, and

- message reproducing means, for rendering said message in speech form,

characterized, in that the message reproducing means are arranged for reproducing the help message at least either according to a first standard velocity or to a second, time saving velocity, respectively, and in that the user interface means comprise control means, for switching between said first and second velocities during reproduction of said speech output."

IV. In the grounds of appeal the Appellant argued against the finding of the Examining Division and requested that the decision be set aside and a patent be granted.

V. In a communication pursuant to Article 11(2) of the Rules of Procedure of the Boards of Appeal dated 9 July 1998 the Rapporteur expressed the preliminary opinion that the subject-matter of independent claims 1 and 4 appeared to be obvious.

VI. Oral proceedings were held on 21 September 1998. The Appellant argued essentially as follows:

The invention according to claim 1 was intended to overcome the problem of a user of a device equipped with an audio help function having to listen through long help messages of which he was perhaps interested only in a small part. The Examining Division had argued that, starting out from D1, the skilled person would recognise this problem and, since it was of a general nature, would find a solution to it in D2, which concerned a paging receiver capable of playing back audio messages at either the normal or an elevated speed. According to the invention, however, the problem was restricted to an ancillary function of the claimed

device, namely the help function. The inventive contribution was limited to this area; it did not lie in the general field of audio reproduction. A skilled person faced with the problem of presenting large amounts of help information would not go to D2 to find a solution since there were other options nearer at hand, in particular the possibility of splitting up a long help message into a number of separately addressable smaller units. It would be hindsight to assume that a skilled person who has learned about variable audio reproduction speeds in a particular context would single out this feature, generalise it, and apply it to a help function.

VII. The Appellant requested that the decision under appeal be set aside and that a patent be granted as main request on the basis of the set of claims annexed to the decision under appeal, or as auxiliary request on the basis of the set of claims as for the main request but claim 4 deleted and claims 5 to 8 renumbered 4 to 7 and their claim dependencies appropriately renumbered.

## Reasons for the Decision

1. The appeal is admissible.

2. The invention according to claim 1

Claim 1 defines a device, eg a computer, having a main function and a help function. Help messages are provided in audio form rather than as visual indications to permit a user to watch the equipment before him freely as its functions are being explained.

In addition to the normal reproduction speed the help messages are reproducible at a higher speed so that the user can quickly find the passages he is interested in. The speed changes can be effected during reproduction.

3. *Prior art, differences with respect to the closest prior art*

3.1 D1 was in the eyes of the Examining Division the closest prior art document since it discloses the reproduction of audio messages at different velocities. Described is not a device with a help facility but a multi-media device in which the ancillary means are for reproducing audio messages stored at certain places in a document to be edited. The Examining Division argued that the help features had no technical implications for the structure of the device according to claim 1 and that consequently they could not contribute to an inventive step. This reasoning, however, appears not convincing to the Board. It is true that the claimed help means will necessarily involve non-technical features, such as the information content of the reproduced messages, but it also imposes some technical constraints. Claim 1 specifies expressly that a help message is selected on the basis of a "received identification of a control communication command"; intended is for example a part of a command, as stated in claim 2. The control of a function by means of a certain (electrical) signal is normally to be regarded as a technical feature. For this reason at least, the help means in claim 1 cannot be neglected when assessing the inventive activity. It follows that D1 is not the nearest prior art document.

3.2 The Board instead takes the view that D3 describes the closest prior art. D3 is concerned with a device in accordance with the first part of claim 1, namely a computer providing spoken help messages. Nothing is said about the speed at which the messages are reproduced.

To this prior art the invention according to claim 1 adds the possibility of reproducing the help messages at an elevated speed and adjusting the speed during the reproduction.

4. *Inventive step*

4.1 The Board finds that the prior art according to D3 leads to the invention in an obvious manner for the following reasons.

4.2 Although help messages have no doubt always been kept as short as possible, the complexity of modern appliances has become such that functions cannot always be explained in just a few words. In case of an audio help function this will lead to a user having to listen through more information than he is actually interested in. This drawback is not mentioned in D3 but the Board is of the opinion that its recognition was merely a matter of time. Faced with this problem the skilled person would try to find a way of presenting the information in such a way that the waiting time is reduced. Increasing the speed of reproduction is a trivial solution to this problem; it is moreover known from audio reproduction in connection with paging receivers (D2, page 13).

The Appellant, in fact, does not appear to question the view that the proposed solution is obvious in the general field of sound reproduction. What is denied is rather that the skilled person would have considered the aspect of reproduction delays in the special context of an ancillary help function.

The Board, however, cannot agree with this reasoning. Whether an invention concerns the main or an ancillary function of an apparatus is normally not important for the question of inventive step. If the skilled person is in a position to identify a particular technical problem he must be assumed always to address it in the most proper way. The help messages are audio signals; therefore the skilled person would, in the absence of indications to the contrary, attack the problem in the same way as if it had concerned sound reproduction in general.

The Appellant has pointed to a hypothetic alternative solution consisting in dividing up the help messages into smaller units. The implication seems to be that since the skilled person had this option he would not have considered varying the speed of reproduction. This argument is however not convincing. It cannot be that merely because two possible ways of solving a problem exist, one of them is rendered non-obvious by the existence of the other. In this case the solution according to the invention appears obvious when sound reproduction in general is considered. If it is submitted that an inventive step is nevertheless implied in the special context of spoken help messages, which falls under the general heading, this would be an exception and must be convincingly demonstrated, for example by showing that a prejudice against the invention existed. The Board finds that the Appellant has not succeeded in doing so.

4.3 Thus, the Board is of the opinion that the skilled person would indeed have considered adding means for changing the help message reproduction speed to the device known from D3. He would furthermore have ensured that the speed could be varied during reproduction since otherwise the user would not know when to change it. Thus the last feature of claim 1, which is moreover known from D2 in connection with audio messages in a paging receiver, is also obvious.

4.4 It follows that the subject-matter of claim 1 does not involve an inventive step.

5. Claim 1 being common to the main request and the auxiliary request, both requests have to be refused.

## Order

## For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

M. Kiehl P. K. J. van den Berg