United States Microsoft Design Patents for the Frutiger Forgeries "Segoe"

In the United States, Microsoft Corp. registered the illegal Frutiger font forgeries "Segoe", made by the font forger Steve Matteson, as design patents for **"our new designs"**, e.g.

D496,391 Type font
D496,392 Type font
D497,937 Type font
D500,072 Type font

This file shows the "Design Patent" for one of these forgeries, namely "Segoe Black Italic":

Pages 2-3	Scan of Design Patent D496,392 for the font forgery "Segoe Black Italic" alias "Frutiger Next Black Italic" including scanned "Drawing Sheet" of the forgery.
Pages 4	Character set of the font forgery "Segoe Black Italic" typeset with the Monotype font containing the fraudulent "copyright notice": "Digitized data © 1997-2003 Agfa Monotype Corporation. All rights reserved. Segoe™ is a trademark of The Monotype Corporation."
Pages 5	Character set of the font "Frutiger Next Black Italic" typeset with the font "FrutigerNextLT-BlackIt".
Pages 6-10	Decision ICD 792 of 6th February 2006 of the Invalidity Division of the "Office for Harmonization in the Internal Market" concerning the font forgery

Note that in year 2003, when the Microsoft Corporation registered the illegal forgeries as "our new designs", these font forgeries with "copyright notice" 1997 had already been in circulation long since, and documentations, e.g. Frederick Nader's document "Meet Segoe: A Second Helping. The Two Ms Do It Again" had already been published, before the Microsoft Corp. applied for the registration of the illegal forgeries as **"our new designs"**.

Ulrich Stiehl, 19th April 2006

US00D496392S1

(12) **United States Design Patent**
Matteson et al.

(10) **Patent No.: US D496,392 S**
(45) **Date of Patent: ** Sep. 21, 2004**

(54) **TYPE FONT**

(75) Inventors: **Steve Matteson**, Holland, MI (US); **Carl Crossgrove**, San Francisco, CA (US)

(73) Assignee: **Microsoft Corporation**, Redmond, WA (US)

(**) Term: **14 Years**

(21) Appl. No.: **29/196,433**

(22) Filed: **Dec. 31, 2003**

(51) **LOC (7) Cl.** **18-03**
(52) **U.S. Cl.** **D18/24**
(58) **Field of Search** D18/25, 27, 30, D18/32; 101/398, 399; 434/159, 160, 161–165

(56) **References Cited**

U.S. PATENT DOCUMENTS

D289,420 S	*	4/1987	Bigelow et al.	D18/24
D324,535 S	*	3/1992	Stone	D18/24
D380,767 S	*	7/1997	Majoor	D18/24
D427,625 S	*	7/2000	Cooke et al.	D18/24
D472,916 S	*	4/2003	Blanco et al.	D18/24
D477,354 S	*	7/2003	Leu	D18/24

OTHER PUBLICATIONS

Adobe Type Library Reference Book, Dec. 1998, p. 60, Semibold Condensed Oblique type font.*
Adobe Type Library Reference Book, Dec. 1998, p. 135, Formata type font,7050–218E.*
Adobe Type Library Reference Book, Dec. 1998, p. 90, Letter Gothic type font,7050–363 D.*
Adobe Type Library Reference Book, Dec. 1998, p. 69, Mittelschrift type font.*
Agfa Monotype Corporation, Segoe Regular (TrueType), File size 60 KB, 1 sheet, 2000.
Agfa Monotype Corporation, Segoe Bold (TrueType), File size 58 KB, 1 sheet, 2000.
Agfa Monotype Corporation, Segoe Italic (TrueType), File size 74 KB, 1 sheet, 2000.
Agfa Monotype Corporation, Segoe Bold Italic (TrueType), File size 63 KB, 1 sheet, 2000.
Agfa Monotype Corporation, Segoe Condensed Regular (TrueType), File size 46 KB, 1 sheet, 2000.
Agfa Monotype Corporation, Segoe Condensed Bold (TrueType), File size 70 KB, 1 sheet, 2000.

* cited by examiner

Primary Examiner—Charles A. Rademaker
(74) *Attorney, Agent, or Firm*—Banner & Witcoff, Ltd.

(57) **CLAIM**

The ornamental design for a type font, as shown and described.

DESCRIPTION

The FIGURE is a face view of a type font showing our new design.

1 Claim, 1 Drawing Sheet

A B C D E F G H I J

K L M N O P Q R S T

U V W X Y Z

a b c d e f g h i j

k l m n o p q r s t

u v w x y z

1 2 3 4 5 6 7 8 9 0

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A B C D E F G H I J

K L M N O P Q R S T

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u v w x y z

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Segoe Black Italic

A B C D E F G H I J

K L M N O P Q R S T

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a b c d e f g h i j

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Frutiger Next Black Italic

OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)

DESIGNS DEPARTMENT- INVALIDITY DIVISION

DECISION OF THE INVALIDITY DIVISION OF 06/02/06

IN THE PROCEEDINGS FOR A DECLARATION OF INVALIDITY OF A REGISTERED COMMUNITY DESIGN

FILE NUMBER	ICD 000000792
COMMUNITY DESIGN	000119961-0006
LANGUAGE OF PROCEEDINGS	English
APPLICANT	Heidelberger Druckmaschinen AG Kurfürsten-Anlage 52-60 D-69115 Heidelberg Germany
REPRESENTATIVE OF APPLICANT	Karl-Herrmann Miltner Kurfürsten-Anlage 52-60 D-69115 Heidelberg Germany
HOLDER	Microsoft Corporation One Microsoft Way Redmond, Washington 98052-6399 USA
REPRESENTATIVE OF THE HOLDER	Bosch Graf von Stosch Jehle Flüggenstraße 13 D-80639 München Germany

The Invalidity Division,

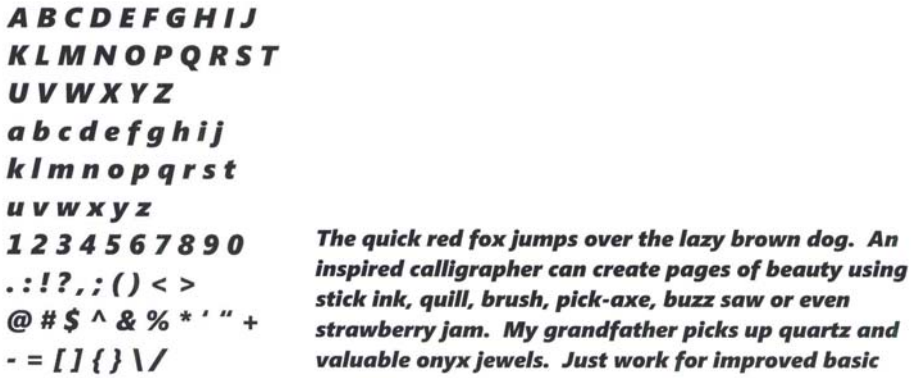
composed of Martin Schlötelburg (rapporteur), Eva Udovc (member) and Eva Vyoralova (member) took the following decision on 06/02/06:

1. The registered Community design No. 000119961-0006 is declared invalid.

2. The Holders shall bear the costs of the Applicant.

I. FACTS, EVIDENCE AND ARGUMENTS

(1) The registered Community design No. 000119961-0006 (in the following: "the RCD") has been registered in the name of the Holder with the date of filing of 14/01/04. In the RCD, the indication of products reads "type and typefaces" and the design is represented in the following views (published at http://oami.eu.int/bulletin/rcd/2004/2004_031/000119961_0006.htm):

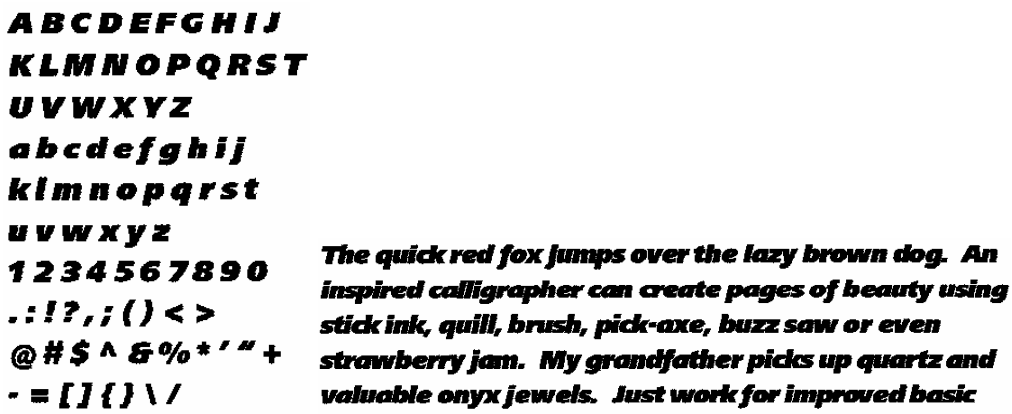


(2) On 21/12/04 the Applicant filed an application for a declaration of invalidity (in the following: "the Application"). The fee for the Application was paid by current account with effect of 21/12/04.

(3) The Applicant requests the invalidation of the RCD because the RCD "does not fulfil the requirements of Article 6(1) CDR".

(4) As fact the Applicant claims that the Linotype Library GmbH has sold the font "FrutigerNext LT Black Italic" (in the following: the prior design) several times since 2000 and that this font thus became publicly known before the application date of the RCD. Allegedly, the prior design and the RCD differ only in minor details and should be considered identical.

(5) As evidence, the Applicant provides *inter alias* the following documents:
- a representation of the prior design (in the following: D1), shown below



- several delivery certificates ("Lieferschein") and invoice notes ("Rechnung") dating from the years 2001 - 2003 and referring *inter alias* to the item "Frutiger Next" with article number "16200003",
- a CD-ROM containing a family of fonts identified with article number "16200003" including the prior design.

As regards the evidence, the Applicant explains that the typographic fonts of Linotype Library GmbH are provided on demand and for that purpose are burnt on a CD-ROM and shipped. The invoice notes prove that these CD-ROMs were sold multiple times before the filing date of the RCD. The Applicants offers to hear Mr. Otmar Hoefer, Head of Marketing at Linotype Library, as a witness for the correctness of the explanations given above.

(6) In response to the Application, the Holder argues that the submitted CD-ROM does not constitute relevant prior art, because it was released in 2005 and the data file containing the prior design was stored on the CD-ROM on 20/09/04. As regards the multiple invoices, the Holder insists that they do not constitute proof that the items of the invoice notes were fonts looking like the prior design. To his opinion, no relationship was ever established by the Applicant between the dates in the invoices and the "Frutiger-Fonts" stored on the CD-ROM. As regards the comparison of the RCD with the prior design, the Holder does not contest the claim of the Applicant that they should be considered identical.

(7) For further details to the facts, evidence and arguments submitted by the Applicant and the Holder reference is made to the documents on file.

II. GROUNDS OF THE DECISION

A. Admissibility

(8) The request of the Applicant for invalidation of the RCD because it "does not fulfil the requirements of Article 6(1) CDR" is a statement of the grounds on which the Application is based. Therefore, the requirement of Article 28(1)(b)(i) CDIR[1] is fulfilled. The further requirements of Article 28(1) CDIR are fulfilled as well. The Application is admissible.

[1] Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing Council Regulation (EC) No 6/2002 on Community designs

B. Substantiation

B.1 Evidence

(9) The invoice notes presented by the Applicant are evidence that in a period before the filing date of the RCD the Linotype Library GmbH has marketed fonts of typographic typefaces, *inter alias* a family of fonts named “Frutiger NEXT” identified by the article number 1620003. The invoice notes confirm the statement of the Applicant that the fonts were shipped in form of CD-ROMs to a variety of places within the Community. The article number 1620003 establishes the link between the invoice notes and the family of fonts on the CD-ROM provided by the Applicant. The family of fonts on the CD-ROM contains the prior design which is represented in D1.

(10) Therefore, it is considered as proven that the prior design represented in D1 has been made available to the public before the filing date of the RCD.

B.2 Novelty

(11) As rightfully observed by the Applicant and uncontested by the Holder, the prior design and the RCD are to be considered identical. The typefaces of both designs have the same stroke thickness. The ratio from the cap-height to the x-height is equal. The proportion of character height to character pitch is identical. The type face in the specimen text does not show any differences. The minuscule “a”, “c”, “e”, “t” and “g” have the same proportion in the prior design and the RCD. The “c” shows the same shape and the same loophole. The lowercase “s” and the capital “S” show the same sweep. The capital “G” and “S” are totally identical in both designs. The numeric characters “3”, “5”, “6” and “9” do not show any difference.

C. Conclusion

(12) The RCD does not fulfil the requirements of novelty in the meaning of in Art. 5 CDR. The RCD is to be declared invalid according to Art. 25(1)(b) CDR.

III. Costs

(13) Pursuant to Article 70(1) CDR and Art. 79(1) CDIR, the Holder bears the fees and costs of the Applicant.

IV. RIGHT TO APPEAL

(14) An appeal shall lie from the present decision. Notice of appeal must be filed at the Office within two months after the date of notification of that decision. The notice is deemed to have been filed only when the fee for appeal has been paid. Within four months after the date of notification of the decision, a written statement setting out the grounds of appeal must be filed (Art. 57 CDR).

THE INVALIDITY DIVISION

Martin Schlötelburg **Eva Udovc** **Eva Vyoralova**