

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 27

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GERRIT H. HOFMEESTER and JOHANNES A. M. KEMP

Appeal No. 2000-0265
Application No. 08/927,903

ON BRIEF

Before THOMAS, DIXON, and GROSS, **Administrative Patent Judges**.
DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1, 3-5 and 7-9, which are all of the claims pending in this application. Claims 2 and 6 have been canceled.

We REVERSE.

BACKGROUND

Appellants' invention relates to a paging receiver that displays visual symbols.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A handheld paging receiver comprising receiving means for receiving messages and detecting symbol associated codes contained in the messages, selection means for selecting symbols corresponding to the possible symbol associated codes in the messages from a predetermined set of at least three visual symbols and for conveying said message using different selections of said symbols, and reproduction means for visually reproducing as pictograms a plurality of the selected symbols corresponding to symbol associated codes in a received message, wherein the reproduction means are arranged to visually reproduce the symbols of the set of at least three visual symbols as respective different pictograms in predesignated positions such that each different pictogram has its own exclusive predesignated position and the pictograms are situated relative to one another so as to form a two-dimensional scene.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Oshikawa	5,273,475	Dec. 28, 1993
Reed et al. (Reed)	WO-91/03885	Mar. 21, 1991

Claim 1 stands rejected under 35 U.S.C. § 102 as being anticipated by Reed. Claims 3, 4, 7, and 8 stand rejected under 35 U.S.C. § 102 as anticipated by Reed or in the alternative under 35 U.S.C. § 103 as being unpatentable over Reed. Claims 5 and

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9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Reed in view of Oshikawa.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 24, mailed Mar. 15, 1999) for the examiner's reasoning in support of the rejections, and to appellants' brief (Paper No. 23, filed Feb. 1, 1999) and reply brief (Paper No. 25, filed May 17, 1999) for appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Appellants argue that independent claim 1 requires that the reproduction means are arranged to visually reproduce the symbols of the set of at least three visual symbols as respective different pictograms in predesignated positions such that each different pictogram has its own exclusive predesignated position and the pictograms are situated relative to one another so as to form a two-dimensional scene. (See brief at page 7 and reply brief at page 2.)

Appellants argue that the various figures shown on the screen do not form a scene and that a plurality of pictograms are not produced in response to a message. We disagree with appellants. The figures of Reed would in our view constitute a scene

which is viewed by a user and the scene would be in response to data indicative of the status of the vehicle.

Appellants argue that each pictogram does not have its own exclusive predesignated position and that the pictograms in/on the display are fixed. (See brief at pages 7-8.) We agree with appellants that the disclosure of Reed appears to imply that the display is flexible and that the graphic representations are not in fixed or exclusive predesignated positions on the display. Reed discloses that the display may be used to display "many more, or even less" than four communication units on the display. (See Reed at page 5.) Additionally, Reed discloses that the graphic representations may be altered or customized to meet a customer's needs. (See Reed at page 4.) With the described flexibility and alterability of the displayed graphic information, it is our reasoned opinion that the graphic representations taught by Reed would not teach or read on the "reproduction means are arranged to visually reproduce the symbols of the set of at least three visual symbols as respective different pictograms in predesignated positions such that each different pictogram has its own exclusive predesignated position and the pictograms are situated relative to one another so as to form a two-dimensional scene" as recited in the language of independent claim 1.

The examiner cites to Figures 1 and 3 and to pages 4 and 5 of Reed to support the finding of anticipation. We disagree with the examiner. At best the graphic representations when displayed are presented relative to each other, but the

reproduction means of the claimed invention are disclosed and claimed as being fixed in/on the display. Clearly, Reed does not teach the fixed positioning of the pictograms. Therefore, we will not sustain the rejection of independent claim 1 and dependent claims 3, 4, 7, and 8 under 35 U.S.C. § 102.

35 U.S.C. § 103

With respect to obviousness, the examiner maintains that the "Reed device can locate the symbols anywhere desired" on the display and thus the symbol locations would be easily predetermined and that it would have been obvious to one of ordinary skill in the art at the time of the invention to locate the symbol in any location desired by the artisan. The examiner cites to page 4 of Reed to support the obviousness determination. From our review of Reed, we find no support in the portion cited by the examiner or elsewhere in Reed to support the examiner's conclusion of obviousness with respect to independent claim 1 and dependent claims 3, 4, 7, and 8.

With respect to dependent claims 5 and 9, we agree with the examiner that Oshikawa concerns the curved display, but do not find that Oshikawa cures the deficiency in Reed noted above. Therefore, we will not sustain the rejection of independent claim 1 and dependent claims 3-5 and 7-9 under 35 U.S.C. § 103.

CONCLUSION

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To summarize, the decision of the examiner to reject claims 1, 3, 4, 7, and 8 under 35 U.S.C. § 102 is reversed, and the decision of the examiner to reject claims 1, 3-5, and 7-9 under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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ANITA PELLMAN GROSS)	
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