

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RANDALL SMITH

Appeal No. 2000-0358
Application No. 08/678,409

ON BRIEF

Before FLEMING, LALL, and GROSS, ***Administrative Patent Judges.***

FLEMING, ***Administrative Patent Judge.***

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-21, all the claims pending in the instant application.

The invention relates to a computer system and computer-implemented method for associating access rights with a virtual input device, such as a mouse cursor. The system (200) includes a display device (205), a virtual input device (314), and a mechanism configured to cause a new access right to be acquired by the virtual input device. See Appellant's specification on

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page 6, line 19, page 9, lines 7-11 and 20-24, page 12, lines 17-21 and associated figures 2A and 5. The method includes the step of selecting a new access right representing a first object (e.g. CAP 1), the new access right representing a predefined right to interact with another object, and acquiring the new access right by the virtual input device by causing the first object to interact with a second object (e.g. 310) representing access rights of the virtual input device. See Appellant's specification on page 9, lines 7-11 and 20-23, page 11, lines 2-3 and 8-11 and associated figure 5. The invention also relates to a machine readable medium (208), which causes a computer system to perform the steps of the above computer-implemented method. See Appellant's specification on page 7, lines 12-13, page 8, lines 5-6 and 18-20 and associated figure 2A.

Independent claims 1, 8, and 15 present in the application are reproduced as follows:

1. A computer-implemented method for associating access rights with a virtual input device, said computer-implemented method comprising the steps of:

selecting a new access right represented by a first object, said new access right representing a predefined right to interact with another object; and

acquiring said new access right by said virtual input device by causing the first object to interact with a second object representing access rights of said virtual input device.

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8. A machine readable medium having stored thereon data representing sequences of instructions, which when executed by a computer system, cause said computer system to perform the steps of:

selecting a new access right represented by a first object, said new access right representing a predefined right to interact with another object; and

acquiring said new access right by said virtual input device by causing the first object to interact with a second object that represents current access rights of said virtual input device.

15. A computer system for associating access rights with a virtual input device, said computer system comprising:

a display device;

a virtual input device;

a mechanism configured to cause a new access right to be acquired by said virtual input device by causing a first object representing a new access right to interact with a second object that represents current access rights of said virtual input device, said first and second objects being displayable on said display device.

References

The references relied on by the Examiner are as follows:

Bly et al. (Bly)	5,008,853	Apr. 16, 1991
Hullot	5,163,130	Nov. 10, 1992

Rejections at Issue

Claims 1-2, 4-6, 8-9, 11-13, 15-16 and 18-20 stand rejected under 35 U.S.C. § 102 as being anticipated by Bly. Claims 3, 7,

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10, 14, 17 and 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bly and Hullot.

Rather than repeat the arguments of Appellant or the Examiner, we make reference to the Brief¹ and the Answer for the respective details thereof.

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of Appellant and Examiner, for the reasons stated *infra*, we reverse the Examiner's rejection of claims 1-2, 4-6, 8-9, 11-13, 15-16 and 18-20 under 35 U.S.C. § 102, and we reverse the Examiner's rejection of claims 3, 7, 10, 14, 17, and 21 under 35 U.S.C. § 103.

We first will address the rejection of claims 1-2, 4-6, 8-9, 11-13, 15-16 and 18-20 under 35 U.S.C. § 102. It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. **See In re King**, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986)

¹ Appellant filed an appeal brief on July 9, 1999, Paper No. 20. In response to the appeal brief, the Examiner filed an Examiner's Answer, Paper No. 21, mailed August 2, 1999.

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and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

As pointed out by our reviewing court, we must first determine the scope of the claim. "[T]he name of the game is the claim." *In re Hiniker Co.*, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). In addition, claims are to be interpreted as the terms reasonably allow. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

Claim 1 recites the step of "acquiring said new access right by said virtual input device by causing the first object to interact with a second object representing access rights of said virtual input device." Taking a reasonably broad interpretation, claim 1 requires the step of acquiring a new access right using a virtual input device to cause a first object to interact with a second object, the second object representing the access rights of the virtual input device.

We also note that claim 8 includes the limitation,

"[a] machine readable medium having stored thereon data representing sequences of instructions, which when executed by a computer system, cause the computer system to perform the step of . . . acquiring said new access right by said virtual input device by causing the first object to interact with a second object representing access rights of said virtual input devices"

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and claim 15 includes the limitation, "said computer system comprising . . . a mechanism configured to cause a new access right to be acquired by said virtual input device by causing the first object to interact with a second object representing access rights of said virtual input devices." Reading these claims as broadly as reasonably allowed, claim 8 requires the data representing sequences of instructions of a machine readable medium executed on a computer system to cause the system to perform the step of acquiring said new access right by said virtual input device by causing the first object to interact with a second object representing access rights of said virtual input device, and claim 15 requires a mechanism of a computer system to be capable of or configured to cause a new access right to be acquired by said virtual input device by causing the first object to interact with a second object representing access rights of said virtual input device.

Appellant argues that Bly et al. (Bly) does not disclose the step of the virtual input device acquiring a new access right by causing a first object to interact with a second object representing access rights of the virtual input device. Appeal Brief, page 5, lines 23-25. More specifically, Appellant states that if the record is the recited second object, the record does

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not represent access rights of the virtual input device. Appeal Brief, page 5, line 25 through page 6, line 2. Rather, the record is a data entry unit. Additionally, Appellant argues that if the database system is the second object recited in claim 1, then the acquisition of a new access right is not caused by an interaction between the first object and the second object as recited in claim 1. Appeal Brief, page 6, lines 11-17.

Appellant states that the database manager of Bly locks the record automatically as disclosed in column 18, lines 4-12, without interaction with the first object (lock icon 92).

The Examiner argues that the breadth of claim 1 anticipates Bly. The Examiner states that Bly

"discloses selecting a new access right represented by a first object 92, new access right representing a predefined right to interact with another object 57 (col 16, lines 2-60) and associating new access right with virtual input device by causing the first object to interact with a second object representing virtual input device (see col 17, lines 16-68)." Examiner's Answer, page 3, lines 12-16.

Upon a careful review of Bly, we fail to find a disclosure of a virtual input device acquiring a new access right by causing a first object to interact with a second object representing access rights of the virtual input object as recited in claim 1.

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We first note that the Examiner has misinterpreted the scope of claim 1 by stating that claim 1 recites, "acquiring the new access right by causing the first object to interact with a second object representing virtual input device." Examiner's Answer, page 5, lines 15-16. In actuality, claim 1 recites "acquiring said new access right *by said virtual input device* by causing the first object to interact with a second object representing *access rights of said virtual input device*" (emphasis added).

Second as Appellant points out, Bly discloses in column 17, lines 3-15 and column 18, lines 7-12 that the acquisition of the second form of access rights or a new access right that allows the user to make changes to an entry is obtained through a database service. Since claim 1 requires that the acquisition be done by a virtual input device, we find that Bly does not disclose the step of acquiring a new access right using a virtual input device.

In addition, there is no discussion in column 17, lines 16-68 of Bly about interacting the first object (lock icon 92) with a second object to acquire the new access right. While citing to

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column 17, lines 16-68, the Examiner has provided little guidance regarding what the second object is. According to column 17, lines 57-59 of Bly when an entry is made, this action prevents other users from also entering the record. Also, a further discussion of the locking function is found in column 30, lines 33-38 of Bly. This portion describes the lock icon 92 appearing when a user selects the "lock" command 47. Thus, some form of interaction between objects 47 and 92 exists. However, this interaction does not cause an acquisition of a new access right. Rather, this interaction prevents others from concurrently modifying an entry. Also, if the "lock" command were viewed as the second object, the command represents an "accelerator" to lock an entry as disclosed in column 30, lines 42-43 and not an access right of the virtual input device as required by claim 1.

As such, we concur with the Appellant that Bly does not disclose the virtual input device acquiring a new access right by causing a first object to interact with a second object representing access rights of the virtual input object.

Appellant also argues that the Examiner's elected first object (lock icon 92) does not represent a new access right as required by claim 1. Appeal Brief, page 6, lines 18-22. "[T]he

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locked icon 92 is an annunciator to the status of a shared book in the database." Appeal Brief, page 6, line 26 through page 7, line 1.

We agree with Appellant that the Examiner has not demonstrated that the lock icon 92 meets the limitations found in claim 1 of "selecting a new access right represented by a first object." Bly describes in column 30, lines 38-41 that the lock icon is an indicator that certain entries are locked. Furthermore, there is no discussion in column 30 or in column 16, lines 2-60 that the lock icon 92 represents a new access right. At most, the lock icon symbolizes that other users will be denied access rights to the locked entries.

Thus, we fail to find that Bly discloses the step of selecting a new access right represented by a first object as recited in claim 1.

We note that separate arguments have not been presented with regards to independent claims 8 and 15. As such, they stand or fall with the arguments presented with regards to claim 1. Claim 8 recites,

data representing sequences of instructions, which when executed by a computer system, cause the computer system to perform the step of . . . acquiring said new access right by said virtual input device by causing

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the first object to interact with a second object representing access rights of said virtual input devices,

and claim 15 recites the limitation, "said computer system comprising . . . a mechanism configured to cause a new access right to be acquired by said virtual input device by causing the first object to interact with a second object representing access rights of said virtual input devices." Since both claims 8 and 15 include limitations addressing acquiring a new access right by the virtual input device by causing the first object to interact with a second object representing access rights of the virtual input device, we also find that Bly does not disclose the limitations of claims 8 and 15.

Therefore, we find that Bly fails to teach all of the limitations of claims 1, 8, or 15, and thus claims 1-2, 4-6, 8-9, 11-13, 15-16 & 18-20 are not anticipated by Bly.

We now turn to the rejection of claims 3, 7, 10, 14, 17 and 21 under 35 U.S.C. § 103. The Examiner has not relied on the secondary reference, Hullot, to teach or suggest the elements in claims 1, 8 or 15 missing from Bly. As such, we also cannot sustain the rejections made under 35 U.S.C. § 103.

Therefore, we find that Bly does not disclose Appellant's claim limitation of "acquiring said new access right by said

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virtual input device by causing the first object to interact with a second object representing access rights of said virtual input devices" recited in claim 1, the limitation of "data representing sequences of instructions, which when executed by a computer system, cause the computer system to perform the step of . . . acquiring said new access right by said virtual input device by causing the first object to interact with a second object representing access rights of said virtual input devices" recited in claim 8 or the limitation, "said computer system comprising . . . a mechanism configured to cause a new access right to be acquired by said virtual input device by causing the first object to interact with a second object representing access rights of said virtual input devices" recited in claim 15. In view of the foregoing, we conclude that the Examiner has failed to establish a *prima facie* case of obviousness.

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In summary we reverse the Examiner's rejection of claims 1 under 35 U.S.C. § 102 and claims under 35 U.S.C. § 103(a) as unpatentable over Bly in view of Hullot.

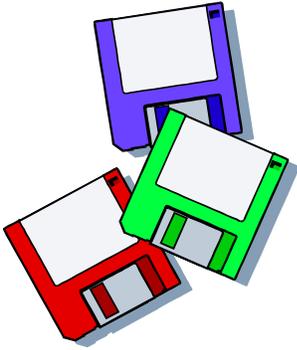
REVERSED

MICHAEL R. FLEMING)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
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DECISION: REVERSED

Prepared: October 2, 2003

Draft Final

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