

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 40

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LARRY O. JUNDT

Appeal No. 2000-0396
Application No. 08/527,886

ON BRIEF

Before HAIRSTON, FLEMING, and GROSS, Administrative Patent Judges.
GROSS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 23 and 48 through 73. In the Examiner's Answer (page 4) the examiner withdraws the rejection of claims 1 through 23 and 48 through 73 as being based upon a defective reissue declaration and of claims 9 through 14, 17, 23, 52 through 60, 69, and 70 as being obvious over Cromwell. Accordingly, all rejections of claims 1 through 23 have been withdrawn, and only claims 48 through 73 remain before us on appeal.

Appellant's invention relates to a process control terminal which displays process control function information and

Appeal No. 2000-0396
Application No. 08/527,886

application function information on separate portions of a display screen such that the process control function information cannot be overwritten by the application information. Claim 48 is illustrative of the claimed invention, and it reads as follows:

48. A process control terminal for allowing an operator to perform process control functions and application functions in addition to the process control functions, the process control terminal reserving a screen portion for process control information to avoid a possibility that process control alarms will not appear on the screen and thus not be brought to the attention of the a process control operator, the process control terminal comprising:

a processor;

a bus connected to the processor;

a display terminal connected to the bus, the display terminal having a screen;

a process control network controller connected to the bus for allowing process control information to be received from a process controller;

a host network controller connected to the bus for allowing application information to be received from a host computer and for allowing application information to be transmitted to a host computer;

means for periodically determining the existence of an alarm condition based upon the process control information; and

means for causing process control information and application information to be displayed on the screen, the process control information including an alarm indication generated in response to the determining of the existence of an alarm condition and displayed on a predetermined portion of the screen, the process control information and the application information being displayed in a controlled manner so that application information displayed on the screen does not

Appeal No. 2000-0396
Application No. 08/527,886

overwrite the alarm indication displayed on the predetermined portion of the screen so as to interfere with a process control operator's ability to monitor the alarm indication and thereby observe an occurrence of the alarm condition.

No prior art references of record are relied upon by the examiner in rejecting the appealed claims.

Claims 48 through 73 stand rejected under 35 U.S.C. § 251 as claiming an invention different from that disclosed in the original patent.

Claims 48 through 73 stand rejected under 35 U.S.C. § 112, first paragraph, as being non-enabled by the disclosure.

Claims 48 through 73 stand rejected under 35 U.S.C. § 112, first paragraph, as the specification as originally filed fails to provide support for the invention as is now claimed.

Reference is made to the Examiner's Answer (Paper No. 32, mailed May 5, 1999) for the examiner's complete reasoning in support of the rejection, and to appellant's Brief (Paper No. 27, filed February 4, 1998) and Reply Brief (Paper No. 34, filed June 28, 1999) for appellant's arguments thereagainst.

OPINION

We have carefully considered the claims and the respective positions articulated by appellant and the examiner. As a consequence of our review, we will reverse all of the rejections of claims 48 through 73.

The examiner (Answer, page 5) states that:

Appeal No. 2000-0396
Application No. 08/527,886

The original invention disclosed a process control terminal wherein means are provided for preventing application data from overwriting process control data by **dedicating** two fixed display screen portions for both application and process control data thereby preventing the different types of data from overwriting one another. The reissue application claims to eliminate the need for a screen portions [sic, portion] to be fixed and dedicated by now allowing the different types of data to share the same screen portions and then preventing them from sharing the same screen area.

The examiner continues that "the original specification clearly sets forth two predetermined screen portions for preventing interference between application and process data."

Claims 60 and 61 recite that the process control information is displayed on "a first predetermined portion" and the process control information and the application information are displayed on "separate portions." These recitations suggest to us that the two types of information do not share the same screen portions, but, rather, are displayed on separate predetermined screen portions.

Likewise, claim 69 recites "a first portion of the display screen reserved for the alarm indication" and application information being displayed "in portions of the display screen other than the first portion." Again, the process control data and the application data are in separate predetermined portions of the screen. Similarly, claim 73 recites first and second portions and a step of "keeping said first portion of said

Appeal No. 2000-0396
Application No. 08/527,886

display screen separate from said second portion of said display screen." Thus, the two portions are separate.

Claims 67 and 68 recite that the process control information is to be displayed in a process control window "reserved exclusively" for process control information. If one portion is "reserved exclusively," then the two types of information are displayed in separate and predetermined portions of the screen. Accordingly, claims 60, 61, 67 through 69, and 73 all recite in one form or another that the two types of information are displayed separately, or, rather, that the two display portions are "dedicated." Therefore, claims 60, 61, 67 through 69, and 73, and their dependents, claims 62 through 65, include the limitations of the original claims found by the examiner to be lacking in the present claims. Consequently, we find that claims 60 through 65, 67 through 69, and 73 claim the same invention as that disclosed in the original patent.

As to the remaining claims, appellant points out (Brief, pages 9 and 10) that independent claim 6, as granted, recites an alarm indication is "to be displayed only in a first predetermined portion of said display means" and application information is to be displayed in a second predetermined portion of the display means to prevent process control information from being overwritten by the application information. "Claim 6 does

Appeal No. 2000-0396
Application No. 08/527,886

not require, however, that the first and second predetermined portions of the display means be mutually exclusive." Thus, appellant concludes that the claims are directed to the same subject matter as the original claims.

We agree that original claim 6 does not require dedicating two fixed display screen portions for both application and process control data. Original claim 6 recites two predetermined portions wherein the process control data portion is displayed only in one of the predetermined portions. However, nothing in claim 6 precludes the application data from also being in the first predetermined portion, except for the recitation that the application data is to be displayed to prevent process control information from being overwritten by the application information.

Claim 48 recites "reserving a screen portion," and claim 72 recites "reserving a predetermined screen portion," for the process control information. Claims 52, 58, 59, 66, and 71 each recite that the alarm indication is displayed on a "first predetermined portion" (for claims 52 and 66) or merely on a "predetermined portion" (for claims 58, 59, and 71). Then, each of claims 48, 52, 58, 59, 66, 71, and 72 recites displaying the application information such that it does not overwrite or bury the alarm indication displayed or cause the alarm indication to

Appeal No. 2000-0396
Application No. 08/527,886

disappear and thereby interfere with a process control operator's ability to monitor the alarm indication. In other words, like claim 6, process control information is displayed in a predetermined portion and the application data is displayed in such a way that process control information is not overwritten. Consequently, we find that claims 48, 52, 58, 59, 66, 71, 72, and the claims dependent therefrom, claims 49 through 51 and 53 through 57 claim the same invention as that disclosed in the original patent.

Claim 70 differs slightly from the claims discussed above in that the alarm indication is displayed on "a first portion," which is not specified as "a predetermined portion." Then, like claim 6, the application information is displayed such that the alarm indication does not disappear from the display screen and thereby interfere with a process control operator's ability to monitor the alarm indication. Whether the first portion is "predetermined" or not, the invention is in the display of the application information such that the alarm indication is kept from disappearing from the screen, which is the same in claim 70 as it is in claim 6. Therefore, claim 70 is directed to the same invention as that disclosed in the original patent.

Regarding the enablement rejection of claims 48 through 73, the examiner states (Answer, page 7) that the specification is

Appeal No. 2000-0396
Application No. 08/527,886

enabling only for claims 1 through 23 "limited to displaying in two exclusive predetermined screen portions." As we have determined, *supra*, that claims 60 through 65, 67 through 69, and 73 are limited to displaying in two separate predetermined screen portions, for which the examiner admits the specification is enabling, claims 60 through 65, 67 through 69, and 73 must also be enabled by the specification. Additionally, as we have determined, *supra*, that claims 48 through 59, 66, and 70 through 72 claim the same invention as that of claim 6, which the examiner includes in the group of claims that are enabled by the specification, we likewise find enablement for these claims. Hence, we cannot sustain the enablement rejection of claims 48 through 73.

The new matter rejection of claims 48 through 73 must fall for substantially the same reasons as above. Specifically, since claims 48 through 73 claim the same invention as that disclosed in the original patent, they clearly have not added new matter. Accordingly, we cannot sustain the new matter rejection of claims 48 through 73.

Appeal No. 2000-0396
Application No. 08/527,886

CONCLUSION

The decision of the examiner rejecting claims 48 through 73 under 35 U.S.C. §§ 251 and 112, first paragraph, is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
MICHAEL R. FLEMING)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
ANITA PELLMAN GROSS)	
Administrative Patent Judge)	

Appeal No. 2000-0396
Application No. 08/527,886

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002