

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DENNIS D. KOSKI,  
CHARLES SONG YOP MOON  
and THOMAS ALAN SHORE

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Appeal No. 2001-0474  
Application 09/001,117

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ON BRIEF

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Before THOMAS, HAIRSTON, and BARRETT, Administrative Patent Judges.  
THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 1 through 32. Representative claim 1 is reproduced below:

1. A case-based reasoning system, comprising  
a case base capable of storing a plurality of cases that each include one or more attributes;

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a view generator that generates a view of said case base by representing each case within at least a selected subset of said plurality of cases within said case base as one or more view tokens, all view tokens in said view having a uniform length;

an input parser that provides a tokenized representation of an input incident, said tokenized representation including one or more input tokens; and

a search engine that compares said input tokens with said view tokens to identify one or more closely matching cases within said view, wherein said one or more closely matching cases are efficiently located by searching said view rather than directly searching said case base.

The following references are relied on by the examiner:

Gupta et al. (Gupta)	5,822,743	Oct. 13, 1998 (filing date Apr. 8, 1997)
Brown et al. (Brown)	5,875,446	Feb. 23, 1999 (filing date Feb. 24, 1997)

Claims 1 through 32 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Gupta in view of Brown.

Rather than repeat the positions of the appellants and the examiner, reference is made to the briefs and the answer for the respective details thereof.

OPINION

The issues within 35 U.S.C. § 103 focus in this appeal upon the claimed view generator which generates a view of the case base by representing each case therewithin as one or more view tokens, "all view tokens in said view having a uniform length." The essential subject matter of representative independent claim 1 on appeal is also set forth in method claim 12 and program product claim 23, both of which are also independent claims.

The statement of the rejection at pages 4 and 5 of the answer does not detail any teaching or showing in Gupta and Brown corresponding to the noted feature of view tokens having a uniform length. When challenged by appellants' arguments at page 7 of the brief, the examiner responds at pages 10 and 11 of the answer asserting that this uniform length feature is taught in Gupta at column 6 in accordance with the showing of Table 1 and the attributes A-F therein.

Correspondingly, page 2 of the reply brief takes issue with respect to this assertion of the examiner as to column 6 of Gupta and the showing in Table 1. We agree with appellants'

observation at page 2 of the reply brief, based upon our own study of the teachings and suggestions of Table 1 and its associated text at column 6 of Gupta, that this reference is "devoid of any mention of the length of attributes A-F. Thus, even assuming attributes A-F disclose view tokens as recited in the present claims, the combination of *Gupta* and *Brown* does not disclose that 'all view tokens in said view hav[e] a uniform length.'"

The earlier-noted portion of Gupta does not explicitly teach that the attributes have uniform length. If such a feature is implicit within Gupta, it has not been fully explained to us by the examiner at pages 10 and 11 of the answer. We thus conclude that the examiner has not established a prima facie case of obviousness within 35 U.S.C. § 103 of the subject matter set forth in each independent claim on appeal.

In order for us to sustain the examiner's rejection under 35 U.S.C. § 103, we would need to resort to speculation or unfounded assumptions to supply deficiencies in the factual basis of the rejections. In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968), reh'g denied, 390 U.S. 1000 (1968). This we decline to do.

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In view of the foregoing, the decision of the examiner  
rejecting claims 1 through 32 under 35 U.S.C. § 103 is reversed.

REVERSED

James D. Thomas	)	
Administrative Patent Judge	)	
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	)	
Kenneth W. Hairston	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
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	)	
Lee E. Barrett	)	
Administrative Patent Judge	)	

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