

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALAN RICHARD TANNENBAUM

Appeal No. 2001-2049
Application No. 08/911,596

ON BRIEF

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

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-43.

The invention is directed to a graphical user interface for indicating utilization of resources within a data processing system. In particular, the invention is disclosed as having particular utility in speech dictation applications.

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Representative independent claim 34 is reproduced as follows:

34. A program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform method steps for developing a communication interface for a data processing system, comprising the steps of:

detecting an availability of a resource operable for storing data values during the execution of an application, said availability of the resource being able to be selectively modified in response to execution of the data processing application, said execution including translating a first plurality of user input signals to a first plurality of translated data values; and

displaying a said availability of the resource, wherein an indication of availability was selectively modified in response to storing said plurality of translated data values in a first portion of said resource, and wherein the indication is operable for changing from a first state to second state in response to a preselected threshold.

The examiner relies on the following references:

Greiner, "Health care for your PC" (Symantec Corp's Norton Utilities for Windows 95), Computing Canada Vol. 22 n16, Aug. 1, 1996, p. 28.

Microsoft, "Microsoft MS-DOS User's Guide" Microsoft Corp. 1988 pp. 335, 354, 355 [User's Guide].

Microsoft, "Computer Dictionary" Microsoft Press 1992 pp. 69, 109, 227, 228, 110 [Microsoft].

IBM, "VoiceType Dictation for Windows for Windows, User's Guide", Jan 1995, pp. 1, 9, 24, 54, 76, 172, 173 [Voice Type].

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Claims 34-37, 39 and 43 stand rejected under 35 U.S.C.
102(a) as anticipated by Greiner.

Claims 1-33, 38 and 40-42 stand rejected under 35 U.S.C.
103. As evidence of obviousness, the examiner offers Greiner and
Voice Type with regard to claims 5, 38, 40 and 42, adding
Microsoft to this combination with regard to claims 1-4, 6-33 and
41. The User's Guide is also applied with regard to claims 4 and
20 [Answer-page 5].

Reference is made to the briefs and answer for the
respective positions of appellant and the examiner.

OPINION

Claims 34-37, 39 and 43 are said, by the examiner, to be
anticipated by Greiner.

Under 35 U.S.C. 102, a reference must disclose, explicitly
or implicitly, every limitation of the claimed invention. Glaxo
Inc. v. Novopharm Ltd., 52 F.3d 1043, 1047, 34 USPQ2d 1565, 1567
(Fed. Cir.), cert. Denied, 516 U.S. 988 (1995).

Taking independent claim 34 as exemplary, the examiner
applies Greiner to the claim language as follows:

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"detecting an availability of a resource operable for storing data values" is said to be taught, by Greiner, at page 1.

The selective modification of the availability of a resource is said to be taught, by Greiner, at page 2, as a "corrective action."

Displaying the availability of the resource is said to be taught, by Greiner, at page 1 as a "graphical representation."

Finally, the examiner contends that a change of state based on threshold is taught, by Greiner, at the second paragraph of page 2.

We disagree.

Greiner is an article describing the use of Norton Utilities for Windows 95. That description includes a "continuous display of critical parameters, like disk space, memory and system resources" which "warned you if any of them was running low." The article also describes a "series of graphical representations of any or all 27 parameters, ranging from free space on disk drives to the percentage of CPU capacity in use." Moreover, the article describes "alarm thresholds" which can be set and the capability of defining what happens "when the trigger value is

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reached." The program can also be "configured to take corrective action on its own, or merely suggest what should be done."

While these cited portions of Greiner certainly appear to describe capabilities closely related to what is presently claimed, the instant claims include limitations which are not taught by Greiner. For example, while Greiner may be said to disclose the detection of availability of system resources operable for storing data values, such as disk space, Greiner teaches nothing about that availability of the resource being able to be "selectively modified in response to execution of the data processing application." In Greiner, the availability of disk space, for example, is what it is, and it may change during execution of an application. However, there is nothing in Greiner to suggest that that availability of disk space may be "selectively modified." The operator of the instant invention can prune resources consumed by the dictated document and persistent recognition data since the operator knows when he/she has completed some text entry and no longer needs certain information for subsequent correction of the text. The operator's actions constitute the claimed "selectively modified."

The examiner's response is that the selective modification in the claim "states only that the resource 'being able' to be

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selectively modified, which disk space in Windows clearly is. No step of actual modifying is in the claim" [answer-page 14].

However, while disk space is able to be selectively modified by deleting programs and/or data on the disk, this is not selective modification "in response to execution of the data processing application," as required by the claim language. Moreover, while the claim may not require "actual" modification, it does require the capability of selective modification in response to execution of the data processing application and this has not been shown, by the examiner, to be disclosed by Greiner.

Further, the execution of the data processing application, to which the claim refers, includes "translating a first plurality of user input signals to a first plurality of translated data values." The examiner explains that this is a broad recitation which would encompass a keyboard since a keyboard translates user inputs to transcribed values.

We agree with the examiner that a keyboard does meet the limitation of "translating a first plurality of user input signals to a first plurality of translated data values." However, this phrase is not employed in a vacuum. Rather, claim 34 requires that the availability of the resource is selectively modified, that the modification is in response to execution of

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the data processing application and that the execution of the data processing application includes "translating a first plurality of user input signals to a first plurality of translated data values." Thus, there is a certain dependence of some elements of the claim on other elements of the claim. By the very language of the claim, it is not reasonable to read "translating a first plurality of user input signals to a first plurality of translated data values" on a keyboard because the actions of a user accessing a keyboard cannot reasonably be considered to be an "execution of the data processing application" to which the selective modification is responsive.

Accordingly, since Greiner fails to show each and every claim limitation, we will not sustain the rejection of claims 34-37, 39 and 43 under 35 U.S.C. 102(a).

Since independent claim 5 includes the argued limitations of independent claim 34, Voice Type was applied thereto merely to show a speech to text application because Greiner does not address the particulars of any application by suggesting particular files or parameters one may wish to monitor, and Voice Type does not provide for the deficiencies noted supra with regard to claim 34, we also will not sustain the rejection of claims 5, 38, 40 and 42 under 35 U.S.C. 103.

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Finally, with regard to claims 1-4, 6-33 and 41, we also will not sustain the rejection of these claims under 35 U.S.C. 103. The examiner adds Microsoft to the combination of Greiner and Voice Type but it appears that Microsoft is employed only to show the notoriety of CPUs, memory and to define terms. However, neither Voice Type nor Microsoft provides for the deficiencies noted supra with regard to claims 5 and 34.

While the various independent claims vary slightly in scope, each has at least one limitation not shown by the examiner to be disclosed or suggested by the applied references.

Claims 14, 20 and 23 recite receiving a first plurality of user input signals and translating them to a first plurality of translated data values. While this, alone, may be met by a keyboard, the claim goes on to recite that the first plurality of translated data values are stored in a first portion of a memory with predetermined storage space. Further, similar to the limitation in claim 5, in response to a remaining portion of the predetermined storage space of the memory, a presentation of an indicator is modified. The examiner relies on inherency of text editing to provide memory for storing text and refers to page 54 of Voice Type for the storage of translated data in memory, on the keyboard in Microsoft for the teaching of translation of user

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input, and on Greiner for the teaching of a change of state based on threshold and the indication of available memory. However, it is not clear to us, nor has the examiner provided a cogent rationale, as to how the references are to be combined, or why the references would be combined, to arrive at the instant claimed subject matter.

Similarly, claims 25 and 29 recite a central processing unit for "selectively enabling the memory to make the first portion of the memory available for storing a second plurality of translated data values in response to a first logic state of the commit input control signal." The examiner has not convinced us of any suggestion in the applied references of such selective enablement of a memory.

We have not sustained the rejection of claims 34-37, 39 and 43 under 35 U.S.C. 102(a) nor have we sustained the rejections of claims 1-33, 38 and 40-42 under 35 U.S.C. 103.

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Accordingly, the examiner's decision is reversed.

REVERSED

ERROL A. KRASS)	
Administrative Patent Judge)	
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MICHAEL R. FLEMING)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
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