

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MIODRAG M. KEKIC, GRACE N. LU,
and ELOISE H. CARLTON

Appeal No. 2002-1289
Application No. 08/972,219

ON BRIEF

Before BARRY, LEVY, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-16, which are all the claims in the application.

We reverse.

BACKGROUND

The invention relates to a client-server network management system that includes a managed element server. The managed element server contains element managers that monitor and manage computer network behavior. A visual element manager builder, having a graphic user interface that may be downloaded to a client computer, presents a visual development environment in which one may create element managers. Claim 1 is reproduced below.

1. A computer network management server comprising:

a manager for performing computer network management tasks associated with a plurality of computer network elements; and

a visual element manager builder for generating an element manager object, wherein said visual element manager builder communicates with a client process that includes a graphic user interface for soliciting information regarding the computer network element corresponding to said element manager object and regarding event management of said computer network element, said user interface being downloaded from said visual element manager builder for execution on a client computer.

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The examiner relies on the following references:

Dev et al. (Dev)	5,295,244	Mar. 15, 1994
Wanderer et al. (Wanderer)	5,491,796	Feb. 13, 1996
Daly et al. (Daly)	5,748,896	May 5, 1998 (filed Dec. 27, 1995)
Mayo et al. (Mayo)	5,751,965	May 12, 1998 (filed Mar. 21, 1996)
Gish	5,768,510	Jun. 16, 1998 (filed Jul. 1, 1996)

Claims 1 and 2 stand rejected under 35 U.S.C. § 103 as being unpatentable over Daly and Gish.

Claims 3, 6, and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Daly, Gish, and Mayo.

Claim 4 stands rejected under 35 U.S.C. § 103 as being unpatentable over Daly, Gish, and Dev.

Claims 5 and 12-16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Daly, Gish, and Wanderer.

Claims 7-10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Daly, Gish, Mayo, and Wanderer.

We refer to the Final Rejection (Paper No. 17) and the Examiner's Answer (Paper No. 23) for a statement of the examiner's position and to the Brief (Paper No.

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22) and the Reply Brief (Paper No. 24) for appellants' position with respect to the claims which stand rejected.

OPINION

In the section 103 rejection applied against instant claim 1, the examiner relies on Daly to show a server manager component. "The server manager component has a server manager window 108(user interface) [sic] through which the human network administrator (client) can view the instantiations of the various network service entities that are installed on the server of the network...." (Answer at 4.) Daly "does not teach a client process for downloading to a client computer for execution." Gish, however, is deemed to disclose "an object-oriented system for a client-server application enabler system which includes a toolkit for creating client programs that can be downloaded on the Web...." (Id. at 5.)

Appellants argue, inter alia, that Daly discloses invoking instantiations, or copies, of visual manager objects, with features previously defined by network service developers, referring to column 8, lines 35 through 40 of Daly. (Brief at 12.) Because Daly does not teach having a network administrator create an element manager object using a visual element manager builder, and Gish does not teach a builder with a downloadable user interface for creating element manager objects, the references fail to teach or suggest having the system administrator create element manager objects

using a visual element manager builder with a downloaded user interface, according to appellants. (Id. at 8-9.)

The examiner responds that “claim 1 does not recite a visual element manager builder built by a user.” Further, “Gish discloses an object-oriented system for a client-server application enabler system which includes a toolkit for creating client programs (visual element manager builder) that can be downloaded on the Web (a visual element manager for generating an element manager object).” (Answer at 10.)

We agree with appellants, for the reasons emphasized in the Reply Brief, that the rejection fails to show disclosure or suggestion of a visual element manager builder for generating an element manager object, as required by instant claim 1. The initial statement of the rejection appears to suggest that Daly teaches all of claim 1 except for a “client process for downloading to a client computer for execution,” which, in turn, suggests that Daly teaches a visual element manager builder for generating an element manager object, although not having a user interface being downloaded from the visual element manager builder for execution on a client computer. The rejection does not point out, however, where Daly might be deemed to teach the remainder of the requirements of the claimed visual element manager builder that generates an element manager object.

The responsive arguments at page 10 of the Answer suggest, perhaps, a better rationale for rejection -- that the toolkit for creating client programs, as disclosed by Gish, may have suggested a visual element manager builder for generating element

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manager objects as disclosed by Daly. However, we are left to speculate as to how such a combination might be suggested by the objective teachings of the applied references, since the position taken in the responsive arguments section of the Answer appears to be inconsistent with the statement of the rejection.

We are thus in ultimate agreement with appellants. The evidence relied upon fails to establish a case for prima facie unpatentability of the claimed subject matter as a whole of instant claim 1. Since Mayo, Dev, and Wanderer as applied against the subject matter of the dependent claims fails to remedy the basic deficiency in the rejection against base claim 1, we do not sustain any of the section 103 rejections.

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CONCLUSION

The rejection of claims 1-16 under 35 U.S.C. § 103 is reversed.

REVERSED

LANCE LEONARD BARRY
Administrative Patent Judge

STUART S. LEVY
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

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