

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

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Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte TINA L. MOLDENHAUER,  
MELISSA MAGOS,  
and GREG GORDY

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Appeal No. 2002-1875  
Application 09/245,776<sup>1</sup>

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ON BRIEF

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Before HAIRSTON, BARRETT, and RUGGIERO, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 1-9, 11-19, and 21. Claims 10 and 20 have been canceled.

We reverse.

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<sup>1</sup> Application for patent filed February 5, 1999, entitled "Method and Apparatus for Providing Web-Based Assistance to Customers and Service Representatives."

BACKGROUND

The invention relates to a computer program product that a user may use to obtain assistance and order completion when serving a customer.

Claim 1 is reproduced below.

1. A computer program product on a computer readable medium for use in providing assistance and order completion to a user when serving a customer, comprising:

(a) a graphical user interface having a home page and a plurality of additional pages including an order entry page for the customer's order; and

(b) a set of queries for the user to ask the customer, the responses to which are entered by the user and are used to automatically populate the order entry page.

The examiner relies on the following references:

Tarumi et al. (Tarumi)	5,880,974	March 9, 1999 (filed October 18, 1996)
Cupps et al. (Cupps)	5,991,739	November 23, 1999 (filed November 24, 1997)
Taylor et al. (Taylor)	6,034,687	March 7, 2000 (filed May 26, 1995)

Claims 1-8 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Cupps.

Claims 9, 11, 15-18, and 21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Taylor.

Claims 12-14 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor and Tarumi.

We refer to the final rejection (Paper No. 6) (pages referred to as "FR\_\_") and the examiner's answer (Paper No. 16)

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(pages referred to as "EA\_\_") for a statement of the examiner's rejection, and to the replacement appeal brief (Paper No. 15) (pages referred to as "Br\_\_") and reply brief (Paper No. 17) (pages referred to as "RBr\_\_") for a statement of appellants' arguments thereagainst.

### OPINION

#### Anticipation

##### Cupps - claims 1-8

Initially, we interpret claim 1 to correspond to the description of Figs. 4, 5, and 5a-d at page 12, line 6 to page 14, line 3 of the specification. Figure 4 shows a home page and Figs. 5 and 5a-5d show a plurality of additional pages where Fig. 5d is an order entry page for a customer's order. The Smart Order Form of Figs. 5b and 5c provides a list of questions for a user, such as a customer service representative, to ask the customer and the responses are used to populate the order entry page of Fig. 5d. The answers to the questions are not filled in by the customer, but by the user.

Cupps discloses an online ordering system for food products. The process for customer ordering is shown in figure 11 and described at column 9, line 34 to column 11, line 34.

The examiner finds that Cupps teaches "a graphical user interface having a home page and a plurality of additional pages . . . " at column 9, lines 41-46. The examiner finds that

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Cupps teaches "a set of queries for the user to ask the customer, the responses to which are entered by the user and are used to automatically populate the order entry page" at column 9, line 47 to column 10, line 6.

Appellants argue that claim 1 requires two entities of a "user" and a "customer" and Cupps only discloses a customer interacting with an ordering machine (Br6). It is argued that claim 1 recites a "set of queries," where "queries" is defined as a question or an inquiry, and the choices or selections in Cupps are not "queries" nor a "set of queries for the user to ask the customer" (Br6-7). Appellants argue that even if the menu choices in Cupps are queries, Cupps teaches only a single entity (i.e., a customer) interacting with a machine and does not disclose that responses by a customer to a set of queries from a user are entered by the user (Br7).

The examiner reads the "user" on the computer in Cupps for the first time in the examiner's answer (EA8). The examiner further finds that Cupps teaches a set of queries because it asks for the customer location, the type of service the customer seeks, and the range of miles that the customer is willing to drive (FR6; EA9). The examiner finds that "[s]ince the order machine is interpreted as the user, it's obvious that the response are entered by the order machine, in order to populate the order entry page" (EA9).

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Appellants respond that reading a "user" on a computer is unreasonable and inconsistent with how one of ordinary skill in the art would interpret the claim (RBr3-5). Appellants also respond that even if the computer is the "user," the entity that "entered" the requests in Cupps is the customer of the web pages, not the computer (RBr2-3).

We agree with appellants that the examiner's interpretation of a "user" to be the computer in Cupps is unreasonable. The "user" is the user of the claimed computer program product and we hold that it is unreasonable to interpret a "user" be anything other than a human being. Although we agree with the examiner that the questions in Cupps (location, type of service, range of miles for takeout service, col. 9, lines 48-62) are a set of queries, as broadly recited, they are not "a set of queries for the user to ask the customer" and the responses are not "entered by the user," as claimed. Accordingly, the anticipation rejection of claims 1-8 is reversed.

#### Taylor

Taylor discusses that computers can perform the functions of many familiar office devices, but novice users are often confused when trying to operate office devices through the computer (col. 1, lines 15-28 & 37-41). Taylor discloses a computer/user interface for computer hardware resources (col. 1, lines 11-13). The graphical interface associates, in the mind of a user, a

computer hardware resource with a corresponding real office device, the computer resource enabling the computer to function like the consumer device (col. 2, lines 63-57). For example, the image of Fig. 7A resembles a speakerphone/answering machine. Taylor is controlling computer functions, not actual external office devices.

Claims 9 and 21

Initially, we interpret claim 9 to correspond to the description at page 5, lines 12-18 and page 16, line 8, to page 17, line 2 of the specification. Technical assistance is shown in Fig. 8d. The "query for a model of a set-top box for which the user needs assistance" is interpreted to correspond to dialog "Choose a receiver to begin troubleshooting" in dialog bubble 834, where the "set-top box" refers to one of the receivers shown at 836; although this is really a declarative statement rather than an interrogatory (query) statement, the specification states (page 16, line 9) that user is asked to choose a particular receiver and the original claim recites a "query." The "displaying the set-top box selected in response to (a)" is interpreted to correspond to the illustration of the selected receiver 846 and its remote control 848 (specification, page 16, lines 20-21; Fig. 8f), although it is not in direct response to selection of the receiver. The "means for interrogating the display of said selected set-top box" is

interpreted to correspond to selecting (interrogating), for example, a button on the displayed device to receive additional information about the function of that button for use in discussing the problem with the customer (specification, page 5, lines 14-16; page 16, line 21 to page 17, line 2). While, perhaps, claim 9 could read on the installation configurations of Figs. 8b and 8c, where a model of a receiver is shown and can be rotated (specification, page 5, lines 12-13; page 15, line 14 to page 16, line 7), it does not appear that this option provides for "interrogating the display."

As to claim 9, the examiner finds that Taylor discloses a "query for a model of a set-top box for which the user needs assistance" at column 4, lines 57-60; "means for displaying the set-top box selected ..." at column 3, lines 10-15; and "mean for interrogating the display of said selected set-top box" at column 3, lines 15-20 (FR3; EA4-5).

Appellants argue that Taylor does not disclose a "query for a model of a set-top box for which the user needs assistance." It is argued that Taylor discloses a VCR icon for the purpose of software-based remote control and the icon does not correspond to a "query" for model of a set-top box, but even it did, it does not teach a query "for a model of a set-top box" (Br8-9).

The examiner states that Taylor discloses several graphical icons representing devices, which is like appellants' Fig. 8d

that displays several graphical icons representing receivers, and the VCR corresponds to the claimed "set-top box" (EA10).

Appellants respond that Fig. 1 of Taylor is a functional block diagram of an interface and does not teach that Fig. 1 is displayed (RBr6). Appellants repeat the arguments from the brief that the icons in Taylor do not correspond to a "query" or a query "for a model of a set-top box" (RBr6-7).

The rejection does not fully come to grips with the "query" limitation. As shown in Fig. 8d, there is actually a request or "query" in dialog balloon 834 to select a receiver to begin troubleshooting in addition to the actual icons representing receiver models. The rejection does not point to anything that corresponds to this in Taylor. Taylor has icons 10, 16, 20, etc. in Fig. 1. Although we agree with appellants that Fig. 1 is a functional block diagram, these icons are clearly intended to be displayed for selection by a user. While the presence of icons implies that one can be selected, the mere display of an icon is not considered a positive teaching of a "query." We have reservations about other limitations in claim 9, e.g., it is not clear that the icons in Taylor represent a "set-top box" because the icons represent a function performed by the computer and not an actual external office device, but limitations which have not been argued are not considered. Because Taylor does not disclose

the claimed "query," the anticipation rejection of claims 9 and 21 is reversed.

Claims 15-18

Initially, as with claim 9, we interpret claim 15 to correspond to the description at page 5, lines 12-18 and page 16, line 8, to page 17, line 2 of the specification. Technical assistance is shown in Fig. 8d. The user selects one of the receivers shown at 836. The step of "displaying the device" is interpreted to correspond to the displaying of the selected receiver 846 and its remote control 848 (specification, page 16, lines 20-21; Fig. 8f). The step of "interrogating the device in response to a user's command" is interpreted to correspond to selecting (interrogating), for example, a button on the displayed device to receive additional information about the function of that button (specification, page 16, line 21 to page 17, line 2). This interpretation is consistent with the preamble recitation of a "device simulation." The step of "displaying a dialog box, which is separate from the device, in response to said interrogation, wherein the dialog box contains a useful description of the results of the interrogation" is interpreted to correspond to the displayed information about the function of that button for the service representative to use in discussing the problem with the customer (specification, page 5, lines 14-16; page 16, line 21 to page 17, line 2). The

limitation of "said displaying a dialog box further including: displaying at least one question to diagnose the device" was incorporated from original filed dependent claim 20.

As to claim 15, the examiner finds that Taylor discloses "displaying the device" at column 3, lines 10-15; "interrogating the device in response to a user's command" at column 3, lines 15-20; "displaying a dialog box ... in response to said interrogation, wherein the dialog box contains a useful description of the result of the interrogation" at Fig. 14D and Fig. 14K; and "displaying at least one question to diagnose the device" at Figs. 6A-6I.

Appellants argue that Taylor does not disclose "displaying at least one question to diagnose the device" (Br10).

The examiner states that, based on appellants' interpretation of diagnose as investigating a problem or troubleshooting a device, questions such as "When someone calls, do you want to hear the telephone ring?" in Fig. 6B, can be interpreted as correspondence to a question to diagnose the device (EA11).

Appellants respond that the questions in Figs. 6A-6I of Taylor are for "configuring" or "setting up" a device," but does not disclose "displaying at least one question to diagnose the device" (RBr8).

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We agree with appellants that the questions in Taylor are for configuring or setting up a device, not for diagnosing the device. Accordingly, claim 15 is not anticipated by Taylor. The rejection of claims 15-18 is reversed.

Obviousness

Claims 12-14 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Tarumi. Tarumi does not cure the deficiencies of Taylor as to the rejection of independent claims 9 and 15. Accordingly, the rejection of claims 12-14 and 19 is reversed.

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CONCLUSION

The rejections of claims 1-9, 11-19, and 21 are reversed.

REVERSED

KENNETH W. HAIRSTON	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
LEE E. BARRETT	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
JOSEPH F. RUGGIERO	)	
Administrative Patent Judge	)	

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