

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GUSTAVO PORTILLA

Appeal No. 2002-1985
Application No. 09/351,208

ON BRIEF

Before BARRETT, BARRY and SAADAT, Administrative Patent Judges.
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the Examiner's final rejection of claims 1 and 3-5. Claim 2 has been cancelled.

We reverse.

BACKGROUND

Appellant's invention relates generally to translation systems and more specifically, to a system that provides for a cross-reference for each information element throughout all the languages. A cross-reference table characterizes each one of indexed information elements throughout all the languages (brief,

page 5). The system then finds the indexed entries for each word and the indexed structural arrangement to form the complete sentence or phrase (id.).

Representative independent claim 1 is reproduced below:

1. A computerized language translation system, comprising:
 - A) a first indexed database including a predetermined number of languages and a predetermined number of information elements for each language;
 - B) means for referencing uniquely indexed information elements in a given language to information elements in the other languages;
 - C) means for characterizing said information elements as a predetermined component class from a predetermined number of component classes in each of said languages;
 - D) a second indexed database including a predetermined number of structural arrangements for said information elements, said arrangements corresponding to a unique indexed entry in said second indexed database for each combination of component classes;
 - E) means of detecting and decoding a plurality of information elements in one language to determine the structural arrangement from said second indexed database with the corresponding component classes and indexed entries of the information elements;
 - F) means for matching said structural arrangements and said information element indexed entries and component classes in one language with other structural arrangements corresponding to other languages; and
 - G) means for assembling said information elements in at least one of the other languages and further including an output.

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The Examiner relies on the following references in rejecting the claims:

Asahioka et al (Asahioka)	5,075,850	Dec. 24, 1991
Ikuta et al. (Ikuta)	5,852,798	Dec. 22, 1998

Claims 1 and 3-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikuta and Asahioka.

We make reference to the answer (Paper No. 12, mailed September 28, 2001) for the Examiner's reasoning, and to the appeal brief (Paper No. 11, filed July 13, 2001) and the reply brief (Paper No. 13, filed January 17, 2002) for Appellant's arguments thereagainst.

OPINION

Appellant argues that Asahioka provides for a translation system that relies on the use of a "retrieval flag" and applying speculation based on the translation in the most recent sentence (brief, page 5; reply brief, page 2). Appellant further points out that the claimed use of indexed databases for structural arrangement or cross-referencing these arrangements from different languages is different from the technique of Asahioka using an educated guess for selecting words with multiple meanings by giving preference to the meaning used in the most recent sentence (brief, page 5). Additionally, Appellant argues

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that Asahioka needs to use "flag retrieval" technique because merely identifying "subject-predicate-complement" in a string of words is not enough to solve ambiguities (reply brief, page 2).

In response to Appellant's arguments, the Examiner relies on the entire text between col. 3, line 44 and col. 6, line 49 and merely equates the division of a sentence "into subject, predicate and complement" with the claimed "predetermined component classes" (answer, page 10). The Examiner further argues that the suggested combination does not need the use of the "retrieval flags" and is merely based on the teachings related to the use of structural analysis (id.).

As a general proposition, in rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993) and In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). A prima facie case of obviousness is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art. See In re Bell, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993); In re Fritch, 972 F.2d 1260, 1266 n.14, 23 USPQ2d 1780, 1783-84 n.14 (Fed. Cir. 1992); Uniroyal, Inc. v. Rudkin-Wiley

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Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985). In considering the question of the obviousness of the claimed invention in view of the prior art relied upon, the Examiner is expected to make the factual determination set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. See also In re Rouffet, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998). Our reviewing court requires this evidence in order to establish a prima facie case. In re Piasecki, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-88 (Fed. Cir. 1984); In re Cofer, 354 F.2d 664, 668, 148 USPQ 268, 271-72 (CCPA 1966).

After reviewing Asahioka, we agree with Appellant that the claimed arrangements of the different component classes is different from the "flag retrieval" technique of Asahioka. Although Asahioka provides for translation of a sentence and storing the sentence structure information such as subject, complement and predicate (col. 3, lines 52-61), it is the stored sentence number information for indicating the most recent

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sentence(s) that is consulted for translating words in subsequent sentences that may be incomplete or have multiple meanings. A translation information supply section retrieves the past translated sentence with the largest sentence number (i.e., the most recent sentence) and selects the meaning that is the closest to the translated word in the most recent sentence (col. 4, lines 19-41). Asahioka further discloses that a "retrieval flag" is added to the original word when translation by a dictionary alone is not sufficient and translation information from the prior sentence is needed (col. 4, lines 55-59). Therefore, although the structural arrangement of a sentence to be translated may be determined (col. 5, lines 56-65), the translation is still based on the sentence structure information from the newest sentence extracted by the information supply section (col. 6, lines 1-3).

We further find Appellant's arguments differentiating the claimed second indexed database including a predetermined number of structural arrangements over the use of the "retrieval flag" of Asahioka, to be persuasive. As discussed above, what the Examiner characterizes in Asahioka as dividing the sentence into subject, predicate and complement (answer, pages 10, 14 and 19) is not the same as the structural arrangement corresponding to a unique index entry in the second database. The structural

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analysis of Asahioka, is actually used for translation of an incomplete sentence based on a previous sentence and determining the missing part of the sentence from the translated words of the most recent sentence. In that regard, even if only the structural analysis of Asahioka without using the "retrieval flag" in combination with the word dictionary and the syntax dictionary of Ikuta is considered (answer, page 20), the structural analysis still does rely on the previous use/meaning of the most recent sentence for translation. Thus, the Examiner has failed to provide a prima facie case of obviousness as the combination of Ikuta and Asahioka falls short of disclosing or suggesting the recited features of claim 1. Accordingly, the 35 U.S.C. § 103 rejection of claims 1 and 3-5 over Ikuta and Asahioka cannot be sustained.

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CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1 and 3-5 under 35 U.S.C. § 103 is reversed.

REVERSED

LEE E. BARRETT)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
LANCE LEONARD BARRY)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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)	
MAHSHID D. SAADAT)	
Administrative Patent Judge)	

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Sanchelima & Associates, P.A.
Jesus Sanchelima, Esq.
235 S.W. Le Jeune Road
Miami, FL 33134