

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 34

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GARY SEDMAN CHRISHOLM, MICHAEL HANSBY,
BRENT O'MEAGHER, and ALAN MONNOX

Appeal No. 2003-1227
Application No. 09/049,161

HEARD: November 6, 2003

Before KRASS, DIXON and SAADAT, Administrative Patent Judges.
KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 11-20.

The invention is directed to a system for precisely positioning large objects. Using a global positioning system (GPS) receiver to provide positioning information, a visual display is provided to a user. Through the use of present and

desired positions, orientations and attitudes of the structure being positioned, a user is able to move the structure into the desired position.

Independent claim 11 is reproduced as follows:

11. A precise positioning apparatus comprising:

a system bus;

a GPS receiver configured to communicate with the system bus, the GPS receiver generating position information regarding a position of a structure associated with the GPS receiver;

a memory configured to communicate with the system bus;

a display configured to communicate with the system bus;

a microprocessor configured to communicate with the system bus, the microprocessor configured to receive the position information from the GPS receiver and configured to generate display information based on the position information, the display information comprising guidance and orientation information, the microprocessor configured to transmit the display information to the display,

wherein the display information is displayed on the display such that a user is provided with a visual graphical representation of a present position, orientation and attitude of the structure and a desired position, orientation and attitude of the structure.

The examiner relies on the following reference:

Anderson et al. (Anderson) 6,032,084 Feb. 29, 2000
(filed Aug. 30, 1996)

Appeal No. 2003-1227
Application No. 09/049,161

Claims 11-20 stand rejected under 35 U.S.C. § 102(e) as anticipated by Anderson.

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

OPINION

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Assoc., Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

In accordance with the grouping of the claims, at page 4 of the principal brief, all claims will stand or fall together. Thus, we will focus on independent claim 11.

With regard to claim 11, the examiner applies Anderson against the claims in the following manner:

A system bus is said to be shown at Figure 2b3-2 (this is

Appeal No. 2003-1227
Application No. 09/049,161

element 51).

A GPS receiver is said to be shown at Figure 2b3-2 (elements 82A and B). These GPS receivers communicate with the bus through interfaces 83A and B.

A memory is said to be shown at Figure 2B3-2 (element 50).

The claimed display and microprocessor are said to be shown at Figures "2b3-2, 2b2' and column 17, lines 48-50" (answer-page 3).

The examiner points to column 19, lines 1-21, of Anderson for a teaching of displaying the information so that a user is provided with a visual graphical representation of the present position, orientation and attitude of the structure and desired position, orientation and attitude of the structure.

Appellants do not dispute most of the examiner's rationale but do dispute whether Anderson discloses displaying the present and desired **attitude** of a structure. Moreover, it is appellants' position that while Anderson might consider the present position and orientation of a feedlot vehicle, it does not teach or suggest a **desired** position and orientation.

The examiner takes a broad view of the term "attitude" to mean "A position of the body or manner of carrying oneself: *stood in a graceful attitude*. See synonyms at posture" (answer-page 3,

Appeal No. 2003-1227
Application No. 09/049,161

quoted from Microsoft Bookshelf Basics dictionary).

Appellants refer to Webster's New World Dictionary, Second College edition, p. vii (1982). While not quoting a definition from that source, appellants indicate that the source defines "attitude" as something "unlike position or orientation" (reply brief-page 4), with position referring to location of a vehicle and orientation referring to the heading of a vehicle. Appellants contend that "attitude" is a description of a vehicle's or structure's "alignment in three-dimensional (or other dimensional) space, with respect to a given plane or other reference" (appeal brief-page 4).

Since the instant specification does not specifically define what is meant by "attitude," we are left without a specific meaning to ascribe to the claimed term. The examiner's definition of a position of a body does not seem appropriate since appellants use this term in addition to "position." The examiner's definition of a "manner of carrying oneself" does not seem technical enough for our use. The claims are directed to positioning a structure, not a human body. Thus, we are left with appellants' interpretation of "attitude" as being a description of a structure's "alignment in three-

dimensional...space, with respect to a given plane or other reference." With this definition in mind, it appears to us that this is met by the disclosure of Anderson because, in addition to position and orientation, Anderson mentions that real-time virtual reality (VR) modelling "(e.g., 3-D geometrical)" (column 3, line 8) is employed (also see column 4, line 19 and column 5, line 2). Since Anderson describes the structure in terms of its alignment in "three-dimensional...space," Anderson appears to teach or suggest consideration of the "attitude" of the structure, as claimed. Also note the reference to "x, y, z coordinates," at column 17, lines 48-49, implying a 3-D attitude consideration.

That having been said, we do not find any description or suggestion by Anderson of displaying to a user a visual graphical representation of a **desired** position, orientation and attitude of the structure, as required by independent claim 11. While Anderson does appear to disclose a desired position and a present position (column 19, lines 8-11: "The function of the GPS base station computer 87 is to compare its **known** position (stored in its memory) with its coordinate position computed using the GPS satellite signals" (emphasis added) [known position is the desired position and computed position is the present position]),

Appeal No. 2003-1227
Application No. 09/049,161

and Anderson appears to disclose a display of the present position, e.g., column 14, lines 55-58, indicates a user viewing a VR-based model, we find no indication of displaying a desired position, orientation and attitude, as claimed. The examiner points to column 19, lines 1-21, of Anderson for such a teaching (Paper No. 16, page 3) but we find no such disclosure or suggestion of a **display** thereat.

Accordingly, since an important claim limitation is missing from Anderson, Anderson cannot anticipate the instant claims and we will not sustain the rejection of claims 11-20 under 35 U.S.C. § 102(e).

Appeal No. 2003-1227
Application No. 09/049,161

The examiner's decision is reversed.

REVERSED

ERROL A. KRASS)	
Administrative Patent Judge)	
)	
)	
)	
)	
JOSEPH L. DIXON)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
)	
MAHSHID D. SAADAT)	
Administrative Patent Judge)	

EK/RWK

Appeal No. 2003-1227
Application No. 09/049,161

MARIA MCCORMAK SORBINO
BLAKELY SOKOLOFF TAYLOR AND ZAFMAN
12400 WILSHIRE BOULEVARD
7TH FLOOR
LOS ANGELES, CA 90025