

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN L. WEBB, EUGENE W. PAKENHAM, MARTHA A. CHAVEZ,
and JEFFREY P. LEE

Appeal No. 2004-0962
Application No. 09/234,255

ON BRIEF

Before HAIRSTON, JERRY SMITH, and FLEMING, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 10. In an Amendment After Final (paper number 18), claim 10 was amended.

The disclosed invention relates to a progress monitor that progressively reveals information as the progress indicator becomes larger.

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Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A progress monitor comprising:

a progress area used to indicate the progress of a process being monitored;

a progress indicator that progressively divides the progress area into a first part of the progress area and a second part of the progress area, where the first part of the progress area corresponds to the amount of completion of the process being monitored;

information, in addition to the progress of the process, progressively becoming visible in the first part of the progress area as the first part of the progress area becomes larger.

The references relied on by the examiner are:

Marks	6,097,390	Aug. 1, 2000 (filed Apr. 4, 1997)
Nielsen	6,337,699	Jan. 8, 2002 (filed Jun. 27, 1996)

MS Outlook 97.

Claims 1 through 6 and 8 through 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Marks in view of Nielsen.

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Marks in view of Nielsen and MS Outlook 97.

Reference is made to the briefs (paper numbers 20 and 22) and the answer (paper number 21) for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will reverse the 35 U.S.C. § 103(a) rejection of claims 1 through 10.

Marks discloses (Figure 3) a conventional progress indication window that indicates the progress of a task. We agree with the appellants' arguments (brief, pages 12 and 18) that the progress indicator disclosed by Marks does not disclose information "in addition to the progress of the process" (claim 1) or "progressively revealing information in the first part of the progress area" (claim 10).

Nielsen discloses that an icon can be blinked at several different rates to convey different information (Figures 3A through 3D; Abstract; column 4, line 63 through column 5, line 13). Nielsen is silent as to use of the icon as a progress indicator. Accordingly, we agree with appellants' arguments (brief, pages 14, 15, and 19) that Nielsen neither teaches nor would have suggested to the skilled artisan the use of the icon display as a progress monitor, and that Nielsen fails to remedy the inadequacies of Marks.

In summary, the obviousness rejection of claims 1 through 6 and 8 through 10 is reversed.

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The obviousness rejection of claim 7 is reversed because MS Outlook 97 is not a remedy to the deficiencies in the teachings of Marks and Nielsen.

DECISION

The decision of the examiner rejecting claims 1 through 10 under 35 U.S.C. § 103(a) is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	
JERRY SMITH)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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)	
MICHAEL R. FLEMING)	
Administrative Patent Judge)	

KWH/hh

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