Paper No. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SANDIP A. AMIN,
JAMES LEE LENTZ
and MINH NGUYEN

Appeal No. 2005-0097
Application No. 09/645,172

ON BRIEF

Before STAAB, MCQUADE, and BARRETT, Administrative Patent Judges.

MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Sandip A. Amin et al. appeal from the final rejection of claims 2 through 6, 9 through 13, 21 through 25, 28 through 32, 39 and 40, all of the claims pending in the application.

THE INVENTION

The invention relates to a method and system for adjusting a computer setting by means of a slider bar displayed on a graphical user interface. Representative claims 2 and 32 read as follows:

2. A method for allowing adjustment of a setting via a slider bar displayed on a graphical user interface, the method comprising:

providing a slider bar control button for the slider bar by providing a thumbwheel control button on the graphical user interface; and

integrating fine and coarse adjustment control into the slider bar control button to allow precise manipulation of a value for the setting.

32. A system for adjusting a setting value with a slider bar displayed on a graphical user interface, the system comprising:

a slider bar control button comprising a three section bar button with a first section for coarse adjustment, a second section for fine adjustment up, and a third section for fine adjustment down to allow precise manipulation of a value for a setting; and

selector means for interacting with the slider bar control button to perform the manipulation of the value for the setting, wherein the slider bar control button moves at a slower pace when one of the second and third sections is selected than when the first section is selected with the selector means.

THE PRIOR ART

The references relied on by the examiner to support the final rejection are:

Kinoshita et al. (Kinoshita)	4,685,064	Aug. 04, 1987
Rosenberg et al. (Rosenberg)	6,128,006	Oct. 03, 2000
Goldberg	6,341,183	Jan. 22, 2002
Ubillos	6,486,896	Nov. 26, 2002

THE REJECTIONS

Claims 9 through 13, 28 through 32 and 40 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ubillos.

Claims 2 through 4, 21 through 23 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ubillos in view of Rosenberg.

Claims 5 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ubillos in view of Rosenberg and Kinoshita.

Claims 6 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ubillos in view of Rosenberg, Kinoshita and Goldberg.

Attention is directed to the main and reply briefs (Paper Nos. 8 and 10) and the answer (Paper No. 9) for the respective positions of the appellants and the examiner regarding the merits of these rejections.[1]

DISCUSSION

I. The 35 U.S.C. § 102(b) rejection of claims 9 through 13, 28 through 32 and 40 as being anticipated by Ubillos

We shall not sustain this rejection.

To begin with, the rejection is unsound on its face. The Ubillos patent issued on November 26, 2002, based on Application No. 09/287,720, filed April 7, 1999. The instant application has an actual and effective filing date of August 24, 2000. Hence,

[1] The examiner's statement of the § 102(b) rejection (see page 3 in the answer) mistakenly includes canceled claim 38.

Ubillos is not prior art under 35 U.S.C. § 102(b)[2] with respect to the subject matter recited in claims 9 through 13, 28 through 32 and 40.

Moreover, even if the rejection had been properly made under 35 U.S.C. § 102(e),[3] it would still be unsound because Ubillos does not disclose each and every element of the subject matter set forth in the claims so rejected.[4]

Ubillos pertains to a scalable scroll controller, displayed on a graphical user interface, which is capable of being manipulated through a mouse to allow a user to locate a precise point in a musical composition, film, textual document or like database. Figures 4, 5A and 5B depict such a controller as a

---

[2] 35 U.S.C. § 102(b) states that a person shall be entitled to a patent unless "the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States."

[3] 35 U.S.C. § 102(e) states in pertinent part that a person shall be entitled to a patent unless "the invention was described in . . . a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent."

[4] Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984).

component of a historical timeline controller. As described by Ubillos:

> FIG. 4 shows a timeline controller 50. Basically, the user controls the time scale and the range of time that is visible. The time scale is controlled and shown by scalable scroll controller 11. Scalable scroll controller 11 also gives the current scale of timeline 14. The selected time [e.g., year, month, day, hour, minute and second] is shown both in the column of fields 12 and by the indicator 13 on timeline 14.
>
> Scalable scroll controller 11 is comprised of a horizontal bar 15 and scale controllers 17 and 18. Scalable scroll controller 11 is located in a scroll area 16. By using the mouse or other cursor positioning means to position the cursor on horizontal bar 15 and clicking and holding down the mouse button, scalable scroll controller 11 will track the movement of the mouse by sliding left and right as the mouse is dragged left and right, respectively. Scalable scroll controller 11 will continue to track the horizontal mouse movements until the mouse button is released. All the while that scalable scroll controller 11 is being moved, the range of the history being displayed in timeline 14 is also correspondingly shifted according to the horizontal movements of [the] scalable scroll controller 11.
>
> . . .
>
> Scalable scroll controller 11 also includes scale controllers 17 and 18. By placing the cursor on and click-dragging either one of the scale controllers 17 and 18, the scale of [the] timeline 14 may be changed. For example, by placing a cursor on scale controller 17 and click-dragging to the left, the scale of timeline 14 increases (i.e., the amount of time covered by the timeline increases), thereby decreasing the resolution of timeline 14. In other words, the magnification at which one observes the data (timeline) decreases. Conversely, as scale controller 17 is moved to the right, the scale of timeline decreases (i.e., the amount of time covered by the timeline decreases), thereby increasing the resolution of timeline 14.

> Click-dragging scale controller 18 to the right or left has the same effect of increasing or decreasing, respectively, the scale of timeline 14 [column 5, line 59, through column 6, line 37].

As indicated above, independent claim 32 recites a system for adjusting a setting value comprising, inter alia, a slider bar control button which moves at a slower pace when one of the second and third sections is selected than when the first section is selected. Independent claims 13 and 40 contain similar limitations. When these limitations are read, as they are required to be, in light of the underlying specification, a person of ordinary skill in the art would understand the references to the pace of movement within the following context:

> The mouse device driver includes a function that maps the distance traveled by the mouse to distance traveled by the mouse pointer. Typically, graphical operating systems allow users to adjust this mapping function ("gain") to accommodate varying user preferences. Thus, the gain can be set low so that a large movement of the mouse is required to move the mouse pointer a set distance, or the gain can be set high so that a small movement of the mouse will move the mouse pointer the same distance.
>
> As in the embodiment of Figure 7, when a window is opened that includes a slider control, the slider bar control button 700 is moved to its starting position based on a previous setting or some other value. When a SelectButtonDown event (e.g., on a right-handed mouse, this is holding the left-most button down) is detected and the mouse pointer is over either of the "slow" regions of the slider bar control button 700 (i.e., sections 704 or 706), the gain of the mouse device driver is set to a slow speed. When the mouse button is released, the gain setting is restored to the

> prior preference. When a SelectButtonDown event is detected and the mouse pointer is over the "fast" region of the slider bar control button 700 (i.e., section 702), no change is made in the gain setting [specification, pages 13 and 14].

The examiner (see pages 4 and 13 in the answer) advances several explanations as to how and why Ubillos meets the foregoing limitations. None is persuasive, however, as each is predicated on an unreasonable interpretation of both the claim language at issue and the Ubillos disclosure. Moreover, all of the examiner's explanations rest on a finding that the Ubillos scale controllers 17 and 18 constitute second and third sections for fine adjustment up and down, respectively, as recited in independent claims 13, 32 and 40. Ubillos, however, provides no factual support for this finding. Hence, the examiner's position that the subject matter recited in independent claims 13, 32 and 40, and dependent claims 9 through 12 and 28 through 31, is anticipated by Ubillos is not well taken.

II. The 35 U.S.C. § 103(a) rejection of claims 2 through 4, 21 through 23 and 39 as being unpatentable over Ubillos in view of Rosenberg

As indicated above, independent claim 2 recites a method comprising, inter alia, the step of providing a thumbwheel control button on a graphical user interface. Independent claims 21 and 39 contain similar limitations. Understood in light of

the underlying specification (see pages 2, 3 and 11), the thumbwheel control button is a representation on the graphical user interface of a button having a central area, a top button substantially adjacent and above the central area, and a bottom button substantially adjacent and below the central area.

Conceding that Ubillos lacks response to the thumbwheel control button limitations, the examiner cites Rosenberg's disclosure of a mouse which includes a rotatable control wheel and submits that it would have been obvious "to combine the slider bar control button that further comprises a thumbwheel control button taught by [Rosenberg] with the slider bars disclosed by Ubillos [to] enable the user to control slider bars using a single finger and without changing the position of the physical mouse" (answer, page 7). Suffice to say that even as so modified in view of Rosenberg, the Ubillos method and apparatus still would not embody a thumbwheel control button on a graphical user interface.

Therefore, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of independent claims 2, 21 and 39, and dependent claims 3, 4, 22 and 23, as being unpatentable over Ubillos in view of Rosenberg.

III. The 35 U.S.C. § 103(a) rejections of claims 5 and 24 as being unpatentable over Ubillos in view of Rosenberg and Kinoshita, and of claims 6 and 25 as being unpatentable over Ubillos in view of Rosenberg, Kinoshita and Goldberg

As Kinoshita and Goldberg, considered either individually or in combination, do not cure the above noted shortcomings of Ubillos and Rosenberg with respect to parent claims 2 and 21, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of dependent claims 5 and 24 as being unpatentable over Ubillos in view of Rosenberg and Kinoshita, or the standing 35 U.S.C. § 103(a) rejection of dependent claims 6 and 25 as being unpatentable over Ubillos in view of Rosenberg, Kinoshita and Goldberg.

SUMMARY

The decision of the examiner to reject claims 2 through 6, 9 through 13, 21 through 25, 28 through 32, 39 and 40 is reversed.

REVERSED

LAWRENCE J. STAAB Administrative Patent Judge	)
	) BOARD OF PATENT
JOHN P. MCQUADE Administrative Patent Judge	) APPEALS AND) INTERFERENCES
LEE E. BARRETT Administrative Patent Judge	)

JPM/kis

Appeal No. 2005-0097
Application No. 09/645,172

INTELLECTUAL PEROPETY LAW DEPT
IMB CORPORATION
11400 BURNET ROAD ZIP 4054
AUSTIN, TX 78758