

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL KOTZIN

Appeal No. 2005-2486
Application No. 10/331,384

ON BRIEF

Before THOMAS, RUGGIERO and NAPPI, **Administrative Patent Judges.**

NAPPI, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1 through 20. For the reasons stated *infra* we reverse the examiner's rejection of these claims.

The Invention

The invention relates to a hand held display device which operates such that moving the display back and forth, in conjunction with the user's "persistence of vision" makes the image appear to be larger than the size of the display. The display device has a memory with an image, which has an image size larger than the display size. The display device has a motion sensor and instructions, which determine the position of the display and display a portion of the image that corresponds to the position of the display. See page 3 of appellant's specification. The instructions also cause the image on the display to be panned by an amount that matches the movement of the hand held display. See page 4 of appellant's specification.

Claim 1 is representative of the invention and is reproduced below:

1. A display circuit for use in a hand held device, comprising:
 - a display having a predetermined size;
 - a memory including information relating to an image having an image size, which is larger than the size of the display;
 - a motion sensor for detecting the movement of the hand held device and the corresponding movement of the display; and
 - a controller, coupled to the motion sensor, including prestored instructions for determining the current position of the hand held device and for displaying a portion of the image on the display, corresponding to the present position of the device, wherein the amount the image being displayed on the display is panned matches the amount of movement of the hand held device.

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References

The references relied upon by the examiner are:

Berting et al. (Berting)	4,393,379	July 12, 1983
Feinstein	6,466,198	October 15, 2002

Rejections at Issue

Claims 1 through 8, 10 through 18 and 20 stand rejected under 35 U.S.C. § 102 as being anticipated by Feinstein. Claims 9 and 19 stand rejected under 35 U.S.C. § 103 as being unpatentable over Feinstein in view of Berting.

Opinion

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of anticipation and obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, appellant's arguments set forth in the briefs, along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer. With full consideration being given to the subject matter on appeal, the examiner's rejections and the arguments of appellant and examiner, for the reasons stated *infra*, we will not sustain the examiner's rejection of claims 1 through 8, 10 through 18 and 20 under 35 U.S.C. § 102 or the examiner's rejection of claims 9 and 19 under 35 U.S.C. § 103.

Appellant argues on page 5 of the brief that the examiner, in using the definition "a person or thing equal to or similar to another," is applying the wrong definition of the

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term “matching” in interpreting the limitation of claim 1. Appellant asserts that a more suitable definition is “one that is like another in one or more specified quantities.”

Further appellant argues:

Notwithstanding the fact that the examiner ignores the portion of the definition for "match", which includes the phrase "equal to", more importantly the Examiner fails to show or assert that a match exists between the elements being claimed as matching. Specifically, the Examiner merely notes a similarity between orientation and movement of the device relative to the amount of panning on the screen, which is different than showing a match exists between the amount of movement of the device and the amount of panning of the image being displayed on the display. While the direction of movement of the device may be similar to the direction of panning of the image being presented on the display, the amount of movement of the device and the amount of panning of the image being displayed do not match, as provided for in the claims. In fact Feinstei, '198, expressly suggests that any exact correlation between orientation changes and actual navigation of the display should be minimized (col. 3, line 65 to col. 4, line 2).

Further, on page 3 of the reply brief, appellant argues:

Any attempt to relate an image displacement, of the type associated with panning, with an angular change, of the type associated with a change in orientation of the device, is akin to comparing apples and oranges. There is no formula taught or suggested for translating between an amount of change in orientation associated with an angle, which can be measured in radians or degrees, and an amount of panning or image displacement, which in the case of a planer display would involve a lateral displacement that can be measured in inches or centimeters. In view of this very fundamental difference, the reference can not be said to involve an amount of movement of a hand held device, which can be said to reasonably compare to an amount of panning, let alone teach and require corresponding amounts that match.

In response the examiner states, on page 5 of the answer, that appellant's proposed definition is broader than that proposed by the examiner and that it shows that “equal” is not a requirement to being a match. Further, the examiner states “[i]t is also noted that in [sic] the specification does not specify that the amounts of movement be

equal to and the only alternative form of the word 'matches' is 'corresponding to' found on page 10, line 1." The examiner asserts that Feinstein discloses this correspondence between movement of the device and panning of the display in figures 1A through 1D and the corresponding description.

We agree with the examiner's interpretation of the term "match" and find that it does not require that the matching terms be equal, but rather it requires some correspondence between terms. However, we disagree with the examiner's finding that Feinstein teaches the limitation "wherein the amount the image being displayed on the display is panned matches the amount of movement of the hand held device" as recited in claim 1. We find that this limitation of claim 1 requires not only that there be a correspondence between panning of the image and the movement of the display, but also that there is a correspondence between the "amount", some measurable quantity, of movement and the "amount" of panning. Independent claim 11 contains a similar limitation.

Feinstein teaches a hand held device which has a navigation mode which allows the user of the device to scroll the display. See column 5, lines 35-39. In the navigation mode, changes in pitch and roll orientation of the device provide the commands to the device to scroll the display, i.e. a person holding the display rocks the display in the direction the user desires to scroll the display. See column 7, lines 40-48 and figures 1A through 1D. Feinstein teaches several scroll speeds: fixed, fine, course, and dynamically changing between fine and course, these speeds respectively correspond to sections 144, 152, 156 and 154 of figure 7A. See column 8, lines 6-14, 21-28, 41-50.

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The speeds are selected by the user. See column 9, lines 23-32. However, we do not find that Feinstein teaches that the amount of movement of the display device controls the amount of panning, scrolling speed, of the display, i.e. the magnitude of the pitch and roll does not affect the scroll speed. See for example figure 7C which depicts change in orientation of the display device and figure 7D which depicts scrolling of the display. We note scrolling is independent of the magnitude of change in orientation of the device. Thus, we do not find that Feinstein teaches the limitation of an “amount the image being displayed on the display is panned matches the amount of movement of the hand held device.” Accordingly, we will not sustain the examiner’s rejection of independent claims 1 and 11 or dependent claims 2 through 8, 10, 12 through 18 and 20 under 35 U.S.C. § 102.

Claims 9 and 19 stand rejected under 35 U.S.C. § 103 as being unpatentable over Feinstein in view of Berting. Claims 9 and 19 ultimately depend upon claims 1 and 11 respectively. The examiner has not asserted, nor do we find, that Berting teaches the limitation of an “amount the image being displayed on the display is panned matches the amount of movement of the hand held device.” Accordingly, we will not sustain the examiner’s rejection of claims 9 and 19 for the reasons discussed *supra* with respect to claims 1 and 11.

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