

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 EARNEY STOUTENBURG, CASSANDRA J. MOLLETT, JAMES PRICE,
CHARLES A. FILLINGER, ERIC M. NELSON, DEAN A. SEIFERT and
JEFFREY SINGLETON

Appeal No. 2006-0395
Application No. 10/116,735

ON BRIEF

Before, KRASS, LEVY and BLANKENSHIP, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-9 and 11-26.

The invention is directed to a system and method for configuring a point-of-sale system. One such configuration is set forth in representative independent claim 1, reproduced as follows:

1. A method for implementing a scalable value transfer system, the method comprising:

providing a point-of-sale device, wherein the point-of-sale device includes a processor, a memory, and a communication interface;

communicably coupling the point-of-sale device to a communication network via the communication interface, wherein a transaction system is accessible by the point-of-sale device via the communication network, the transaction system configured to process transactions between a merchant and customers;

receiving, with the communications interface, a set of instructions executable by the point-of-sale device to reconfigure the point-of-sale device to enable access to the transaction system; and

reconfiguring the point-of-sale device to enable access to the transaction system, the reconfiguring including loading the set of instructions to the memory.

The examiner relies on the following references:

Moderi et al. (Moderi) 5,510,979 Apr. 23, 1996

Templeton et al. (Templeton) 5,679,940 Oct. 21, 1997

Claims 1-9 and 16-22 stand rejected under 35 U.S.C.

§ 102(b) as anticipated by Moderi.

Claims 11-15 and 23-26 stand rejected under 35 U.S.C. § 103 as unpatentable over Moderi in view of Templeton.

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

OPINION

A rejection for anticipation under section 102 requires that the four corners of a

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single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

The examiner points to column 2, lines 6-26, of Moderi for a general teaching of point-of-sale (POS) registers (see page 3 of the answer). Then, in applying the reference specifically to independent claims 1, 16, and 21 the examiner points to column 6, lines 39-51, of Moderi, with reasoning set forth at page 4 of the answer.

Appellants argue that claim 1 recites receiving a set of instructions at a communications interface of a POS device and that this set of instructions is executable by the POS device to reconfigure the POS device to enable access to a transaction system configured to process transactions between a merchant and customers. Appellants assert that these limitations of claim 1 are not disclosed in Moderi.

According to appellants, Moderi simply discloses a technique for re-programming keys on a cash register (brief-page 5). Moreover, argue appellants, in contrast to instant claim 1, the set of instructions loaded by the register of Moderi do not comprise instructions which reconfigure a POS device to “enable access” to a transaction system. Further, assert appellants, the cash register in Moderi is not reconfigured, as in instant claim 1, and the re-programming of keys cannot be equated to the recitations of claim 1 of enabling access to a transaction system.

Similarly, argue appellants, independent claim 16 also recites reconfiguring a POS device to enable access to a transaction system.

With regard to independent claim 21, appellants argue that Moderi does not disclose the claimed limitations of a plurality of reconfigurable POS devices communicatively coupled to a communication network where each POS device includes a memory which comprises instructions to request access to each of a plurality of transaction systems and to receive additional instructions to enable the POS device to use one of the transaction systems.

In response, the examiner asserts that reconfiguring takes place in Moderi when the keys are reprogrammed in order to actually process a transaction, enabling access to the transaction system. It is the examiner's view that since claim 1 does not specifically disclose what constitutes "enabling access to the transaction system," the examiner interprets that the reconfiguring of keys is, in fact, enabling access to the transaction system. The examiner then states that

Moderi does indeed disclose that the loading of software and hence the reconfiguration of the point of sale device facilitate access to the transaction system when it is taught that the instructions are loaded into the system to program the touch keys of the register, in order for the transactions to be able to take place. In addition, Moderi teaches that the method for networking a microcomputer to a physically separated shared memory device to enable the microcomputer to operate as a POS register and to ensure the integrity of sales data generated by the microcomputer is disclosed, which also shows that the receiving and loading of the instructions that are executable by the POS is for facilitating access to the transaction system (answer-page 8).

We have reviewed the evidence before us, including the disclosure of the Moderi reference and the arguments of appellants and the examiner and we conclude from such a review that the examiner has not established a *prima facie* case of anticipation with regard to independent claims 1, 16, and 21.

Among other things, the instant claims require a set of instructions executable by the POS devices to reconfigure the POS devices to enable or to facilitate access to a “transaction system.” The examiner’s rationale would appear to ascribe the teaching of such a “transaction system” in Moderi to the actual purchase by a customer. There is a “transaction” when using the Moderi system in that a customer orders, for example, fries and a soda, and the cashier punches the appropriate keys on the POS device (keys which have been re-programmed) to arrive at the total amount owed by the customer. The customer pays the amount shown on the POS device and the customer receives the food products purchased. However, we do not view such a “transaction” as the claimed “transaction system” that is “accessible” by the POS device.

The set of instructions in Moderi re-programs the keys of the POS device, but such set of instructions does not enable or facilitate access to at least a first transaction system, as claimed. To speak of “access” to a transaction system implies that there is some physical or structural system, or network, available to be accessed. The general business “transaction” of a customer purchasing food products and paying the amount shown on a POS device (the amount being calculated via the appropriate entry on the re-programmed keys of the POS device) is not a physical or structural system or

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network.

The term “transaction” appears to be defined at page 6 of the instant specification as

including credit transactions, debit transactions, check transactions, money-transfer transactions, money-order sales, bill payments, management of customer-loyalty programs, issuance of coupons, acceptance of coupons, issuance of stored value cards, fraud detection associated with a variety of transaction types, and other such functions.

Accordingly, it would appear that the claimed “transaction system” must include at least a “system” which is capable of performing the listed “transactions.” We find no such “system” for performing these “transactions” in Moderi and conclude that the examiner’s finding of a “transaction system” in Moderi, in the normal business transaction of purchasing a product, is unreasonable.

If the examiner’s interpretation is to be adopted, it would appear incongruous to say that the normal business transaction of purchasing a product is a “transaction system” and, at the same time, conclude that this “transaction system” is accessible by the POS device via a communication network since it has no meaning to say that some non-physical, ephemeral, business transaction is something that can be “accessed,” as required by the instant claims.

Moreover, one might say that reprogramming the keys in the POS device of Moderi is a reconfiguration of the POS device, but

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such reconfiguration does not enable or facilitate “access to the transaction system,” as claimed.

Accordingly, we will not sustain the rejection of claims 1-9 and 16-22 under 35 U.S.C. § 102(b).

We also will not sustain the rejection of claims 11-15 and 23-26 under 35 U.S.C. § 103 over Moderi in view of Templeton because Templeton does not provide for the deficiency noted supra with regard to the independent claims.

Templeton does disclose transaction systems, as claimed, since it discloses at least a check acceptance service, which is a type of transaction system contemplated by the instant invention. However, the examiner uses Templeton only for a teaching of well known financial transaction programs (see page 7 of the answer), and while Templeton does disclose “transaction systems,” we find no reason why the skilled artisan would have been led in any way to combine the transaction systems of Templeton with Moderi in such a way as to cause a set of instruction executable by the POS device in Moderi to reconfigure the POS device “to enable access to the transaction system.” That is, other than impermissible hindsight, we can find no reason for the artisan to have reconfigured the reprogrammable keyboard of Moderi in such a manner as to enable access to a transaction system disclosed by Templeton.

Accordingly, the examiner’s decision is reversed.

REVERSED

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ERROL A. KRASS Administrative Patent Judge)))))	
STUART S. LEVY Administrative Patent Judge)	BOARD OF PATENT APPEALS AND INTERFERENCES
HOWARD B. BLANKENSHIP Administrative Patent Judge))	

EK/rwk

TOWNSEND AND TOWNSEND AND CREW, LLP

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