

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

Appeal No. 2006-0528
Application No. 09/557,278

ON BRIEF

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

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1 and 3-15. Claim 2 has been cancelled.

We affirm-in-part.

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BACKGROUND

Appellant's invention is directed to encryption by first formatting text for display, and then encrypting the text. An understanding of the invention can be derived from a reading of exemplary independent claim 1, which is reproduced as follows:

1. A method of encrypting, comprising:

obtaining text-containing information and formatting information, said formatting information including at least front information;

formatting said text-containing information into a format for display, to form an electronic file representing formatted unencrypted information; and

encrypting said electronic file representing formatted unencrypted information to form formatted encrypted information.

The Examiner relies on the following reference:

Virga	5,321,749	Jun. 14, 1994
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Claims 1 and 3-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Virga.

We make reference to the answer (mailed April 21, 2005) for the Examiner's reasoning, and to the appeal brief (filed December 6, 2004) for Appellant's arguments thereagainst.

OPINION

With respect to independent claim 1, Appellant argues that the claim requires the formatting information be used to format the text and to produce an electronic file which is then encrypted, whereas Virga scans a paper document and converts it into a bitmap (brief, page 4). However, Appellant agrees with the Examiner's finding that Virga formats a file to produce a bitmap, but further points out that the bitmap, while an electronic file, is not an electronic file produced by formatting the text information into a format for display to form the electronic file (brief, page 5).

The Examiner responds by arguing that the claimed formatting the text to form an electronic file reads on the process disclosed by Virga for formatting the file to produce a bitmap (answer, page 5). The Examiner further asserts that, as agreed by Appellant (brief, page 5), Virga scans a paper containing text and then formats the scanned file to produce a bitmap (answer, page 5). Interpreting the claimed term "formatting" at its broadest, the Examiner argues that the claimed "text-containing information" reads on the printed paper of Virga containing formatting information which is then scanned to produce an

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unencrypted file which is later encrypted (answer, page 6). The Examiner points out that Virga (col. 13, lines 27-36), nonetheless, does provide for a computer-created document, such as one created by a word processor, which is later encrypted (id.).

A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). Furthermore, anticipation of a patent claim requires a finding that the claim at issue "reads on" a prior art reference. Atlas Powder Co. v. IRECO Inc., 190 F.3d 1342, 1346, 51 USPQ2d 1943, 1945 (Fed. Cir. 1999) (quoting Titanium Metals Corp. Of Am. v. Banner, 778 F.2d 775, 781, 227 USPQ 773, 778 (Fed. Cir. 1985)).

Upon a review of Virga, we observe that the reference discloses a system and method for encryption of physical documents for transmission to a recipient without the risk of unintended disclosure to unauthorized persons (col. 1, lines 6-17). Virga further describes a document which may have both textual and non-textual information having formatting information in the form of different sizes of prints (Figure 1, col. 6, lines

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15-31). The document, although not suitable for OCR (optical character recognition) scanners to process the textual content, may easily be scanned and converted into a bitmap (col. 6, lines 26-31), and thus, an electronic file.

We disagree with Appellant that this generated bitmap is not an electronic file formed by formatting the text-containing information into a format for display. We find that the Examiner's characterization of the bitmap of Virga as the claimed electronic file is reasonable since as explained by the Examiner, the paper document is the text-containing information which includes formatting information in the form of different sizes (col. 6, lines 19-20). Additionally, the document in Virga is disclosed as one already created by a word processor which requires formatting information associated with the text information (col. 13, lines 27-33). Accordingly, Virga prima facie anticipates claim 1 since the bitmap is indeed an electronic file produced by formatting or scanning the text information into a format for display to form an electronic file cartridge loader. We therefore, sustain the rejection of claim 1, as well as claims 3, 5 and 6 which are not argued separately, under 35 U.S.C. § 102 over Virga.

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With respect to claim 4, we note that the claim requires the claimed encryption comprises determining and coding the distance to a transition between colors. However, we agree with Appellant (brief, page 6) that the portions in Virga relied on by the Examiner (col. 11, lines 3-37) relate to the length of data block resulting from data compression and has nothing to do with coding the appearance aspects of the information. Thus, the 35 U.S.C. § 102 rejection of claim 4 over Virga is not sustained.

Regarding claim 7, Appellant merely points out that the relied on portion of Virga does not teach that information is encrypted in chunks which includes a line of information (brief, paragraph bridging pages 7-8). The Examiner responds by arguing that each chunk is required to include a line of data and not to be one line (answer, page 6). We agree with the Examiner that claim 7 merely require that a chunk of information include a line of information which is disclosed by virga as the pattern used to recognize the encrypted bitmap (col. 11, lines 54-61). Virga, as stated by the Examiner (answer, page 4) further provides for a pattern of skipped lines or a double dash line after each original scan line so that these lines can be decrypted (col. 12, lines 2-6). Without the need for determining whether the chunk

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is a line or more, we find that Virga does indeed mark each line so that the scanned information can be decrypted one line at a time. Therefore, the 35 U.S.C. § 102 rejection of claim 7 as well as claim 8, dependent thereon, over Virga is sustained.

With respect to claim 9, we note that Appellant merely relies on the same arguments presented for claim 1, that scanning may not be equated with formatting of a text-containing file (brief, page 7). As discussed above, the conversion to a bitmap in Virga is what the Examiner characterizes as the formatting of a text-containing file. Therefore, we sustain the 35 U.S.C. § 102 rejection of claim 9 as well as claims 10 and 12, which are not argued separately, over Virga.

Regarding claim 11, we find that the Examiner has properly argued that a chunk may be considered one, or more lines (answer, page 7) which depends on the exact size of a scanned line. In that regard, Virga also mentions that the end of each original scan line could occur anywhere on a printed output line (col. 12, lines 6-10). Therefore, as argued by the Examiner, since the length of a chunk may vary as does the length of the scan line, Virga anticipates claim 11.

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Regarding claim 13, we note that the claim recites that the step of encrypting comprise determining distances between transitions in said formatted unencrypted information. As discussed above, with respect to claim 4, the portions in Virga relied on by the Examiner (col. 11, lines 3-37) does not disclose such determination of distance between transitions. Therefore, the 35 U.S.C. § 102 rejection of claim 13, as well as claims 14 and 15 dependent thereon, over Virga is not sustained.

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CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1, 3, and 5-12 under 35 U.S.C. § 102 is affirmed, but is reversed with respect to the 35 U.S.C. § 102 rejection of claims 4 and 13-15.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

ERROL A. KRASS)	
Administrative Patent Judge)	
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