

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

Appeal No. 2006-1617
Application No. 09/812,202

ON BRIEF

Before JERRY SMITH, BLANKENSHIP and MACDONALD, Administrative Patent Judges.

MACDONALD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-4.

Invention

Appellants' invention relates to a method, system, and computer readable medium for handling absolute cell or cell range references within formulas comprised in

cells that are cut or copied and then pasted from one environment to another environment. Appellants' specification at page 5, lines 19-24.

Claim 1 is representative of the claimed invention and is reproduced as follows:

1. A method for processing one or a plurality of absolute cell references or cell range references during a copy/cut and paste operation in a multi dimensional spreadsheet comprising a plurality of cells identified by addresses or names, said method comprising the steps of:
 - selecting a source cell range to cut and paste or to copy and paste into a destination cell range;
 - storing in a working buffer the content of each cell that belongs to said source cell range;
 - clearing the content of each cell that belongs to a source cell range to cut;
 - for each cell stored in the working buffer:
 - if the content of the stored cell comprises one or a plurality of absolute references pointing to a cell or a cell range belonging to the source cell range;
 - determining for each of said cells or cell ranges pointed by an absolute reference and belonging to the source cell range, a relative position within the source cell range;
 - determining for each of said relative position within the source cell range, a corresponding absolute reference within the destination cell range;
 - replacing within the stored cell, each absolute reference pointing to a cell or a cell range belonging to the source cell range by the corresponding absolute references within the destination cell range;
 - copying the content of each cell stored in the buffer to corresponding cells within the destination cell range.

References

The references relied on by the Examiner are as follows:

Anderson et al. (Anderson)	EP 0569133 A2	Nov. 10, 1993
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Rejections At Issue

Claim 2 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1-4 stand rejected under 35 U.S.C. § 103 as being obvious over Anderson.

Throughout our opinion, we make references to the Appellants' briefs, and to the Examiner's Answer for the respective details thereof.¹

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of the Appellants and the Examiner, for the reasons stated infra, we reverse the Examiner's rejection of claim 2 under 35 U.S.C. § 101; and we reverse the Examiner's rejection of claims 1-4 under 35 U.S.C. § 103.

I. Whether the Rejection of Claim 2 Under 35 U.S.C. § 101 is proper?

With respect to independent claim 2, Appellants argue at page 10 of the brief, that the Examiner has erred in that there has been no showing that claim 2 is merely limited to software per se. We agree.

The rejection before us merely states that "the claimed invention is considered software per se in light of the specification (pages 9-10)." See the Examiner's answer at page 3. The Examiner bears the initial burden of establishing a prima facie case. Without some explanation of Examiner's reasoning with respect to pages 9-10 of Appellants' specification, we find that a prima facie case has not been established.

Therefore, we will not sustain the Examiner's rejection under 35 U.S.C. § 101.

¹ Appellants filed an appeal brief on June 21, 2005. Appellants filed a reply brief on Jan. 30, 2006. The Examiner mailed an Examiner's Answer on Nov. 28, 2005.

II. Whether the Rejection of Claims 1-4 Under 35 U.S.C. § 103 is proper?

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as set forth in claims 1-4. Accordingly, we reverse.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a prima facie case of obviousness. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). See also In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. Oetiker, 977 F.2d at 1445, 24 USPQ2d at 1444. See also Piasecki, 745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. “In reviewing the [E]xaminer’s decision on appeal, the Board must necessarily weigh all of the evidence and argument.” Oetiker, 977 F.2d at 1445, 24 USPQ2d at 1444. “[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency’s conclusion.” In re Lee, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002).

With respect to independent claim 1, Appellants argue at pages 11-13 of the brief, that the Examiner has erred in that he has not established Anderson teaches or

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suggests either (1) “determining for each cell ...”, “determining for each relative position ...”, and “replacing within the stored cell ...”; or (2) “performing a test to detect ...”, “performing a test on the relative position ...”, and “updating the content ...” . We agree. The Examiner bears the initial burden of establishing a prima facie case. Without a specific explanation of Examiner’s reasoning with respect to how each claim feature is taught or suggested by Anderson, we find that a prima facie case has not been established. The Examiner first recites the contents of Anderson and then recites Appellants’ claim with a statement that they are equivalent. Such a rejection is little more than an invitation for this Board (and Appellants) to construct the prima facie case for the Examiner. We decline the invitation.

As to Appellants’ other arguments that Anderson fails to teach or suggest either a working buffer or clearing the content of each cell. We disagree. However, this point is moot in view of the discussion above.

Therefore, we will not sustain the Examiner’s rejection under 35 U.S.C. § 103.

Conclusion

In view of the foregoing discussion, we have not sustained the rejection under 35 U.S.C. § 101 of claim 2; and we have not sustained the rejection under 35 U.S.C. § 103 of claims 1-4.

REVERSED

Jerry Smith
Administrative Patent Judge

Howard B. Blankenship
Administrative Patent Judge

Allen R. MacDonald
Administrative Patent Judge

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