

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

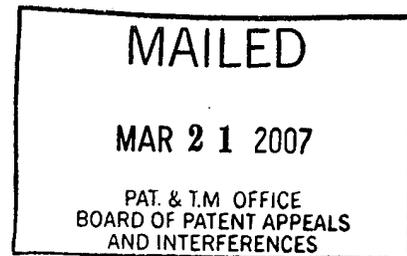
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LISA S. PURVIS and STEVEN J. HARRINGTON

Appeal 2006-3242
Application 10/202,046
Technology Center 2100

Decided: March 21, 2007



Before KENNETH W. HAIRSTON, LANCE LEONARD BARRY, and
HOWARD B. BLANKENSHIP, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal involves claims 1, 2, and 13-18, the only claims pending in this application. We have jurisdiction under 35 U.S.C. §§ 6(b), 134(a).

INTRODUCTION

The claims are directed to methods for automatic document component layout. Claim 1 is illustrative:

1. A method for automatic document component layout comprising:
 - (a) determining a set of variables that can be adjusted to achieve a satisfactory layout;
 - (b) expressing the satisfactory layout as a set of constraints, the set of constraints including required constraints and desired constraints, on the determined set of variables wherein at least one of the desired constraints is expressed as being optimizable, each required constraint specifying a relationship between a variable and a document layout value, each desired constraint being an objective function;
 - (c) inputting a plurality of sets of document layout values, each set of document layout values representing a specific document layout;
 - (d) solving the required constraints for each document layout;
 - (e) solving the desired constraints for each document layout to establish a score for each document layout; and
 - (f) selecting the document layout having each solved required constraint relationship of the document layout satisfied and a highest score to be the satisfactory layout.

The Examiner relies on the following prior art references to show unpatentability:

Sieber	US 5,649,216	Jul. 15, 1997
Halstead	US 2002/0111969 A1	Aug. 15, 2002

The rejection as presented by the Examiner is as follows:

1. Claims 1, 2, and 13-18 are rejected under 35 U.S.C § 103(a) as unpatentable over Halstead and Sieber.

OPINION

Appellants submit that the references do not disclose or suggest, as expressed in claim 1, (c) inputting a plurality of sets of document layout values, each set of document layout values representing a specific document layout, (d) solving the required constraints for each document layout, and (e) solving the desired constraints for each document layout to establish a score for each document layout.

The Final Rejection (4-5) corresponds the language of claim 1 to the applied disclosures, but with little or no explanation as to how the language is deemed to be taught. In the Answer, steps (c) and (d) of claim 1 are asserted to be taught by identified paragraphs of Halstead. The explanation of how the disclosure is deemed to teach steps (c) and (d) of the claim consists of “[f]or example, Halstead discloses a table with a row/column structure with the evening’s lineup of television programs that can be presented in a tabular display.” (Answer 4.)

Halstead does disclose a table with row/column structure with the evening’s lineup of television programs that can be presented in a tabular display (Fig. 2). However, we do not see how that description might teach inputting a plurality of sets of document layout values, each set of document layout values representing a specific document layout, and solving the required constraints for each document layout. The additional finding in the Answer related to the tabular display seems no more helpful than the Final Rejection in setting forth the foundation for the rejection of claim 1, as by telling how the identified sections of Halstead might be understood by the artisan as teaching the claim limitations in controversy.

The statement of the rejection of claim 1 next contends that Halstead also discloses “*establishing a score for each document layout.*” (Answer 4.) The claim, however, recites “*solving the desired constraints for each document layout to establish a score for each document layout*” (emphasis added). Even if “a fixed number of parameters” or the “elasticity” as taught by Halstead might correspond to a “score” as claimed, the rejection fails to show how the “score” might be established in accordance with instant claim 1.

The allocation of burdens requires that the USPTO produce the factual basis for its rejection of an application under 35 U.S.C. § § 102 and 103. *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d 1011, 1016, 154 USPQ 173, 177 (CCPA 1967)). The one who bears the initial burden of presenting a prima facie case of unpatentability is the examiner. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

The rejection of independent claims 13 and 15 suffers deficiencies similar to those of the rejection of claim 1. After consideration of the Final Rejection, the Answer, and the references applied against the claims, absent a satisfactory explanation from the Examiner as to how the references might teach the subject matter of the claims, we agree with Appellants that a prima facie case of unpatentability has not been established for any claim on appeal. We thus do not sustain the § 103(a) rejection.

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CONCLUSION

The rejection of claims 1, 2, and 13-18 under 35 U.S.C § 103(a) as unpatentable over Halstead and Sieber is reversed.

REVERSED

PGC

Basch & Nickerson LLP
1777 Penfield Road
Penfield, NY 14526