

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JOHN R. POWERS, III

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Appeal No. 1998-3399  
Application No. 08/239,138

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ON BRIEF

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Before RUGGIERO, GROSS, and LEVY, Administrative Patent Judges.  
GROSS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 43, which are all of the claims pending in this application.

Appellant's invention relates to a method and system for evaluating a context in which a computer system is operating. By using context modules, which, when executed, perform the context checks, the context checks can be modified without affecting the application that uses the context check results.

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Claim 40 is illustrative of the claimed invention, and it reads as follows:

40. In a computer system comprising a processor executing at least one process, said computer system operating in a context, a method for evaluating context comprising the steps of:

providing at least one context module,

upon occurrence of a specified event, executing the context module to perform a context check to generate a context check result;

providing the result of the context check when requested by the process.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Adrian Nye, "Xlib Programming Manual, Vol.1, Third Ed.," O'Reilly and Associates, pp. 44, 59, 250, 288, 316, 441-3, 448-55. (July 1992). (Nye)

Quercia et al., "X Window System User's Guide," O'Reilly and Associates, (January 1991), pp. 21, 237-9, 500. (Quercia)

Claims 1 through 5, 10 through 13, and 15 through 43 stand rejected under 35 U.S.C. § 103 as being unpatentable over Nye.

Claims 6 through 9 and 14 stand rejected under 35 U.S.C.

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§ 103 as being unpatentable over Nye in view of Quercia.

Reference is made to the Examiner's Answer (Paper No. 13, mailed May 27, 1998) for the examiner's complete reasoning in support of the rejections, and to appellant's Brief (Paper No. 12, filed January 14, 1998) for appellant's arguments thereagainst.

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OPINION

As a preliminary matter, we note that appellants state on page 4 of the Brief that all of claims 1 through 43 stand or fall together and argues the claims for each ground of rejection as a group. 37 C.F.R. § 1.192(c)(7) states:

For each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together.

Accordingly, we will treat the claims for each ground of rejection separately, with claims 40 and 8, the broadest claims of the two groups, as representative.

We have carefully considered the claims, the applied prior art references, and the respective positions articulated by appellant and the examiner. As a consequence of our review, we will affirm the obviousness rejection of claims 1 through 5, 10 through 13, and 15 through 43 and reverse the obviousness rejection of claims 6 through 9 and 14.

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Claim 40 includes three steps, 1) providing a context module, 2) executing the module to perform a context check upon

occurrence of an event, and 3) providing the context check result

when needed by the process. The examiner (Answer, page 3) states that the resource files of Nye are context modules and XGetDefault() is an event which causes both the resource files in the resource database to be evaluated and also the resource value result to be provided when requested by an X client or process.

Appellant argues (Brief, pages 6-7) that "Nye neither teaches nor discloses the context checking mechanism of the present invention, which enables applications to remain unmodified through changes in computing environments, as the context manager performs the physical context checks using context modules and provides the results back to the requesting process." However, Nye states (page 448) that

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fallback settings for configurable options can be placed in a resource file, and then if the options need to be changed for a particular application, only the resource file needs to be edited. Therefore, the application need not be recompiled. Thus, Nye, like appellant, appears to be using the resource files or context modules to allow applications to remain unaltered when context changes become necessary.

Appellant further states (Brief, page 7) that

the office action states that system context corresponds to the options that are specified by a user and placed in a file and used as a default when a user does not otherwise specify options. Applicants respectfully disagree with this point. As set forth in the claims a context module is executed to perform a context check.... This is not taught or disclosed by the Nye reference.

It is unclear to us why Nye's resource file cannot be considered a context module which is evaluated or executed to perform a context check. Appellant further asserts that Nye fails to teach or disclose "the context manager retrieves the

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context manager [sic, module] and controls the execution of the context module." However, representative claim 40 does not include this limitation. Therefore, we need not determine whether or not Nye meets the limitation for the first group of claims. As appellant has failed to convince us of any distinction between Nye and claim 40, we will sustain the rejection of claim 40 and the claims grouped therewith, claims 1 through 5, 10 through 13, 15 through 39, and 41 through 43.

Regarding the second group of claims, each of claims 6 through 9 and 14 depends from claim 1 and, therefore, includes all of the limitations thereof, which appellant argues with

respect to the first group of claims. Therefore, before addressing any of the limitations recited in any of the second group of claims, we must look at the limitations of the base claim. Specifically, appellant states (Brief, page 7) that Nye fails to teach a context manager retrieving the context module and controlling the execution of the context module. The examiner fails to indicate what element of Nye corresponds

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with the claimed context manager. Although Nye discloses on page 441 that the routines and database structures used for managing user preferences are called the resource manager, there is no indication that the resource manager performs the function of retrieving and controlling execution of the context modules. Further, the examiner has provided no explanation to remedy this deficiency. Since all of claims 6 through 9 and 14 require a context manager which retrieve and controls the execution of the context modules, which we find lacking from Nye and Quercia, we cannot sustain the rejection of claims 6 through 9 and 14.

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CONCLUSION

The decision of the examiner rejecting claims 1 through 43 under 35 U.S.C. § 103 is affirmed as to claims 1 through 5, 10 through 13, and 15 through 43 and reversed as to claims 6 through 9 and 14.

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

JOSEPH F. RUGGIERO	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
ANITA PELLMAN GROSS	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
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	)	
STUART S. LEVY	)	
Administrative Patent Judge	)	

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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN  
12400 WILSHIRE BOULEVARD  
7TH FLOOR  
LOS ANGELES, CA 90026