

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte CHRISTOPHER R. JONES, CHRISTOPHER R. BROWN, MICHAEL A. SCHMIDT, SANKAR RAMASUBRAMANIAN, SEAN L. FLYNN, EDWARD JASON ANDERSON, MARK H. ENOMOTO, GAYNA WILLIAMS, and BRYAN T. STARBUCK

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Appeal No. 2002-0654  
Application No. 09/024,311

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ON BRIEF

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Before THOMAS, HAIRSTON, and BARRETT, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

ON REQUEST FOR REHEARING

In the paper filed April 16, 2004, appellants request that we rehear our decision dated February 13, 2004, wherein we affirmed the decision of the examiner rejecting claims 1, 2, 9, 10, 13 through 19 and 29, all claims on appeal, under 35 U.S.C. § 103.

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We have carefully reviewed our original opinion in light of appellants' request, but we find no point of law or fact which we overlooked or misapprehended in the writing of our decision. Even in light of appellants' current arguments set forth in the request for rehearing, we find no error in the analysis or logic set forth in our original opinion.

In an overview sense appellants' arguments in the request essentially repeat those arguments set forth generally in the principal brief on appeal as well as the reply brief. General arguments with respect to independent claims 1, 9, 16, 18 and 19, which are all independent claims which recite in some manner the feature of "automatically and without further user input," were recognized by us as the argued key limitation in our prior decision throughout the bulk of it.

This limitation does not recite that no user input at all is required, only "further" user input is not required. As disclosed in this application and as taught in Rosenberg, normal user movements of a mouse transversing or otherwise manipulation or touching displayed graphical objects are still contemplated in both. Rosenberg's operations are as automatic and as without further user input as the feature claimed. The user in both instances still moves the mouse to move the curser, but no

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separate, additional "further" user actuation/mouse clicking is required for activation of the associated graphical object.

Page 3 of our prior decision sets forth the backdrop for this noted limitation for which succeeding pages 3 through 8 discuss the specific teachings and suggestions of Koppolu and Rosenberg and their proper combinability within 35 U.S.C. § 103 in detail. As such, it is not well received that the appellants would assert at page 3 of the request "[n]either the Decision of the Board of Appeals and Interferences nor the Examiner's Answer addresses the foregoing issue. The Decision of the Board of Appeals and Interferences does not mention the limitation contained in the bolded language."

Appellants' separate discussion of claim 29 at pages 4 and 5 of the request is equally not well received. Page 5 of the request for rehearing makes note of the first and second instance limitations of claim 29 and then asserts that these limitations were "not addressed in either the Examiner's Answer or the Decision of the Board of Appeals and Interferences." This view is not understood because appellants recognize at page 4 of the request for rehearing that the subject matter of this claim along with dependent claims 16 and 17 were discussed at page 10 of our original opinion. There we also made note that the examiner had

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discussed in his own manner the subject matter of claim 29 at the bottom of page 10 of the answer which is part of the responsive arguments portion of the answer. We have discussed in detail at page 10 of our prior decision the examiner's views expressed as to the subject matter of a single control that places any one visual element on both a windowed object and a windowless object by buttressing the examiner's views and adding our own from our own individual study of both references.

It is thus seen that appellants' broad assertions with respect to the deficiencies of the examiner's answer and our prior decision are without merit. We note here again the examiner's allowance of claims 20 through 28 and the examiner's objection to claims 3 through 8, 11, 12, 30 through 36 as we noted initially at the bottom of page 1 of our prior decision.

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In view of the foregoing, appellants' request for rehearing is granted to the extent that we have in fact reviewed our findings but is denied as to making any change therein.

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

REHEARING - DENIED

JAMES D. THOMAS	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
KENNETH W. HAIRSTON	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES
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	)	
LEE E. BARRETT	)	
Administrative Patent Judge	)	

JDT:hh

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