The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIC ANTHONY THOMAS

Appeal No. 2001-0526
Application No. 08/960,236

ON BRIEF[1]

Before FLEMING, BLANKENSHIP, and LEVY, Administrative Patent Judges.

LEVY, 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 1-10 and 13-15, which are all of the claims pending in this application.

[1] The Oral Hearing scheduled for July 10, 2002 was waived by appellants in a communication, received via facsimile, on June 3, 2002.

BACKGROUND

Appellant's invention relates to a method, apparatus, and computer program product for providing user input to an application using a contact-sensitive surface. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced as follows:

> 1. A method of providing user input to an application resident on a data processing system, the method comprising the steps of:
>
> contacting a contact-sensitive surface of a user input device with an implement configured to produce a contact point configuration including at least one contact point;
>
> identifying the contact point configuration;
>
> identifying a user input mode based on the identified contact point configuration; and
>
> processing the at least one contact point in the application based on the identified user input mode.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Verrier et al. (Verrier)	5,475,401	Dec. 12, 1995

Claims 1-10 and 13-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Verrier.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellant regarding the above-noted rejection,

we make reference to the examiner's answer (Paper No. 12, mailed June 1, 2000) for the examiner's complete reasoning in support of the rejection, and to appellant's brief (Paper No. 11, filed May 1, 2000) and reply brief (Paper No. 14, filed July 14, 2000) for appellant's arguments thereagainst. Only those arguments actually made by appellant have been considered in this decision. Arguments which appellant could have made but chose not to make in the brief have not been considered. See 37 CFR 1.192(a).

OPINION

In reaching our decision in this appeal, we have carefully considered the subject matter on appeal, the rejection advanced by the examiner, and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer. Upon consideration of the record before us, we reverse.

We note at the outset that the arguments presented by appellant (brief, pages 3, 4, 6, and 7) with respect to

obviousness are misplaced as the sole ground of rejection applied against all of the claims on appeal is under 35 U.S.C. § 102(b).

Appellant states (brief, page 4) that the arguments focus on the following recitations from claim 1:

> contacting a contact-sensitive surface of a user input device with an implement configured to produce a contact point configuration;
> identifying the contact point configuration[;]
> identifying a user input mode based on the identified contact point configuration;[emphasis original.]

It is argued (brief, page 5) that tablet 22 of Verrier is not sensitive to contact because the tablet detects a data stream transmitted from the antenna 48 of the stylus 20 to the tablet. It is further argued (id.) that Verrier does not disclose or suggest identifying a contact point configuration because Verrier does not produce contact point configurations and does not disclose the ends of the stylus as having different configurations.

The examiner's position (answer, page 3) is that Verrier discloses contacting a tablet of a digitizing display with a stylus by pressing the tip of the stylus on the tablet where the tablet is configured to produce pressure sensing data and has a writing end and an erasing end. The examiner additionally (id.) takes the position that the contact point configuration is

identified by identifying the signals from the erasing or writing pressure detector, and that the write and erase modes are identified by the received pressure signal.

From our review of Verrier, we find that Verrier is directed to a pen-based computer system including a stylus having a contact detection mechanism and a radiative pickup position detector on both ends of the stylus (col. 3, lines 9-11). The first end of the stylus is used for writing data into the system. The opposite end of the stylus is used for erasing data (col. 3, lines 11-13). The stylus includes a mechanical contact detecting branch 24 and a position detecting branch 26 (col. 5, lines 12-16). A digitizing display includes an electrostatic tablet 54 which radiates electromagnetic radiation which is detected by the first X-Y position sensing transducer in the stylus when it is oriented proximate the tablet (col. 3, lines 32-36). The signals radiated from conductors 56, 58 of the tablet 54 are detected by antenna 29 of the position detecting branch 26 (col. 6, lines 5-8). Signal strength detector 32 receives X-Y position information and Z separation from antenna 29 (col. 6, lines 51-53). As shown in figures 7A and 7B (See also col. 11, lines 5-58), the calibration process for the embodiment of

figure 2C includes performance of a touch down of the write tip 4 on the display at a predetermined location X0, Y0, Z0 during calibration. In step 232 the user touches down the erase tip 4' on the display 54. In step 236, the output from the sphere antenna 29' is recorded. Verrier further discloses (col. 12, lines 27-30) "measuring a first radiative pickup signal strength in said first set of input signals from said first antenna in said write end while mechanically contacting said digitizing display."

From the disclosure of Verrier that the signals radiated from the conductors 56, 58 represent the relative X-Y position of the stylus and the Z separation over the tablet 54, we find a suggestion that the tablet is sensitive to position over the tablet, as opposed to being sensitive to contact with the tablet. However, from the disclosuree of Verrier that the tablet conductors can detect a touch down of the stylus 20 on the tablet 54, and radiate electromagnetic signals which can be picked up by antenna 29 of the position detecting branch, we find that the surface of the tablet (see figure 5) is contact sensitive to a touch down of the stylus. In addition, we find that the contact point configuration is the configuration of the contact of the stylus contact portions 38, 38' with the surface of the tablet at

a X-Y location. We further find that the contact point configuration is identified because Verrier discloses that during initialization of the writing end of the stylus, the X-Y location and the Z separation values for the stylus for the writing end of the stylus 20 have their measured values depend on the particular stylus geometry and the overlay geometry of the tablet (col. 10, lines 22-31). Since the position detection is based in part upon the stylus geometry, the contact point configuration during a touch down of the stylus is inherently identified in order for the position signals to be radiated from the conductors of the tablet, which in turn are picked up by antenna 29.

With respect to the limitation "identifying a user mode based on the identified contact point configuration" we note that the user modes disclosed by Verrier are "write" and "erase." In Verrier, the user modes are determined by the signals supplied to antenna 62 by the write and erase circuitry of the stylus. Because the <u>shape</u> of the contact portions 38, 38' for the write and erase contact portions of the stylus <u>have the same configuration</u>, the user input mode cannot be based upon the identified contact point configuration.

We are not persuaded by the examiner's assertion (answer, page 4) that the limitation is met by Verrier's identifying the

erase and write modes based on which pressure signal is received. We agree that the identification of the different pressure signals identifies a user mode based upon the identified contact point. However, the claim requires more. The claim requires that the user input mode is identified based upon the identified contact point configuration. Although the contact point configuration is identified by the stylus geometry producing measured values of the X-Y position and Z separation, the configuration of the contact point cannot determine the user mode as the contact point configurations are the same for both the write and erase modes; i.e., because there is only one contact point configuration and two different user input modes, the user input mode cannot be identified by the contact point configuration.

From all of the above, we find that the examiner has failed to establish a prima facie case of anticipation of claim 1. Independent claims 8 and 13 similarly require identifying a user input mode based on the identified contact point. Accordingly, the rejection of claims 1-10 and 13-15 under 35 U.S.C. § 102(b) is reversed.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-10 and 13-15 under 35 U.S.C. § 102(b) is reversed.

REVERSED

MICHAEL R. FLEMING Administrative Patent Judge	)	
STUART S. LEVY Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
HOWARD B. BLANKENSHIP Administrative Patent Judge	)	

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