

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte MICHAEL D. ELLESTAD and ROBERT A. HAYES

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Appeal No. 2001-1205  
Application No. 08/729,362

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ON BRIEF

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Before KRASS, DIXON and BLANKENSHIP, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1, 2, 5, 6, 8, 18, 20 and 23-26. The rejection of claims 10, 11, 14, 15, 17, 21, 22, 27 and 28 has been withdrawn by the examiner and is no longer on appeal.

The invention is directed to providing assistance to a user of a computer application program. More particularly, information associated with the application

program is collected at the user's computer system and when the user requests assistance from a person using a second computer system, a communication link is established between the first and second computer systems, based upon an application identifier of the collected information, and the collected information is automatically transmitted to the second computer system.

Representative independent claim 1 is reproduced as follows:

1. A method for providing assistance for an application program, comprising the steps of:

(a) running a first instance of said application program on a first computer system used by a user;

(b) collecting at said first computer system, information associated with said application program including an application identifier for said application program;

(c) requesting at said first computer system assistance from a person;

(d) establishing, based upon said application identifier of said collected information, a communication link between said first computer system used by said user and a second computer system used by said person in response to said requesting step; and

(e) transmitting said collected information automatically to said second computer system used by said person via said communication link in response to said requesting step.

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The examiner relies on the following references:

Dudzik et al. [Dudzik]      5,581,684      Dec. 03, 1996  
(filed Aug. 09, 1994)

Bateman et al. [Bateman] 5,884,032      Mar. 16, 1999  
(filed Sep. 25, 1995)

Claims 1, 2, 5, 6, 8, 18, 20 and 23-26 stand rejected under 35 U.S.C. § 103 as unpatentable over Dudzik in view of Bateman.

Reference is made to the brief and answer for the respective positions of appellants and the examiner.

#### OPINION

The examiner contends that Dudzik discloses a system for providing assistance for an application program but does not describe a network-based help system. The examiner further contends that Bateman teaches a system for providing assistance to a user at a first computer system, wherein information is collected at a first computer system, a request is made for assistance from a person at a second computer system, and a communication link is established between the first computer system and the second computer system based upon an identifier (URL).

The examiner concludes that it would have been obvious to modify the stand alone application program help system of Dudzik with the interactive network-based help system of Bateman, whereby the transmitted identifier named the application

rather than an URL “in order to provide a user with the ability to directly communicate with an expert capable of viewing the same screen as the user, thus providing a more efficient and time saving help system” [Paper No. 14-page 4].

For their part, appellants argue that it is improper to take the web page help system of Bateman and incorporate it into the stand alone help application program of Dudzik in order to arrive at the instant claimed subject matter. In particular, appellants argue that claim 1 requires the collection of information at the first computer and that collected information be “associated” with the application program being run.

Appellants point out that Bateman, upon which the examiner relies for this limitation, collects information regarding the user and the web page being viewed by a browser application, not an application running on the computer.

Appellants further argue that neither of the applied references establishes a communication link between the user’s computer and the expert’s computer, as required by claim 1. Rather, explain appellants, Bateman sends an e-mail of a web page identifier to the second computer while a separate voice line or channel, which is not between the computers, is established.

The examiner’s response is that it was recognized that Bateman does not disclose the step of collecting information associated with an application program but

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that Dudzik was cited for the proposition of providing assistance to a user running an application program. We understand the examiner's position but we agree with appellants that there would appear to be no reason, other than impermissible hindsight, for the artisan to have taken the teaching of collecting information about a user and a web page and apply this teaching, in some mysterious way, to modify Dudzik by collecting information associated with an application program being run on a user's computer. Dudzik's is a stand-alone help system whereby a help system is provided for an applications program but that help is provided, not by a person, but, rather by the computer system intercepting a communication between an operating system and the application program, determining that the object characteristics in the intercepted communication match the characteristics of an object in a list of object characteristics, and then displaying a help text on a display screen. In our view, there would have been no possible motive, within the meaning of 35 U.S.C. § 103, for extending this teaching, even in view of Bateman's collection of information regarding a web page and a user, to collect information associated with the application program in Dudzik, including an application identifier for the application program, and then establish a communication link with another computer, based upon this identifier and a request for assistance by the user at the first computer.

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Thus, even if we were to agree with the examiner that, as broadly set forth in claim 1, there is certainly a communication link between two computers in Bateman, based on our finding, supra, that there would have been no reason to combine the teachings of the applied references to arrive at the instant claimed subject matter, we still would not sustain the rejection of claims 1, 2, 5, 6, 8, and 23-25 under 35 U.S.C. § 103. For similar reasons, we will not sustain the rejection of claims 18, 20 and 26 under 35 U.S.C. § 103 since independent claims 18 and 26 each also requires the collection of information associated with the application program including an application identifier for the application program.

We note that while one might raise the question as to whether Bateman's collection of information regarding a web page is the collection of information regarding an "application program," i.e., whether a web page presentation or the use of a web browser is, itself, an "application program," this issue is not before us on appeal. We limit our discussion herein to matters before us and, to this end, we find the examiner's stated rationale for rejecting the claims under 35 U.S.C. § 103 to fall far short of presenting a prima facie case of obviousness.

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The examiner's decision rejecting claims 1, 2, 5, 6, 8, 18, 20 and 23-26 under 35  
U.S.C. § 103 is reversed.

REVERSED

ERROL A. KRASS	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
JOSEPH L. DIXON	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
HOWARD B. BLANKENSHIP	)	
Administrative Patent Judge	)	

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