

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JON E. FREACH, ROBERT MOORE, KENNETH A. FUIKS
and KEVIN D. DAVIS

Appeal No. 2002-0883
Application No. 08/759,899

ON BRIEF

Before THOMAS, HAIRSTON, and FLEMING, ***Administrative Patent Judges.***

FLEMING, ***Administrative Patent Judge.***

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-29, all the claims pending in the instant application.

Invention

This invention relates to a graphical user interface for computers. See page 1 of Appellants' specification. A graphical user interface allows the user to interact with the computer through use of an input device, such as a mouse, touchpad, trackball, or joystick. See page 1 of Appellants' specification. Prior art graphical user interfaces provide a desktop in which

Appeal No. 2002-0883
Application No. 08/759,899

the arrangement of graphical elements shown on the user screen includes a background, icons and open application windows. NORTON NAVIGATOR, by Symantec Corporation, provides multiple desktops. See page 2 of Appellants' specification.

Figure 1 illustrates a prior art graphical user interface 10. The desktop can hold a plurality of icons 22. Desktop icons 22 may represent any type of file, including program files, a shortcut, documents and folders. By double clicking on a program file, the program is run. See page 6 of Appellants' specification. A second prior art graphical user interface 24 is shown in Figures 1b-1e. This graphical user interface is sold by Symantec Corporation as NORTON NAVIGATOR. The graphical user interface 24 supports one or more desktops 26. Figure 1b illustrates a first desktop 26a and Figure 1c illustrates a second desktop 26b. See page 7 of Appellants' specification.

Figure 2 illustrates a graphical user interface 40 which is the preferred embodiment. The graphical user interface 40 not only supports multiple desktops, but also supports multiple work spaces. See page 9 of Appellants' specification. Figure 2 shows a cube 44 which illustrates on the face of the cube different desktops. The uppermost face 46a indicates the active desktop 42. The remaining faces 46b and 46c are used to switch to

Appeal No. 2002-0883
Application No. 08/759,899

Throughout our opinion, we make reference to the briefs¹ and answer for the respective details thereof.

Opinion

With full consideration being given the subject matter on appeal, the Examiner's rejections and the arguments of Appellants and the Examiner, for the reasons stated *infra*, we reverse the Examiner's rejection of claims 1-29 under 35 U.S.C. § 102.

It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. ***See In re King***, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and ***Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.***, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

Appellants argue that Goh fails to teach or suggest a method of switching desktops of a computer comprising the steps of

¹ Appellants filed an appeal brief on June 21, 1999. Appellants filed a reply brief on October 18, 1999. The Examiner mailed an Office communication on December 6, 1999 which included a rebuttal of the position set forth in the reply brief. The Board entered an Order remanding to the Examiner on June 17, 2002 in response to the inappropriate rebuttal in the Office communication of December 6, 1999. In response to the order, the Examiner mailed another Office communication on July 5, 2002, stating that the reply brief has been entered and considered and that the communication mailed on December 6, 1999 has been rescinded.

Appeal No. 2002-0883
Application No. 08/759,899

"displaying images on said face, each image associated with a respective desktop" and "changing desktops responsive to user interaction with said faces" as required by Appellants' claim 1. Appellants further argue that Goh fails to teach or suggest similar language recited in all the remaining independent claims. See pages 8 and 9 of the appeal brief. Appellants agree that Goh discloses a computer having a single desktop with a graphical user interface that allows the user of the computer to view more icons on the six surfaces of the cube than possible with a standard two-dimensional window. However, Appellants argue that Goh does not teach that the windows 104 of each of the faces of the cube represent a desktop. Appellants argue that Goh teaches a graphical user interface having up to six work spaces which may be displayed simultaneously on a rotating cube. See pages 2 and 3 of the reply brief.

We find that Goh does teach that

Figure 1 depicts the display of a typical graphical user interface. The display screen is filled with a background 102 called the "desktop." Superimposed on desktop 102 are a number of rectangular graphical objects 104 called "windows." A window 104 is a framed user work space, which can be manipulated independent of that portion of the display screen outside the frame. See column 3, lines 52-57.

Appeal No. 2002-0883
Application No. 08/759,899

We further find that Goh teaches that Figure 2 depicts a typical window 104. Window 104 comprises a work space 202, a title bar 204, a resizing button 206, horizontal and vertical scroll bars 208, 209 and scroll buttons 210, 211. Work space 202 is a display area containing graphical representation of the objects, such as icons, that the user is manipulating. See column 3, lines 65 through column 4, lines 3.

We further find that Goh teaches a system and method for displaying a work space of greater effective area than that of the display screen using a four-dimensional graphical user interface. See column 4, lines 26-31. A four-dimensional graphical user interface is used for displaying a plurality of windows 104 simultaneously. The user selects one or more windows to be displayed on the faces of the polyhedron. The user may select as many windows as the polyhedron has faces. In the preferred embodiment, the polyhedron is a cube; thus up to six windows 104 may be displayed simultaneously. See column 5, lines 12-20.

Furthermore, we find that Figure 5 depicts a display of a four-dimensional graphical user interface of the present invention. A cube 500 is displayed. Six different windows 104 have been texture mapped onto cube 500, one window 104 per face.

Appeal No. 2002-0883
Application No. 08/759,899

See column 5, lines 62-66. When the user decides to view the cube, the user selects the "cube/formation" item from the drop-down menu. In response, the graphical user interface causes the desktop to "fall" away from the user, revealing the cube. The user can select default images so that these images are displayed on the faces of the cube when it is first formed. See column 6, lines 15-23. When the user wishes to return to the desktop, the user selects "cube/disband" from the drop-down menu. In response, the cube disappears, the desktop rises to fill the screen, and any windows that were mapped to the cube reappear on the desktop. See column 6, lines 38-42. In an alternate embodiment, Goh teaches that the windows which are textured-mapped to the faces of the cube are application work spaces. See column 6, lines 6-14.

The Examiner argues that the Goh's windows 104, shown on cube 500, in Figure 5, read on Appellants' claim "desktops." See pages 2 and 3 of the final rejection.

As pointed out by our reviewing court, we must first determine the scope of the claim. "[T]he name of the game is the claim." *In re Hiniker Co.*, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). Claims will be given their broadest reasonable interpretation consistent with the specification, and

Appeal No. 2002-0883
Application No. 08/759,899

limitations appearing in the specification are not to be read into the claims. ***In re Etter***, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985). "[T]he terms used in the claims bear a 'heavy presumption' that they mean what they say and have the ordinary meaning that would be attributed to those words by persons skilled in the relevant art." ***Texas Digital Systems, Inc. v. Telegenix, Inc.***, 308 F.3d 1193, 1201-02, 64 USPQ2d 1812, 1818 (Fed. Cir. 2002). "Moreover, the intrinsic record also must be examined in every case to determine whether the presumption of ordinary and customary meaning is rebutted." (citation omitted). "Indeed, the intrinsic record may show that the specification uses the words in a manner clearly inconsistent with the ordinary meaning reflected, for example, in a dictionary definition. In such a case, the inconsistent dictionary definition must be rejected." ***Texas Digital Systems, Inc. v. Telegenix, Inc.***, 308 F.3d 1193, 1204, 64 USPQ2d 1812, 1819.

Appellants have provided a definition for a desktop on page 2 of the specification. As defined, a desktop "is an arrangement of graphical elements used on the user's screen, such as backgrounds ("wallpaper"), icons, and open application windows. Based upon this definition, we find that desktop as defined by the Appellants is the same as the Goh disclosed desktop 102

Appeal No. 2002-0883
Application No. 08/759,899

described in column 3, lines 53-64. However, we also find that Goh's window 104 is not a desktop. Therefore, we fail to find that Goh teaches a polyhedron having displayed on the faces of the polyhedron a desktop as claimed by Appellants. Therefore, we will not sustain the Examiner's rejection of claims 1-29 under 35 U.S.C. § 102 as being anticipated by Goh.

In view of the foregoing, we have not sustained the Examiner's rejection.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
KENNETH W. HAIRSTON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
MICHAEL R. FLEMING)	
Administrative Patent Judge)	

MRF/lbg

Appeal No. 2002-0883
Application No. 08/759,899

RONALD O NEERINGS
TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474 M S 219
DALLAS TX 75265