

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.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 ANDREW P. DEJACO, RICHARD P. WALTERS  
and HARINATH GARUDADRI

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Appeal No. 2004-0847  
Application No. 09/246,412

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ON BRIEF

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Before KIMLIN, GROSS and TIMM, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-30.

Claim 11 is illustrative:

11. A method of testing and training a speech recognizer, comprising the steps of:  
storing a plurality of voiced utterances; and  
testing the speech recognizer, by:  
receiving a prompt for a first operation from the speech recognizer, responding to the prompt for the first operation with a first selection, providing an audio input to the speech recognizer corresponding to the first selection, and

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monitoring the speech recognizer for success of the first operation.

The examiner relies upon the following references as evidence of obviousness:

Spoltman et al. (Spoltman)	5,715,369	Feb. 3, 1998
Hirayama	5,854,999	Dec. 29, 1998

Appellants' claimed invention is directed to a method and device for testing and training a speech recognizer, i.e., a speech-enabled device such as a wireless telephone. The method entails storing a plurality of voiced utterances, e.g., spoken words, receiving a prompt from the speech recognizer for a first operation, responding to the prompt with a first selection, providing audio input to the speech recognizer corresponding to the first selection, and monitoring the recognizer for success of the first operation. According to the present specification, many speech recognition products in the art undergo limited testing prior to extensive testing in the marketplace by consumers and, therefore, "there is a need for a low-cost, repeatable, non-intrusive testing paradigm for testing and improving speech-enabled products and speech-enabled services" (page 3 of specification, first paragraph).

Appealed claims 1-8, 10-18, 20-28 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Spoltman in

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view of well-known prior art. Claims 9, 19 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Spoltman in view of well-known prior art and Hirayama.

Appellants submit at page 4 of the principal brief that "[a]ll claims stand or fall together." Accordingly, inasmuch as appellants have not presented a separate argument for any particular claim on appeal, we select claim 11 as the claim with which all the appealed claims stand or fall. Since appellants have not addressed the examiner's separate rejection of claims 9, 19 and 29, we will limit our consideration to the examiner's rejection of claim 11 over Spoltman.

We have thoroughly reviewed each of appellants' arguments for patentability. However, we are in complete agreement with the examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the examiner's rejections for essentially those reasons expressed in the Answer, and we add the following primarily for emphasis.

Spoltman, like appellants, discloses a method of testing a speech recognizer by storing a plurality of voiced utterances, receiving a prompt for a first operation, responding to the

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prompt with a first selection, providing an audio input to the speech recognizer which corresponds to the first selection, and monitoring the recognizer for success of the first operation. Like the examiner, we find that the claimed first operation and first selection correspond to Spoltman's selecting a particular audio signal that is sent to the speech recognizer. Also, we agree with the examiner that Spoltman's determination that the speech recognizer either recognized, unrecognized, mis-recognized, etc., the audio signal corresponds to the claim requirement of monitoring the speech recognizer for success of the first operation.

As appreciated by the examiner, Spoltman does not disclose that the prompt for the first operation is received from the speech recognizer. However, the examiner has made the factual determination that the claimed step of "receiving a prompt for a first operation from the speech recognizer" is "well-known in the telecommunication art" (page 4 of Answer, last paragraph). In support of this finding, the examiner cites patents to Garberg, Goldberg and Kitazume (see page 5 of Answer, first paragraph). Appellants apparently agree with the examiner's assessment of the prior art in stating that "while the speech recognizer (or speech-enabled device) of Appellants' claims is known in the art,

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such as a cellular telephone with speech recognition and command ability, and that such a speech recognizer provides a prompt for an operation, this is NOT the device tested in Spoltman" (page 4 of Reply Brief, second paragraph).

Appellants, in emphasizing that the speech recognizer of Spoltman does not provide a prompt for the testing operation of the reference, miss the thrust of the examiner's rejection, namely, that it would have been obvious for one of ordinary skill in the art to modify the system of Spoltman by providing a prompt from the speech recognizer. Appellants have presented no argument why it would have been nonobvious for one of ordinary skill in the art to employ the admittedly known technique of communicating a prompt from the speech recognizer to the testing application of Spoltman. As a result, the examiner's position, which is reasonable on its face, has not been refuted by appellants.

Appellants acknowledge that the test application of Spoltman "determines if the speech recognition application correctly identified that audio input" (page 5 of principal brief, first paragraph), but maintained that "[i]n contrast the present application for patent presents a method of testing that interactively tests the functionality of the voice recognition

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device" (page 5 of principal brief, second paragraph).

Appellants contend that "the testing apparatus actually tests a device that incorporates voice recognition" (id.). However, we concur with the examiner that Spoltman's determination whether the speech recognizer correctly identifies the audio input does, in fact, test the functionality of the voice recognizer.

Manifestly, proper voice recognition of the voice recognizer is a basic function of the device. Also, as noted by the examiner, claim 11 on appeal does not define any functionality that is not performed by Spoltman. Appellants' arguments, for the most part, do not correspond to the breadth of the subject matter encompassed by the appealed claims.

Appellants present the argument that "[t]he fact that voice recognition devices typically prompt a user for an input cannot be directly applied to extend the teaching of Spoltman to result in the present application for patent" (page 6 of principal brief, second paragraph). However, appellants fail to present a rationale in support of this conclusion.

Appellants further contend that "[t]he system of Spoltman does not use the audio input to test an associated function" (id.). However, appealed claim 11 does not require the testing of such an associated function.

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As a final point, we note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the inference of obviousness established by the examiner.

In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is affirmed.

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

AFFIRMED

EDWARD C. KIMLIN	)	
Administrative Patent Judge	)	
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	)	
	)	
	)	
ANITA PELLMAN GROSS	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
	)	
CATHERINE TIMM	)	
Administrative Patent Judge	)	

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