

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FREDERICK E. ALTRIETH, III

Appeal No. 95-1661
Application 07/976,913¹

ON BRIEF

Before THOMAS, HAIRSTON and BARRETT, Administrative Patent
Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's
final rejection of claims 1 to 21. Since the top of page 1 of
the brief indicates that an appeal is not taken as to claims 10

¹ Application for patent November 16, 1992.

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to 17 as of the time of submission of the brief, we dismiss the appeal as to these claims. Therefore, claims 1 to 9 and 18 to 21 remain for our consideration.

The pertinent portion of independent claim 1 on appeal, is "said control unit identifies in response to said character information a spatial area in which the set of information data items to be printed may be printed; operating, in response to identification by said control unit of the spatial area, said control unit to format a patch corresponding to the spatial area sufficient to accommodate the set of additional variable information data items to be printed." A corresponding pertinent portion of independent claim 18 on appeal is "means for analyzing the set of data items corresponding to variable information to be printed on the copies and deriving a second set of x, y coordinate signals defining the outline of at least one area in which the largest to be printed character information in the data items may be printed."

The examiner relies upon the following reference:

Jamali et al. (Jamali)	4,887,128	Dec. 12, 1989
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Claims 1 to 9 and 18 to 21 stand rejected under 35 U.S.C.
§ 103.

OPINION

Succinctly stated, the examiner's position at pages 4 and 7 of the answer indicates that the examiner considers the above-noted portions of claims 1 and 18 to have been taught by the reference. For his part, appellant asserts at pages 5 and 9 of the brief that the above-noted pertinent portions of independent claims 1 and 18 are not taught by the reference relied upon.

Inasmuch as we generally agree with appellant's assertions with respect to claims 1 and 18, we reverse the outstanding rejection of independent claims 1 and 18 and, therefore, their respective dependent claims.

As a study of the present application reveals, appellant's current invention is in essence an improvement over that which has been disclosed in Jamali. The pertinent portion of this reference pertaining to the above quoted portions of independent claims 1 and 18 is, as asserted by the examiner, column 5 of Jamali's patent. At lines 30 through 47 of this column, the following is taught:

The LCU via instructions provided by display 153 requests that the operator indicate with use of a digitizing wand 194 associated with the digitizing tablet the position, relative to the registered corner

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of the document sheet of the continuous tone areas to be selectively screened. For each rectangular marked area 14 shown the wand may be used to touch the sheet at the four corner points of each area. Preferably the points are touched in an order such that a straight line joins adjacent points as in the order a, b, c, and d to define a rectangle. Alternatively, a rectangle may be defined by locating two diagonally opposite corner points with an input indicating (or an assumption by the program) that it is a rectangle. The computer control for the digitizing tablet may also be programmed to accept inputs of area data to define other geometrical shapes such as circles and other geometric shapes.

The above quoted portion of Jamali in our view indicates the correctness of the assertions made by appellant in the brief as to the quoted portions of both independent claims 1 and 18 on appeal. Thus, we also construe, as urged by appellant, that it is the user or operator of Jamali's device who essentially identifies the spatial area for the variable information rather than the requirement of claim 1 that the control unit identifies such area and rather than the claim 18 means for analyzing deriving signals to determine the outline of at least one area of which the largest to be printed variable character information is to be printed. It is the user who determines the area in the above quoted portion of Jamali since the user must touch the four corner points to effectively define the area of each variable information area 14. Thus, it is the user who defines a rectangle or an area. Even the alternative approach of merely

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defining two diagonal portions of a rectangular area essentially indicates that it is still the user who defines the spatial area in which the variable information is to be printed. Further, the above-quoted portion's statement that the user may use other geometrical shapes indicates that it is still the user who defines the area data to define these shapes.

In view of the foregoing, the decision of the examiner rejecting claims 1 to 9 and 18 to 21 under 35 U.S.C. § 103 is reversed.

REVERSED

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

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