

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 35

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEAN MULLER and MARIANNICK VAQUIER

Appeal No. 96-3563
Application No. 08/249,079¹

HEARD: August 4, 1999

Before JERRY SMITH, BARRETT, and DIXON, Administrative Patent Judges.
DIXON, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-9, which are all of the claims pending in this application.

We AFFIRM-IN-PART.

¹ Application for patent filed May 25, 1994. According to appellants, this application is a continuation of Application No. 08/037,435, filed March 26, 1993, now abandoned.

BACKGROUND

The appellants' invention relates to a multimode and multifunction communication system between an operator and a processor. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A system for communication between an operator and at least one processor, using:

a plurality of display elements managed by said processor and laid out according to a predetermined geometrical disposition, a variable being displayed on each of these display elements,

a communication instrument separate from said display elements comprising a touch-sensitive surface coupled to said processor so as to set up communication with the latter in order to ensure management of said display elements,

validating means coupled to said processor for enabling said operator to validate selecting actions, and

said processor comprising:

means for managing said sensitive surface according to a first operating mode using a virtual division of said sensitive surface into a plurality of virtual areas, and means for adjusting the respective shapes and dispositions with respect to each other of said areas so as to correspond isomorphically with said geometrical disposition of said display elements,

means for detecting a selecting operation of one of said areas corresponding to a display element, this selecting operation being performed by the operator by acting directly on any point of said area of said sensitive surface and by validating this action by acting on said validating means,

means for cyclically detecting the position of an object such as the operator's finger on said sensitive surface,

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means for managing said sensitive surface according to a second operating mode subsequent to said selecting operation using means for determining the displacement of the object between two successive positions on said sensitive surface,

means for computing a new value of the variable displayed on a previously selected display element as a function of a current value of said variable and of the determined displacement of said object on said sensitive surface, and

means for displaying said new value on said previously selected display element.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Auer et al. (Auer)	4,725,694	Feb. 16, 1988
Noto et al. (Noto)	4,885,580	Dec. 5, 1989
Akatsuka et al. (Akatsuka)	5,047,754	Sep. 10, 1991
Fukushima	5,295,062	Mar. 15, 1994
		(filed Jan. 18, 1991)

Claim 7 stands rejected under 35 U.S.C. § 112, second paragraph as being unpatentable for failing to particularly point out and distinctly claim the invention. Claims 1-8 stand rejected under 35 U.S.C. § 103 as being unpatentable over Akatsuka in view of Noto. Claim 9 stands rejected under 35 U.S.C. § 103 as being unpatentable over Akatsuka in view of Fukushima and Auer.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 27, mailed Jan. 17, 1996) for the examiner's complete reasoning in

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support of the rejections, and to the appellants' brief (Paper No. 26, filed Oct. 3, 1995) and reply brief (Paper No. 29, filed Mar. 6, 1996) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

CLAIM 7

The examiner rejected claim 7 as failing to particularly point out and distinctly claim the invention because the claim limitations "the previously selected display sub-element" and "said previously selected display sub-element" lack proper antecedent basis in the claim. Appellants argue that the terms are defined in the specification at page 7, lines 31-35. (See brief at page 22.) This argument is not persuasive. The claim must particularly point out and distinctly claim the invention, not the specification. The claim introduces "display elements" previously in the claim, but not "sub-elements." Nor has the claim identified what "previously selected" references. We will sustain the rejection of claim 7 as failing to particularly point out and distinctly claim the invention under 35 U.S.C. § 112, second paragraph.

CLAIMS 1-9

Appellants argue that the prior art references do not teach or suggest a touch sensitive surface with virtual divisions and areas with isomorphic correspondence to the geometrical disposition of display. We disagree with appellants. We agree with the examiner's basic proposition and application of the prior art concerning the use of plural displays, substitution of a touch-sensitive surface based input device and use thereof for varied input configurations. Many of the arguments advanced by appellants appear to be directed to the environment of aircraft pilot interfacing and tracing the input without viewing the input device, but these arguments are not commensurate with the scope of the claims.

The examiner acknowledges that the prior art teaching of Akatsuka lacks disclosure of the second operational mode concerning

means for managing said sensitive surface according to a second operating mode subsequent to said selecting operation using means for determining the displacement of the object between two successive positions on said sensitive surface,

means for computing a new value of the variable displayed on a previously selected display element as a function of a current value of said variable and of the determined displacement of said object on said sensitive surface, and

means for displaying said new value on said previously selected display element.

(See answer at pages 3-4.) We disagree with the examiner's conclusion that the actuation of the key of a keypad would correspond to "determining the displacement of the object between two successive positions on said sensitive surface" and "computing a new value .

. . as a function of a current value of said variable and of the determined displacement of said object on said sensitive surface.” Appellants argue that the combination of teachings does not teach the use of a second mode and use of displacement to compute a new variable value. (See brief at page 12.) Clearly, the selection of a sub-portion of the display as taught by Akatsuka would not require the use of “displacement.” The examiner does not address these limitations further regarding the teachings of Noto. Nor has the examiner addressed these limitations with respect to Auer and Fukushima. We do find that the examiner has not set forth a ***prima facie*** case of obviousness with respect to claims 1-9. Therefore, we will not sustain the rejection of claims 1-9 under 35 U.S.C. § 103.

CONCLUSION

To summarize, the decision of the examiner to reject claim 1-9 under 35 U.S.C. § 103 is reversed and the decision of the examiner to reject claim 7 under 35 U.S.C. § 112, second paragraph, is affirmed. The decision of the examiner is affirmed-in-part.

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

AFFIRMED-IN-PART

JERRY SMITH)	
Administrative Patent Judge)	
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LEE E. BARRETT)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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