

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

—————  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
—————

Ex parte SHINICHIRO MOTOKADO,  
TOMOKO MOTOKADO  
and MUTSUMI OHTOMO  
—————

Appeal No. 97-1010  
Application 08/147,815<sup>1</sup>  
—————

ON BRIEF  
—————

Before KRASS, JERRY SMITH and LEE, Administrative Patent Judges.

LEE, Administrative Patent Judge.

**DECISION ON APPEAL**

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1, 3, 4, 7, 8, 10-12, 15, 16, 18, 20, 21, 24, 25, 27-29, 32 and 33. Claims 2, 5, 6, 9, 13, 14, 17, 19,

—————  
<sup>1</sup> Application for patent filed November 4, 1993.

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22, 23, 26, 30 and 31 have been canceled. No claim has been allowed.

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**The References Relied on by the Examiner**

Uehara et al. (Uehara)	4,748,443	May 31, 1988
Ohno	5,305,433	Apr. 19, 1994

**The Rejections on Appeal**

Claims 1, 3, 4, 7, 8, 10-12, 15, 16, 18, 20, 21, 24, 25, 27-29, 32 and 33 stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Ohno in view of Uehara.

On page 11 of the appeal brief, the appellants have grouped together all claims on appeal for single treatment.

**The Invention**

The invention is directed to a character generating apparatus which arranges a plurality of partial patterns according to respective starting points to form a character for display.

Representative independent claim 1 is reproduced below:

1. A character generating method for generating character patterns by arranging a plurality of basic patterns constituting each of a plurality of partial patterns which in turn constitute a character pattern, at respective start position defined from absolute start positions in a character coordinate system, in accordance with a designated character size to form said plurality of partial patterns, and generating said character pattern, said method comprising the steps of:

storing in a memory means origin position data representing origin positions of said partial patterns in a partial-pattern coordinate system set in said character coordinate system, start position data representing start positions of said basic patterns in said partial-pattern coordinate system and shape data representing shapes of said basic patterns;

reading said origin position data of those individual partial patterns constituting a desired character pattern and said start position data of those basic patterns constituting said individual partial

patterns from said memory means;

computing, in a computing means, said absolute start positions of said basic patterns from said read origin position data and start position data; and

generating said desired character pattern by computing a plurality of coordinates of said basic patterns from respective absolute start positions and said shape data,

wherein origin position data of said partial patterns set in a coordinate system whose size is  $1/n$  of said character coordinate system is stored in said memory means in said storing step,  $n$  being an integer; and

said computing step multiplies, in said computing means, said origin position data by  $n$  and adds resultant origin position data to said start position data of said basic patterns to obtain said absolute start positions.

### **Opinion**

Our opinion is based solely on the arguments raised by the appellants in their brief. We do not address and offer no opinion on reasonings which have not been articulated. In that connection, non-raised arguments are regarded as waived.

At the outset, however, we note that the examiner's discussion with respect to Uehara is limited. The entire discussion is reproduced below (answer at page 8):

The applicant's "skeleton patterns of said partial patterns" reads on Uehara "skeleton lines" mentioned in the abstract.

The applicant's "offset data of each of said frame patterns of the associated basic patterns" reads on the disclosure of Uehara's disclosure of "[c]oordinates for the position and formulas for the scaling and borders of characters are maintained in the outline font method. Only one set is necessary for each character, since high quality characters can be scaled up or down and placed in any desired position" (column 2, lines 49-53). The borders mentioned read on the applicant's frame patterns, and the

scaling mentioned requires the applicant's offset data.

It turns out that the second paragraph of the above-quoted text actually refers to Ohno, not Uehara. The quoted text appears in Ohno, not Uehara. Column 2, lines 49-53 of Ohno, not Uehara, concerns the subject matter in discussion.

Thus, the examiner's view with regard to how Uehara applies to the rejected claims on appeal is limited to the single sentence "[t]he applicant's skeleton patterns reads on Uehara 'skeleton lines' mentioned in the abstract." Ohno, on the other hand, is not without disclosure of skeleton patterns in the form of stroke baselines. Thus, as applied by the examiner, Uehara does not add anything meaningful to Ohno. Accordingly, we will focus on and further examine only the disclosure of Ohno.

The appellants correctly point out (Br. at 18) that in Ohno the start point of each partial pattern is represented by an absolute position in a character coordinate system and the start point of each basic pattern is represented by a relative position from the origin point of the partial pattern. The appellants argue that Ohno's system is contrary to the claimed invention wherein the origin of each partial pattern is set in a coordinate system whose size is  $1/n$  that of the character coordinate system and wherein the absolute start position of each basic pattern is computed by multiplying the origin position by "n" and adding to that product the start point of the basic pattern.

The examiner finds the multiply by "n" feature in claim 2 of Ohno (answer at page 8). But a close reading of Ohno's claim 2 reveals only a scaling operation in which both the origin coordinate data and the local border data of each basic element are multiplied by a common magnification factor. There is no description or suggestion that only the origin data, not the local border data, is multiplied, after which the product thereof is added to the local border data, as the examiner evidently determined in a conclusory manner without supporting evidence.

It appears, however, that both the examiner and the appellants erroneously assumed that "n" is an integer greater than one. Note that on page 25 of the specification, it is stated that while the origin coordinates of the partial patterns are set in a 256 X 256 coordinate system in the preferred embodiment (where n apparently equals 4, see page 15 of the specification), it may also be set in a 1024 X 1024 coordinate system (where n evidently equals 1).

In the case of  $n = 1$ , which is within the scope of these claims, the multiply by n feature effectively reduces to an identity function and the claims would merely require that the origin of the partial patterns to be set in the character coordinate system and the start points of each basic element in the partial pattern to be defined in the element coordinate system as an offset from the element origin. In this manner, it would have been obvious to one with ordinary skill in the art that the absolute start points of the basic elements are derived by adding the offsets from the origins of the partial patterns to the origins of the partial patterns times 1. On page 18 of the brief, the appellants already

acknowledged the following:

It should be noted that in Ohno, the start point of each partial pattern is represented by an absolute position in a character coordinate system, and the start point of each basic pattern is represented by a relative position from the origin point of the partial pattern. (Emphasis in original.)

As determined by the examiner (answer at pages 4-5), partial patterns read on Ohno's character strokes, and basic patterns of the partial patterns read on Ohno's partial borders defined in relation to the baseline of each stroke. Thus, the baseline of each of Ohno's strokes constitutes a partial pattern origin. In Ohno, the borders and partial borders are local to the starting, ending, and middle points of each stroke's baseline (column 6, lines 5-31). The appellants raised no argument on these points.

Because the variable "n" can take on the value of "1," the appellants' argument attempting to distinguish Ohno from the claimed invention on the basis of the  $1/n$  coordinate system as recited in the claims is without merit and thus rejected.

On page 19 of the appeal brief in lines 3-5, the appellants further state that in an adjusting operation disclosed in Ohno, the size of the partial pattern coordinate system is changed in accordance with the compound character. That, however, does not undermine any of the examiner's findings concerning Ohno. The examiner is correct that additional features disclosed in a prior art reference do not affect the rejection of claims which do not require those features. The variable scaling feature of Ohno is something additional to that relied on to reject the appellants' claims. Moreover, not every

character of Ohno is a compound character in need of scaling.

On page 19 of the brief, the appellants argue that the claimed invention achieves unexpected results. However, the plain assertion is unsupported by any objective evidence. Mere argument by counsel cannot substitute for evidence lacking in the record. Meitzner v. Mindick, 549 F.2d 775, 782, 193 USPQ 17, 22 (CCPA 1977), cert. denied, 434 U.S. 854, 195 USPQ 465 (1977); In re Langer, 503 F.2d 1380, 1395, 183 USPQ 288, 299 (CCPA 1974). Regardless of whether  $n = 1$  or  $n > 1$ , it has not been shown that there is anything unexpected about the results of the claimed invention relative to that obtainable from the prior art. Unexpectedness, of course, cannot be assumed but must be established by objective and meaningful evidence. In any event, it would seem that the saving of space achieved by reducing the size of the coordinate space is logical rather than unexpected.

For the foregoing reasons, we sustain the rejection of claims 1, 3, 4, 7, 8, 10-12, 15, 16, 18, 20, 21, 24, 25, 27-29, 32 and 33.

#### Conclusion

The rejection of claims 1, 3, 4, 7, 8, 10-12, 15, 16, 18, 20, 21, 24, 25, 27-29, 32 and 33 under 35 U.S.C. § 103 as being unpatentable over Ohno in view of Uehara is affirmed.

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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**

ERROL A. KRASS	)	
Administrative Patent Judge	)	
	)	
	)	BOARD OF PATENT
	)	APPEALS AND
JERRY SMITH	)	INTERFERENCES
Administrative Patent Judge	)	
	)	
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	)	
JAMESON LEE	)	
Administrative Patent Judge	)	

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HELFGOTT & KARAS  
60th Flr.  
EMPIRE STATE BUILDING  
NEW YORK, NY 10118-0110