

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(2) is not binding precedent of the Board.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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte CHRISTOPHER B. LEYERLE

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Appeal No. 1997-1652  
Application 07/942,971

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HEARD: February 22, 2000

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Before THOMAS, BARRETT and BARRY, 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 through 22, which constitute all  
the claims in the application.

Representative claim 1 is reproduced below:

1. A method of altering an attribute of a graphic object  
in a computer system, the attribute having a format and the

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computer system including a handwritten instrument and an electronic tablet, the method comprising the steps of:

defining input areas on the electronic tablet, each associated with one attribute of the graphic object;

drawing a gesture with the handwriting instrument over a selected one of the input areas, the gesture drawn being indicative of a desired format selected for the attributed associated with the selected input area;

recognizing the gesture drawn over the selected input area;

determining the desired format represented by the gesture drawn; and

changing the format of the attribute of the graphic object associated with the selected input area to the desired format.

The following reference is relied on by the examiner:

Rubine, "Specifying Gestures by Example," Proceedings of the ACM, SIGGRAPH '91, Computer Graphics, Vol. 25, No. 4 (July 1991), pp. 329-37.

Claims 1, 2, 4 through 9, 14 through 17 and 19 through 21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rubine. The remaining claims on appeal, claims 3, 10 through 13, 18 and 22 stand rejected under 35 U.S.C. § 103 as being obvious over Rubine alone.

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Rather than repeat the positions of the appellant and the examiner, reference is made to the brief and the answer for the respective details thereof.

OPINION

We reverse both rejections of certain claims under 35 U.S.C. §§ 102 and 103 generally for the reasons set forth by appellant in the brief.

Appellant's prior art assessment generally indicates that graphical objects were individually selectable and that each graphical object has various selectable attributes, where each attribute in turn has various selectable formats. We generally agree with appellant's observation at page 11 of the brief that the examiner has not clearly set forth what aspects of the Rubine reference correspond to these terms, viz., graphical object, attribute, and format of an attribute. We also agree with appellant's observation earlier on that page that while, on the one hand, the examiner has indicated various corresponding aspects of the Rubine reference to certain claims on appeal, this is done without any explanation of how the cited portion actually corresponds to the quoted portion of the claim in structure and function.

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Rubine's single hand marking gestures appear to be similar to appellant's disclosed single gesture type user action to change the format of an attribute of graphical object. Rubine's teachings appear to focus on the ability of his system to add new gestures to a system that is trainable to recognize newly generated gestures. If the gestures of Rubine are supposed to correspond to the graphical objects of the disclosed and claimed invention, then the requirements of the claims on appeal to change the format of an attribute of a graphical object are not taught or suggested in the reference. The term "attributes" is discussed in various contexts in Rubine, but not in the same sense as is claimed.

Although it is difficult to discern what of Rubine comprises the graphical object, attribute of a graphical object and format of the attribute of the graphical object, we and appellant agree that the reference does not teach or suggest within 35 U.S.C. §§ 102 or 103 the selection of a graphical object and/or an attribute of a graphical object and selecting the format of the attribute of a graphical object to thereby alter or change the selected attribute's format.

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The examiner, in our view, has not set forth a prima facie case of anticipation of the claims on appeal that have been rejected under 35 U.S.C. § 102. We are unconvinced of the correlation and correspondence the examiner attempts to make from Rubine to the particular features of the claims. The correspondence and correlation must be reasonably clear from an artisan's perspective and not subject to high degrees of speculation as is present in the facts in this appeal. For similar reasons, we will not sustain the obviousness rejection of certain claims under 35 U.S.C. § 103.

In view of the foregoing, we reverse the decision of the examiner rejecting certain of claims 1 through 22 on appeal under 35 U.S.C. § 102 and 35 U.S.C. § 103.

REVERSED

James D. Thomas

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	Administrative Patent Judge	)	
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PATENT	Lee E. Barrett	)	BOARD OF
	Administrative Patent Judge	)	APPEALS AND
		)	INTERFERENCES
		)	
	Lance Leonard Barry	)	
	Administrative Patent Judge	)	

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