

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 10

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALI M. VASSIGH,
DAVID M. RUBINI,
MICHAEL T. INDERRIEDEN,
and LYNN B. MILLER

Appeal No. 1998-0876
Application 08/269,703¹

ON BRIEF

Before JERRY SMITH, BARRETT, and RUGGIERO, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed July 1, 1994, entitled "Dynamic Key Terminal Including Choice-Driven Interface."

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This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 1-16.

We reverse.

BACKGROUND

The disclosed invention relates to a key terminal including a choice-driven interface employing a plurality of overlays to guide a retail operator through a retail transaction.

Claim 1 is reproduced below.

1. A computer terminal comprising:

a first portion having a housing including

a display for displaying a first overlay of a plurality of choice icons to an operator; and

a first keypad adjacent the choice icons displayed by the display for recording selection of one of the choice icons by the operator;

wherein the first overlay is an item entry overlay in which a number of purchased merchandise items forming a transaction are recorded and wherein the choice icons allow the operator to perform operations related to the transaction; and

a second portion having a housing different than the housing of the first portion and coupled to the first portion including a processor for controlling operation of the first keypad and the display of the first portion, and for executing a transaction processing application program including a graphic user interface including the first overlay and a plurality of additional overlays

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which are individually displayed and which describe each choice icon of the first overlay, wherein each of the additional overlays is displayed after the operator has selected a corresponding choice icon on the first overlay using the first keypad.

The Examiner relies on the following prior art:

1990	Unno	4,893,237	January 9,
	Norwood	5,063,600	November 5, 1991
	Fujita et al. (Fujita)	5,122,787	June 16, 1992
	Vassigh et al. (Vassigh)	5,297,030	March 22,
1994	Fukatsu	5,302,811	April 12, 1994

Claims 1, 2, and 4-6 stand rejected under 35 U.S.C.

§ 102(e) as being anticipated by Vassigh.

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Vassigh and Fujita.

Claims 7-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vassigh and Fukatsu.

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Vassigh and Fukatsu, as applied in the rejection of claim 8, further in view of Norwood.

Claims 15 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vassigh and Fukatsu, as applied in the rejection of claims 7 and 8, further in view of Unno.

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We refer to the Final Rejection (Paper No. 6) and the Examiner's Answer (Paper No. 9) (pages referred to as "EA__") for a statement of the Examiner's position, and to the Brief (Paper No. 8) (pages referred to as "Br__") for Appellants' arguments thereagainst.

OPINION

Claims 1, 2, and 4-6

"Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention." RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984).

Independent claims 1 and 6 recite a computer or retail terminal comprising "a first portion having a housing including a display" and "a second portion having a housing different than the housing of the first portion and coupled to the first portion including a processor" (emphasis added). The specification discloses that terminal 12, corresponding to the first portion, is supported above the checkout counter and terminal 14, corresponding to the second portion, is located within the checkout counter (specification, p. 7). This

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allows the terminal to have a small footprint on the checkout counter (specification, p. 3). Appellants argue that Vassigh teaches an integrated terminal and fails to teach a computer or retail terminal with first and second portions having different housings. The Examiner finds that the "first portion having a housing including a display" reads on the display 22 and the "second portion having a housing different than the housing of the first portion and coupled to the first portion including a processor" reads on the housing 24 (FR2; EA4).

We hold that the Examiner's findings as to Vassigh are erroneous. Vassigh discloses that figure 1 shows "a perspective view of the data terminal device . . . generally indicated by the number 20 which includes a touch screen panel 22 mounted in the top surface 24 of the terminal device" (col. 3, lines 50-54). Figure 2 shows the touch screen panel 22 in the top surface 24 of the terminal device with the electronics 34 and 38 for the panel located within the terminal device. Even if we read the phrase "a housing different than the housing of the first portion" broadly, the terminal device does not have a different housing from the

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display 22 because the display 22 is an integral part of the terminal device housing. While figure 1 seems to show a display placed on the terminal device, that is, a display housing placed on a terminal device housing, there is no description of figure 1 having two separate housings. It would be improper to resort to speculation in our fact finding. See In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967) (it is improper to resort to speculation or unfounded assumptions to supply deficiencies in the factual basis for a rejection). The Examiner could have easily found a reference to show separate housings for the display/keyboard and processor but elected to rely on a strained interpretation of Vassigh with which we do not agree. Thus, the Examiner errs in finding claims 1 and 6 to be anticipated. The rejection of claims 1, 2, and 4-6 is reversed.

Although we have reversed the rejection of claims 4-6, we nevertheless comment on other errors in the Examiner's rejection. Claim 4 recites a "card reader within the housing of the first portion." The Examiner finds that Vassigh discloses a card reader 72, figure 16, coupled to the processor (FR3). Appellants argue that the card reader in

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Vassigh is not located in a housing different from the housing containing the processor. Figure 16 shows the buttons on the touch screen display during the payment process; it does not show a card reader and certainly does not show a card reader within the first portion housing. Figure 1 appears to show a card reader (unnumbered) in the terminal device 20 at the upper right hand corner of the sloping front face, but this is not part of the first portion of the display.

Claims 5 and 6 recite that "the first and second keypads in combination perform a predetermined function in a plurality of ways." This goes to the disclosed concept of "multi-pathing" (e.g., specification, p. 2, lines 3-5; p. 5, last para.). Appellants argue that Vassigh discloses three types of buttons, but does not disclose more than one way that these buttons can be used to perform a predetermined function (Br10). The Examiner finds that this limitation is disclosed in Vassigh and points to the three different kinds of buttons in figure 9 that Appellants argued did not meet the claim limitations (EA9). The Examiner does not answer Appellants' argument, and gives no example of a function that is performed

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in at least two ways. We do not find this limitation taught in Vassigh.

Claim 3

The Examiner concludes that it would have been obvious to make the touch screen display in Vassigh using a liquid crystal display as taught in Fujita. We agree. Appellants' arguments (Br11) fail to address the teachings of Fujita. However, Fujita does not cure the deficiencies of Vassigh with respect to claim 1. Accordingly, the rejection of claim 3 is reversed.

Claims 7-13

Independent claim 7 recites "a terminal having a housing" and "a data recording device which must be connected to the terminal in order for the data recording device to operate . . . including a housing different than the housing of the terminal." Appellants make the same argument as with claims 1 and 6 about Vassigh not having different housings. The Examiner relies on the previous discussion of Vassigh (EA6), which we found unpersuasive as to showing different housings. The Examiner applies Fukatsu to teach a bar code scanner, but

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Fukatsu shows an integrated terminal and, so, does not cure the deficiencies of Vassigh. The Examiner has failed to establish a prima facie case of obviousness. The rejection of claims 7-13 is reversed.

Although we have reversed the rejection of claims 7-13, we nevertheless comment on other errors in the Examiner's rejection. With respect to claim 10, the Examiner has not addressed the limitation of a stand for supporting a data recording device above a checkout counter as claimed. With respect to claims 11 and 13, we refer to the discussion of claims 4 and 5, supra.

Claim 14

Claim 14 recites a "signature capture device." The Examiner applies Norwood and concludes that it would have been obvious to modify Vassigh with Norwood so as to recognize a customer's signature (FR6; EA7). Appellants argue that Norwood is concerned with combining handwritten input with keyboard input in a general purpose computer system and there is no discussion of use of a signature capture device in a retail system as claimed (Br15).

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Norwood is not a signature capture device for a retail terminal. The Examiner provides no motivation for applying a general handwriting recognition device to signature capture in a retail system. The purpose of a signature capture device is to provide a signature image, not for the signature to be recognized and converted into text. Signature capture devices are well known in stores such as Best Buy and Sports Authority in the Washington, D.C. area. It would have taken little work to find more relevant prior art. In any case, however, Norwood does not overcome the deficiencies of Vassigh with respect to the rejection of claim 7. The rejection of claim 14 is reversed.

Claims 15 and 16

Claim 15 recites "a lock for preventing unauthorized access to the system." Claim 16 recites "a power switch which includes a standby position for placing the terminal in a standby mode." The Examiner applies Unno and refers to the control key 30 which is said to control power on/off and cause a CPU to execute "registration" and "settlement" operations. Appellants argue that Unno does not disclose a lock or power/standby switch as claimed (Br16-17).

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We fail to see how control key 30 (col. 3, lines 41-43) can be considered a lock as recited in claim 15 and, although key 30 is a power switch, we fail to see any description of it placing the terminal in a standby mode as recited in claim 16. Thus, the Examiner errs in the rejection of claims 15 and 16. In any case, however, Unno does not overcome the deficiencies of Vassigh with respect to the rejection of claim 7. The rejection of claims 15 and 16 is reversed.

CONCLUSION

The rejections of claims 1-16 are reversed.

REVERSED

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