

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* BRADLEY BEITEL

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Appeal No. 1999-0227  
Application No. 08/722,414<sup>1</sup>

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ON BRIEF

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Before CALVERT, ABRAMS and McQUADE, *Administrative Patent Judges*.

ABRAMS, *Administrative Patent Judge*.

**DECISION ON APPEAL**

This is an appeal from the decision of the examiner finally rejecting claims 1-8, which constitute all of the claims of record in the application.

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<sup>1</sup> Application for patent filed October 1, 1996.

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The appellant's invention is directed to the processing of information among multiple users sharing a virtual environment. The claims on appeal have been reproduced in an appendix to the Brief.

#### **THE REFERENCE**

The reference relied upon by the examiner to support the final rejection is:

Mallinckrodt	5,612,703	Mar. 18, 1997 (filed May 19, 1995)
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#### **THE REJECTION**

Claims 1-8 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Mallinckrodt.

Rather than attempt to reiterate the examiner's full commentary with regard to the above-noted rejection and the conflicting viewpoints advanced by the examiner and the appellant with regard thereto, we make reference to the Examiner's Answer (Paper No. 11) and to the Appellants' Brief (Paper No. 9).

#### **OPINION**

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Anticipation is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of the claimed invention. See *In re Paulsen*, 30 F.3d 1475, 1480-1481, 31 USPQ2d 1671, 1675 (Fed. Cir. 1994) and *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990). It does not require that the reference teach what the applicant is claiming, but only that the claim on appeal "read on" something disclosed in the reference, *i.e.*, all limitations of the claim are found in the reference. See *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), *cert. denied*, 465 U.S. 1026 (1984).

The objective of the appellant's invention is to decrease the amount of traffic on the interconnecting network among multiple users sharing a virtual environment such as a video game. This is accomplished by transmitting a change of a state of an application of a specific user only to others of the users who are located within a particular distance in the virtual environment, rather than to all of the other users. Independent claim 1 is directed to a method of processing a

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software application enabling interaction between users sharing a "virtual environment" via an interconnecting network, and comprises the step of transmitting a change of a state of the application of a specific user to other users "dependent on respective relative distances in the virtual environment between the specific user and each respective one of the other users." Independent claim 5 is directed to a data processing system enabling interaction between users in a virtual environment and having a server operating in accordance with the distance requirement stated above, and independent claim 8 to a multi-user program enabling interaction in a virtual environment and operative in the same fashion.

The examiner has rejected all of these claims as being anticipated by Mallinckrodt. We share the appellant's opinion that this is not the case because two features are lacking in the reference. The first is that the claims are directed to users operating in a "virtual environment," that is, an artificial environment which is experienced through sensory

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stimuli provided by a computer.<sup>2</sup> This is not the case in the Mallinckrodt system, which is an actual cellular communications system, in which users operate in real time in a real environment. The second reason is that the appellant's claims require that a transmitted change of state (the message) from a specific user be sent to other users based upon their closeness to the sender in the virtual environment, that is, the distance between the sender and the recipients, whereas in the Mallinckrodt system this is of no consequence, for what matters is the sum of the distance between the sender and the required relay station (satellite or tower), and the distance between the relay station and the recipient.

Since all of the subject matter recited in independent claims 1, 5 and 8 is not present in the reference, it cannot be anticipatory. This being the case, we will not sustain the rejection of claims 1, 5 and 8 or, it follows, of claims 2-4, 6 and 7, which are dependent therefrom.

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<sup>2</sup> See, for example, Merriam Webster's Collegiate Dictionary, Tenth Edition, 1996, page 1320.

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**SUMMARY**

The rejection is not sustained.

The decision of the examiner is reversed.

**REVERSED**

IAN A. CALVERT	)	
Administrative Patent Judge	)	
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	)	
	)	
	)	BOARD OF PATENT
NEAL E. ABRAMS	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
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JOHN P. McQUADE	)	
Administrative Patent Judge	)	

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