

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAKOB NIELSEN

Appeal No. 1999-1570
Application No. 08/673,184

ON BRIEF¹

Before HAIRSTON, DIXON, and GROSS, **Administrative Patent Judges**.
DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-3, 5-13, 15-17, and 20.²

¹ The oral hearing was waived in a letter filed Mar. 27, 2001. Therefore, this decision is based upon the brief.

² We note claims 14 and 18 have been canceled, and claims 4 and 19 have been objected to by the examiner.

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We REVERSE.

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The appellant's invention relates to a system for visualizing various degrees of information in an information attribute. The invention employs various other information variables coupled with an icon to convey information to the user. An understanding of the invention can be derived from a reading of exemplary claim 1 which is reproduced below.

1. Apparatus for displaying information, comprising:
 - a. a computer
 - b. a display controller configured to control the display of icons so that each displayed icon can simultaneously depict more than one independent information variable corresponding to said each displayed icon, a level of each independent variable being respectively depicted by at least one of frequency of blinking, degree of blinking and degree of fill of the icon; and
 - c. a display connected to said computer by said display controller.

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

Pajak et al.(Pajak)	5,065,347	Nov.12, 1991
Alexander	5,257,349	Oct. 26, 1993
Bronson	5,305,435	Apr. 19, 1994
Torres	5,365,360	Nov.15, 1994

Microsoft Mail User's Guide- Electronic Mail for PC Networks -Workstation Software for Windows and Presentation Manager, Version 3.0, Microsoft Corporation, Chapter 1- Overview of Mail and the Online Documentation, pp. 1-2 (1992).

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Claims 13 and 17 stand rejected under 35 U.S.C. § 102 as being anticipated by Pajak. Claims 1-3, 5, 15, 16 and 20 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over Torres in view of Bronson. Claims 6 and 7 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over Torres and Bronson in view of Alexander. Claims 8-12 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over Torres and Bronson in view of Microsoft Mail User's Guide.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 11, mailed Sep. 30, 1998) for the examiner's reasoning in support of the rejections, and to the appellant's brief (Paper No. 10, filed Sep. 15, 1998) for the appellant's arguments thereagainst.

OPINION

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

35 USC § 102

Appellant argues that Pajak does not teach “setting visual characteristics of an icon based on said keywords or phrases.” Appellant argues that Pajak teaches highlighting the text or label associated with an icon as the result of a search rather than setting the visual characteristics of the icon itself. (See brief at page 5.) We agree with appellant. Since Pajak does not teach the invention as claimed, we cannot sustain the rejection of claims 13 and 17.

35 USC § 103

Appellant argues that Torres merely adjusts the size of the icon (length, width and depth) and also allows for another icon to be superimposed on top of the first icon to reflect information contained therein. (See brief at pages 6-7 and Torres figure 4 and columns 4 and 9.) We agree with appellant. The examiner maintains that Bronson supplies the missing teaching concerning “a level of each independent variable being respectively depicted by at least one of frequency of blinking, degree of blinking and degree of fill of the icon.” Specifically, the examiner relies upon the teaching of Bronson at column 4 which teaches using color coding, patterning or blinking. Here, the examiner relies on this teaching to generically suggest the use of some “alternative visual effect” to help visually distinguish a particular window from another. (See answer at page 5.) From our review of Bronson, we do not find any teaching or suggestion in Bronson with respect to the specific

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visual effects recited in the language of claim 1. Nor has the examiner provided any line of reasoning why one skilled in the art would have desired to use “frequency of blinking, degree of blinking and degree of fill of the icon.” Appellant argues that the examiner has applied “classical hindsight.” (See brief at page 8.) We agree with appellant.

Furthermore, the examiner has not provided a teaching, suggestion or a line of reasoning for modifying the teachings of Torres to include the claimed depiction of the independent variable. Therefore, we cannot sustain the rejection of claim 1 and its dependent claims 2 and 3. Claims 5, 15, and 16 contain similar limitations which are not taught or suggested by the combination of Torres and Bronson. Therefore, we cannot sustain the rejection of independent claims 5, 15, 16 and dependent claim 20. With respect to the addition of Alexander and Microsoft Mail, the examiner does not rely on the teachings of these references to teach the deficiency in the base combination. Therefore, these teachings do not remedy that deficiency, and we cannot sustain the rejection of dependent claims 6-12.

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CONCLUSION

To summarize, the decision of the examiner to reject claims 13 and 17 under 35 U.S.C. § 102 is reversed, and the decision of the examiner to reject claims 1-3, 5-12, 15, 16, and 20 under 35 U.S.C. § 103 (a) is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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ANITA PELLMAN GROSS)	
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