

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

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Paper No. 60

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte COMPTON'S NEWMEDIA INC.

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Appeal No. 97-0382  
Reexamination No. 90/003,270<sup>1</sup>

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HEARD: February 18, 1997

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Before STONER, Chief Administrative Patent Judge, and BARRETT and LEE, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

ON REQUEST FOR RECONSIDERATION

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<sup>1</sup> Order for reexamination initiated on December 14, 1993, by the Commissioner of Patents and Trademarks for the reexamination of the claims of U.S. Patent 5,241,671, entitled "Multimedia Search System Using a Plurality of Entry Path Means Which Indicate Interrelationships of Information," issued August 31, 1993, to Michael Reed et al. (hereinafter "Reed patent"), co-owned by Compton's Newmedia Inc. and Encyclopaedia Britannica, based on Application 07/426,917, filed October 26, 1989.

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Appellant requests reconsideration of our decision entered April 30, 1997, (Paper No. 56). Specifically, appellant requests

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reconsideration of those portions of the decision sustaining the rejection of claims 1, 3-6, 25-27, 29, 32, 34, 39, and 47 under 35 U.S.C. § 103 as being unpatentable over Salomon and sustaining the rejection of claims 1, 6-9, 27-29, and 39 under 35 U.S.C. § 102(a) as being anticipated by Hardman. We have reconsidered our decision in light of appellant's arguments, but are not persuaded of any errors therein. Therefore, we decline to make any changes in our prior decision.

We refer to pages of our original decision as "D\_\_" and to pages of appellant's Request for Reconsideration as "RR\_\_."

#### ISSUES

Appellant's request for reconsideration presents the following issues:

(1) Whether the claims require an indicating means and accessing means from a graphics entry path to information accessible in a textual entry path.

If so:

(2) Whether an indicating means and accessing means from a graphics entry path to information accessible in a textual entry path is disclosed by or would have been obvious over Salomon.

(3) Whether an indicating means and accessing means from a graphics entry path to information accessible in a textual entry path is anticipated by Hardman.

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OPINION

- (1) The claims only require going from one search entry path to information accessible in another search entry path, not from each path to every other path

Independent claims 1, 39, and 47 recite:

indicating means for indicating a pathway that accesses information related in one of said independently accessible entry path means to information accessible in another one of said entry path means;

accessing means for providing access to said related information in said another entry path means; . . . .

We interpreted this language as follows (D19):

The recited "indicating means for indicating a pathway to information related in one of said independently accessible entry path means to information accessible in another one of said entry path means" requires going only from one path to information accessible in another path, not from each path to the other path. The phrase is broad enough to require only one access path (although it also covers both paths).

We found that Salomon and Hardman disclose an indicating means and accessing means for going from a textual entry path means to information accessible in a graphics entry path means (e.g., D34-35, D49-50). Appellant also admitted that Salomon and Hardman disclose going from textual to graphics entry paths via indicating means and accessing means (see the arrows from the box in the textual entry path to the box in the graphical entry path in the Salomon and Hardman diagrams in the Appendix to the decision). Thus, under our interpretation that only a one way

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pathway is required, Salomon and Hardman fully meet the indicating means and accessing means limitations.

Appellant does not argue that the "indicating means" and "accessing means" limitations must be interpreted to require going from more than one search entry path means to information in more than one other search entry path means. Instead, appellant argues that the "first retrieving means" and "second retrieving means" in claim 1, when read in conjunction with the "indicating means," requires such an interpretation (RR3):

Two additional elements of claim 1 show such necessary linkage when read in conjunction with the "indicating means" language: (1) the "first retrieving means for retrieving said textual information and interrelated graphical information to said searched textual information" (claim 1, lines 30-33), and (2) the "second retrieving means for retrieving said graphical information and interrelated textual information to said searched graphical information" (claim 1, lines 34-37). If the "indicating means" that indicates a pathway from graphical information to related textual information were not present as an element in claim 1, then the "retrieving [of] . . . interrelated textual information to searched graphical information" would not be possible. Said another way, one cannot retrieve the information if the ability to access it did not exist.

Appellant does not address the relevant portion of our decision which dealt with the "first retrieving means" and "second retrieving means" as follows (D20):

Fourth, all claims recite interrelated "textual information and graphical information," but they do not require all graphical information be searchable from the graphical search entry path or all textual information be searchable from the textual search entry path. Textual

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items could have related graphical information reachable only from the text item, which is not shown on the diagram. The "first receiving means" and "second receiving means," recited in claims 1 and 47, whose functions are incorporated into the textual and graphics search entry path in claim 39, require retrieving interrelated graphical or textual information, not necessarily related information accessible from another path.

Furthermore, the "retrieving means" do not require following a pathway indicated by an "indicating means," but only require retrieving related information. An example of a "first retrieving means for retrieving said textual information and interrelated graphical information to said searched textual information" could be automatic retrieval of a picture associated with a text article, without having to use an indicating means to access the picture. The picture may or may not be accessible through the graphics entry path. An example of a "second retrieving means for retrieving said graphical information and interrelated textual information to said searched graphical information" could be automatic retrieval of a caption associated with a picture or textual information on an image, such as the legends on a map, without having to use an indicating means. The caption or legends may or may not be accessible through the textual entry path.

Appellant has not addressed our interpretation that the claims "do not require all graphical information be searchable

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from the graphical search entry path or all textual information be searchable from the textual search entry path" (D20) and that the two "retrieving means" only "require retrieving interrelated graphical or textual information, not necessarily related information accessible from another path" (D20). Appellant has not shown that "first retrieving means" and "second retrieving means" require retrieving information accessible from another entry path via a pathway indicated by an "indicating means." Thus, appellant has failed to show that the claims positively recite an indicating means and accessing means from a graphics entry path means to information accessible in a textual entry path means.

We believe that our claim interpretation that the claims do not require indicating means and accessing means for going from a graphics search entry path means to information accessible from a textual search entry path means is correct. Nevertheless, we further consider Salomon and Hardman to disclose such limitations. We address appellant's arguments to the contrary for completeness.

- (2) An indicating means and accessing means from a graphics entry path to information accessible in a textual entry path would have been obvious over Salomon and is expressly disclosed by Salomon

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Salomon is applied in an obviousness rejection. We stated in our original decision (D50):

We also find that Salomon implicitly suggests to one of ordinary skill in the art to provide links to retrieve textual information related to graphical information. For example, it would have been obvious for an article about Lewis and Clark, accessible from the "Article" path, to provide a link to the map in figure 8 of the Lewis and Clark expedition, accessible from the graphical "Map" path, and, conversely, for the map to provide a link back to the article because Salomon teaches that related information should be linked.

Appellant argues that Salomon does not expressly teach a link from graphics to text. Appellant admits that "the authors appear to have had the technical ability to link from graphics data to textual data at the time the article was written" (RR6) but "[w]hat was lacking was the knowledge that the link was obvious and made sense" (RR6). "The only conclusion is that Salomon does not teach or suggest graphics to text links for connecting textual entry paths to related graphical entry paths, without the application of prohibited hindsight" (RR6-7).

We conclude that a graphics to text link would have been obvious to one of ordinary skill in the art. In addition, we find that such a link is expressly disclosed in Salomon.

Salomon discusses that one design goal for the database and user interface was "[d]esigning navigational tools and visual representations to support cross-media links and browsing"

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(page 3). This suggests cross-linking related materials of different media types as needed for effective navigation, not just going from textual information to graphical information. Obviousness is determined through the eyes of one of ordinary skill in the art and the suggestion to modify or combine can come from what one of ordinary skill is presumed to know rather than a specific suggestion in a reference. See In re Oetiker, 977 F.2d 1443, 1447-48, 24 USPQ2d 1443, 1446-47 (Fed. Cir. 1992) (Nies, C.J., concurring). Skill in the art must be presumed. See In re Sovish, 769 F.2d 738, 743, 226 USPQ 771, 774 (Fed. Cir. 1985). Salomon teaches providing a link from textual to graphical information, such as from the pathfinder icon in the text article of figure 5 to the graphical information in the "Pictures," "Maps," and "Sounds" in figure 6. One skilled in the art would have been motivated to provide a link from graphical information back to textual information, such as in our example of providing a link from the map of the Lewis and Clark expedition in figure 8, accessible from the graphical "Map" path, to the Lewis and Clark article, accessible from the textual "Articles" path, so that the user can read about the expedition without going back to the table of contents and searching for text. Otherwise, the "Map" path is a dead end. Appellant's argument that such a link would not have been obvious based on

the lack of an express teaching in figure 8 is not persuasive in an obviousness rejection.

Nevertheless, Salomon expressly teaches an indicating means and link from graphical to textural information. One of the search entry paths to the database in Salomon is an audio-visual presentation called "tours" (figure 2). "Each tour consists of a combination of images, animation, narration, sound effects and music." Page 6, left col. "Simple VCR-like navigational controls are provided with each tour (see Figure 11). The set of controls includes buttons for playing, stopping, rewinding and scanning forward and backward." Page 6, left col. Although figure 11 shows the help menu instead of the card from the "Gold Rush" tour as stated in the caption, the description indicates that "tours" is a graphics search entry path (the "images, animation, narration, sound effects and music" are non-textual and, therefore, graphics) that can be graphically searched by the "buttons for playing, stopping, rewinding and scanning forward and backward." Salomon discloses going from the graphical information to related textual information and returning (page 6, left col.):

Within the course of each tour, reference is made to documents in the database. The presentation can be stopped at any time to allow the user to explore the related information. A tour's animation and soundtrack can be restarted at any point, if the user chooses to return to it.

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This is further described as follows (page 6, bridging cols.):

In addition, a button with a document icon labeled "Related Document" appears whenever the images present on the screen correspond to associated information in an article. Users can stop a tour and use this button to immediately branch to the associated article.

The articles are reachable from the "Articles" entry path (figure 2). Therefore, Salomon expressly discloses indicating means (the "Related Document" icon) and accessing means for going from a graphics search entry path means ("Tours") to information in a textual search entry path means ("Articles").

- (3) An indicating means and accessing means from a graphics entry path to information accessible in a textual entry path is expressly disclosed by Hardman

Hardman is applied in an anticipation rejection. In our original decision we addressed the graphics to textual path in Hardman as follows (D34-35):

Symbols on the maps, reachable through the "Maps & Plans" button, a graphical search, "are linked directly to the information about the establishment they represent" (page 51), which implies links back to screens like figure 5 in the textual search path. For example, Hardman states that "[t]wo readers used the map to search for a restaurant and were not disturbed when they ended up in the middle of the food and drink section" (page 38), where the "Food & Drink" section is a main menu section (page 39). The symbols are an "indicating means" and the hypertext link is an "accessing means" for accessing textual information accessible from the textual search entry path.

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Appellant argues that Hardman's statement "linked directly to the information about the establishment they represent" does not expressly disclose that the "information about the establishment" is in a textual entry path where textual information is textually searched. Appellant argues that an equally plausible interpretation of the "information about the establishment" passage is that clicking on the symbol brings up a caption box like the box pointing to the Albany Hotel (RR9). Appellant also argues that "an interpretation that the Food & Drink path is textual is neither implicit nor inherent in Hardman" (RR9).

Appellant admits that "Hardman must, of course, be interpreted in the manner in which one of ordinary skill in the art would have interpreted it when it was published in 1989" (RR10). In our opinion, appellant does not interpret Hardman as it would have been by one of ordinary skill in the art. Appellant has also failed to read Hardman completely. Hardman states (page 51):

As well as these uses, the ability to link graphical items in a hypertext allows novel uses of graphics. The map section (see Fig. 6) illustrates such a use. The different symbols on the map represent hotels, bars and restaurants and are linked directly to the information about the establishment they represent.

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We submit that the last sentence above would have been interpreted by one of ordinary skill in the art as teaching that the symbols link back to screens such as the screen in figure 5, which are in the textual search paths. Hardman discloses, for example, that the details of the establishment are said to be on screens as shown in figure 5 (para. bridging pages 47-48) and does not mention some other kind of information as speculated by appellant. Our interpretation is supported expressly by Hardman (page 53):

The other subject matter links are from the 'SHOW ME WHERE' button in Fig. 5, which go across the hierarchy and link the details of an establishment with its position on the map (Fig. 6), and from the symbols on the map (Fig. 6), which link back to the details of the establishment (Fig. 5).

This expressly teaches going from the map symbols ("indicating means") on a screen reachable through the graphics search entry path "Maps & Plans" to the screen in figure 5 reachable through the textual search entry path "Accomodations."

We further submit that one skilled in the art would have interpreted the passage about going from an icon in the "Maps" to the middle of the "Food & Drink" section to indicate going to a textual screen like figure 5, except describing restaurants and bars instead of accomodations. Appellant's argument that one skilled in the art would not have considered the "Food & Drink" section to be textual is not considered reasonable in the overall

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context of Hardman. However, the one example of going to a hotel in the "Accomodations" section expressly teaches going from graphics to textual information.

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CONCLUSION

We have granted appellant's request to the extent that we have reconsidered our decision of April 30, 1997, but we deny the request with respect to making any changes therein.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

DENIED

BRUCE H. STONER, JR.	)	
Chief Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
LEE E. BARRETT	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
JAMESON LEE	)	
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