

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. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HITOSHI HAYAMA, KENJI WATANABE,
TAKANOBU KAMEDA, and TOMOYUKI SHIMMURA

Appeal No. 2000-0359
Application No. 08/777,393

ON BRIEF

Before FLEMING, RUGGIERO, and BARRY, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

The examiner rejected claims 1 and 12. The appellants appeal therefrom under 35 U.S.C. § 134(a). We affirm.

BACKGROUND

The invention at issue in this appeal generally relates to laying out characters in a defined area, e.g., for the printing surface of a label. Conventional character layout used in word processors, for example, employs a uniform

layout. If a number of characters is small for the width (A) of a printing area, the characters are laid out with an extremely wide spacing (B) therebetween as shown in Figure 25A of the appellants' specification. Because the resulting printed image includes blank portions larger than character portions, it lacks profoundness and gives a poor impression. In contrast, the invention lays out characters according to the relation $B > D > 0$, where D is the width of a margin. In the layout shown in Figure 25B of the specification, for example, $D = B/2$. The characters shown therein are laid out in a well balanced manner.

Claim 1, which is representative for present purposes, follows:

1. A character layout method for laying out, for printing, each of characters included in each character string on one or a plurality of lines within a generally rectangular frame having a predetermined width in a direction, comprising the steps of:

laying out said each character so as to satisfy $B > D > 0$, where D is the dimension of a margin between an edge of said frame and a character at an end of said string, and B is the dimension of an inter-character spacing between adjacent characters; and

printing the frame of laid out characters.

The prior art applied by the examiner in rejecting the claims follows:

Hirono et al. ("Hirono") 25, 1993.	5,230,572	July
---------------------------------------	-----------	------

Claims 1 and 12 stand rejected under 35 U.S.C. § 102(b) as anticipated by Hirono.

OPINION

After considering the record, we are persuaded that the examiner erred in rejecting claims 1 and 12. Accordingly, we reverse.

Rather than reiterate the positions of the examiner or appellants *in toto*, we address the main point of contention therebetween. The examiner asserts, "*Hirono et al.* fully discuss their 'spacing process' beginning at the top of col. 13 and extending through to the end of the patent. The Examiner particular refers Appellant to various key variables and their definitions in *Hirono et al.*, namely: 'character

width MW', 'defined printing length SL', 'actually printable length JL', 'printable dot column count ND', 'margin space YS', 'character spacing MN', etc." (Examiner's Answer at 7.) The appellants argue, "the reference simply does not disclose or suggest satisfying $B > D > 0$, where D is the dimension of a margin between an edge of the contour or frame and a character at an end of said string, and B is the dimension of an inter-character spacing between adjacent characters." (Appeal Br. at 4.)

In deciding anticipation, "the first inquiry must be into exactly what the claims define." *In re Wilder*, 429 F2d 447, 450, 166 USPQ 545, 548 (CCPA 1970). Here, claims 1 and 12 specify laying out the characters of a character string "so as to satisfy $B > D > 0$, where D is the dimension of a margin between an edge of said frame and a character at an end of said string, and B is the dimension of an inter-character spacing between adjacent characters. . . ." Accordingly, the claims require *inter alia* laying out characters of a character string

so that a margin between an edge of a frame and a character at an end of the string is greater than zero.

"[H]aving ascertained exactly what subject matter is being claimed, the next inquiry must be into whether such subject matter is novel." *Wilder*, 429 F.2d at 450, 166 USPQ at 548. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (citing *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 715, 223 USPQ 1264, 1270 (Fed. Cir. 1984); *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983); *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 771, 218 USPQ 781, 789 (Fed. Cir. 1983)).

Here, contrary to the claimed limitations, Hirono discloses laying out characters of a character string so that a margin is equal to zero. Specifically, "step S126 is

reached in which a check is made to determine whether the margin space YS is zero." Col. 14, l. 9-11. If the margin space YS is found to be 0 in step S126, step S128 is reached in which the flag AF is reset, and control is returned as above." Col. 14, ll. 18-21. Similarly, "[i]f the margin space value Sd is found to be 0 in step S143, step S144 is reached in which the flag AF is reset." Col. 15, ll. 8-10. Accordingly, we are not persuaded that the reference discloses laying out the characters of a character string "so as to satisfy $B > D > 0$, where D is the dimension of a margin between an edge of said frame and a character at an end of said string, and B is the dimension of an inter-character spacing between adjacent characters. . . ." Therefore, we reverse the rejection of claims 1 and 12.

CONCLUSION

In summary, the rejection of claims 1 and 12 under § 102(b) is reversed.

REVERSED

MICHAEL R. FLEMING)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
JOSEPH F. RUGGIERO)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
LANCE LEONARD BARRY)	
Administrative Patent Judge)	

Appeal No. 2000-0359
Application No. 08/777,393

Page 8

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

Once signed, forward to Team 3 for mailing.

APPEAL NO. 2000-0359 - JUDGE BARRY
APPLICATION NO. 08/777,393

APJ BARRY - **2 copies**

APJ FLEMING

APJ RUGGIERO

After signing, return to APJ Barry for
disk.

Prepared By: APJ BARRY

DRAFT SUBMITTED: 08 Oct 02

FINAL TYPED:

Team 3:

I typed all of this opinion.

Please proofread spelling, cites, and quotes. Mark your proposed changes on the opinion, but **do NOT change matters of form or style. I will include the diskette with the signed copy so that you can make all changes before mailing.**

For any additional reference provided, please prepare PTO 892 and include copy of references

Thanks,
Judge Barry