

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. 31

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GREGORY S. LINDHORST,
STEPHEN J. MILLET
and JOHN P. SHEWCHUK

Appeal No. 2002-2182
Application No. 09/223,565

HEARD: June 12, 2003

Before RUGGIERO, GROSS, and BLANKENSHIP, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 1-13. At page 3 of the Answer, the Examiner indicates that claims 4-9 and 12 have now been allowed. Accordingly, only the rejection of claims 1-3, 10, 11, and 13 is before us on appeal.

The disclosed invention relates to the development of web sites in which web page script files and components are treated as objects with exposed methods and properties. More particularly, at

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the time of web page development a common appearance is provided whether the associated script or components are ultimately run on the client or server. The client side or server side objects are dragged and dropped from one display portion to another with at least one of the objects being configurable to execute on one of a server and a client.

Representative claim 1 is reproduced as follows:

1. A user interface for providing a designer with an enhanced programming environment comprising:

a first display portion representing a page, the first display portion receiving dragged and dropped objects;

a second display portion representing a library of the objects for dragging and dropping the objects into the first display portion, at least one of said objects being configurable to execute on one of a server and a client; and

a third display portion for configuring at least one of a method or property of one of the objects after the one of the objects has been dragged and dropped into the first display portion.

The Examiner relies on the following prior art:

Laura Lemay (Lemay), Microsoft® FrontPage™ 98, Sams.net Publishing™ 120-24, 160-70, 525-35 (1997).

Claims 1, 3, 10, 11, and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lemay. Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemay.

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Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Brief (Paper No. 21) and Answer (Paper No. 22) for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the Examiner and the evidence of anticipation and obviousness relied upon by the Examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Brief along with the Examiner's rationale in support of the rejection and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the disclosure of Lemay fully meets the invention as recited in claims 1, 3, 10, 11, and 13. In addition, we are of the opinion that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the obviousness of the invention set forth in claim 2. Accordingly, we affirm.

Appellants nominally indicate (Brief, page 4) that the claims on appeal stand or fall together as a group. Consistent with this indication, with respect to claims 1, 3, 10, 11, 13 subject to the

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rejection under 35 U.S.C. § 102(b), Appellants' arguments are directed solely to features which are set forth in independent claim 1. Accordingly, we will select independent claim 1 as the representative claim for the claims subject to the rejection under 35 U.S.C. § 102(b), and claims 3, 10, 11, and 13 will stand or fall with claim 1. We will consider separately claim 2, subject to the rejection under 35 U.S.C. § 103(a), since separate arguments for patentability have been provided for this claim. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Brief have not been considered [see 37 CFR § 1.192(a)].

We consider first the Examiner's 35 U.S.C. § 102(b) rejection of claims 1, 3, 10, 11, and 13 based on Lemay. We note that anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed,

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468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

With respect to representative independent claim 1, the Examiner indicates (Answer, pages 3 and 4) how the various limitations are read on the disclosure of Lemay. In particular, the Examiner directs attention to pages 121-123 and 168-170 of Lemay along with the accompanying illustrations in Figures 8.3-8.6 and 9.15-9.17.

At the outset, we note that it is a basic tenet of patent law that claims are to be given their broadest reasonable interpretation consistent with the description in the specification. With this in mind, we have reviewed Appellants' specification for guidance as to the proper interpretation of the claim language and we find little enlightenment as to how to properly interpret the first, second, and third "display portion" language of representative claim 1. Further adding to this difficulty is the fact that Appellants' arguments in the Briefs do not refer to any specific portion of their specification or drawing

figures in support of their arguments which attempt to distinguish the claim language from the applied prior art.¹

Accordingly, in interpreting the language of representative claim 1, we will give the terminology "display portion" its ordinary and accepted meaning and, in doing so, find ourselves in agreement with the Examiner's analysis articulated at pages 3 and 4 of the Answer. We find no error in the Examiner's interpretation of Lemay which asserts that the top and bottom windows depicted in Lemay's Figures 8.3 and 8.4 and the scroll bar at the right hand side of Figure 8.6 correspond to the first, second, and third display portions as claimed. Although Appellants contend (Brief, page 5) that the web pages in Lemay are not configurable on one of a server and client as claimed, we fail to see why the creation of hyperlinks (Lemay's Figures 9.15-9.17) for the page objects dragged and dropped on to the navigation window would not meet the claimed limitation. In our view, as also alluded to by the Examiner (Answer, page 7), the hyperlinks in Lemay, which are clearly designed to function in an internet environment (Lemay, page 168), represent executable code which is configured to execute on "one of

¹ In the "Summary of the Invention" section of the Brief at pages 2-4, Appellants make reference to various passages from the specification. It is unclear, however, what relevance, if any, these passages have to the elements set forth in the claims on appeal.

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a server and a client.” We also find no convincing arguments from Appellants that would convince us of any error in the Examiner’s interpretation of Lemay’s scroll bar as corresponding to the claimed third display portion for configuring a property of one of the displayed objects since the scrolling of an object or portion into and out of a display area clearly alters the visual property of such an object. Again, Appellants have pointed to no specific portion of their disclosure that provides any guidance as to the interpretation of the term “property” so as to distinguish over the disclosure of Lemay.

In view of the above discussion, we reach the general conclusion that the language of representative claim 1 simply does not require the interpretation asserted by Appellants in the Brief, or by Appellants’ representative at the oral hearing on June 12, 2003. Accordingly, since the Examiner’s prima facie case of anticipation has not been overcome by any convincing arguments from Appellants, the Examiner’s 35 U.S.C. § 102(b) rejection of independent claim 1, as well as claims 3, 10, 11, and 13 which fall with claim 1, is sustained.²

² In the Answer, the Examiner has restated the grounds of rejection to include claim 13 in the group of claims rejected under 35 U.S.C. § 102(b) rather than 35 U.S.C. § 103(a). Appellants’ comments at page 11 of the Brief,
(continued...)

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Turning to a consideration of the Examiner's 35 U.S.C. § 103(a) rejection of dependent claim 2, we sustain this rejection as well. The language of claim 2 adds a "fourth display portion" to the previously recited first, second, and third display portions set forth in claim 1. We find the same difficulty in locating any correspondence in Appellants' disclosure that would provide any guidance as to the proper interpretation for the recited "fourth display portion," as we did in interpreting the previously discussed first, second, and third display portions. Accordingly, we simply find no error, and Appellants have provided no arguments to the contrary, in the Examiner's interpretation (Answer, page 6) of the illustration in Figure 10.1 and the accompanying description in Lemay, directed to a web server/client environment, as corresponding to the claimed "fourth display portion" for scripting objects for a server or client. It is our view, therefore, that all of the elements of claim 2 are in fact present in the disclosure of Lemay. A disclosure that anticipates under 35 U.S.C. § 102 also renders the claim unpatentable under 35 U.S.C. § 103, for "anticipation is the epitome of obviousness." Jones v. Hardy,

²(...continued)

however, with regard to claim 13 reiterate the arguments made with respect to claim 1, i.e. the alleged lack of server/client relationships in Lemay, an argument which we found unpersuasive as discussed supra.

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727 F.2d 1524, 1529, 220 USPQ 1021, 1025 (Fed. Cir. 1984). See also In re Fracalossi, 681 F.2d 792, 794, 215 USPQ 569, 571 (CCPA 1982); In re Pearson, 494 F.2d 1399, 1402, 181 USPQ 641, 644 (CCPA 1974).

In summary, we have sustained the Examiner's 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) rejections of all of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-3, 10, 11, and 13 is affirmed.

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

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AFFIRMED

JOSEPH F. RUGGIERO)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
ANITA PELLMAN GROSS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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HOWARD B. BLANKENSHIP)	
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