

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte KINGO WAKIMOTO

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Appeal No. 1996-3287  
Application 08/226,472<sup>1</sup>

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HEARD: October 21, 1999

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Before JERRY SMITH, FLEMING, and BARRY, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-6, which constitute all the claims in the application.

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<sup>1</sup> Application for patent filed April 11, 1994.

The disclosed invention pertains to a display controller for converting information presented for display on one display device for presentation on a display device having greater resolution.

Representative claim 1 is reproduced as follows:

1. A display controller for executing control for making a display unit display information in response to data being stored in a display memory, said display controller comprising:

address generation means for generating an address for addressing said display memory; and

data transfer means for transferring data being read from said display memory in accordance with said address from said address generation means to said display unit,

said address generation means comprising:

means for generating a reference signal having one cycle corresponding to one horizontal scanning period of said display unit,

data skipping means for inactivating said reference signal once every n horizontal scanning lines thereby data-skipping said reference signal,

data skipping timing change means for displacing data skipping timing by said data skipping means between odd and even frames by one horizontal scanning line, and

address formation means for forming said address every horizontal scanning line by changing a head address in response to said reference signal being data-skipped by said data skipping means at timing being changed by said data skipping timing change means.

The examiner relies on the following reference:

Nomura et al. (Nomura)

4,866,520

Sep. 12, 1989

Claims 1-6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the disclosure of

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Nomura.

Rather than repeat the arguments of appellant or the examiner, we make reference to the briefs and the answer for the respective details thereof.

#### OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the briefs 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 Nomura does not fully meet the invention as set forth in claims 1-6. Accordingly, we reverse.

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, 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 independent claims 1 and 4, the examiner indicates how he reads these claims on the disclosure of Nomura [answer, pages 2-3]. Appellant argues that the examiner has not properly identified the correspondence between the elements of the claims and the elements of Nomura [brief, page 5]. Appellant also argues that the elements identified by the examiner do not perform the functions recited for the claimed data skipping means, data skipping timing change means, and the address formation means [*id.*, page 7]. The examiner responds that the elements noted in the rejection fully meet the claimed invention [answer, pages 3-4]. Based on the record before us, we agree with appellant that the claimed invention is not fully met by the disclosure of Nomura.

There is no question that the disclosure of Nomura and the claimed invention are both related to the problem of converting display signals for presentation on higher resolution video monitors. The techniques disclosed by Nomura, however, are clearly different from the disclosed invention. In other words, the lines of data added in Nomura using interpolation of values would not be the same as the lines of data added in the claimed invention using the data skipping timing change means such as shown in appellant's Figures 5 and 6.

Although the examiner has nominally indicated that Nomura has a reference signal means, a data skipping means, a data skipping timing means, and an address formation means, the

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examiner has not discussed the operation of Nomura to demonstrate that the claimed functions associated with these means are in fact performed by the circuitry of Nomura. In other words, a data skipping means in Nomura, for example, does not anticipate the claimed data skipping means unless it performs the function recited in the claim for that means.

We have considered the operation of Nomura and cannot specifically find that the claimed functions performed by the data skipping means, data skipping timing change means, and the address formation means are present in the Nomura disclosure. As we noted above, although the claimed invention is similar to the Nomura device, the position that Nomura performs the functions recited in claims 1 and 4 is based on pure speculation. Therefore, for us to affirm the rejection, we would have to use needless speculation, which we decline to do. Deficiencies in the factual basis cannot be supplied by resorting to speculation or unsupported generalities. In re Freed, 425 F.2d 785, 165 USPQ 570 (CCPA 1970); In re Warner, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967).

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In summary, we are not convinced that the functions performed by the means of independent claims 1 and 4 are also performed by the structure disclosed by Nomura. Therefore, we do not sustain the anticipation rejection of these claims or of claims 2, 3, 5 and 6 which depend therefrom. Accordingly, the decision of the examiner rejecting claims 1-6 is reversed.

REVERSED

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| JERRY SMITH                 | ) |                 |
| Administrative Patent Judge | ) |                 |
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| MICHAEL R. FLEMING          | ) | BOARD OF PATENT |
| Administrative Patent Judge | ) | APPEALS AND     |
|                             | ) | INTERFERENCES   |
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| LANCE LEONARD BARRY         | ) |                 |
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