

**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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** ROSS E. TYLER

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Appeal No. 1997-2862  
Application 08/069,052<sup>1</sup>

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ON BRIEF

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Before BARRETT, FLEMING and DIXON, **Administrative Patent Judges**.

FLEMING, **Administrative Patent Judge**.

**DECISION ON APPEAL**

This is a decision on appeal from the final rejection of claims 11 and 13-20, all the claims pending in the present application. Claims 1-10 and 12 have been canceled.

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<sup>1</sup> Application for patent filed May 24, 1993.

The present invention relates to a controller for the ARC/INFO geographic information system (GIS) which enables command line (TTY) control using a keyboard and graphic user interface (GUI) control using a mouse or keyboard without manually switching by the user.

Independent claim 11 is reproduced as follows:

11. A method for enabling command line (TTY) and graphic user interface (GUI) control of a main program in a computer which schedules multiple threads of operations and in which a TTY operation at the top of a first thread supersedes GUI operations at the top of a second thread, said main program inserting a TTY control operation at the top of said first thread, comprising the steps of:

(a) inserting a dummy GUI operation on top of said TTY control operation in said first thread that suspends said TTY control operation and causes said main program to be controlled by said GUI operation on top of said second thread;

(b) displaying a dummy window as an artifact of said dummy GUI operation; and

(c) in response to a TTY control command, removing said dummy GUI operation from said first thread and deleting said dummy window to cause said main program to be controlled by said TTY control operation and thereby avoid the need for a user to manually dismiss the dummy window, feeding said TTY control command to said main program, scheduling said first thread, and inserting said dummy GUI operation on top of said TTY control operation in said first thread to cause said main program to be subsequently controlled by said GUI control operation in said second thread.

The Examiner relies on the following reference:

Mauney et al. (Mauney)

5,214,757

May 25, 1993

(filed September 29, 1992)

Claims 11 and 13-20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Mauney in view of Appellant's admitted prior art.

Rather than reiterate the arguments of Appellant and the Examiner, reference is made to the briefs<sup>2</sup> and answers<sup>3</sup> for the respective details thereof.

### OPINION

We will not sustain the rejection of claims 11 and 13-20 under 35 U.S.C. § 103.

The Examiner has failed to set forth a *prima facie* case. It is the burden of the Examiner to establish why one having ordinary skill in the art would have been led to the claimed invention by the express teachings or suggestions found in the prior art, or by implications contained in such teachings or suggestions. *In re Sernaker*, 702 F.2d 989, 995, 217 USPQ 1, 6 (Fed. Cir. 1983). We note that our reviewing court states that "when determining obviousness, the claimed invention should be considered as a whole; there is no legally recognizable 'heart' of the invention." *Para-Ordnance Mfg. v. SGS Importers Int'l, Inc.*, 73 F.3d 1085, 1087, 37 USPQ2d 1237, 1239 (Fed. Cir. 1995), *cert. denied*, 519 U.S. 822 (1996) *citing W. L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1548, 220 USPQ 303, 309 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

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<sup>2</sup> Appellant filed an appeal brief on February 5, 1996. Appellant filed a reply brief on October 1, 1996. On December 10, 1996, the Examiner responded to the reply brief with a supplemental examiner's answer thereby entering the reply brief into the record. On January 14, 1997, Appellant filed a supplemental reply brief. In a letter of communication mailed on February 28, 1997, the Examiner stated that the supplemental reply brief has been entered and considered but no further response by the Examiner is deemed necessary.

<sup>3</sup> On July 30, 1996, the Examiner mailed an examiner's answer. On December 10, 1996 the Examiner mailed a supplemental examiner's answer.

On page 6 of the brief, Appellant argues that independent claims 11, 15 and 19 require that a dummy GUI operation be inserted on top of the TTY control operation in the first thread to suspend TTY control so that the main program is controlled by the GUI operation. Appellant argues that this limitation is not taught or suggested by Mauney. Appellant points out that Mauney teaches that the data is converted by the emulator into TTY data and passed to the ARC/INFO program which is fixed in the TTY mode to receive data at its standard input.

On page 12 of the answer, The Examiner points out that Mauney can be incorporated in a single computer using a multi-tasking operating system which requires switching between tasks. The Examiner points us to column 4, lines 63-65, for support of this statement. The Examiner argues that the multi-tasking operating system would allow switching so that the system may read another thread. Appellant responds to this argument on page 4 of the reply brief that Mauney is merely teaching that by using a multi-tasking operating system, one would be able to simulate the actions of the two separate computers and thus maintain all the capabilities and limitations of the system.

In response, the Examiner filed a supplemental Examiner's answer stating that Mauney's teaching of multi-tasking operations to simulate the actions of two or more separate computers along with the prior art that shows multiple threads which sequence TTY or GUI operations would lead those skilled in the art to obtain a computer to perform multiple tasks that emulate TTY or GUI computer operations. In response, Appellant filed a supplemental reply brief and argues that the Examiner is

using improper hindsight reasoning and that one of ordinary skill in the art would have to disregard the teachings of Mauney as a whole, including fixing the standard input of the ARC/INFO program to respond to only TTY data and using a digital emulator to convert the GUI and TTY data into TTY only data stream that is connected to a standard input in favor of Appellant's controller. Appellant further points out that figure 2 of Mauney teaches that step 46 uses a digital emulator to convert both the TTY and GUI data into a TTY only data stream which is then sent to the fixed standard input of the ARC/INFO program. Appellant argues that this avoids the problem of manually switching the ARC/INFO program standard input but destroys the precedence of the TTY and GUI operations. Appellant argues that the Appellant's controller makes the ARC/INFO program directly responsive to both TTY and GUI data and thus maintains the precedence of the TTY and GUI operations.

Upon our careful review of Mauney, we find that Mauney teaches in column 4, lines 25-61, that figure 1 shows an automated mapping system 10. In particular, Mauney teaches that a GPS receiver 12 receives radio signals from positioning satellites and derives from the signal time position and operating condition information. The information from the GPS receiver 12 is sent to a GPS computer 14 through a GPS communication link 16. The GPS computer 14 processes the positional information received from the GPS receiver 12 and sends the position information to a second computer GIS computer 22. The GPS computer 14 communicates with the GIS computer 22 in a manner that emulates a digitizing tablet. In this way, information can be entered into the GIS database without

manual intervention being required. In column 5, line 4 through column 6, line 16, Maoney teaches that figure 2 shows a flow chart of a GPS capture program 30 executing on the GPS computer 14. In particular, Maoney discloses that step 46 allows the GPS data to be converted and sent to the GIS database by emulating a digitizer. Maoney also discloses in column 4, line 62 through column 5, line 3, an alternate embodiment in which both the GPS capture program and the GIS database program could be run on a single computer using a multi-tasking operating system. We find that the Maoney teaching of this alternate embodiment would only suggest to those skilled in the art that the GIS database program which is run on computer 22 shown in figure 1 and the GPS capture program which is run on GPS computer 14 may be run on a single computer using multi-tasking techniques. We fail to find that the alternate embodiment would lead those skilled in the art to modify either the GIS database program or the GPS capture program.

From the Maoney teaching, we fail to find that Maoney teaches or suggests to those skilled in the art that a dummy GUI operation be inserted on the top of the TTY control operation in a first thread to suspend TTY control so that the main program is controlled by the GUI operation as claimed in Appellant's claims 11 and 13-20.

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We are not inclined to dispense with proof by evidence when the proposition at issue is not supported by a teaching in a prior art reference or shown to be common knowledge of unquestionable demonstration. Our reviewing court requires this evidence in order to establish a *prima facie* case. *In re Piasecki*, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-88 (Fed. Cir. 1984); *In re Knapp-Monarch Co.*, 296 F.2d 230, 232, 132 USPQ 6, 8 (CCPA 1961); *In re Cofer*, 354 F.2d 664, 668, 148 USPQ 268, 271-72 (CCPA 1966).

In view of the foregoing, we have not sustained the rejection of claims 11 and 13-20 under 35 U.S.C. § 103. Accordingly, the Examiner's decision is reversed.

**REVERSED**

LEE E. BARRETT )  
Administrative Patent Judge )  
)  
)  
) BOARD OF PATENT  
MICHAEL R. FLEMING )  
Administrative Patent Judge ) APPEALS AND  
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