



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,778	11/26/2003	Henry DaCosta	IMM174	4196
34300	7590	12/14/2011	EXAMINER	
PATENT DEPARTMENT (51851)			LIANG, REGINA	
KILPATRICK TOWNSEND & STOCKTON LLP			ART UNIT	PAPER NUMBER
1001 WEST FOURTH STREET			2629	
WINSTON-SALEM, NC 27101			MAIL DATE	DELIVERY MODE
			12/14/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* HENRY DACOSTA, CHRISTOPHE RAMSTEIN,  
and DANNY GRANT

---

Appeal 2009-015440  
Application 10/723,778  
Technology Center 2600

---

Before ERIC S. FRAHM, KALYAN K. DESHPANDE, and JASON V.  
MORGAN, *Administrative Patent Judges*.

DESHPANDE, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF CASE<sup>1</sup>

The Appellants seek review under 35 U.S.C. § 134(a) of a final rejection of claims 1-5, 7-13, 16-20, 21-23, and 26-32, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

We REVERSE.

The Appellants invented the adaptive interpretation of input received from a touch-sensitive input device. Specification ¶ 0002.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added]:

1. A method comprising:
  - [1] receiving a pressure signal indicating a pressure from an input device;
  - [2] determining a change in pressure based at least in part on the pressure signal;
  - [3] determining a velocity associated with the pressure signal; and
  - [4] outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed.

## REFERENCES

The Examiner relies on the following prior art:

Gillespie	US 5,880,411	Mar. 9, 1999
Fujita	US 6,118,435	Sep. 12, 2000

---

<sup>1</sup> Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed Apr. 23, 2009) and Reply Brief ("Reply Br.," filed Aug. 24, 2009), and the Examiner's Answer ("Ans.," mailed June 24, 2009), and Final Rejection ("Final Rej.," mailed Sep. 24, 2008).

Appeal 2009-015440  
Application 10/723,778

Astala	US 6,590,568 B1	Jul. 8, 2003
Geaghan	US 2003/0063073 A1	Apr. 3, 2003

## REJECTIONS<sup>2</sup>

Claims 1-5, 7-13, 16-19, 21-23, and 26-32 stand rejected under 35 U.S.C §112 first paragraph as failing to comply with the written description requirement.

Claims 1-3, 5, 7-13, 16, 17, 19, 21-23, 26, 27, and 29-32 stand rejected under 35 U.S.C §103(a) as being unpatentable over Gillespie and Astala.

Claim 4 stands rejected under 35 U.S.C §103(a) as being unpatentable over Gillespie, Astala, and Geaghan.

Claims 18 and 28 stand rejected under 35 U.S.C §103(a) as being unpatentable over Gillespie, Astala, and Fujita.

## ISSUES

The issue of whether the Examiner erred in rejecting claims 1-5, 7-13, 16-20, 21-23, and 26-32 turns on whether the Appellants conveyed to a person with ordinary skill in the art that the Appellants were in possession of the claimed invention and whether the cited prior art describes limitation [4] of claim 1 and as recited in claim 19.

---

<sup>2</sup> We have decided the appeal before us. However, should there be further prosecution of these claims, the Examiner's attention is directed to recently issued guidance from the Director and our reviewing court, as follows below.

Specifically, should there be further prosecution with respect to claims 19-28, 30, and 32, the Examiner's attention is directed to *In re Nuijten*, 500 F.3d 1346 (Fed. Cir. 2007), and *Subject Matter Eligibility of Computer Readable Media*, 1351 Off. Gaz. Pat. Office 212 (Feb. 23, 2010).

## ANALYSIS

*Claims 1-5, 7-13, 16-19, 21-23, and 26-32 rejected under 35 U.S.C §112 first paragraph as failing to comply with the written description requirement*

The Examiner found that the Specification describes that a threshold value is a constant and therefore fails to support the feature “a change in pressure threshold” that is recited in independent claims 1 and 19. Ans. 4. The Appellants contend that the Examiner has misconstrued independent claims 1 and 19 in that these claims require that the change in pressure threshold is a constant value that the change in pressure is compared to. App. Br. 5 and Reply Br. 2.

We agree with the Appellants. The claims recite “the change in pressure is greater than a change in pressure threshold” and it is clear from this language that the change in pressure is measured against a constant threshold value. Although the claims recite a “change in pressure” threshold value, the label “change in pressure” does not change the fact that the threshold value is constant. Moreover, the Specification discloses that “the change in pseudo pressure is compared to a [change in pressure] threshold value 322.” Specification ¶ 0046 and Fig.3. As such, we find that the Appellants have conveyed to those skilled in the art that the Appellants were in possession of the claimed invention.

*Claims 1-3, 5, 7-13, 16, 17, 19, 21-23, 26, 27, and 29-32 rejected under 35 U.S.C §103(a) as being unpatentable over Gillespie and Astala*

The Appellants contend that the combination of Gillespie and Astala fails to teach or suggest “outputting a press signal if the velocity is less than

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.