



UNIVERSITY OF  
MARYLAND  
SCHOOL OF LAW

**PATENT LAW  
UPDATE**

**Xerox Corp.**  
v.  
**3Com Corp.**

No. 00-1464  
Federal Circuit  
Oct. 5, 2001

*“There is presumed to be a difference in meaning and scope when different words or phrases are used in separate claims. To the extent that the absence of such difference in meaning and scope would make a claim superfluous, the doctrine of claim differentiation states the presumption that the difference between claims is significant.”*

On October 5, 2001, the Federal Circuit reversed and remanded the district court’s summary judgment of non-infringement of U.S. Patent No. 5,596,656 by 3Com’s PalmPilot hand-held computers using Graffiti software. The patented technology related to a system of single stroke symbols, called “unistrokes,” for computer recognition of handwritten text. The Federal Circuit noted:

We . . . affirm the court’s claim construction that (1) the definition of “unistrokes” itself does not require an entire alphabet, (2) the term “unistroke symbols” requires sufficient graphical separation that the computer can definitively recognize a symbol immediately upon delimitation or pen lift, and (3) “spatial independence” requires the accused device to be capable of properly distinguishing and recognizing symbols without reference to where a previous symbol was written on the writing surface.

The district court applied the properly-construed claims of the ‘656 patent to 3Com’s Graffiti software and concluded on summary judgment that the accused device does not infringe the disputed claims because Graffiti’s symbols are not sufficiently “graphically separated” from each other to be “unistroke symbols,” it does not allow for “definitive recognition” of symbols immediately upon pen lift by the user, and it does not employ “spatial independence.” Because the court was in error on each of these determinations, we reverse the summary judgment of non-infringement in favor of 3Com.

First, the district court erred in declaring that the “Graffiti symbols are not sufficiently ‘graphically separated’ from each other to be ‘unistroke symbols.’” The court looked only to the geometric overlap between symbols to determine the degree of graphic separation. By looking only to the geometry of the symbol and ignoring the direction the pen must travel to create the symbol, the court ignored an integral aspect embedded in multiple claims of the ‘656 patent—namely, that each unistroke symbol has “geometric shape and direction.” . . .

Second, the trial court erred in declaring that “Graffiti does not allow for ‘definitive recognition’ of symbols immediately upon pen lift by the user.” . . . All Graffiti symbols are created with one stroke (i.e., immediately upon pen lift). With respect to accented vowels, the first stroke creates the vowel and the second creates the accent. This constitutes a multi-stroke, multi-symbol character. None of the Graffiti symbols are altered by subsequent strokes; only the generated character is altered. . . .

The third error was the court’s declaration that “Graffiti does not employ ‘spatial independence.’” . . . The location of the character on the writing surface is not the issue; the spatial independence limitation is met if the computer recognizes the symbol without reference to where a previous symbol was written. It is not where the current symbol is written on the writing surface that determines whether the spatial independence limitation is met; it is whether the current symbol has to be written in a particular location relative to the previous symbol in order to be recognized.