

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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROGER PHILIP HOGGARTH,
RICHARD IAN KNOX,
ANDREW LIAM MASSEY, and
COLIN DAVID MCCALL

Appeal No. 2000-1755
Application No. 08/828,014

ON BRIEF

Before LALL, DIXON, and LEVY, **Administrative Patent Judges**.
DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-14, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellants' invention relates to an initial program load in data processing network. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A method of booting a client data processing system attached to a control data processing system in a data processing network comprising:

at power-on or re-boot of a client system, issuing an initial program load request from the client system onto the network; and

responsive to the receipt of the initial program load request at a control system, transferring bootstrap code to the client system to cause the client system to load operating system code from a mass storage device of the client system, the operating system code being present on the mass storage device at the time when the initial program load request was issued from the client system onto the network.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Kannan et al. (Kannan)	5,519,870	May 21, 1996
Kishimoto	5,687,073	Nov. 11, 1997 (Filed Feb. 17, 1995)

Claims 1-14 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kishimoto in view of Kannan.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 18, mailed Aug. 28, 2000) for the examiner's reasoning in support of

Appeal No. 2000-1755
Application No. 08/828,014

the rejections, and to appellants' brief (Paper No. 17, filed Jan. 19, 2000) for appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Appellants argue that the system of Kishimoto does not teach or fairly suggest the "transferring bootstrap code to the client system to cause the client system to load operating system code from a mass storage device of the client system, the operating system code being present on the mass storage device at the time when the initial program load request was issued from the client system onto the network" as recited in the language of independent claim 1. (See brief at pages 3-4.) We agree with appellants. Appellants argue that the teachings of Kannan with respect to having a dual boot system entirely local without a client-network relationship would not disclose or fairly suggest the above claimed functionality. We agree with appellants.

At page 10 of the answer, the examiner maintains that:

CPRd (client) must have a storage medium in order to receive the IPL program transferred from the MPR (see fig 1 element FM). Furthermore, a computer system needs an operating system in order to process instructions such as allocation and usage of hardware resources. For this reason the operating system is already installed in the client systems.

In response to the applicant's arguments for claims 1 and 12 that Kishimoto fails to teach that ". . . operating system code being present on the mass storage device at the time when the IPL request was issued from the client system onto the network" [, note the following]. As discussed above, this feature is inherent because an operating system is essential to a computer system. A computer system (client) needs an operating system to control allocations and usage of hardware resources such as memory, central processing unit, peripheral devices etc.

In response to the applicant's argument for combining Kannan's teaching to Kishimoto's system because Kannan's teaches dual operating systems (Windows, OS/2 and Penpoint OS) in a computer system and allowed user(s) to select an operating system as he/she desired [, note the following]. Kannan's teaching is equivalent to the present invention, whereas the present invention allows a user to select to run an operating system either from a server or from the local hard file. Therefore, the teaching of Kannan would have been obvious to a person of a [sic] ordinary skill in the art at the time the invention was made to manifestly employ the operating system of Kannan into Kishimoto's system because the operating system of Kannan is designed to support the system to be compatible with unexpected peripheral connection and disconnection cycles during the operation (see col 2 lines 1-10 of Kannan).

The examiner maintains that the client must have a storage medium and the computer system needs an operating system to process instructions. Therefore, the operating system is already present in the system of Kishimoto and that this feature is "inherent" because the operating system is essential to the computer system. We disagree with the examiner's conclusion. Kishimoto clearly indicated that the operating system is transferred from the MPR to the CPRd. Kishimoto states at col. 2 that:

(1) The call processor CPRd issues an IPL request to the management processor MPR.

(2) Upon receiving the IPL request, the management processor MPR transfers an IPL data reception program (a boot program) to the call

processor CPRd and, thereafter, sends IPL programs and data from the external devices FM, DK, and MT to the call processor CPRd.

(3) The call processor CPRd runs the boot program to receive the IPL data from the management processor MPR and stores the received data in the external device FM.

(4) During the IPL process, the management processor MPR must continue to communicate with the call processors CPRa to CPRc.

Since the boot program is transferred, it cannot be "inherently" stored in the memory in the client system as the examiner maintains. Therefore, the examiner has not provided a convincing line of reasoning why it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Kishimoto, which teaches the transfer of a nonresident operating system, with the teachings of Kannan, which teaches user selection in the dual boot system in the non-networked/resident system.

Additionally, the examiner maintains that "Kannan's teaching is equivalent to the present invention, whereas the present invention allows a user to select to run an operating system either from a server or from the local hard file." (See brief at page 10.) (Emphasis added.) From our understanding of the claimed invention, it is not the user that selects the operating system, but the control system on the network that selects and transfers the bootstrap code to cause the client to load the operating system code stored on the local mass storage device. Since we find that the examiner has not provided a convincing line of reasoning for combining the teachings of

Appeal No. 2000-1755
Application No. 08/828,014

Kishimoto and Kannan, we find that the examiner has not established a *prima facie* case of obviousness of the claimed invention, and we will not sustain the rejection of independent claims 1, 4, 12, 13, and 14 and their dependent claims.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-14 under 35 U.S.C. § 103 is reversed.

REVERSED

PARSHOTAM S. LALL)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
STUART S. LEVY)	
Administrative Patent Judge)	

JD/RWK

Appeal No. 2000-1755
Application No. 08/828,014

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709