

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. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** RICHARD W. FINCH AND RODERICK W. STONE

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Appeal No. 2001-1095  
Application No. 08/622,806

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ON BRIEF

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Before KRASS, DIXON, and BLANKENSHIP, **Administrative Patent Judges**.  
DIXON, **Administrative Patent Judge**.

**DECISION ON APPEAL**

This is a decision on appeal from the examiner's final rejection of claims 1-26, which are all the claims pending in this appeal.

We REVERSE.

## **BACKGROUND**

Appellants' invention relates to a method and apparatus for communicating between independent software modules. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A method of communicating among independent software modules comprising:

loading a parent process;

generating, via a generating operation of the parent process, a child process;

creating, via a creating operation of the parent process, a first object that describes a first function that is accessed by the child process, the first object forming a communication path between the parent process and the child process;

loading, via a loading operation of the parent process, the child process into a storage;

passing a first pointer designating the first object from the parent process to the child process;

creating, via a creating operation of the child process, a second object that describes a second function that is accessed by the parent process, the second object completing the communication path between the parent process and the child process; and

passing, via a call function, a second pointer designating the second object from the child process to the parent process.

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

Cowsar et al. (Cowsar)	5,615,400	Mar. 25, 1997 (Filed Jun. 30, 1993)
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Ellis et al. (Ellis), The Annotated C++ Reference Manual 196-306, AT&T Bell Telephone Laboratories, Inc. (Addison-Wesley Publishing Co., 1990)

Claims 1-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cowsar in view of Ellis.<sup>1</sup>

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 Nov. 8, 1999) for the examiner's reasoning in support of the rejections, and to appellants' brief (Paper No. 17, filed Aug. 23, 1999) and to appellants' reply brief (Paper No. 19, filed Jan. 12, 2000) for appellants' arguments thereagainst.

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<sup>1</sup> We note that the examiner has not made any comment to the language used in dependent claims 20-26 with respect to a "computable readable code" and what that entails and whether this was intended to be a computer readable code.

## OPINION

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

To reject claims in an application under section 103, an examiner must show an un rebutted **prima facie** case of obviousness. **See In re Deuel**, 51 F.3d 1552, 1557, 34 U.S.P.Q.2d 1210, 1214 (Fed. Cir. 1995). In the absence of a proper **prima facie** case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. **See In re Oetiker**, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992). On appeal to the Board, an applicant can overcome a rejection by showing insufficient evidence of **prima facie** obviousness or by rebutting the **prima facie** case with evidence of secondary indicia of nonobviousness. **See id.**

**In re Rouffet**, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1455 (Fed. Cir. 1998). Here, we agree with appellants and find that appellant have shown error in the examiner's rejection. Therefore, we find that appellants have overcome the rejection by showing insufficient evidence of **prima facie** obviousness.

Appellants argue that Cowsar teaches dynamic linking of a client application and function libraries at run time, but does not relate to a technique for communicating among independent linked software modules. (See brief at page 4.) We agree with appellants. Appellants' specification identifies that a dynamic linked library (DLL) does not allow for bidirectional communication since the DLL only responds to calls from the

calling application. (Specification at page 3 and brief at page 5.) Appellants argue that Cowsar fails to teach the various creating operations which access a functions by both the child and by the parent process to form a communication path between the parent and the child process. Since both the parent and the child access function to form and complete a communication path, we find that the language of independent claim 1 adequately supports appellants' argument regarding bidirectional communication. (See brief at page 6 and reply at pages 3-5.)

Appellants argue that the examiner has maintained that Cowsar teaches an object for forming a communication path (pointers and linked list) between a parent and child process, but appellants find no support in the cited figures and sections of Cowsar. (See brief at page 6.) We agree with appellants. While Cowsar appears to designate relationships and use pointers, we find no creation of objects by first and second processes to form and complete a communication path between the parent and child processes.

The examiner maintains that "Cowsar in combination with Ellis" teach various functions (see brief at pages 8-9) and that the hierarchy is created of object-oriented objects and that forward and backward traversal of the hierarchical structure creates a path between the parent object, child object and virtual function tables. While the path may be designated, we do not find that this path would necessarily or obviously be a bidirectional communication path between the two processes as recited in the

independent claims. Appellants argue that appellants do not claim a system that achieves a bidirectional communication path by passively looking backwards in a hierarchy, but instead claim a system that actively creates an object to perform the communication. (See reply brief at page 3.) We agree with appellants and distinguish the creation of objects for forming a communication path from the use of the hierarchy to look backwards and determine relationships.

Appellants argue that the examiner has not addressed the language of the independent claims whereas the examiner has addressed the passive usage of Cowsar and Ellis of a virtual table and passing pointers, and the language of the independent claims requires the first and second objects to form and complete a communication pathway between the parent and child processes. We agree with appellants that the examiner has not established a *prima facie* case of obviousness of the claimed invention. Therefore, we will not sustain the rejection of independent claim 1 and its dependent claims. Since independent claims 9 and 13 contain similar limitations, we cannot sustain the rejection thereof and their dependent claims.

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**CONCLUSION**

To summarize, the decision of the examiner to reject claims 1-26 under 35 U.S.C. § 103(a) is reversed.

**REVERSED**

ERROL A. KRASS	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
JOSEPH L. DIXON	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
HOWARD B. BLANKENSHIP	)	
Administrative Patent Judge	)	

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