

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 47

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 F. ANNICCHIARICO,  
ROBERT T. CHESLER  
AND ALAN Q. JAMISON

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Appeal No. 1995-4702  
Application 08/071,049

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HEARD: July 10, 2000

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Before THOMAS, KRASS and BLANKENSHIP, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 15 and 30, the only claims pending in the application.

Representative claim 15 is reproduced below:

15. A server extension for use in a computer system having a host computer for executing application programs, screen means for displaying text or graphic figures, at least one application program executing on said host computer for generating output protocol requests, a controlling application program executing on said host computer for generating inputs and extension protocol requests, a server comprising a portion of memory having addressable locations and a plurality of server routines each having an address, said server having performance characteristics that are variable over a range, said server receiving said inputs, transferring said inputs to said application program, receiving said output protocol requests and transferring said output protocol requests to said screen means, said server extension comprising:

an extension portion of memory directly connected to said controlling application program for creating a record of said performance characteristics for use in evaluating whether said performance characteristics are within an acceptable range by monitoring one of said server and said application program, said extension portion formatting display of said text or graphic figures on said screen means;

said extension portion of memory having specific memory locations for data storing that correspond to specific memory locations in said server portion of memory;

a plurality of extension routines each having an address, each of said extension routines corresponding to one of said server routines;

said addresses for said plurality of server routines being stored in said extension portion of memory and said addresses for said plurality of extension routines being stored in said server portion of memory;

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said inputs and said output protocol requests each being directed to one of said server routines;

said extension receiving said extension protocol requests from said controlling application program for configuring and controlling said extension; and

said extension intercepting said inputs and said output protocol requests from said controlling application program and redirecting said inputs and said output protocol requests to one of said extension routines, said one of said extension routines corresponding structurally to the server routine to which said inputs and output protocol requests are directed, said extension reformatting said inputs and said output protocol requests for monitoring said server, for monitoring the performance of said application program or for formatting display of said text or graphic figures on said screen.

The following references are relied upon by the examiner:

IBM Technical Disclosure Bulletin, vol. 28, No. 12 pp. 5573-74 (May 1986)(hereinafter IBM).

D.D. Keefe (Keefe), "Hierarchical control programs for systems evaluation", 2 IBM Systems Journal 123-133 (1968).

Claims 15 and 30 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Keefe. These claims also stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon IBM alone.

Rather than repeat the positions of the appellants and the examiner, reference is made to the briefs and the answer for the respective details thereof.

OPINION

Generally, for the reasons set forth by the appellants in the brief and reply brief, we reverse the rejections of claims 15 and 30 on appeal under 35 U.S.C. §§ 102 and 103.

As the briefs and the answers reflect, the focus of the issue presented on appeal is the "correspondence" features recited in each independent claim on appeal. This correspondence is reflected in claim 15 by the recitation of:

    said extension portion of memory having specific memory locations for data storing that correspond to specific memory locations in said server portion of memory;

    a plurality of extension routines each having an address, each of said extension routines corresponding to one of said server routines.

Claim 15 goes on to recite features where the extension intercepts and redirects input and output protocol requests from the controlling application program and requests to one of the extension routines where it is stated "said one of said extension routines corresponding structurally to the server routine to which said inputs and outputs protocol requests are directed." Similar features are recited in a slightly different manner in method independent claim 30 on appeal.

This language corresponds to the showing in Figure 2 of the data structures of the server extension, as well as the data structures of the X server, which the extension has access to. These features are also discussed at page 4 in the summary of the invention of the specification as filed as well as the text thereof beginning at page 8.

We agree with the appellants' view that Keefe does not disclose the claimed extension portion of memory corresponding to the server portion of memory and the extension routines that structurally correspond to the server routines to which the inputs and output protocol requests are directed. The Keefe system utilizes the monitor control program and its associated test analysis program in an hierarchical environment for purposes of performing systems evaluation or monitoring. Our study of Keefe leads us to agree with the appellants' views expressed at top of page 9 of the principal brief on appeal:

"Keefe, however, fails to disclose any of the structure of the monitor control program, the associated test analysis program or other elements of the Keefe system. Accordingly, Keefe does not disclose any correspondences between the server extension and server as required by the claimed

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invention."

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Keefe simply falls short of disclosing, for example, the data structures of the memory and routines depicted in appellants' disclosed Figure 2 which is the basis for the claimed correspondence and structure correspondence features.

We are, therefore, not in agreement with the examiner's views expressed initially at page 4 of the answer that the noted claim language is as broad as the examiner appears to view it. The examiner uses an ordinary dictionary definition of the word "correspond" to indicate a close comparison, a matching or a certain degree of equivalence or parallelness. The examiner's view is that "any particular relationship between the extension and server routines would be a 'correspondence' to the extent that the claim language defines 'corresponding.'" This view goes much far than the dictionary definition of "correspond" anyway. We also find that Keefe's discussions of various type of linkages does not necessarily teach the features of correspondence recited in the claims on appeal as we noted earlier. A mere programming linkage is not necessarily equivalent to a structural correspondence as required by the claims on appeal. The mere fact that Keefe's

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monitor control program may call upon a test

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analysis program to monitor various operations associated with job programs does not necessarily place the artisan in possession of the correspondence features of the claimed invention on appeal. These relationships between the monitor control program, the test analysis program and the job programs in Keefe are not the type of specified "correspondence" of the claims on appeal.

We therefore reverse the rejection of claims 15 and 30 on appeal under 35 U.S.C. § 102 as being anticipated by Keefe.

Turning lastly to the rejection of claims 15 and 30 under 35 U.S.C. § 103 as being obvious over IBM alone, we also reverse this rejection generally for analogous reasons set forth with respect to our reversal of these claims based upon the teachings of Keefe. Again, we do not find in IBM an extension portion of memory corresponding to a server portion of memory and an extension routine structurally corresponding to each server routine as required by claims 15 and 30 on appeal. The first two paragraphs at page 5573 of IBM appear to justify appellants' view at page 16 of the principal brief on appeal that IBM records monitoring information of CPU-wide

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network activity rather than

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data flows with respect to any particular application program running. Architecturally then, the claimed invention and IBM function at entirely different levels in the host system. As expressed in the latter pages in the answer, we also do not agree with the continued examiner's views that any relationship between a kind of server and extension satisfies what the examiner views as broad claim language. The examiner has not shown to our satisfaction that IBM teaches or suggests within 35 U.S.C. § 103 the claimed correspondence and structural correspondence, and has provided no persuasive line of reasoning to convince us that the artisan would have found it obvious to have done so based upon these teachings and suggestions in IBM. Therefore, we reverse the rejection of claims 15 and 30 under 35 U.S.C. § 103.

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Since we have reversed the rejection of claims 15 and 30 under 35 U.S.C. §§ 102 and 103, the decision of the examiner rejecting these claims is reversed.

REVERSED

JAMES D. THOMAS )  
Administrative Patent Judge )  
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) BOARD OF PATENT  
ERROL A. KRASS ) APPEALS  
Administrative Patent Judge ) AND  
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INTERFERENCES

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HOWARD B. BLANKENSHIP )  
Administrative Patent Judge )

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