

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(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DAVID L. DEIS,  
ROBERT M. GJULLIN  
and DOUGLAS E. THORPE

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Appeal No. 1997-4222  
Application 08/182,886

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ON BRIEF

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Before THOMAS, KRASS and BARRETT, Administrative Patent  
Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of  
claims 2 through 6, all of the pending claims.

The invention relates to database management systems.  
More particularly, data from separate databases is combined

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into a single database and the records in that single database may be partially or completely read in a single access.

Representative independent claim 2 is reproduced as follows:

2. A computerized method for obtaining data from multiple databases in a single access, comprising:

providing multiple databases, each for storing data in the form of records;

reading a record from each of the multiple databases;

merging the several records read from the databases into a single multiple bit word within a combined database, the multiple bit word having a format such that the several records are accessible from the multiple bit word; and

reading part or all of the multiple bit word in the combined database in a single access.

The examiner relies on the following reference:

Milden	5,421,728	Jun. 6, 1995
		(filed Mar. 7,
1994)		

Claims 2 through 6 stand rejected under the judicially created doctrine of obviousness-type double patenting over claim 1 of Milden.<sup>1</sup>

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<sup>1</sup> Appellants erroneously state that the rejection is under 35 U.S.C. § 101. However, that  
(continued...)

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Reference is made to the brief and answer for the respective positions of appellants and the examiner.

OPINION

At the outset, we note, since the inventive entities of the instant application and the Milden patent are different, that we assume, though we find no statement in the record showing common ownership at the time of appellants' invention, that both the instant application and the Milden patent have a common assignee, viz., Honeywell, Inc.

In accordance with MPEP guidelines, where there are conflicting claims of different, but not patentably distinct, inventions between an application and a patent, the examiner is to make a rejection under both obviousness-type double patenting and under 35 U.S.C. §§ 102(e)/103(a). In the instant case, no rejection under 35 U.S.C. §§ 102/103 can be made since the application filing date of January 18, 1994 is

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<sup>1</sup>(...continued)  
statutory section deals with same-invention type double patenting.

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prior to the filing date of the Milden patent (March 7, 1994).

In any event, we will not sustain the rejection of claims 2 through 6 under obviousness-type double patenting over claim 1 of Milden.

Assuming, arguendo, that the examiner is correct in equating Milden's formatted real threat data and threat/RWR simulated threat track file data to the claimed multiple databases each for storing data in the form of records and also that the examiner is correct in equating the claimed merging of the records to Milden's "means for merging the formatted real threat data with the threat/RWR simulated threat track file data," Milden's claim 1 suggests nothing about the "multiple bit word" or "plurality of multiple bit words" of instant claims 2 and 3.

The examiner recognizes the difference but contends, nevertheless, that it would have been obvious to format the files of Milden such that the format would comprise a multiple bit word in order to "increase" or "improve" processing speed.

We disagree. Whereas claim 1 of Milden merely combines files into a merged file having all of the individual files and then prioritizes the combined data, the instant claimed

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invention merges records from the databases into a single multiple bit word or a plurality of multiple bit words of which part or all can be read in a single access. We find nothing in claim 1 of Milden to teach or suggest this. Milden's claim 1 does not teach the creation and composition of a multiple bit word or a plurality of multiple bit words which is made up of inputs from various databases.

To whatever extent the examiner is having trouble in construing the claimed terms, "multiple bit word" and "plurality of multiple bit words," reference to the last paragraph on page 4 of the instant specification, describing the format as a "32-bit word," and to Figure 3 makes it clear that such a format is not described or suggested by Milden's claim 1.

The examiner's rejection of claims 2 through 6 under obviousness-type double patenting is reversed.

REVERSED

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	James D. Thomas	)	
	Administrative Patent Judge	)	
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	Errol A. Krass	)	BOARD OF
PATENT		)	
	Administrative Patent Judge	)	APPEALS AND
		)	INTERFERENCES
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	Lee E. Barrett	)	
	Administrative Patent Judge	)	

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