

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

MAILED

DEC 03 1994

PATENT OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte ALAN LATHROP

Appeal No. 93-0850  
Application 07/408,751

ON BRIEF

Before THOMAS HARRISON and KRASS, Administrative Patent Judges.  
KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 through 10, 12 through 15, 19 through 35, 37 through 40, and 44 through 51. Claims 52 and 53 have been allowed. Claims 11, 16 through 18, 36 and 41 through 43 have been held by the examiner to be directed to allowable subject matter.

The invention is directed to a system for transferring information in a distributed computer system.

Application for patent filed September 19, 1989.

Representative independent claim 1 is reproduced as follows:

1. A computer system having an information source for transmitting information items to a plurality of information displays over a communications link,

A. said information source including a first interface, coupled to the communications link, for transmitting said information items and receiving original information item requests on said communications link, and an information source controller, coupled to the interface, such information source controller comprising:

i. an original information transmission means for responding to said original information item requests received from said information displays by said first interface by, for each one of said requests and for generating a requested original information item, designating said original information item for use by the information display that made said request;

ii. means for causing said first interface to transmit said original information item over said communications link;

iii. an update information transmission means, coupled to the information source controller, for generating update information items and designating said update information items for use by multiple information displays, each one of said update information items containing update information relating to an original information item that was previously transmitted by said first interface and being identified by said update information transmission means as an update thereof;

iv. means for causing said first interface to transmit said update information items over said communications link;

B. each one of said information displays including a second interface, coupled to the communications link, for transmitting said original information item requests and receiving said information items on said communications link, an information display controller coupled to the second interface, and a display device, coupled to the information display controller, for displaying said information items, said information display controller comprising:

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ii. an original information means, coupled to the information display controller, for generating said original information item request;

iii. means for causing said second interface to transmit said original information item request over said communications link

iv. means for processing and displaying at said display device only those original information items received from said communications link by said second interface that have been designated by said original information transmission means for use by said one information display

v. means for discarding other original information items received from said communications link by said second interface;

vi. an update information reception means for processing and displaying at said display device an update information item received from said communications link by said second interface only if said update information item has been identified by said update information transmission means as an update of an original information item that said original information means has previously processed and displayed at said display device, and

vii. means for discarding other update information items received from said communications link by said second interface.

The examiner relies on the following references:

Naron et al. (Naron)	4,807,224	Feb. 21, 1989
Fischer	4,941,089	Jul. 10, 1990

Claims 1 through 10, 12 through 15, 19 through 35, 37 through 40 and 44 through 51 stand rejected under 35 U.S.C. 103 as unpatentable over Fischer in view of Naron.

Rather than reiterate the arguments of appellant and the examiner, reference is made to the briefs and answer for the respective details thereof.

OPINION

We reverse.

At the outset, we note that the examiner has presented no rationale whatsoever for the rejection of claims 10, 35 and 45 through 51 under 35 U.S.C. 103. While the answer directs us to "the action dated March 4, 1993" [page 3 of the answer], our perusal of that action finds no rejection of claims 10, 35 and 45 through 51 therein although these claims, inter alia, are said to stand rejected in the answer.<sup>2</sup> While we would normally remand the case to the examiner to explain this discrepancy, in the interests of efficiency, we will not remand the case because we find that there is clearly no prima facie case of obviousness established with regard to the instant claimed subject matter by the applied references.

In making a rejection under section 103 of the patent statute, the initial burden is on the examiner to make out a case of prima facie obviousness. Once made, the burden then shifts to

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<sup>2</sup> It is always preferable to set forth the rationale for the final rejection within the answer itself rather than by reference to earlier actions as the examiner did here. In this manner, it is more likely that the rationale will be more accurate and timely since there is less chance that any intervening prosecution may have changed the claims under rejection or the rationale therefor. Furthermore, it is more convenient for the Board to have the rejections on appeal along with the corresponding rationale therefor in one document.

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applicant to rebut it with objective evidence of nonobviousness.

In re Palmer, 59 C.C.P.A. 733, 451 F.2d 1100, 172 USPQ 126  
(1971).

The invention relates to communication in a computer system wherein original information items are transmitted from an information source to an information display over a link in accordance with a peer-to-peer protocol and update information items are transmitted from an information source to multiple information displays over the link in accordance with a multicast protocol. As set forth, in one form or another, in each of the independent claims, a controller in the information display causes processing and display of only those original information items that have been designated by means within the information source for use by the particular information display and discards other original information items. Further, the controller in the information display includes an update information reception means that processes and displays an update information item only if that update information item has been identified by an update information transmission means of the information source as an update of an original information item that the controller of the information display had previously caused to be processed and displayed and the update information reception means discards other update items.

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The examiner appears to have found bits and pieces of this claimed invention in Fischer and Naron and attempts to combine these teachings in such a manner as to construct the claimed subject matter. However, we find that such a combination, even if properly made, fails to result in the claimed subject matter.

We agree with appellant [page 7 of the principal brief] that

As to claims 1, 19, and 26, neither Fischer nor Naron recognizes the desirability of combining the peer-to-peer format of Fischer for transmission of original information items with the multicast format of Naron for transmission of update information items [emphasis in the original].

Appellant admits that Fischer provides a peer-to-peer format that could be used to transmit an original information item to a single information display and a broadcast format that can be used to send messages to all information displays [page 7 of the principal brief]. Appellant also admits that Naron broadcasts all data in a multicast format [page 8 of the principal brief].

However, as appellant has also pointed out at pages 7-8 of the principal brief, and with which we agree, neither of the applied references nor a combination thereof teaches or suggests designating an update information item for use by multiple

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information displays and identifying the update information item as an update of a previously transmitted original information item so that only those information displays that have previously processed and displayed the original information item will process and display the update information item.

Similarly, with regard to independent claims 12, 23, 37 and 45, we find no teaching or suggestion in any of the applied references for enabling an information display to process and display messages on a separate retransmit channel only when that information display has incorrectly received a message on the primary channel.

With regard to independent claim 49, this claim includes a timer means within the retransmission request means for causing a predetermined length of time to pass after indication by the original message processing means that a retransmission request should be made. The retransmission request is transmitted upon expiration of the predetermined time unless a monitoring means generates a signal upon detection by a second interface of a message relating to the rebroadcast request in which case the request is cancelled. We find no teaching or suggestion of this claimed feature by either one or a combination of the applied references.

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The examiner's rationale for the instant rejection of the claims is set forth at pages 4-7 of the action of March 4, 1993. With regard to independent claims 1, 12, 19, 23, 26 and 37, the examiner appears to contend that Fischer discloses the claimed subject matter but for the update information being designated for use by multiple reception modules and that Naron teaches, inter alia, a source module and a destination module interconnected by a communication link. Then, without any clear basis that we can discern, the examiner concludes that it would have been obvious

to combine the references to designate update information for use by multiple receiving modules by indicating specific sequence numbers to improve the efficiency of data delivery [page 5 of the action of March 4, 1993].

Even if true, it is not clear to us how the examiner is treating the claimed limitations discussed supra with regard to identifying the update information item as an update of a previously transmitted original information item so that only those information displays that have previously processed and displayed the original information item will process and display the update information item and with regard to enabling an information display to process and display messages on a separate

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retransmit channel only when that information display has incorrectly received a message on the primary channel.

In the response to appellant's arguments in the answer, the examiner contends "inherency" with regard to various claimed features. For example, at page 5 of the answer, the examiner says that

it is considered inherent to have to log on (via original information) to a system (multicast) of this type [a stock pricing system] in a peer-to-peer manner to ensure that updates are sent to the appropriate destination...

Later on, on the same page of the answer, the examiner recognizes that Naron does not identify the update information item as an update of a previously transmitted original information item but

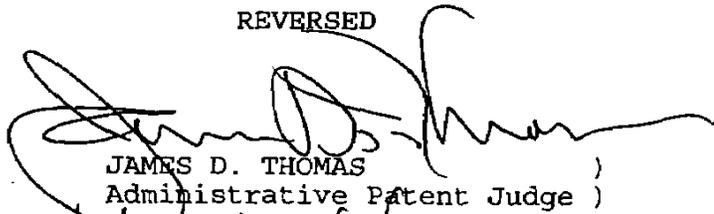
the feature is considered inherent in systems that update stock market pricing and availability.

While we are not completely certain as to how the examiner is applying the cited references to arrive at the claimed subject matter, we agree with appellant [page 4 of the reply brief] that there is nothing inherent in the references relied on about a computer transmitting original information using a peer-to-peer format and updating using a multicast format and we find no reasonable basis for placing the burden on appellant to show non-inherency in this regard.

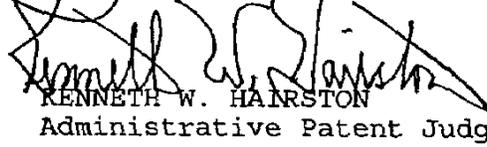
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The examiner has clearly failed to establish a prima facie case of obviousness within the meaning of 35 U.S.C. 103. Accordingly, the examiner's decision rejecting claims 1 through 10, 12 through 15, 19 through 35, 37 through 40 and 44 through 51 under 35 U.S.C. 103 is reversed.

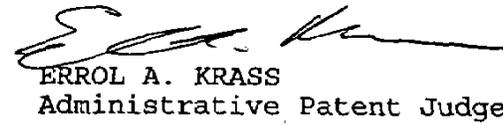
REVERSED



JAMES D. THOMAS  
Administrative Patent Judge )



KENNETH W. HAIRSTON  
Administrative Patent Judge )



ERROL A. KRASS  
Administrative Patent Judge )

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