

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(2) is not binding precedent of the Board.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. 27

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DUSHYANT SHARMA

Appeal No. 1997-0629
Application No. 08/085,505

ON BRIEF¹

Before THOMAS, RUGGIERO, and BARRY, Administrative Patent
Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection
of claims 2-8, all of the claims pending in the present
application. Claims 1 and 9 have been canceled. An amendment

¹Appellant's attendance at the oral hearing set for March 6, 2000, was
waived in the communication received on March 3, 2000.

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after final rejection filed December 13, 1995 was approved for entry by the Examiner.

The claimed invention relates to a method for permitting application programs running on a computer to obtain transport services from a set of transport providers that enable the programs to communicate on a network coupled to the computer. More particularly, Appellant indicates at page 4 of the specification that an application program can dynamically cause the inclusion of a new transport service provider in the set of transport providers by registering vectors representing jump addresses of the function entry points to the transport service provider.

Claim 2 is illustrative of the invention and reads as follows:

2. A computer-based method for permitting application programs running on a computer to obtain transport services from a set of transport service providers also running on the computer, enabling the application programs to communicate on a network to which the computer is coupled, each transport service provider being configured to respond to transport service requests which conform to a prespecified format associated with the transport service provider, comprising

receiving service requests from an application program, and

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in support of the rejection and the evidence of anticipation relied upon by the Examiner as support for the prior art rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellant's arguments set forth in the Briefs along with the Examiner's rationale in support of the rejections and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the disclosure of Britton fully meets the invention as recited in claims 2-8. Accordingly, we affirm.

Appellant has indicated (Brief, page 4) that, for purposes of this appeal, claims 2-6 are grouped separately, and separate arguments for patentability have been provided for each of claims 2-6. The limitations of dependent claims 7 and 8 have not been argued separately despite Appellant's listing of these claims in a separate group. According, claims 7 and 8 will stand or fall with their base claim 2. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983).

At the outset, we note that anticipation is established

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only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L.

Gore and Assoc, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

With respect to independent claim 2, the Examiner has indicated (Answer, pages 3 and 4) how the various limitations are read on the disclosure of Britton. In response, Appellant's arguments center on the alleged deficiency of Britton in disclosing the requirements of subparagraph c) of appealed claim 2. We note that the relevant portion of claim 2

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recites:

enabling an application program to dynamically cause inclusion of a selected one of a plurality of different transport service providers in the set of transport service providers running on the computer.

Appellant contends that Britton, contrary to the present invention, does not provide for the inclusion of transport service providers which are not already running on the computer (Reply Brief, page 3). In Appellant's analysis, the MPTN manager utilized by Britton's system has made available any transport service provider needed by any running application at the access node and such provider is already up and running (Brief, page 7).

After careful review of Appellant's arguments, however, it is initially our view that such arguments are not commensurate with the scope of independent claim 2. It is axiomatic that, in proceedings before the PTO, claims in an application are to be given their broadest reasonable interpretation consistent with the specification, and that claim language should be read in light of the specification as

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it would be interpreted by one of ordinary skill in the art. In re Sneed, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983). Moreover, limitations are not to be read into the claims from the specification. In re Van Geuns, 988 F.2d 1181, 1184, 26 USPQ2d 1057, 1059 (Fed. Cir. 1993) (citing In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)).

We do not interpret the language of independent claim 2 as requiring that any transport service provider dynamically included in the service provider set be previously "not running" on the computer. Conversely, regardless of the correctness of Appellant's analysis of the operation of Britton's system, we find nothing in the language of claim 2 which would preclude the inclusion of presently "up and running" transport service providers in the claimed set of service providers.

Further, even allowing for possible differing interpretations of the language of subparagraph c) of claim 2, it is our view that the system of Britton explicitly meets the claim requirements. The flow chart illustration in Britton's Figure

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5F and accompanying description at column 11, lines 9-22 disclose the address registration process for adding new transport providers to the system.

For all of the reasons discussed supra, we agree with the Examiner's analysis that each of the claimed method steps are shown to exist in Britton and, accordingly, the Examiner's rejection of claim 2 as anticipated by Britton is sustained.

Turning to a consideration of dependent claims 2-6, grouped and argued separately by Appellant, we sustain the Examiner's 35 U.S.C. § 102(e) rejection of these claims as well. With respect to dependent claims 3 and 4, we agree with the Examiner (Answer, pages 7 and 8) that, although Britton does not use the terminology "vector" or "jump addresses", the address registration mechanisms discussed by Britton are the clear equivalents of Appellant's claimed functions since they enable

communication between the application programs and the transport

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service providers. Further, Appellant's argument that Britton has no need to provide jump addresses since all of the transport stack drivers are already "up and running" is directly contrary to Britton's disclosure in Figure 5F which explicitly provides for the address registration of new service providers.

We further agree with the Examiner that the common data structure of appealed claim 5 is suggested by the data structure format illustrated, for example, in Figures 9 and 10 of Britton. Similarly, we agree that the global memory recited in dependent claim 6 is met by the address registry 17 in Britton which triggers access by the transport providers. Further, as mentioned previously, the limitations of dependent claims 7 and 8 have not been separately argued by Appellants and, accordingly, claims 7 and 8 fall with their base claim 2.

In conclusion, we have sustained the Examiner's 35 U.S.C. § 102(e) rejection of all of the claims on appeal. Accordingly, the decision of the Examiner rejecting claims 2-8 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

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| JAMES D. THOMAS |) | |
| Administrative Patent Judge |) | |
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| |) | BOARD OF PATENT |
| JOSEPH F. RUGGIERO |) | APPEALS AND |
| Administrative Patent Judge |) | INTERFERENCES |
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