

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT LIEBL, and
WOLFGANG PFAEHLER

Appeal No. 1997-1207
Application 08/272,590

ON BRIEF

Before HAIRSTON, KRASS and LALL, Administrative Patent Judges.
LALL, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection¹ of all the pending claims, 1, 2, 4, 6, 8 and 9.

The disclosed invention pertains to a method of

¹ An amendment after the final rejection was filed [paper no. 7] and was approved for entry by the Examiner [paper no. 8].

coordinating parallel accesses of a plurality of processors to resource configurations. Each resource is secured by a security number, whereby resources that belong to a common resource configuration all receive the same security number. All security numbers are conferred via a central security table. The access control is conferred on demand to a processor over an entire resource configuration when the security number belonging to this resource configuration has not been seized at this point in time by a different processor. Thus, access to an entire resource configuration comprising many individual resources is granted rather than to the individual resources. The invention is further illustrated by the following claim.

1. A method for coordination of parallel accesses of a plurality of processors to resource configurations that have resources, comprising the steps of:

securing each resource by a security number from the plurality of security numbers, resources that belong to a common resource configuration having a common security number, security numbers of the plurality of security numbers being forwarded to the resources via a central security table; and

assigning access control over an entire respective resource configuration on demand to a requesting processor, when a respective security number belonging to the respective resource configuration has not been seized at this point in time by a different processor.

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The references relied on by the Examiner are:

East et al. (East)	5,321,841	Jun. 14, 1994
	(Effectively filed, Jun. 29, 1989)	
Lockwood	5,339,443	Aug. 16,
1994		
	(Effectively filed, Nov. 19, 1991)	

Claims 1, 2, 4, 6, 8 and 9 stand rejected under 35
U.S.C.
§ 103 over Lockwood and East.

Reference is made to Appellants' brief and the Examiner's
answer for their respective positions.

OPINION

We have considered the record before us, and we will
reverse the rejection of claims 1, 2, 4, 6, 8 and 9.

In rejecting claims under 35 U.S.C. § 103, it is
incumbent upon the Examiner to establish a factual basis to
support the legal conclusion of obviousness. See In re Fine,
837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In
so doing, the Examiner is expected to make the factual
determinations set forth in Graham v. John Deere Co., 383 U.S.
1, 17, 148 USPQ 459, 467

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(CCPA 1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hospital System, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

Furthermore, the Federal Circuit states that "[the] mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." In re Fitch, 972 F.2d 1260, 1266 n.14, 23

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USPQ2d 1780, 1783-84 n.14 (Fed. Cir. 1992), citing In re Gordon, 773 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). "Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor."
Para-Ordnance Mfg. v. SGS Importers Int'l, 73 F.3d 1085, 1087, 37 USPQ2d 1237, 1239 (Fed. Cir. 1995), citing W. L. Gore & Assocs., v. Garlock, Inc., 721 F.2d 1540, 1551, 1553, 220 USPQ 303, 311, 312-13 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Claims 1, 2, 4, 6, 8 and 9

At the outset, we note that Appellants have elected to have all the claims to stand or fall together [brief, page 7]. The Examiner too has not discussed any claims individually [final

rejection, pages 2 to 3]. We consider claim 1 as representative of the group.

Appellants argue [brief, pages 9 and 10] that "teachings of Lockwood and East et al would not result in the steps of protecting each resource by a security number, where resources that belong to a common resource configuration receive the same security number; and upon demand of a respective resource by a respective processor, the security number of the respective recourse [sic] seize for the respective processor, the result thereof being that the entire resource configuration to which the respective resource belongs is protected against parallel accesses by other processors." The Examiner responds [answer, pages 3 to 8] that Lockwood, col. 4, line 65 to col. 5, line 5, shows a resource 16 (Lockwood's fig. 1) which is not a single entity as argued by Appellants, but could have more than one "elements" in it and together they have the same security number as being a part of resource 16. The Examiner also presents [id. at 5] a claim analysis of claim 1 and compares it with the East reference. Here, the Examiner asserts that common resource configuration having a common

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security number is shown by East at col. 2, lines 6 to 14 and lines 22 to 24. Thus, the Examiner has referred above both to Lockwood and East for the concept of "a common resource configuration having a common security number." However, we find that Lockwood and East, either singly or together, do not meet the claimed limitations of "resources that belong to a common resource configuration having a common security number" and "assigning access control over an entire respective resource configuration." [One such example of a common resource configuration having the same security number is, incidently, shown by fig. 2 of Appellants' specification.] Therefore, we do not sustain the obviousness rejection of claim 1 over Lockwood and East.

As other independent claims, 4 and 6, each have limitations which correspond to the limitations discussed above, they are not obvious over Lockwood and East for the same rationale as claim 1 above. Therefore, we do not sustain the rejection of claims 4 and 6 over Lockwood and East.

With respect to all the dependent claims, 2, 8 and 9, they at least contain the limitations of their respective independent claims and, consequently, distinguish over

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Lockwood and East for the same reasoning as for the
independent claims discussed above.

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In conclusion, we reverse the obviousness rejection of
claims 1, 2, 4, 6, 8 and 9 over Lockwood and East.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
ERROL A. KRASS)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
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