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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(2) is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DARYL COX, JOHN GADDARD
and SALLY ZUPONCIC

Appeal No. 1997-3913
Application 07/860,386¹

ON BRIEF

Before URYNOWICZ, JERRY SMITH, and DIXON, Administrative
Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed March 30, 1992.

Appeal No. 1997-3913
Application No. 07/860,386

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-25, which constitute all the claims in the application.

The disclosed invention pertains to a generalized applications programming interface (API) for use in a data processing system. The generalized API is placed between the conventional APIs of the operating system and application program requests for use of the operating system. The generalized API serves to convert operating system requests into a standard format regardless of the particular operating system under which the application program is being run. This is said to reduce the burden on the programmer in writing programs to be run under different operating systems.

Representative claim 1 is reproduced as follows:

1. An interface which is generalized to correspond to a group of data processing operations, said interface including

a code conversion means for converting at least one coded parameter used to invoke said interface into a task code and a plurality of parameters for control of said data processing operations, and

template means for imposing a format on at least two of said plurality of parameters.

Appeal No. 1997-3913
Application No. 07/860,386

The examiner relies on the following reference:

Burger et al. (Burger)	5,097,533	Mar. 17,
1992		

Claims 1-25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Burger. Additional rejections of claims 1-25 under 35 U.S.C. §§ 101 and 112 have been withdrawn by the examiner [answer, page 8].

Rather than repeat the arguments of appellants or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellants' arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

Appeal No. 1997-3913
Application No. 07/860,386

It is our view, after consideration of the record before us, that the disclosure of Burger does fully meet the invention as set forth in claims 1-25. Accordingly, we affirm.

Appellants have nominally indicated that the claims do not stand or fall together, but they have not specifically argued the limitations of each of the claims. Simply pointing out what a claim requires with no attempt to point out how the claims patentably distinguish over the prior art does not amount to a separate argument for patentability. In re Nielson, 816 F.2d 1567, 1572, 2 USPQ2d 1525, 1528 (Fed. Cir. 1987). To the extent that appellants have properly argued the reasons for independent patentability of specific claims, we will consider such claims individually for patentability. To the extent that appellants have made no separate arguments with respect to some of the claims, such claims will stand or fall with the claims from which they depend. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re

Appeal No. 1997-3913
Application No. 07/860,386

Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983).

Anticipation is established 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 Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and

Associates, 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 1, the examiner has explained how he reads the claim on the disclosure of Burger [answer, pages 4-5]. We agree with appellants that their disclosed invention is not the same as the invention described in Burger. The question, however, is whether the claimed invention is broad enough to read on Burger.

In describing the claimed invention, appellants refer

Appeal No. 1997-3913
Application No. 07/860,386

to elements which are not recited in claim 1. For example, appellants state that the claimed invention "provides for a generalized interface which is generic to a group of operations in at least one of a plurality of operating systems and in which parameters of the generic interface are decoded into particular ones of the group of operating system operations and parameters included therein" [brief, page 10].

We do not find any language in claim 1 which recites a plurality of operating systems. A group of data processing operations as recited in the language of claim 1 is not the same thing as a plurality of operating systems. Although the disclosed invention is described as being used with a plurality of operating systems, the claim recites an invention for use with a group of data processing operations.

In our view, the examiner was correct to interpret the claim as not requiring a plurality of different operating systems.

Appellants argue that claim 1 recites a single interface whereas Burger discloses a plurality of generic APIs [reply brief, page 6]. This argument is not persuasive because a plurality of interfaces meets a single claimed

Appeal No. 1997-3913
Application No. 07/860,386

interface. Appellants argue that the interfaces in Burger are not generic to a group of data processing operations as claimed. We do not agree. As noted above, the express language of claim 1 does not require that there be a plurality of different operating systems. The Burger interfaces correspond to different application program interfaces(95) as well as different operating system interfaces(97). The functions called within the application program or the operating system comprise a group of data processing operations as claimed.

Appellants argue that Burger does not convert a coded parameter into a task code and a plurality of parameters for control of data processing operations. Burger discloses that a generic API having a plurality of parameters is defined for each of a plurality of functions (tasks) [column 3, lines 44-54]. We interpret this disclosure to mean that Burger's APIs convert

incoming calls into a task code (function to be performed) and a plurality of control parameters as recited in claim 1.

In summary, appellants' arguments are either not

Appeal No. 1997-3913
Application No. 07/860,386

commensurate in scope with the invention of claim 1, or fail to provide a persuasive reason why the claim does not read on Burger when given its broadest reasonable interpretation as proposed by the examiner. Therefore, we sustain the rejection of claim 1.

With respect to claim 2, the examiner looks to the stack frame of Burger as disclosing the means for selecting one of said plurality of parameters [answer, page 5]. Appellants argue that this is a remapping using a stack frame and not a selection as claimed, but appellants offer no explanation for this position [reply brief, page 7]. We agree with the examiner that the broadest reasonable interpretation of claim 2 is met by the processing of parameters in Burger's stack frame.

With respect to claims 3 and 4, the examiner identifies the thread ID in Burger as the further parameter of claim 3 and threads #1 56 and #2 58 as the first and second parameters of claim 4 [answer, page 5]. Appellants argue that the examiner's use of "equivalent" admits lack of anticipation [reply brief, page 7]. We do not agree. The examiner uses equivalent in the sense that the further parameter reads on the thread ID and the

Appeal No. 1997-3913
Application No. 07/860,386

first and second parameters read on threads #1 56 and #2 58. Such "equivalence" is sufficient to support a rejection based on anticipation.

With respect to claims 5 and 6, the examiner indicates how he reads these claims on Burger [answer, pages 5-6]. Appellants argue that the examiner uses "equivalency" and "inherency" without evidence or supporting argument [reply brief, pages 7-8]. We do not agree. The invention as broadly recited in claims 5 and 6 is fully met by the disclosure of Burger for reasons indicated by the examiner.

With respect to claims 7-20, appellants rely on the same arguments considered above so that we sustain the rejection of each of these claims for the same reasons discussed above.

With respect to independent claim 21, the examiner has explained how he reads this claim on the disclosure of Burger [answer, pages 6-7]. Appellants argue that the examiner has ignored that claim 21 recites "invoking a selected one of a group of system operations by an interface operation and converting a single parameter into a plurality of parameters" [reply brief, page 8]. Appellants then rely on the arguments

Appeal No. 1997-3913
Application No. 07/860,386

previously made. As we discussed above with respect to claim 1, a group of system operations is not the same as a plurality of different operating

systems. We sustain the rejection of claim 21 for reasons discussed above.

With respect to dependent claims 22-25, appellants simply assert that Burger does not teach or suggest the claimed invention without providing any convincing rationale in support. Appellants' arguments are again not commensurate in scope with the claimed invention and fail to consider the breadth of these claims as interpreted by the examiner. Therefore, we also sustain the rejection of these dependent claims.

In conclusion, we have sustained the examiner's rejection of each of the claims under 35 U.S.C. § 102. Therefore, the decision of the examiner rejecting claims 1-25 is affirmed.

Appeal No. 1997-3913
Application No. 07/860,386

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

AFFIRMED

Stanley M. Urynowicz, Jr.)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
Jerry Smith)	
Administrative Patent Judge)	APPEALS AND
)	
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Appeal No. 1997-3913
Application No. 07/860,386

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