

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JAMES LYLE PETERSON

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Appeal No. 2002-0700  
Application No. 09/145,102

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ON BRIEF

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Before PAK, OWENS, and MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the final rejection of claims 1-15. Claims 16 and 17 have been allowed. Thus, only claims 1-15 are before us on this appeal.

REPRESENTATIVE CLAIM

Claims 1, 2, and 3 are representative, and read as follows:

1. A method for initializing variables in a first class object in an object-oriented program, comprising the steps of:

sending a message from the first class object to a second class object that it initialize its core variables, wherein the core variables of the second class object need to be initialized before core variables in the first class object are initialized, and

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initializing the core variables in the first class object when the core variables in the second class object have been initialized.

2. The method as recited in claim 1, wherein the step further comprising the step of sending the message from the first class object to all class objects having core variables that need to be initialized before the core variables in the first class object are initialized.

3. The method as recited in claim 2, further comprising the step of:

    sending the message from the first class object to those class objects having core variables that do not need to be initialized before the core variables in the first class objects are initialized.

#### The References

In rejecting the claims under 35 U.S.C. § 103(a), the examiner relies upon the following references:

|                      |           |               |
|----------------------|-----------|---------------|
| Burke et al. (Burke) | 5,644,770 | Jul. 01, 1997 |
| Shaughnessy          | 5,787,431 | Jul. 28, 1998 |

#### The Rejections

Claims 1-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shaughnessy in view of Burke.<sup>1</sup>

#### The Invention

The invention relates to a method for initializing variables within classes in an object-oriented programming environment.

(Specification page 1, lines 1-3). The process is said to first initialize all important classes, yet ensure that all reachable

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<sup>1</sup> The appellants argue that Figure 5 is not properly objected to under 37 C.F.R. § 1.83(a). As noted by the examiner (Examiner's Answer, page 7), this is

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classes are initialized eventually before beginning the main method (Specification, page 4, lines 3-12).

The Rejection of Claims 1-15 Under 35 U.S.C. § 103 (a)

The examiner has found that Shaughnessy teaches a method for initializing variables in a first class object in an object-oriented program. The first class object sends a message to the second class object that it initialize its core variables; then the first class object initializes its core variables (Examiner's Answer, page 4, lines 6-15).

The examiner has additionally found that Burke teaches priority of a user-defined class object. Burke teaches matching algorithms may be implemented by the programmer to produce a priority rule. (Examiner's Answer, page 4, line 16 - page 5, line 5). The examiner then concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the references to allow the user-defined class object and rule priority generated by Burke would allow Shaughnessy's system to automatically handle priority rules (Examiner's Answer, page 5, lines 5-8).

The appellant urges that the examiner has erred in his

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petitionable subject matter. See 37 C.F.R. 1.181 and 1.182 generally.

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interpretation of Burke in reading it too broadly (Appeal Brief, page 4, lines 12-14). The appellant also urges that claim limitations are overlooked. (Appeal Brief, page 4, line 21-page 5, line 16). As we find this last point persuasive, we reverse.

Initially, we note that Shaughnessy is directed to a system and method for creating and executing programs in a database environment (Column 1, lines 15-21). It uses Java bytecodes implemented on a virtual machine (column 1, lines 58-61) which are stored in "class files." A class in Java is a software construct which defines instance variables and methods. (column 2, lines 20-35). Classes of objects communicate back and forth with each other and process messages (Column 2, lines 48-57).

Both the examiner (Examiner's Answer, page 4, lines 16-18) and the appellant (Brief, page 4, line 25 - page 5, line 2) are in agreement that Shaughnessy does not teach the priority in which the class objects should be initialized.

The examiner, somewhat nebulously, asserts that Burke "teaches priority of a user-defined class object" (Examiner's Answer, page 4, line 18). The examiner reasons that the programmer codes rules, and there are well-known matching algorithms which produce a priority rule. (Examiner's Answer, page 5, lines 1-5).

While this may be true, and it may even be obvious to

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incorporate the programming of Burke into Shaughnessy, we do not see how this rather generic teaching of algorithm rules and coding techniques in Burke discloses the initializing steps and priorities as enumerated in claim 1 of the instant application. The examiner has not explained how this teaching renders the claimed subject matter, including the initializing of the core variables of the second class object before the core variables in the first class object.

The examiner has stated that this would allow Shaughnessy's system to "automatically handle priority rules and vary traditional programming procedures" (Examiner's Answer, page 5, lines 7-8). This seems to us to be a suggestion to try a different coding technique, not a teaching of the instantly claimed method.

The burden is upon the Examiner to set forth a prima facie case of obviousness. See In re Alton, 76 F.3d 1168, 1175, 37 USPQ2d 1578, 1583 (Fed. Cir. 1996). As no prima facie case of obviousness has been established, we reverse.

Summary of Decision

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The rejection of claims 1-15 under 35 U.S.C. § 103(a) over  
Shaughnessy in view of Burke is reversed.

**REVERSED**

|                             |   |                 |
|-----------------------------|---|-----------------|
| CHUNG K. PAK                | ) |                 |
| Administrative Patent Judge | ) |                 |
|                             | ) |                 |
|                             | ) |                 |
|                             | ) | BOARD OF PATENT |
| TERRY J. OWENS              | ) |                 |
| Administrative Patent Judge | ) | APPEALS AND     |
|                             | ) |                 |
|                             | ) | INTERFERENCES   |
|                             | ) |                 |
| JAMES T. MOORE              | ) |                 |
| Administrative Patent Judge | ) |                 |

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