

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(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILBUR L. STEWART,
RICHARD L. DEMERS, RONALD E. LANGE
AND LOWELL D. McCULLEY

Appeal No. 96-1422
Application 08/048,339¹

ON BRIEF

Before THOMAS, HAIRSTON and JERRY SMITH, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed April 15, 1993.

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Appellants have appealed to the Board from the examiner's final rejection of claims 6 to 12, which constitute all the claims that remain in the application.

The following references are relied on by the examiner:

Harper et al. (Harper)	5,122,949	June 16,
1992		
Berk et al. (Berk)	5,367,674	Nov. 22,
1994		
		(filed Dec. 13,
1991)		

Claims 6 to 12 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies on Berk in view of Harper².

Rather than repeat the positions of the appellants and the examiner, reference is made to the brief and the answer for the respective details thereof.

OPINION

² An amendment filed after final rejection and entered by the examiner led the examiner to withdraw an outstanding rejection from the final rejection of claims 6 to 12 under the second paragraph of 35 U.S.C. § 112.

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We reverse the rejection of claims 6 to 12 under 35
U.S.C.

§ 103.

As the title of the application reflects, the disclosed and claimed invention relates to a method to reduce control store space in a VLSI central processor integrated circuit chip which has been pipelined. There are a plurality of read only memory (ROM) control stores utilized to implement the microprogrammed execution unit. The control words of the control stores have been subdivided into primary nanocontrol words and secondary nanocontrol words, where certain ones of the secondary nanocontrol words have been specified as being in a "guarded" field or a "don't care" field. Clause D of each independent claim 6 and 12 on appeal relates to the combining of first and second secondary nanocontrol words into a single secondary nanocontrol word based upon specifically recited conditions or relationships among these various "guarded" and "don't care" control fields.

Essentially, none of these very specific features of the disclosed and claimed invention are found in either of the

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references applied by the examiner in the context of micro-programmed execution units and the sequencing of various types of control words associated with control stores therein. The data streams of both references do not relate to the micro-programming sequencing operations of the claimed (and disclosed) invention but rather to the interfacing of data between a host computer and attached terminals, principally, display terminals. Both references desire to optimize, that is, effectively minimize the nature and amount of data transferred in this context between these devices. Without belaboring the issue, the examiner's rather high level abstract correlation of concepts within these applied references to the claimed invention leads us to the basic conclusion that the references are essentially irrelevant to the claimed invention. Although we conclude that Berk and Harper would appear to be properly combinable within 35 U.S.C. § 103 based upon their disclosed inventions to optimize data transfers between devices in their environment indicated earlier, the combined teachings of the references

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have little relevance to the subject matter set forth in independent claims 6 and 12 on appeal.

The lack of relevance of the combined teachings of both references is so apparent that we find ourselves in complete agreement with appellants' position set forth at page 14 of the brief on appeal:

In In re Deminski, 796 F.2d 436 (Fed. Cir. 1986) the Federal Circuit adopted a "two-step test" for determining whether particular references are within the appropriate scope of the art. First, it must be determined whether the reference is "within the field of the inventor's endeavor." If it is outside that field, it must be determined whether the reference is "reasonably pertinent to the particular problem with which the inventor was involved." It is submitted that technology relating to minimizing the quantity of data sent from a host processor to a terminal is outside the field of Appellants' invention which is a method for reducing the size of a control store in a micro-programmed pipelined processor. It is also submitted that the problems solved by the references relied upon by the Examiner have no relevance to the problems solved by Appellants. The teachings of Berk and Harper are not reasonably pertinent, and thus, are non-analogous art.

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In view of the foregoing, we reverse the outstanding
rejection of claims 6 to 12 under 35 U.S.C. § 103.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
)	
)	
KENNETH W. HAIRSTON)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
JERRY SMITH)	
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