

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. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES B. NICHOLS and JOHN LYNCH

Appeal No. 1998-0905
Application 08/284,061

ON BRIEF

Before FLEMING, RUGGIERO, and LALL, **Administrative Patent Judges**.

FLEMING, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 through 15 and 17 through 42. Claim 16 is canceled.

The invention relates to a data transmission system having a real-time data engine for processing isochronous streams of data. An interface device provides a physical and

logical connection of the computer to any one or more of a variety of different types of data networks, including analog telephone, ISDN, PBX, and the like. Data received at this device is presented to a serial driver, which disassembles different streams of data for presentation to appropriate data managers, such as the operating system of the host computer, a service provider, or an application program. A device handler also presents data and commands from the data managers to a real-time data processing engine that can be used for a variety of applications such as voice recognition, speech compression, and fax/data modems. This real-time engine can be shared by any application program running on the host computer. This invention enables any arbitrary type of data, such as voice, facsimile, multimedia, and the like, which is transmitted over any type of communications network, to be handled with any type of real-time engine.¹

Independent claim 1 is as follows:

1. A signal processing system for providing a plurality of realtime services to and from a number of independent client applications and devices, said system comprising:

¹See page 3 of the specification.

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a subsystem comprising a host central processing unit (CPU) operating in accordance with at least one application program and a device handler program, said subsystem further comprising an adapter subsystem interoperating with said host CPU and said device;

a realtime signal processing subsystem for performing a plurality of data transforms comprising a plurality of realtime signal processing operations; and

at least one realtime application program interface (API) coupled between the subsystem and the realtime signal processing subsystem to allow the subsystem to interoperate with said realtime services.

Examiner relies on the following references:

Chen et al. (Chen) 5,440,740 Aug. 8, 1995

Elnkauf EP 0218859 Apr. 22, 1989
(European Patent)

Tanenbaum, Structured Computer Organization, pp. 10-12, 1984

Silberschatz et al. (Silberschatz), Operating System Concepts,
pg. 489, 1994

Claims 1 through 15 and 17 through 42 are rejected under
35 U.S.C. § 103 as being unpatentable over Chen.²

Rather than reiterate all arguments of Appellants and

²The Examiner's answer initially included Elnkauf as the basis for a new ground of rejection. However, this rejection was withdrawn in the supplemental answer mailed August 20, 1997.

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Examiner, reference is made to the briefs and answers for the respective details thereof.³

OPINION

In reaching our decision in this appeal, we have given careful consideration to the Appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by Appellants and Examiner.

We will not sustain the rejection of claims 1 through 15 and 17 through 42 under 35 U.S.C. § 103.

Examiner cites Chen for disclosure of all elements of independent claims 1, 3, 7, and 32 except for "independent client applications," "a communication path," or use of a WAN or **w**ide **a**rea **n**etwork. Examiner asserts that DSP manager 71 of

³Rather than attempt to reiterate Examiner's full commentary with regard to the above-noted rejections and the conflicting viewpoints advanced by Examiner and Appellants regarding the rejections, we make reference to the Examiner's answer (Paper No. 17, mailed March 5, 1997) and supplemental answer (Paper No. 20, mailed August 20, 1997) for the reasoning in support of the rejections, and to Appellants' brief (Paper No. 16, filed January 23, 1997) and Reply Brief (Paper No. 18, filed May 5, 1997) for the arguments thereagainst.

Chen includes an application program interface (API). As DSP manager 71 is coupled between the CPU subsystem (elements 59, 61, 63, 65, 67, and 69) and real-time subsystem 73 of Chen, the application program interface would also be "coupled between the subsystem and the realtime signal processing subsystem."⁴

Appellants traverse this rejection by asserting that the DSP manager 71 of Chen is not an API, and does not include an API nor does it generate API commands. Instead, Appellants assert that DSP manager 71 receives API commands and routes them to the appropriate function.⁵ Appellants next argue that the API 61 of Chen is not coupled between the CPU subsystem and the real-time signal processing subsystem as recited in the claimed inventions but is instead part of the CPU arrangement.⁶

As pointed out by our reviewing court, we must first determine the scope of the claim. "[T]he name of the game is

⁴See pages 4 and 5, 8 and 11 of the answer.

⁵ See page 9 of the brief.

⁶See pages 7 and 8 of the brief.

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the claim." *In re Hiniker Co.*, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). Moreover, when interpreting a claim, words of the claim are generally given their ordinary and accustomed meaning unless it appears from the specification or the file history that they were used differently by the inventor. *Carroll Touch, Inc. v. Electro Mechanical Sys., Inc.*, 15 F.3d 1573, 1577, 27 USPQ2d 1836, 1840. Although an inventor is indeed free to define the specific terms used to describe his or her invention, this must be done with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994).

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of presenting a **prima facie** case of obviousness (**see** *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993); *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992)), which is established when the teachings of the prior art itself would

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appear to have suggested the claimed subject matter to one of ordinary skill in the art (**see *In re Bell***, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993)).

The Examiner has failed to set forth a ***prima facie*** case. It is the burden of the Examiner to establish why one having ordinary skill in the art would have been led to the claimed invention by the express teachings or suggestions found in the prior art, or by implications contained in such teachings or suggestions. ***In re Sernaker***, 702 F.2d 989, 995, 217 USPQ 1, 6 (Fed. Cir. 1983). "Additionally, when determining obviousness, the claimed invention should be considered as a whole; there is no legally recognizable 'heart' of the invention." ***Para-Ordnance Mfg. V. SGS Importers Int'l, Inc.***, 73 F.3d 1085, 1087, 37 USPQ2d 1237, 1239 (Fed. Cir. 1995), ***cert. denied***, 117 S. Ct. 80 (1996)

citing W. L. Gore & Assocs., Inc. V. Garlock, Inc., 721 F.2d 1540, 1548, 220 USPQ 303, 309 (Fed. Cir. 1983), ***cert. denied***, 469 U.S. 851 (1984).

Independent claims 1 and 3 each recite use of an

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application program interface coupled between a subsystem comprising a host CPU and a real-time signal processing subsystem.

We agree with Appellants that the DSP manager 71 of Chen is not an API, does not generate API commands, and does not include an API. A review of the reference, see column 25, lines 4 through 10, reveals that digital signal processor manager API **controller** 461, which is part of DSP manger 71, receives application program interface commands and routes them to function blocks 457, 459, and 463. Therefore, the DSP manager does not include an API but manages commands generated by an API. Unit 61 is the API of the Chen system and is, as asserted by Appellants, part of the CPU subsystem. Thus, Chen does not meet the limitations of claims 1 and 3 nor of any claim which depends therefrom.

Independent claim 7 requires that the API interoperate with "the telecommunications [the CPU] subsystem and the virtual realtime device to enable the telecommunications subsystem to interoperate with [the] realtime signal processing operations." We find that in order for the API to

interoperate with the subsystem and with the device so that the device and the subsystem may interoperate with each other, the API must be coupled to each and must, operatively at least, be coupled between them. Chen as discussed above does not have an API interfaced between the CPU subsystem and the real-time processing subsystem and does not therefore meet the limitations of claim 7 nor of any claim which depends therefrom.

Independent claim 32 requires that the API receive requests generated by a device handler program and issue such commands to a real-time engine. The device handler program is associated with input/output devices and generates requests to the real-time engine. Units 69, 67, 65, and 63 of Chen are device drivers associated with input/output devices for sending and/or receiving data streams over a communication path. Thus, these drivers constitute device handler programs. DSP manager 71 which receives commands from these drivers and issues them to real-time engine 73, as discussed previously, is not an API, does not include an API, and does not generate API commands. Thus, Chen does not meet the limitations of

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claim 32 nor of any claims which depend therefrom.

In light of the foregoing, we will not sustain the rejection under 35 U.S.C. § 103 of claims 1 through 15 and 17 through 42 as obvious over Chen.

REVERSED

MICHAEL R. FLEMING)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
JOSEPH F. RUGGIERO)	
Administrative Patent Judge)	APPEALS AND
)	
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