

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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***Ex parte*** RANDAL CHILTON BURNS and ROBERT MICHAEL REES

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Appeal No. 2003-1770  
Application No. 09/526,155

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ON BRIEF

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Before JERRY SMITH, GROSS, and SAADAT, ***Administrative Patent Judges***.

GROSS, ***Administrative Patent Judge***.

***DECISION ON APPEAL***

This is a decision on appeal from the examiner's final rejection of claims 1 through 3 and 12. Claims 7 through 11 and 16 through 18 have been allowed and claims 4 through 6 and 13 through 15 have been indicated as reciting allowable subject matter.

Appellants' invention relates to a system for managing access to data using locks to ensure that one user is not updating shared data by writing to it while another user is reading an outdated version of the same data. The system uses

logic or instructions executable by the client computer for evaluating lock requests, and the determination whether to grant the requests is done without using a lock compatibility table. Claims 1 and 12 are illustrative of the claimed invention, and they read as follows:

1. A computer system, comprising:

at least one general purpose server computer;

at least one general purpose client computer;

a distributed data storage system accessible to at least the client computer; and

logic executable by the client computer for undertaking method acts to evaluate lock requests in the storage system, the method acts comprising:

determining whether to grant a requested lock using at least one algorithm without using a lock compatibility table, the lock pertaining to at least one asset in the storage system.

12. A computer program device comprising:

a computer program storage device readable by a client computer; and

a program on the program storage device and including instructions executable by the client computer for evaluating a request for a requested lock, the program comprising:

computer readable code means for determining whether to grant the requested lock without using a lock compatibility table, the requested lock pertaining to at least one asset in the storage system.

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The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Frey et al. (Frey)                      5,388,266                      Feb. 07, 1995

Claims 1 through 3 and 12 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Frey.

Reference is made to the Examiner's Answer (Paper No. 10, mailed September 18, 2002) for the examiner's complete reasoning in support of the rejection, and to appellants' Supplemental Brief<sup>1</sup> (Paper No. 14, filed March 19, 2003) and Reply Brief (Paper No. 11, filed October 1, 2002) for appellants' arguments thereagainst.

**OPINION**

We have carefully considered the claims, the applied prior art references, and the respective positions articulated by appellants and the examiner. As a consequence of our review, we will reverse the anticipation rejection of claims 1 through 3 and 12.

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<sup>1</sup> We note that the Supplemental Brief is identical to the Brief submitted on August 15, 2002 (Paper No. 9), except that the Supplemental Brief includes a copy of all the appealed claims, whereas the Brief submitted August 15, 2002 included a copy of only some of the claims appealed.

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"It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim." *In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986). *See also Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick*, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). Thus, if any limitation is not disclosed by Frey, the claims cannot be anticipated.

Both independent claims 1 and 12 recite determining whether to grant a requested lock "without using a lock compatibility table." Claim 1 further recites that an algorithm is used instead of the lock compatibility table. The examiner (Answer, page 3) asserts that using an algorithm and not a lock compatibility table can be found in column 11, at line 4, in Frey. More specifically, the examiner explains (Answer, page 4) that Frey discloses that "the compatibility table in the list structure 46 is optional - meaning that the Fey [sic] et al. invention reads on a system without a compatibility table."

Appellants argue (Brief, page 4) that the portion of column 11 cited by the examiner as teaching that a compatibility table is not used merely teaches that the table is "optionally included

*in the list structure 46*, not that it is optionally included in the Frey et al. invention." We agree with appellants.

Frey discloses (column 8, lines 15-19) that the message processor includes several storage structures including list structures 46 and 47 and cache structures 45 and 48. Further, Frey discloses (column 8, lines 34-40) that data objects are organized in tables or lists, and that they may reside in any of the storage locations. Thus, a particular table might be located in list structure 46 or in list structure 47 or even in one of the cache structures.

Frey states (column 10, lines 67-68) that the contents of one list structure 46 are shown in Figure 6. As shown in Figure 6 list structure 46 includes a lock table. The portion referenced by the examiner (column 11, lines 3-6) reads:

The list structure **46** comprises list-structure controls **66**, user controls **67**, and, optionally, a lock table **68**, and/or a list set **70** with list controls **69** and list-entry controls **71**.

This passage merely lists what may be in list structure 46, not what is in the invention as a whole. The passage suggests that the lock table could be somewhere other than list structure 46, such as in another list structure or in one of the cache structures (as suggested by the portions referenced *supra*).

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In addition, lines 7-20 of column 11 provide further details of the lock table and the relationship between the list-structure and the lock table, thereby supplying additional evidence that Frey's invention includes a lock table. Therefore, Frey fails to teach the claimed determination of whether to grant a lock "without using a lock compatibility table."

We note that the examiner (Answer, pages 4-5) points to column 8, lines 14-25, and column 14, lines 14-67, as evidence that for evaluating lock requests, Frey's list structure "need not use a lock table." The examiner states (Answer, pages 4-5) that "Frey discloses that in lieu of lock tables, local-vector caches may be used for both local and global summary." However, we see nothing in Frey that suggests that the local-vector caches are used "in lieu of lock tables." As we have found nothing in Frey that teaches or suggests determining whether to grant a lock without using a lock compatibility table, Frey fails to anticipate claims 1 through 3 and 12. Accordingly, we cannot sustain the anticipation rejection of claims 1 through 3 and 12.

#### **CONCLUSION**

The decision of the examiner rejecting claims 1 through 3 and 12 under 35 U.S.C. § 102(e) is reversed.

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

**REVERSED**

JERRY SMITH	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
ANITA PELLMAN GROSS	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
MAHSHID D. SAADAT	)	
Administrative Patent Judge	)	

AGP/RWK

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