

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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***Ex parte*** JOSEPH MARTIN HERBST and JOEL MARK YARBOROUGH

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Appeal No. 2003-1877  
Application No. 09/375,071

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ON BRIEF

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Before THOMAS, HAIRSTON, and GROSS, ***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 26, which are all of the claims pending in this application.

Appellants' invention relates to a method and system for storing data in a file. The method includes the steps of defining a number of storage regions including a first region and an end of file region, storing data until all regions of the file are used, redesignating the first region as a new end of file region, and storing more data in the new end of file region.

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Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A method for storing data in a file comprising the steps of:

associating a defined number of storage regions with the file including a first region and an end of file region;

storing data in the associated storage regions to provide an unused size of the file corresponding to a portion of the associated storage regions not containing data; and then

receiving additional data;

redesignating the first region as a new end of file region;  
and

storing at least a portion of the additional data in the new end of file region.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Sherman	5,432,928	Jul. 11, 1995
Blowers et al. (Blowers)	6,298,474	Oct. 02, 2001
		(filed Apr. 30, 1999)

Claims 1 and 2 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sherman.

Claims 3 through 26 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sherman in view of Blowers.

Reference is made to the Examiner's Answer (Paper No. 17, mailed April 21, 2003) for the examiner's complete reasoning in support of the rejections, and to appellants' Brief (Paper

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No. 16, filed February 3, 2003) and Reply Brief (Paper No. 18, filed June 16, 2003) 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 and 2 and the obviousness rejection of claims 3 through 26.

Independent claims 1 and 8 each recite a step of "redesignating the first region as a new end of file region." Similarly, claims 12 and 17 recite a means "for redesignating the first region as a new end of file region." Likewise, claims 20 and 24 recite computer-readable program code means "for redesignating the first region as a new end of file region." Appellants argue (Brief, page 7) that Sherman fails to teach or suggest any redesignation of a region as a new end of file region. We agree.

Sherman discloses (column 2, lines 54-56) that container 302 includes objects A, B, and C. Sherman teaches (column 3, lines 17-48) that when a user edits object C, object C is moved to be immediately following object A, and then edited object B is written to the position immediately following C. In other words,

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objects B and C essentially switch places. Nowhere, however, does Sherman disclose designating regions as first and end of file regions, respectively, and then "redesignating" the first region as a new end of file region.

The examiner (Answer, page 3) directs our attention to column 2, line 60-column 3, line 4, and column 4, lines 28-32, of Sherman as a disclosure of redesignating the first region as a new end of file region. However, the referenced portion of columns 2 and 3 merely explains that the system uses a pointer to the first object to locate objects in the container. Then, Sherman teaches in column 4 that when the edited object B is written to the container, it is given an "end-of-container" address. Even if the end-of-container address were to be considered an end of file designation, since that location was not previously designated as a first region, Sherman fails to disclose "redesignating" a first region as a new end of file region.

In the Response to Arguments section of the Answer, the examiner (Answer, page 11) copies column 4, lines 12-22, of Sherman, asserting that Sherman's passing of a starting and an ending address of the target object equates to the claimed redesignating. The examiner states (Answer, page 11) that "[t]he

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claimed redesignating region hence [sic, is] very similar to Sherman [sic] teaching of redesignating region." The referenced portion of Sherman explains that when an object is edited, the system locates the beginning and end address of the object and moves all objects after the end address to the beginning address. The beginning address remains the beginning address, and no redesignating a first storage region as a new end of file region is disclosed.

Since Sherman fails to disclose the redesignation limitation of independent claim 1, we cannot sustain the anticipation rejection of claim 1 and its dependent, claim 2. Further, as discussed *supra*, each of the remaining independent claims recites redesignation of file regions. Since Blowers fails to cure the deficiency of Sherman, we cannot sustain the obviousness rejection of independent claims 8, 12, 17, 20, and 24, nor of dependent claims 3 through 7, 9 through 11, 13 through 16, 18, 19, 21 through 23, 25, and 26.

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**CONCLUSION**

The decision of the examiner rejecting claims 1 and 2 under 35 U.S.C. § 102(b) and claims 3 through 26 under 35 U.S.C. § 103 is reversed.

**REVERSED**

JAMES D. THOMAS	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
KENNETH W. HAIRSTON	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
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ANITA PELLMAN GROSS	)	
Administrative Patent Judge	)	

APG/hh

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