

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVE WELLS

Appeal No. 2004-1425
Application 10/113,506

ON BRIEF

Before JERRY SMITH, DIXON and SAADAT, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 22-53, which constitute all the claims remaining in the application. An amendment after final rejection was filed on August 11, 2003 but was denied entry by the examiner.

The disclosed invention pertains to a method and apparatus for controlling the access and storage of data in a non-volatile memory device.

Representative claim 22 is reproduced as follows:

22. A method comprising:

receiving an encoded sequence of values by a non-volatile memory device;

storing the encoded sequence of values in storage elements of the non-volatile memory device; and

decoding the stored encoded sequences of values in a decoding circuit within the non-volatile memory device.

The examiner relies on the following references:

Lawman	6,028,445	Feb. 22, 2000
Collins et al. (Collins)	6,378,072	Apr. 23, 2002
		(filed Feb. 03, 1998)

Claims 22, 25, 31-34, 41-44 and 51-53 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Lawman. Claims 22-26, 31-36, 41-46 and 51-53 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Collins. Claims 27-30, 37-39 and 47-49 stand rejected under 35 U.S.C. § 103(a). As evidence of obviousness the examiner offers Collins taken alone. We note that pending claims 40 and 50 do not appear in any of these rejections. Since claims 40 and 50 recite limitations similar to rejected claim 30, we assume the

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failure to include these claims in the rejection under 35 U.S.C. § 103 was simply an oversight by the examiner. Appellant's brief includes claims 40 and 50 as part of the appeal. We also note that the examiner has withdrawn the rejection of the claims under the first paragraph of 35 U.S.C. § 112 [answer, page 2].

Rather than repeat the arguments of appellant or the examiner, we make reference to the brief and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of anticipation and obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the brief along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the evidence relied upon supports each of the examiner's rejections. Accordingly, we affirm.

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Appellant has indicated that for purposes of this appeal the claims will all stand or fall together as a single group [brief, page 6]. Consistent with this indication appellant has made no separate arguments with respect to any of the claims on appeal. Accordingly, all the claims before us, within each rejection, will stand or fall together. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983).

We consider first the rejection of claims 22, 25, 31-34, 41-44 and 51-53 as being anticipated by Lawman. The examiner has indicated how he reads the claimed invention on the disclosure of Lawman [answer, pages 3-6]. With respect to representative, independent claim 22, appellant argues that the rejection is improper because Lawman does not disclose a decoding circuit within a non-volatile memory device to decode stored encoded sequences of values as claimed. More specifically, appellant argues that the decoding circuit of Lawman is situated separate from the non-volatile memory [brief, pages 14-15]. The examiner responds that the FPGA 1510 in Lawman is a non-volatile memory device and the decoding circuit 1540 is located within this non-volatile memory device. The examiner notes that the decoding circuit of Lawman is separate from the non-volatile memory but

still within the non-volatile memory device in the same manner as disclosed in appellant's own invention [answer, pages 13-14].

We will sustain the examiner's rejection of claims 22, 25, 31-34, 41-44 and 51-53. We agree with the examiner's findings that the decoding circuit of Lawman is within the non-volatile memory device in the same manner that the decoding circuit of appellant's own invention is within the non-volatile memory device as shown in Figure 2. The non-volatile memory 1520 and the decoding circuit 1540 of Lawman are both included within the non-volatile memory device 1510 as found by the examiner.

We now consider the rejection of claims 22-26, 31-36, 41-46 and 51-53 as being anticipated by Collins. The examiner has indicated how he reads the claimed invention on the disclosure of Collins [answer, pages 6-11]. With respect to representative, independent claim 22, appellant argues that the rejection is improper because Collins does not disclose a decoding circuit within a non-volatile memory device as claimed. More specifically, appellant argues that the cryptographic processor 110 of Collins is located separate from memory devices 124 and 126 and that the DES engine 250 of Collins is located separate from any of the memory devices [brief, pages 16-17]. The examiner responds that the element 107 of Figure 1 of Collins

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corresponds to the claimed non-volatile memory device and the decoding circuit 110 is located within this non-volatile memory device. The examiner notes that the decoding circuit of Collins is separate from the non-volatile memory but still within the non-volatile memory device in the same manner as disclosed in appellant's own invention [answer, pages 14-16].

We will sustain the examiner's rejection of claims 22-26, 31-36, 41-46 and 51-53. We agree with the examiner's findings that the decoding circuit of Collins is within the non-volatile memory device in the same manner that the decoding circuit of appellant's own invention is within the non-volatile memory device as shown in Figure 2. The non-volatile memory 124 and the decoding circuit 110 of Collins are both included within the non-volatile memory device 107 as found by the examiner.

We now consider the rejection of claims 27-30, 37-40 and 47-50 under 35 U.S.C. § 103. Appellant's only argument in response to this rejection is to repeat the fundamental argument considered above with respect to the rejection under 35 U.S.C. § 102. Since this argument was decided adversely to appellant above, and since no other arguments have been presented, we sustain the examiner's rejection of these claims for the same reasons discussed above.

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In summary, we have sustained each of the examiner's rejections of the claims on appeal. Therefore, the decision of the examiner rejecting claims 22-53 is affirmed.

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

AFFIRMED

JERRY SMITH)	
Administrative Patent Judge)	
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JOSEPH L. DIXON)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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