

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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Ex parte KENNETH S. KNAPTON III

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Appeal No. 2005-0523  
Application No. 10/264,733

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ON BRIEF

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Before JERRY SMITH, DIXON, and GROSS, 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 1-5 and 12-17, which constitute all the claims remaining in the application.

The disclosed invention pertains to a method and apparatus for creating a truly binary compatible object system in which a second object may be snapped into a container or client containing a first object and the second object may be utilized without recompiling. No recompiling in the invention is necessary even though the first and second objects have different

(Globally Unique Identifiers) GUIDs and even if the first and second objects have different interfaces.

Representative claim 1 is reproduced as follows:

1. A method for object oriented programming comprising:  
creating a first object having a first identifier, said object associated with a first client;  
providing a second object having a second identifier, said second object associated with the first client, said first and second identifiers being different; and  
using said second object with said first client in place of the first object without recompiling.

The examiner relies on the following reference:

Miloushev et al. (Miloushev) US 2001/0037412 Nov. 1, 2001

Claims 1-5, 12, 13 and 15-17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Miloushev. Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the teachings of Miloushev taken alone.

Rather than repeat the arguments of appellant or the examiner, we make reference to the briefs 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 briefs 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 disclosure of Miloushev does not support either of the prior art rejections made by the examiner. Accordingly, we reverse.

We consider first the rejection of claims 1-5, 12, 13 and 15-17 as being anticipated by Miloushev. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

The examiner has indicated how he reads the claimed invention on the disclosure of Miloushev [rejection mailed March 28, 2003, pages 2-3; incorporated into answer at page 3]. Appellant has indicated that these claims stand or fall together as a single group [brief, page 6]. With respect to representative claim 1, appellant argues that Miloushev fails to teach selective use of one object in place of another object that

is associated with a client without a need of recompilation. Appellant argues that instead of teaching replacement of one object with another object, Miloushev teaches allowing objects to invoke directly the services of other objects. Thus, appellant argues that at least two objects in Miloushev must interact with one another as opposed to one object simply taking the place of another object as claimed. Appellant also argues that in Miloushev there is never any insertion of one object for another object when the two identifiers of the associated objects are different. Finally, appellant argues that any suggestion of inherency in Miloushev is not supported by the evidence [brief, pages 6-9].

The examiner responds that ActiveX controls use dynamic link libraries (DLLs) and that DLLs do not require recompiling. The examiner asserts that static links in Miloushev are recompiled, but dynamic links are not recompiled. The thrust of the examiner's position is that the replacement of one object by another as claimed is the essence of dynamic linking [answer, pages 4-6].

Appellant responds that in Miloushev two objects must interact rather than one object replacing another as claimed. Appellant also responds that there is no connection between having to compile or recompile and the DLL feature of ActiveX controls. Appellant also asserts that the examiner has pointed

to no portion of Miloushev which addresses the recompilation problem [reply brief].

We will not sustain the examiner's rejection of representative claim 1 or of any of the other claims rejected on anticipation for essentially the reasons argued by appellant in the briefs. As argued by appellant, Miloushev teaches that one object may invoke directly the services of other objects. Although this invocation occurs dynamically and does not require recompiling, the ability of one object to invoke the services of another object is not the same as using one object in place of the other object as claimed. The first object in Miloushev retains control while it is invoking the services of the second object. The second object interacts with the first object in Miloushev, but the second object does not take the place of the first object as claimed. We agree with appellant that the claimed step of "using said second object with said first client in place of the first object without recompiling" must be interpreted such that the second object replace the first object rather than simply interact with it. We do not agree with the examiner's position that the use of DLLs, by itself, teaches the claimed invention because it fails to account for the replacement feature of the claims.

We now consider the rejection of claim 14 under 35 U.S.C. § 103 based on Miloushev taken alone. We will not sustain the

examiner's rejection of claim 14 because the examiner has failed to establish a prima facie case of obviousness. The rejection is based on the deficiencies in Miloushev discussed above.

In summary, we have not sustained either of the examiner's rejections of the claims on appeal. Therefore, the decision of the examiner rejecting claims 1-5 and 12-17 is reversed.

REVERSED

	)	
Jerry Smith	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
Joseph L. Dixon	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
Anita Pellman Gross	)	
Administrative Patent Judge	)	

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