

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ex parte PETER GEIGER, MANUEL J. ALVAREZ II,
and THOMAS A. DYE

Appeal No. 2005-1853
Application No. 09/915,751

ON BRIEF

Before HAIRSTON, GROSS, and BARRY, Administrative Patent Judges.
HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 9, 17 through 22, 25 through 28, 33 through 45, 55 through 76, 78 through 89, 93 through 117 and 125 through 134.

The disclosed invention relates to a method and system for managing memory storage.

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

1. A method for managing compression of pages of memory in a system comprising physical memory, wherein the physical memory comprises system memory, the method comprising:

receiving a system memory access;

locating a page translation entry for the system memory access in a page translation table;

determining if a page in the physical memory and referenced by the page translation entry is compressed or uncompressed;

if said determining indicates the page is compressed:

decompressing the compressed page to produce a decompressed page;

writing the decompressed page to the physical memory; and

providing a first physical memory address of the decompressed page in the physical memory to fulfill the system memory access.

The reference relied on by the examiner is:

Garber et al. (Garber)	5,699,539	Dec. 16, 1997
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Claims 1 through 4, 22, 33, 34, 36, 38 through 42, 55 through 61, 63, 67, 73, 78, 79, 93, 94, 97, 98, 100, 102, 125, 129 and 131 through 134 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Garber.

Claims 5 through 9, 17 through 21, 25 through 28, 35, 37, 43 through 45, 62, 64 through 66, 68 through 72, 74 through 76, 80 through 89, 95, 96, 99, 101, 103 through 117, 126 through 128 and 130 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Garber.

Reference is made to the briefs and the answer for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will sustain all of the rejections of record.

Turning first to the anticipation rejection, appellants' sole argument on appeal (brief, page 5; reply brief, pages 1 through 3) is that the claimed invention does not rely on secondary memory (e.g., disk memory). Stated differently, appellants argue (reply brief, page 2) that they "have claimed a method and system that compresses pages of memory using only a system memory, and Garber does not teach such a system and method."

At the outset, we note that the claims on appeal are not directed to the use of "only" system memory. Nothing in the claims on appeal precludes the use of secondary memory in addition to the use of system memory because all of the claims on appeal use the open-ended expressions "method comprising" or "system comprising." For this reason, we agree with the examiner's statements that "the claimed invention is anticipated by a device that swaps pages out to disk because the claims do not preclude swapping pages out to disk" (answer, page 19), and that "not only do the claims not preclude use of a disk to store compressed pages, but the specification actually teaches the same" (answer, page 21). In the absence of other arguments in the record, the anticipation rejection is sustained.

The obviousness rejection is sustained because appellants have not presented any other arguments besides the argument noted supra.

DECISION

The decision of the examiner rejecting claims 1 through 4, 22, 33, 34, 36, 38 through 42, 55 through 61, 63, 67, 73, 78, 79, 93, 94, 97, 98, 100, 102, 125, 129 and 131 through 134 under 35 U.S.C. § 102(b) is affirmed, and the decision of the examiner rejecting claims 5 through 9, 17 through 21, 25 through 28, 35, 37, 43 through 45, 62, 64 through 66, 68 through 72, 74 through 76, 80 through 89, 95, 96, 99, 101, 103 through 117, 126 through 128 and 130 under 35 U.S.C. § 103(a) 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

KENNETH W. HAIRSTON
Administrative Patent Judge

ANITA PELLMAN GROSS
Administrative Patent Judge

LANCE LEONARD BARRY
Administrative Patent Judge

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Appeal No. 2005-1853
Application No. 09/915,751

Page 6

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