

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

Appeal No. 2006-0637
Application 10/122,251

ON BRIEF

Before THOMAS, HAIRSTON and BLANKENSHIP, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 20.

The disclosed invention relates to a method and system for implementing a fault tolerant sleep mode of operation. If the integrity of system state information stored in volatile memory is not maintained after resumption of a normal mode of operation,

Appeal No. 2006-0637
Application 10/122,251

then the system information stored in non-volatile memory is reloaded into the volatile memory.

Claims 1 and 6 are illustrative of the claimed invention, and they read as follows:

1. A method for implementing a fault tolerant sleep mode of operation comprising the steps of:

storing system state information and a value used to verify integrity of said system state information in a volatile memory;

storing a copy of said system state information and said value used to verify integrity of said system state information in a non-volatile storage unit;

entering said sleep mode of operation;

receiving an indication to enter a normal mode of operation;
and

determining if integrity of said system state information stored in said volatile memory is maintained, wherein if said integrity of at least a portion of said system state information in said volatile memory is not maintained then the method further comprises the step of:

reloading at least said portion of said system state information stored in said non-volatile storage unit into said volatile memory.

6. A computer program product embodied in a machine readable medium for implementing a fault tolerant sleep mode of operation comprising the programming steps of:

storing system state information and a value used to verify integrity of said system state information in a volatile memory;

OPINION

_____We have carefully considered the entire record before us, and we will reverse the 35 U.S.C. § 101 rejection of claims 6 through 10, and the 35 U.S.C. § 102(b) rejection of claims 1 through 20.

Turning first to the non-statutory subject matter rejection of claims 6 through 10, the examiner states (answer, page 3) that:

Claims 6-10 are not limited to tangible embodiments. In view of Applicant's disclosure[.] Specification page 8, line(s) 24-26, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., random access memory and disk) and intangible embodiments (e.g., instructions transmitted over a network). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

The examiner's contentions to the contrary notwithstanding, the non-statutory subject matter rejection applies to the claimed invention, and not to the disclosed invention. Stated differently, the disclosure of a so-called intangible embodiment (i.e., instructions transmitted over a network) (specification, page 8, lines 24 through 26) that the examiner considers to be directed to non-statutory subject matter does not detract from the tangible embodiment (i.e., random access memory and disk)

recognized by the examiner, and impliedly directed to statutory subject matter. We find that claim 6 is clearly directed to a tangible embodiment. We additionally find that the record lacks a convincing line of reasoning that non-resident stored information transmitted to a workstation to initiate the claimed method steps renders the claims non-statutory simply because it is not in residence on the random access memory and disk. In summary, we must reverse the 35 U.S.C. § 101 rejection because we agree with the appellants' arguments throughout the briefs that claims 6 through 10 are directed to statutory subject matter because they are directed to tangible embodiments.

Turning to the anticipation rejection, appellants argue inter alia (reply brief, page 5) that "Atkinson discloses storing the signature value to either volatile memory or to non-volatile memory[,] but not both." We agree with appellants' argument. Atkinson specifically states that system memory data and the signature are stored in either the volatile memory or the non-volatile memory (column 4, lines 39 through 42; column 9, lines 16 through 19). Thus, the 35 U.S.C. § 102(b) rejection of claims 1 through 20 is reversed because Atkinson lacks a teaching of storing the system memory data and the signature in both the volatile memory and the non-volatile memory.

Appeal No. 2006-0637
Application 10/122,251

DECISION

The decision of the examiner rejecting claims 6 through 10 under 35 U.S.C. § 101 is reversed, and the decision of the examiner rejecting claims 1 through 20 under 35 U.S.C. § 102(b) is reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
)	
)	
KENNETH W. HAIRSTON)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
HOWARD B. BLANKENSHIP)	
Administrative Patent Judge)	

KWH:psb

Appeal No. 2006-0637
Application 10/122,251

Kelly K. Kordzik
Wintead, Sechrest & Minick, PC
P.O. Box 50784
Dallas, TX 75201