

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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* HAHN VO

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Appeal 2007-1061  
Application 09/967,601  
Technology Center 2143

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Decided: March 27, 2007

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Before KENNETH W. HAIRSTON, JEAN R. HOMERE, and JAY P. LUCAS, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 from a final rejection of claims 1 to 25 and 27 to 30. We have jurisdiction under 35 U.S.C. § 6(b).

Appellant has invented a software thread function for a port that establishes a virtual port that permits simultaneous sending and receiving of data between two devices on both ends of the port (Specification 7 to 10).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A computer network comprising:

a plurality of network devices; and

a network coupled to the plurality of network devices, wherein the network comprises a machine readable tangible medium storing code, the code adapted to provide a virtual port comprising a send thread to send outgoing data and a receive thread to receive incoming data, wherein the send thread is adapted to send the outgoing data concurrent with the receive thread receiving the incoming data.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Hipp

US 6,859,835

Feb. 22, 2005  
(filed Oct. 5, 1999)

The Examiner rejected claims 1 to 25 and 27 to 30 under 35 U.S.C. § 102(e) based upon the teachings of Hipp.

Appellant contends that Hipp does not teach simultaneously sending and receiving data via a single virtual port that uses send and receive threads (Br. 9 to 12; Reply Br. 3).

We affirm-in-part.

## ISSUE

Does Hipp describe a virtual port that is capable of simultaneously sending and receiving data? If a virtual port is described in Hipp, does Hipp use threads to simultaneously send and receive data?

## FINDINGS OF FACT

Appellant describes a virtual port in which a send thread is created to support the sending of data between two network devices, and a receive thread is created to support the receiving of data between the two network devices (Specification 7 to 10). As indicated *supra*, the virtual port simultaneously sends and receives data.

Hipp recognizes that a port does not normally send and receive data in a simultaneous manner (col. 1, ll. 41 to 44). In order to avoid a collision between send data and receive data, Hipp creates a virtual port by multiplexing the send and receive data between at least two ports (col. 3, ll. 22 to 33; col. 4, ll. 27 to 40; col. 5, ll. 15 to 18, 39 to 42, and 64 to 67; col. 6, ll. 15 to 17; col. 7, l. 66 to col. 8, l. 12; col. 8, ll. 53 to 58). Hipp uses the term “a virtual port” because the second port is transparent to the two applications that are sending and receiving data to an intended first port (col. 2, ll. 33 to 36 and 52 to 55; col. 3, ll. 1 to 22; col. 6, ll. 15 to 17).

## PRINCIPLE OF LAW

Anticipation is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1946 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

### ANALYSIS

Appellant correctly argues (Br. 10) that “the Hipp reference discloses a system that ‘fools’ one of the applications into believing that it is receiving data over the desired port, while in fact the data has been redirected, and is being received through *an entirely different port.*” We additionally agree with appellant’s arguments (Br. 11) that “the Hipp reference *makes absolutely no mention of either send threads or receive threads*, as recited in claims 1, 9, and 16.” On the other hand, the Examiner has correctly argued that Hipp describes “a virtual port” as broadly set forth in claims 23 to 25 and 27 to 30 (Answer, 7 and 8). The “virtual port” set forth in claims 23 to 25 and 27 to 30 does not preclude the use of a second port with an intended first port.

### CONCLUSION OF LAW

Anticipation has not been established by the Examiner for claims 1 to 22 because the “virtual port” in Hipp does not make use of send and receive threads. Anticipation of claims 23 to 25 and 27 to 30 has been established by the examiner because Hipp describes “a virtual port,” albeit one that makes use of more than one port.

### DECISION

The anticipation rejection of claims 1 to 25 and 27 to 30 is reversed as to claims 1 to 22, and is affirmed as to claims 23 to 25 and 27 to 30.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

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AFFIRMED-IN-PART

KWH

ELD

HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS CO 80527-2400