

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHENGFUH JEFFREY TANG and JIANN-TSUEN CHEN

Appeal 2007-3645
Application 10/302,489¹
Technology Center 2100

Decided: September 8, 2008

Before: JAMES D. THOMAS, JAY P. LUCAS, and
ST. JOHN COURTENAY III, *Administrative Patent Judges.*

LUCAS, *Administrative Patent Judge.*

ON REQUEST FOR REHEARING

STATEMENT OF CASE

Appellants have requested a rehearing of our decision dated April 28, 2008, wherein we affirmed the Examiner's rejection of claims 1 to 25. Specifically the Appellants contend that the Board 1) misapprehended or overlooked the actual language of the

¹ Application filed November 21, 2002. Appellants claims the benefit under 35 U.S.C. § 119 of provisional application 60/631,163, filed 03/01/2002. The real party in interest is the Broadcom Corporation.

independent claims and 2) misapprehended the alleged fact that an attempt at an action differs from the consummation of an action.

Appellants' first contention is that this Board misapprehended the scope of representative claim 1 in the following paragraph from the Decision, pages 6-7.

In the words of the Appellants, "Ward, however, does not teach, nor suggest, a method for resetting a gray code counter in which a write pointer associated with a data buffer is altered gradually until a reset value of the write pointer is reached, as recited in claim 1 of the present application." [emphasis omitted] (Br. p. 10, middle).

Appellants claim, however, is much simpler than Appellants' argument recited in the quote just above, and can broadly but reasonably read as follows: (emphasis added)

Appellants properly point out that the first paragraph of the language quoted above accurately states the bounds of the claim, and thus cannot be "simpler" than the claim.

The Board agrees with this contention, and the language of the underlined section should have read, and will be modified to read:

Appellants' claim, however, is broader than Appellants' argument would make it appear (Brief, page 10, middle), and can broadly but reasonably be read as follows:

The argument on page 10 of the Brief to which that new wording refers is the argument in which Appellants state "Instead, Ward discloses resetting the output of the Gray code counter to zero as being instant and immediate." As described in the Decision, page

7, we have read the “altering gradually” limitation on incrementing of the counter on each FIFO write.

We have thus modified the language of the Opinion on this point, but the Decision affirming the rejection stands.

Appellants next contend that the Board misapprehended a difference between blocking an attempt to read data and blocking the ability to read data. We have considered Appellants’ argument again, but come to the same conclusion as stated in the Decision. Appellants note that the Shyi reference teaches that data is blocked from being read. (Req. Reh’g, p. 3, bottom). We agree, and consider that a sufficient teaching to render obvious under 35 U.S.C. § 103 the claimed blocking of an attempt to read from the buffer, as explained in the Decision and the Examiner’s Answer, page 18, top.

Appellants’ request that we reconsider the two issues raised in the Request for Rehearing is granted to the extent of modifying the Decision of April 28, 2008 as indicated above. However, the request to modify the Decision’s affirmance of the Examiner’s rejections is denied.

REHEARING
DENIED

pgc

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661