

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte GARY S. LERHAUPT*

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Appeal 2008-0074  
Application 10/286,245<sup>1</sup>  
Technology Center 2100

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Decided: June 17, 2008

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*Before:* JAMES D. THOMAS, ALLEN R. MACDONALD and  
JAY P. LUCAS, *Administrative Patent Judges.*

LUCAS, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF CASE

Appellant appeals from a final rejection of claims 1 to 20 under authority of 35 U.S.C. § 134. The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

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<sup>1</sup> Application filed November 1, 2002. The real party in interest is Dell Products, L.P.

Appellant's invention relates to a system and method for using and controlling multiple storage devices in a network, allowing them to maintain their identities even when the system architecture is modified by the removal or replacement of some of the storage devices. In the words of the Appellant:

In accordance with the present invention, a method and system are provided which substantially reduce the disadvantages and problems associated with previous methods and systems for deploying networked storage devices for access by user nodes having operating systems that use directory naming conventions for storage devices. Symbolic links map to a selected user node's networked storage device directory using the storage device's inherent unique identifiers. A master configuration file is utilized to store symbolic link to storage device directory mappings, which can be used to configure other user nodes that interface with the networked storage devices. Thus, a consistent set of symbolic links are used to access storage devices by each user node with the consistency maintained by reference to storage device unique identifiers.

(Spec., p. 3)

Claim 1 is exemplary:

1. A system for deploying networked storage devices, the system comprising:

plural storage devices, each storage device having a unique identifier; plural user nodes operable to retrieve information from the storage devices, each user node having an operating system, each operating system having a naming convention for the storage devices;

a network interfacing the storage devices and the user nodes; and

a configuration engine associated with each user node, a selected user node configuration engine operable to generate a configuration file that maps the selected user node naming convention for the storage devices with the storage device unique identifiers by associating a symbolic link with each storage device, the selected user node configuration engine further operable to deploy the configuration file to the remaining user nodes for mapping the storage devices to each user node's naming convention with the symbolic links by reference to the unique identifiers.

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

Johnson	US 2002/0161596 A1	Oct. 31, 2002
Lowe	WO 95/21416	Aug. 10, 1995

Rejections:

R1: Claims 1 to 20 stand rejected under 35 U.S.C. 103(a) for being obvious over Johnson in view of Lowe.

Rather than repeat the arguments of Appellant or the Examiner, we make reference to the Briefs and the Answer for their respective details. Only those arguments actually made by Appellants have been considered in this opinion. Arguments which Appellant could have made but chose not to make in the Briefs have not been considered and are deemed to be waived.

*See* 37 C.F.R. § 41.37(c)(1)(vii) (2004).<sup>2</sup>

We affirm the rejections.

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<sup>2</sup> Appellant has not presented any substantive arguments directed separately to the patentability of the dependent claims or related claims in each group, except as will be noted in this opinion. In the absence of a separate argument with respect to those claims, they stand or fall with the representative independent claim. *See In re Young*, 927 F.2d 588, 590 (Fed. Cir. 1991).

## ISSUE

The issue is whether Appellant has shown that the Examiner erred in rejecting claims 1 to 20 under 35 U.S.C. § 103(a). The issue turns on whether the references as a whole teach the claimed limitations, and whether they can be properly combined.

## PRINCIPLES OF LAW

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's position. See *In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of prima facie obviousness or by rebutting the prima facie case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

References within the statutory terms of 35 U.S.C. § 103 qualify as prior art for an obviousness determination only when analogous to the claimed invention. *In re Clay*, 966 F.2d 656, 658 (Fed. Cir. 1992). Two separate tests define the scope of analogous prior art: (1) whether the art is from the same field of endeavor, regardless of the problem addressed and, (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved. *In re Deminski*, 796 F.2d 436, 442 (Fed. Cir. 1986); see also *In re Wood*, 599 F.2d 1032, 1036, (CCPA 1979) and *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004). Furthermore, "'there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness' . . . [H]owever, the analysis need not seek

out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

## ANALYSIS

From our review of the administrative record, we find that the Examiner has presented a prima facie case for the rejection of Appellant's claims under 35 U.S.C. § 103(a). The prima facie case is presented on pages 5 to 16 of the Examiner's Answer.

In opposition, Appellants present two main arguments, which we will address in reverse order.

Appellant contends that the two references, Johnson and Lowe, are not properly the basis for a rejection as the Examiner has not presented motivation to combine them. Lowe is addressed to a file management system for controlling a plurality of storage nodes, each containing a storage device 26, 26' (See Fig. 1). Files are stored on the plurality of storage devices in the system, as organized in accordance with configuration directory 24. Johnson teaches a system and method for controlling a plurality of storage devices (#102-1 to 102-n) under the control of a storage management system. We thus find that both references are addressing the same field of endeavor. By the teaching of *In re Clay* (cited above) and *KSR Int’l v. Teleflex Inc.* (cited above), this forms the basis for a well articulated combination of references. Such an articulation is found, for example, in the Examiner's Answer, page 21, lower half. Each of these references

contributes elements of the claimed invention, and we find the Examiner has not erred in combining them in a rejection under 35 U.S.C. § 103(a).

With regard to the elements of the claims, Appellant contends that the combination of Johnson and Lowe fails to teach or suggest:

- A configuration engine on each of plural nodes, as recited by Claim 1
- Mapping of symbolic links to associate a storage device directory name and a unique identifier as recited by Claim 8; and
- The master and slave configuration engines as recited by Claim 18.

(Br., p. 4, bottom).

We have reviewed each of these contentions in the light of the Examiner's explanations in the Examiner's Answer. We find that Lowe teaches the claimed configuration engine in relation to the processing that exists between the configuration directory 24 and the related directories in the repository storage. (Lowe, p. 6, top). We find that Lowe also teaches the mapping of symbolic links to associate storage device directories. (Lowe, p. 6, l. 19 to 26). The mapping of symbolic links to unique identifiers is clearly shown in Johnson, where logical and physical storage devices are mapped with the unique identifiers of the storage devices, such as the product ID and serial number (¶ 37, ¶ 41). Lowe presents the teaching of the master – slave configuration engines, with the symbolic referencing through connection #40 performing data coupling between configuration directory 24 to repository directory 26. (Lowe, p. 6, l. 19 to 26). We thus find in the teachings of the prior art each of the elements claimed, in systems from the same field of endeavor. "It is common sense that familiar items may have obvious uses beyond their primary purposes, and a person of ordinary skill

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often will be able to fit the teachings of multiple patents together like pieces of a puzzle.” *KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1732 (2007).

#### CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that the Examiner did not err in rejecting claims 1 to 20.

#### DECISION

The Examiner's rejection of claims 1 to 20 under 35 U.S.C. § 103(a) is Affirmed.

AFFIRMED

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