

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GEOFFREY S. STRONGIN, BRIAN C. BARNES,
and RODNEY SCHMIDT

Appeal 2008-0689
Application 10/107,633
Technology Center 2100

Decided: October 9, 2008

Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP, and
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

A Patent Examiner rejected claims 1-20. The Appellants appeals therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

A. INVENTION

The invention at issue on appeal is a hint directory, which is located functionally in front of a central processing unit's security check unit ("CPU SCU"). The hint directory allows a computer to deduce that a memory access is not directed to a secure section of memory, and then bypass the CPU SCU, delivering the memory access directly to a paging mechanism where a virtual address of the memory access may be translated to a physical address. (Spec. 10.)

B. ILLUSTRATIVE CLAIM

Claim 12, which further illustrates the invention, follows.

12. An apparatus for controlling access to secure data stored within a segment of memory, comprising:

a security check unit adapted to access first information indicating whether secure data is stored in any location within each of a plurality of first preselected segments of memory in response to receiving an address; and

a hint directory adapted to store second information indicating whether secure data is stored in any one of the first plurality of preselected segments of memory, and to bypass the security check unit in response to determining that at least a portion of a received address is within at least one of the first preselected segments of memory and that the second information indicates that each of the first preselected segments of memory is free from secure data.

C. REJECTION

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,154,818 ("Christie") and U.S. Patent No. 6,745,307 ("McKee").

II. CLAIM GROUPING

When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.

37 C.F.R. § 41.37(c)(1)(vii) (2006).¹

Here, the Appellants argue claims 1-11 as a group (Br. 9-11) and claims 12-20 as another group (*id.* 11-13). Claims 1-20 are subject to the same ground of rejection. We select claims 1 and 12 as the sole claims on which to decide the appeal of the respective groups. "With this representation in mind, rather than reiterate the positions of the parties *in toto*, we focus on the issues therebetween." *Ex Parte Zettel*, No. 2007-1361, 2007 WL 3114962, at *2 (BPAI 2007).

¹ We cite to the version of the Code of Federal Regulations in effect at the time of the Appeal Brief. The current version includes the same rules.

III. TEACHINGS OF REFERENCES

The Examiner finds that "*Christie* discloses . . . second information consist[ing] of the MSR regions contained in the MSR [i.e., model specific register] address space." (Answer 9.) He also makes the following findings.

Since *McKee* discloses translating a virtual address to a physical address including the region where the identifier was drawn to along with the access privileges associated with that particular region, the step of identifying at least one of the second preselected segments of memory in which the received address is located in response to determining from the first stored information that the first preselected segment of memory contains secure data has been taught by the reference and the rejection should be upheld.

...

McKee discloses permitting access to the address based on the privilege level of the memory location and thereby teaches permitting access to the received address in response to the second stored information associated with the identified second preselected segment of memory indicating that the second preselected segment of memory is free from secure data.

(*Id.* 10.)

Regarding permitting access to the memory location, or whether it is a secure data area, *McKee* discloses privilege levels associated with the various regions of memory in figure 7 and column 9, lines 6-36, example. The various privilege levels disclosed in *McKee* provide an indication whether the second segment of memory contains secure data or not depending on its associated privilege level.

McKee discloses permitting access to the address based on the privilege level of the memory location and thereby

teaches bypassing the security check unit; therefore the rejection is proper and should be sustained.

(*Id.* 12.) The Appellants make the following arguments.

[N]either Christie nor McKee describe or suggest storing second information indicating whether secure data is stored in any location within each of a plurality of second preselected segments of memory, as set forth in independent claims 1, 6, and 11. Accordingly, neither Christie nor McKee describe or suggest identifying at least one of the second preselected segments of memory in which the received address is located in response to determining from the first stored information that the first preselected segment of memory contains secure data and permitting access to the received address in response to the second stored information associated with the identified second preselected segment of memory indicating that the second preselected segment of memory is free from secure data, as set forth in independent claims 1, 6, and 11.

(Br. 10.)

Furthermore, neither Christie nor McKee describe or suggest bypassing a security check unit in response to determining that at least a portion of a received address is within at least one of the first preselected segments of memory and that the second information indicates that each of the first preselected segments of memory is free from secure data, as set forth in independent claims 12 and 19.

(*Id.* 12.) Therefore, the issue is whether the Appellants have shown error in the Examiner's findings about what Christie and McKee teach.

A. AUTHORITIES

Just as "[i]t is not the function of [the U.S. Court of Appeals for the Federal Circuit] to examine the claims in greater detail than argued by an appellant, looking for nonobvious distinctions over the prior art," *In re*

Baxter Travenol Labs., 952 F.2d 388, 391 (Fed. Cir. 1991), "it is not the function of this Board to examine claims in greater detail than argued by an appellant, looking for nonobvious distinctions over the prior art." *Ex parte Post*, No. 2005-2042, 2006 WL 1665399 at *4 (BPAI 2006).

B. ANALYSIS

Here, we observe that the Examiner has made out a *prima facie* case. The Appellants fail to address, let alone show error in the Examiner's aforementioned findings about what Christie and McKee teach. We will not examine these findings in greater detail than argued by the Appellants.

IV. COMBINING REFERENCES

The Examiner makes the following findings.

[O]ne would be motivated to implement the combination of *Christie* and *McKee* since it would enable a faster computing since address processing would take place of the normal address-translation mechanism. *McKee* states at column 7, lines 43-45 that the address translation can be carried out by the processor without the operating system intervening, resulting in a faster computation of the address translation since it is implemented entirely in hardware without any calls to the operating system.

(Ans. 13.) The Appellants argue that "neither of these two references includes any suggestion or motivation for using a translation look aside buffer to control access to model specific registers, as suggested by the Examiner." (Br. 10.) Therefore, the issue is whether the Appellants have shown error in the Examiner's reasons for combining teachings from Christie and McKee.

A. AUTHORITIES

The presence or absence of a reason "to combine references in an obviousness determination is a pure question of fact." *In re Gartside*, 203 F.3d 1305, 1316 (Fed. Cir. 2000) (citing *In re Dembicza*k, 175 F.3d 994, 1000 (Fed. Cir. 1999)). "The obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of published articles and the explicit content of issued patents. The diversity of inventive pursuits and of modern technology counsels against limiting the analysis in this way." *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007).

B. ANALYSIS

Here, the Appellants' insistence that either Christie or McKee must include a suggestion or motivation to combine teachings therefrom is incorrect. Furthermore, the Appellants fail to address, let alone show error in the Examiner's aforementioned findings about combining these teachings. We will not examine these findings in greater detail than argued by the Appellants.

V. ORDER

For the aforementioned reasons, we affirm the rejection of claims 1 and 12 and of claims 2-11, and 13-20, which fall therewith.

"Any arguments or authorities not included in the brief or a reply brief filed pursuant to [37 C.F.R.] § 41.41 will be refused consideration by the

Board, unless good cause is shown." 37 C.F.R. § 41.37(c)(1)(vii). Accordingly, our affirmance is based only on the arguments made in the Appeal Brief. Any arguments or authorities omitted therefrom are neither before us nor at issue but are considered waived. *Cf. In re Watts*, 354 F.3d 1362, 1367 (Fed. Cir. 2004) ("[I]t is important that the applicant challenging a decision not be permitted to raise arguments on appeal that were not presented to the Board.")

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042