

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* KEVIN McCOMBE and REMI COTE

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Appeal 2008-0841  
Application 09/738,786<sup>1</sup>  
Technology Center 2100

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Decided: January 14, 2009

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Before LANCE LEONARD BARRY, JEAN R. HOMERE,  
and STEPHEN C. SIU, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING  
STATEMENT OF THE CASE

In a paper filed November 10, 2008, Appellants request  
reconsideration under 37 C.F.R. § 41.52 from a Decision of the Board of

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<sup>1</sup> Filed on Dec. 15, 2000. The real party in interest is Wind River Systems, Inc.

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Patent Appeals and Interferences dated September 9, 2008 (Decision, hereinafter.) We have jurisdiction under 35 U.S.C. § 6(b).

In the Decision, the Board reversed the Examiner's rejection of claims 1 through 11 under 35 U.S.C. § 103(a), and rejected the claims under 35 U.S.C. § 112, second paragraph as being indefinite.

Appellants contend that the cited claims are not indefinite. (Req. Reh'g 2.) Particularly, Appellants argue that the Specification makes amply clear that the client process is part of the task process. Therefore, by killing the task process, the client process included therein is also killed (*Id.* at 2-3.)

We grant the Request.

Appellants' arguments are persuasive. We agree with Appellants the Specification supports that the client process is executed from within the client task. We further agree with Appellants that the Specification supports that the client task is restarted or killed when the client process therein is not fully executed within a predetermined time. We further agree with Appellants that one of ordinary skill in the art would have thereby ascertained from the Specification that by killing the client task, the client process included therein is also killed. Consequently, we agree with Appellants that the ordinarily skilled artisan would have been apprised of the scope of the cited claims.

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### DECISION

In light of the foregoing, we grant Appellants' Request for Rehearing. We also modify our prior Decision to withdraw the indefiniteness rejection against claims 1 through 11.

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

### REQUEST FOR REHEARING GRANTED

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