

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte NAMIT JAIN, NEERJA BHATT, KAPIL SURLAKER,
KRISHNAN MEIYYAPPAN, SHAILENDRA MISHRA

Appeal 2008-1045
Application 10/443,174
Technology Center 2100

Decided: August 13, 2008

Before JAMES D. THOMAS, JEAN R. HOMERE, and
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

THOMAS, J., *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 through 15. We have jurisdiction under 35 U.S.C. § 6(b).

As best representative of the disclosed and claimed invention, independent claim 1 is reproduced below:

1. A method for managing messages in a database system, the method comprising the computer-implemented steps of:

receiving one or more requests to enqueue a plurality of messages into a message queue disposed in a volatile memory in the database system, wherein each message from the plurality of messages is associated with a transaction;

in response to receiving the one or more requests, storing the plurality of messages in a portion of the volatile memory that is separate from the message queue; and

if the transaction commits, then moving the plurality of messages from the portion of the volatile memory to the message queue.

The following references are relied on by the Examiner:

Black	5,878,056	Mar. 2, 1999
Goedken	6,393,423 B1	May 21, 2002

Claims 1 through 15, all claims on appeal, stand rejected under 35 U.S.C. § 102(b) as being anticipated by Black. Additionally, the Examiner has rejected dependent claims 2, 3, 7, 8, 12, and 13 under 35 U.S.C. § 103. As evidence of obviousness, the Examiner relies upon Black in view of Goedken.

Rather than repeat the positions of the Appellants and the Examiner, we refer to the Brief and Reply Brief for the Appellants' positions, and to the Answer for the Examiner's positions.

OPINION

For the reasons set forth by the Examiner in the Answer, as amplified here, we sustain the rejection of claims 1 through 15 under 35 U.S.C. § 102 as well as the separate rejection of the variously noted dependent claims under 35 U.S.C. § 103. Because corresponding limitations appear in independent claims 1, 6, and 11, the Brief and Reply Brief treat them

collectively as do we in accordance with claim 1 as representative of each of them. We treat the separate arguments with respect to dependent claims 2, 3, 7, 8, 12, and 13 which recite corresponding limitations with respect to different independent claims collectively in the rejection under 35 U.S.C. § 102 and separately in the rejection of them under 35 U.S.C. § 103.

We treat first the receiving clause of representative independent claim 1 on appeal and more specifically the recited volatile memory in a database system feature argued at page 9 of the principal Brief. We agree with the Examiner's observations at pages 13 and 14 as to Appellants' argument that Black does not teach a database system utilizing volatile memories as providing an adequate teaching basis for the Examiner's views among the noted teachings in Black. The Examiner's remarks give examples of environments of usage that the artisan would consider to be in a database environment. Additionally, consistent with Appellants' disclosed features of the volatile memory of the claims being a RAM, the Examiner notes at the middle of page 14 of the Answer that this feature is taught at column 9, lines 31 through 35. The reference here is to a main memory. We note as well the additional teaching at column 8 at lines 43 through 45 to a main memory. Such a main memory would be construed by the artisan as being a volatile memory as claimed. The Reply Brief does not address this feature.

No arguments have been presented to us that the claimed transactional nature of the subject matter in representative independent claim 1 on appeal is not taught in the reference. Therefore, any arguments as to that feature have been waived.

We turn next to the feature of, in response to receiving one or more requests, the act of storing a plurality of messages in a portion of a volatile

memory that is separate from the message queue portion of the memory.

We generally agree with the Examiner's arguments as to this feature in the statement of the rejection portion of the Answer at pages 3 and 4 as well as the responsive arguments at pages 8 through 12 of the Answer to the position set forth at pages 5 through 7 of the Reply Brief. The Reply Brief addresses the Examiner's responsive remarks at pages 3 through 6.

We observe first that Appellants' remarks at the top of page 7 of the principal Brief on appeal appear to admit that Black teaches that, based upon a noted command, a local queue manager reads a destination queue name specified in the message header and stores the message in either a local queue or a local transmission queue for transmission to another queue manager. The reasoning goes on to indicate that the receipt and processing of the request results in the message being stored in a message queue. The conclusion is therefore asserted that there is no teaching in Black that when a request to enqueue a message is received and processed that the message is "stored in a portion of a volatile memory that is separate from a message queue." The claim does not label the different portion of the volatile memory, only that it must be separate from the labeled message queue portion of the volatile memory. Appellants appear to admit that various labeled queues are taught in the Black reference in accordance with the Examiner's reasoning. The claim therefore permits that a message may be transferred to another message queue since it does not exclude this. In fact, beginning with the discussion at the top of column 6 of Black, this reference makes clear that a plurality of queues may exist at each node for receipt and transmission purposes. An example of this is shown in Figure 3. The following discussion through the end of Black makes clear that this

capability exists. Moreover, the assertion made at the top of page 7 of the principal Brief merely asserts separateness “from a message queue.” The claim actually recites separate from “the message queue.” The assertion therefore misstates the claimed feature.

Page 4 of the Reply Brief urges that the Examiner improperly applies the separate systems 1 and 2 in Figure 3 to effectively comprise a “single” volatile memory. In fact, representative independent claim 1 on appeal does not exclude the Examiner’s views with respect to this capability even though we recognize the concepts disclosed in Appellants’ Figures 10 and 11, in the partitioning of a single volatile memory into two separate portions. Moreover, to the extent argued in the Reply Brief, a single volatile memory is not recited in representative independent claim 1, merely “a volatile memory.” From a system’s perspective from an artisan’s point of view, the embodiments in Figures 2 and 3 at least in Black may be considered to be a single or “a volatile memory” to the extent claimed even though it may occur between separate systems as labeled in Figure 3.

The last clause in representative independent claim 1 on appeal requires “if the transaction commits, then moving the plurality of messages from the portion of the volatile memory to the message queue.” Arguments as to this feature are presented at pages 7 through 9 of the principal Brief and pages 6 and 7 of the Reply Brief. The essential issue presented in the noted portion of the Reply Brief is the alleged absence of a teaching in Black of storing messages into a message queue being triggered by commit of a transaction with which the messages are associated. We agree with the Examiner’s views expressed at pages 12 and 13 of the Answer that the disputed language can be read on Black’s ability to send the messages from

the local queue to an intermediate queue after they have been committed initially in addition to Black's ability to send the messages from the intermediate queue to another intermediate queue or their destination queue after the initial transfer from the local computer commits. Within these observations are the teachings illustrated in Figures 3 and 6 of Black with corresponding columnar discussions that there is a transfer of data within a given labeled system from one queue to another depending upon the transactional nature of committing or uncommitting within a given system as well as between system 1 and system 2 illustrated in Figure 3. The committed capability is also illustrated in Figure 5 as relied upon by the Examiner in the same context. It appears to us that the artisan would take a similar view with respect to commitments illustrated in Figure 6A as well at least in the sense of commitments of respective transfers between systems.

Turning to the rejection of representative dependent claims 2, 7, and 12 within the rejection of the claims under 35 U.S.C. § 102, we agree with the Examiner's views expressed at page 4 of the Answer and the responsive arguments set forth in the paragraph bridging pages 14 and 15 of the Answer that address Appellants' remarks in the principal Brief at pages 9 and 10. Thus, we agree with the Examiner's views that between claims 1 and 2, the claims are conditional and in fact present an alternative requirement between them. What have gone unappreciated by both Appellants and the Examiner are the apparent teachings at the latter portions of column 12 through at least column 13 of Black. Although the reference does not appear to expressly use the words "does not commit" leading to a transaction that does not commit in corresponding words, there are significant discussions of deletion operations as claimed as well as application failures and the concept of

rollback in the sense of uncommitted batch transfers. Figure 6A illustrates the creation of a destination black list when there is a failure or otherwise a noncommittal of transfer of data between sender and receiver destinations, and a subsequent use of a transmission queue in association with a retry queue for retransmission purposes, which later results in a committal on both the sender and receiver. As such, to the extent recited in dependent claim 2, the reference appears to anticipate the claimed feature anyway. Not only do the noted portions of the reference teach the deletion of portions of messages that are problematic and do not transfer, they are not moved or transferred to the receiving destination but are, in fact, deleted.

Appellants do not present any arguments in the Reply Brief as to the Examiner's views with respect to the Examiner's interpretation of representative claims 2, 7, and 12 within the context of the rejection of the claims under 35 U.S.C. § 102.

Furthermore, in a separately stated rejection of claims 2, 3, 7, 8, 12, and 13 under 35 U.S.C. § 103, Appellants' arguments at page 11 of the Brief do not argue that Goedken is not properly combinable with Black within 35 U.S.C. § 103, the arguments do not challenge what the Examiner relies upon in Goedken and in our alternative interpretation of the subject matter of claim 1 with respect to Black. Moreover, Appellants' arguments at page 11 of the Brief appear to argue features of representative independent claim 1 and not those of dependent claim 2. The Reply Brief does not further address this rejection under 35 U.S.C. § 103.

In view of the foregoing, we have sustained the Examiner's rejection of claims 1 through 15 under 35 U.S.C. § 102 and a second rejection of certain dependent claims under 35 U.S.C. § 103 since Appellants in the Brief

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and Reply Brief have not presented any persuasive arguments of error in the Examiner's position. Therefore, we affirm the Examiner's decision to reject these claims.

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).

AFFIRMED

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