

PATENT

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Inventor : MARKS, Daniel L.
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For : REAL TIME COMMUNICATIONS SYSTEM
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Examiner : WINDER, Patrice

MS: No Fee Amendment
The Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF PROFESSOR LEE A. HOLLAAR

S I R:

I have personal knowledge of the subject matter of this declaration, and if called as a witness, would testify thereto.

1. My name is Lee A. Hollaar. I am a Professor of Computer Science in the School of Computing at the University of Utah, where I have been a faculty member since 1980. Prior to that, I was a faculty member at the University of Illinois at Urbana-Champaign. I received my Ph.D. in Computer Science from the University of Illinois at Urbana-Champaign in 1975. I am also a Registered Patent Agent.

2. As a professor at the Universities of Illinois and Utah, I have taught courses in software and system development, including courses in which students had to complete system development projects.

3. I have been retained to give my opinion as to the pending claims, the Final Rejection of February 3, 2012, and cited art referenced therein.

4. In my capacity as a professor, I have been familiar with those having ordinary skill in the art as I have been teaching courses to them, including at about the time of the application, a year-long senior software project course as well as courses in data communications.

5. Brown is directed to access rights of users of a computer network with respect to data entities as specified by a relational database. An overview of a Chat Service starts at 9/37. Of particular relevance in Brown is that "Chat rooms and BBS messages are two types of content objects that may be accessed by users." (10/15.) Since the described access control is for content objects, Brown controls access to "chat room" but not the individual messages of a chat, as discussed in detail at 10/21 through 10/35.

6. With respect to the Marks specification and claims, the Examiner correctly concedes that "Brown does not specifically teach an application programming interface (API) within the reference" at page 7 of the Final Rejection.

7. However, the Examiner has misunderstood the Marks specification and claims by assuming that an API means an applications program interface to the operating system (Final Rejection, Page 7 "Horn also teaches that applications access the operating systems functions through an application programming interface (API)...").

8. There is no basis for this misunderstanding because, while the Marks specification does not define API, the Marks specification also never uses the term "application program interface" and only uses "application" once ("JAVA application").

9. The best illustration of what API means in the context of the Marks specification is in Fig. 2, where API messages are the collection of all message types, between one computer and another, that are multiplexed for transfer and then demultiplexed by message type to route them to the appropriate place. There is no possible way that Fig. 2 is compatible with the Examiner's interpretation that the API is used to "access the operating systems functions."

10. In attempting to reject claims 4, 22, 5, and 23, even the Examiner abandons this idea of an API, where the Examiner is forced to look at API as messages "Brown taught the API includes API messages" (Final Rejection at page 8).

11. The attempted reasons to combine or modify Brown in view of Horn in the Final Rejection simply reflect the above-described misunderstanding of an API. As shown in Marks' Fig. 2, API messages have absolutely nothing to do with using "DLLs loaded in memory to conserve resources" (Final Rejection at page 7).

12. Neither Brown nor Horn teaches the API which Marks discloses at length with respect to Fig. 2. The rest of the combinations or modifications assume a motivation based on the misunderstanding described above.

13. Further, Brown makes no disclosure about an identity being authenticated. Thus, at page 6 of the Office Action, the Examiner has incorrectly interpreted Brown as disclosing, at 9/11-18 an "authenticated user identity." Regarding the "sysops" with special privileges, that does not necessarily require an "authenticated user identity." The privilege could result, for example, by the person accessing the system through a system console connected to a special port of the computer, which was common for mainframe computer systems, for example, where the console was a special device connected physically and mechanically to the computer.

14. I do not see how one can combine Brown and Horn, neither of which teaches the API which Marks teaches with respect to Fig. 2. Yet that is what the Examiner claims to have done.

15. The description in the combination of Brown and Horn collectively is not adequate to allow a person skilled in the art to implement the claimed apparatus or method, and the combination provides no substantial guidance to any implementation with respect to the Marks claims. In my opinion, as much experimentation and development would be required as would be the case if the developer had never seen the combined references.

16. Had I provided a system description as in the combination of Brown and Horn to one of my senior computer science project courses and asked them to produce a claimed apparatus, I would have been bombarded with questions regarding what I really wanted, because the assignment would have been far too vague.

17. In sum, it is my opinion that the combination of Brown and Horn do not describe the API which the Marks specification teaches. Furthermore, the respective descriptions of Brown and Horn are so incomplete that a person skilled in the art at the time of the invention would have been unable to implement the claimed apparatus or method without undue experimentation and extensive development, with the combination of Brown and Horn providing no substantial help.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Lee A. Hollaar
March 26, 2012