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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/073,793	03/07/2005	Ernest J. Burger	END920040128US1	7783
45092	7590	01/30/2013	EXAMINER	
HOFFMAN WARNICK I.L.C.			ARCOS, JEISON C	
540 Broadway			ART UNIT	PAPER NUMBER
4th Floor			2113	
ALBANY, NY 12207			NOTIFICATION DATE	DELIVERY MODE
			01/30/2013	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ERNEST J. BURGER and MARIA T. KAPOGIANNIS

Appeal 2010-003812
Application 11/073,793
Technology Center 2100

Before DAVID M. KOHUT, BRYAN F. MOORE, and MICHAEL J.
STRAUSS, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the Non-Final Rejection of claims 1-21. App. Br. 2. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

INVENTION

The invention is directed to a method, system and program product for monitoring a heartbeat of a computer application. *See* Spec. [0001].

Claim 1 is exemplary of the invention and is reproduced below:

1. A method for monitoring a heartbeat of a computer application, comprising:
 - reading configuration information that identifies at least one queue to be monitored for the computer application that utilizes the at least one queue;
 - publishing a heartbeat message to the at least one queue based on a predetermined time interval after publication of a prior heartbeat message specified in the configuration information; and
 - placing the heartbeat message in an error queue if the heartbeat message is not read by the computer application within a predetermined expiration time specified in the configuration information.

REFERENCES

Xu US 2005/0114867 A1 May 26, 2005

Bea, “BEA TUXEDO/Q Guide” BEA TUXEDO Release 6.5 (1999) pp. 7, 13-14, (“BEA”).

IBM Corporation, “Adapter architecture” WebSphere Business Integration Adapters, 1997, 2003, (“IBM”).

REJECTIONS AT ISSUE

Claims 1-5, 7-12, 14-19 and 21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Xu and BEA. Ans. 4-12.

Claims 6, 13 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Xu, BEA, and IBM.¹ Ans. 13.

ISSUES

1. Did the Examiner err in finding that the combination of Xu and BEA teaches “publishing a heartbeat message to the at least one queue based on a predetermined time interval after publication of a prior heartbeat message specified in the configuration information [,]” as recited in claim 1?
2. Did the Examiner err in finding that Xu, BEA, and IBM teaches “publishing results of the method to a log [,]” as recited in claim 6?

ANALYSIS

35 U.S.C. § 103(a) - Xu and BEA

Claims 1-5, 7-12, 14-19, and 21

Appellants argue that Xu does not teach “publishing a heartbeat message to the at least one queue based on a predetermined time interval after publication of a prior heartbeat message specified in the configuration information.” Br. 5. Specifically, Appellants argue that the “only teaching in Xu regarding a heartbeat system is that its reactivation process may occur in response to an indication from a heartbeat system, without discussing how the heartbeat system is implemented.” *Id.* This argument is not persuasive.

¹ The Examiner inadvertently indicated the rejection as a § 102(e) instead of § 103(a). Ans. 13. As this amounts to harmless error, we have modified the statement of rejection here.

Xu teaches a “triggering monitor 135 [that] preferably includes a heartbeat routine that periodically checks the adapter or application to verify whether it is still running.” Xu, ¶ [0026]. We agree with the Examiner that one of ordinary skill in the art of error handling would recognize that a periodic heartbeat routine includes a predetermined time interval between messages. *See* Ans. 13-14.

Appellants also argue that the heartbeat message is distinct from the trigger event that the Examiner relies on to show the heartbeat message. Br. 6. However, the Examiner relies on the fact that the trigger event in Xu may be an indication of a crash that was determined using a heartbeat message. Ans. 14. Xu teaches that “the integration server can detect that a component (application 312) has crashed (e.g., using an application heartbeat If a trigger event is detected, the integration broker generates an application message indicative of a triggering event (step 520, [1]).” Xu, ¶ [0030]. To the extent that Appellants are arguing that the application message of Xu is not placed in the error queue, we deal with that argument below.

Appellants argue that the predetermined time interval is not “specified in the configuration information.” Br. 6. However, Xu discloses process detail information that includes information about the application queue being monitored (Xu, ¶ [0030]) and the timing of messages. We agree with the Examiner that one of ordinary skill in the art would recognize that the process detail is used to determine the timing of events such as heartbeat messages. Ans. 14-15. For example, Xu teaches “generating a trigger message based on the predetermined event and predetermined process parameters associated with the application program.” Xu, ¶ [0009]. Thus, we are not persuaded by Appellants’ argument.

Claim 1 further recites “placing the heartbeat message in an error queue if the heartbeat message is not read by the computer application within a predetermined expiration time specified in the configuration information.” Appellants argue that Xu does not disclose this limitation. However, the Examiner relies on the combination of Xu and BEA to teach this limitation. Ans. 5. We agree with the Examiner that BEA teaches “a message that has not been serviced by an application and the retry count is ZERO (no retries are done) then the message is moved to an error queue that can be configured by an administrator of the queue space.” Ans. 5 (citing BEA, p. 7). We agree with the Examiner that one of ordinary skill in the art of messaging would recognize that error queue of BEA could be combined with the heartbeat system of Xu to move the heartbeat message to the error queue. Ans. 6. Thus, we are not persuaded by Appellants’ argument.

For the reasons stated above, we are not persuaded of error in the Examiner’s decision to reject claim 1.

As noted above, Appellants do not substantively argue the rejection of claims 2-5, 7-12, 14-19 and 21. Thus, for the reasons stated above, we affirm the Examiner’s decision to reject claims 1-5, 7-12, 14-19 and 21.

35 U.S.C. § 103(a) – Xu, BEA, and IBM

Claims 6, 13, and 20

Claim 6 recites “publishing results of the method to a log.” Appellants argue that Xu does not teach this limitation. Br. 7. Xu states that “[t]hese features may be stored as part of the process definition, but in the presently preferred embodiment they are stored in the integration broker.” Xu, ¶ [0029]. Appellants argue that these features are not the result of a

Appeal 2010-003812
Application 11/073,793

method but are merely parameters. Br. 7. We agree with the Examiner that the information stored in paragraph 29 are defined in the claimed method and are thus a result of the process. Ans. 13, 16. Further, IBM teaches that the integration broker is capable of storing results to a log. *See* Ans. 13. Thus, we are not persuaded by Appellants' argument.

DECISION

The Examiner's decision to reject claims 1-21 is affirmed.

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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