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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/327,148	01/06/2006	Sudhakar Velkanthan Chellam	RSW920050093US1	2122
25259	7590	02/04/2013	EXAMINER	
RSW IPI.aw			MCCARTHY, CHRISTOPHER S	
IBM CORPORATION			ART UNIT	
3039 CORNWALLIS RD.			PAPER NUMBER	
DEPT. T81 / B503, PO BOX 12195			2113	
RESEARCH TRIANGLE PARK, NC 27709			NOTIFICATION DATE	
			DELIVERY MODE	
			02/04/2013	
			ELECTRONIC	

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SUDHAKAR VELKANTHAN CHELLAM

Appeal 2010-008145
Application 11/327,148
Technology Center 2100

Before ROBERT E. NAPPI, KRISTEN L. DROESCH, and
JUSTIN BUSCH, *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-2, 5-8, 11-15, and 17-20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

Introduction

According to Appellant, the invention relates to a "method, apparatus and computer-usable medium for dynamically and deterministically evaluating the priority to assign to fixing a failed service for a business process comprising multiple independent services." Abstract.

STATEMENT OF THE CASE

Exemplary Claim

Claim 1 is exemplary and reproduced below:

1. A computer-implementable method comprising:
 - monitoring each of multiple existing services of a business process for one or more of (a) number of requests, (b) frequency of requests, (c) relationships, and (d) failures;
 - storing the monitored data within a storage facility of a computer device;
 - dynamically detecting one or more failed services among the multiple existing services of the business process when the one or more failed services is detected, automatically determining a level of importance of each failed service within the business process;
 - calculating a priority level of each of the one or more failed services utilizing a priority function and data specific to the particular one of the one or more failed services;

performing said calculating with the monitored data stored in the storage facility;
providing a normalized result of a first calculation relative to a next result of each other calculation performed;
dynamically prioritizing the one or more failed services relative to each other based on the determined level of importance and the normalized result; and
in response to completion of the dynamically prioritizing step, automatically signaling a system administrator of a priority order for addressing the one or more failed service, wherein the priority order is selected to minimize the negative impact on the business process of the failed services.

Reference

Tachihara US 7,350,100 B2 Mar. 25, 2008
(Filed May 5, 2004)

Rejections

Claims 1, 2, 5-8, 11-15, 17, 18, and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Tachihara.

Claim 19 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of Tachihara.

ISSUE

Appellant argues that Tachihara does not disclose “calculating a priority level of each of the one or more failed services utilizing a priority function,” as recited in claim 1 and similarly recited in claims 7 and 13. App.

Br. 3¹. Appellant also argues that Tachihara does not disclose “detecting comprises monitoring the multiple existing services for an occurrence of failure,” as recited in claim 2 and similarly recited in claims 8 and 14. *Id.* App. Br. 14-16. Appellant further argues that Tachihara does not disclose “wherein said multiple existing services are components associated to a service oriented architecture (SOA) that provides said business process,” as recited in claim 6 and similarly recited in claims 12 and 18. *Id.* All of Appellant’s arguments are based on a distinction between the “services” of Appellant’s invention and the “jobs” of the Tachihara reference. App. Br. 4.

Issue: Has the Examiner erred in finding that Tachihara’s “jobs” meet the limitations of Appellant’s “services” and thus, finding that Tachihara anticipates Appellant’s claims?

ANALYSIS

Appellant does not appear to contest the Examiner’s findings with respect to what Tachihara discloses regarding “jobs,” upon which the Examiner bases the finding that Tachihara discloses each element of Appellant’s claims. Ans. 9-11. However, Appellant argues that the “Examiner has failed to recognize that the ‘services’, as taught by Appellants is neither analogous nor comparable to the ‘jobs’, as taught by *Tachihara*.” App. Br. 4.

¹ References in this Opinion to “App. Br.” refer to the Supplemental Appeal Brief filed on November 13, 2009.

Specifically, Appellant asserts that Tachihara “defines equipment as ‘resources’” and that the claimed failure of services is not analogous to, nor can it be detected by, failed equipment. App. Br. 4. Appellant further states that the claimed services are not tied to specific resources and that Tachihara’s detecting of failed equipment cannot provide information on service failures (nor can the reverse be done) and, thus, Tachihara’s detection schemes do not meet the limitation “wherein said detecting comprises monitoring the multiple existing services for an occurrence of a failure within the existing services, wherein said failure results in one of the existing services becoming one of the one or more failed services,” as recited in claim 2. App. Br. 4-5.

The Examiner responds to Appellant’s contention that Tachihara’s jobs are not analogous or comparable to the claimed “services” by pointing out that Tachihara discloses “that a business operation is referred to as a job.” Ans. 11. The Examiner further finds that Tachihara discloses a relationship between jobs and resources, such that jobs affected by resource failures may be identified. Ans. 11. The Examiner then finds that “the combination of the resources that make up the jobs are together analogous to the services of the present invention.” Ans. 12. Finally, the Examiner cites a portion of Tachihara that discusses providers of distributed system management services using the invention of Tachihara in order to show that Tachihara discloses “the service architecture wherein multiple services are associated components thereof.” Ans. 12.

Appellant defines a “service” as “a software building block that performs a distinct function -- such as retrieving customer information from

a database -- through a well-defined interface.” Spec. ¶ 2. The broadest reasonable interpretation of “services” is simply what Appellants have defined, without reading additional limitations from the Specification into the claims. Therefore, a “service” is merely software that performs a distinct function through a well-defined interface. There is nothing in Tachihara that requires a job to have multiple resources. As such, some embodiments of a job may merely consist of a single software application that is designed to carry out a distinct function. One potential embodiment of a job may have only a single constitutional element, such as, for example, “Application A.” *See* Tachihara Fig. 12. Such a job would therefore be made up of only a single piece of software that performs a distinct function through a well-defined interface, thus meeting Appellant’s claimed service. One example described in Tachihara that meets the recited service is the salary calculation tool/service. *See* Spec. Fig. 3. Therefore, we agree with the Examiner’s findings and affirm the Examiner’s rejections.

Appellant also argues that the limitation of claim 2 (as well as claims 8 and 13) is not disclosed by Tachihara. After explaining what Appellant believes a portion of Tachihara teaches and stating the limitation recited in claim 2, Appellant asserts that an ordinarily skilled artisan knows that “[t]he **service**, of the SOA, is a unit of work done by a service provider to achieve desired end results for a service consumer.” App. Br. 4. Finally, Appellant argues that such services are not the same as Tachihara’s resources or jobs. *Id.* With respect to claim 2, nothing in Appellant’s claim requires that the service be part of a service oriented architecture. The claim merely recites that the detecting step of claim 1 includes “monitoring multiple existing

services for an occurrence of a failure within the existing services.” In fact, the only claims that reference service oriented architecture are dependent claims 6, 12, and 18. Thus, Appellant’s arguments are not commensurate with the scope of any claims other than claims 6, 12, and 18. We therefore agree with the Examiner’s findings with respect to claims 2, 8, and 14 and affirm the Examiner’s rejections of those claims.

With respect to claims 6, 12, and 18, which recite that the “services are components associated to a service oriented architecture,” we find Appellant’s argument unpersuasive. Appellant has not provided sufficient evidence to persuade us that an ordinarily skilled artisan would not have understood the limitations of claims 6, 12, and 18 to read on Tachihara. As explained above, Tachihara’s jobs meet the recited “services.” Moreover, the Examiner finds that Tachihara discloses that its invention could be used by “service providers that provide distributed system management services.” Ans. 12 (quoting Tachihara col. 10 ll. 18-36). Therefore, Appellant has not provided sufficient evidence or argument to overcome the Examiner’s findings that Tachihara meets the limitations recited in claims 6, 12, and 18 and we therefore affirm the Examiner’s rejections of those claims.

The rejections of dependent claims 5, 11, 15, 17, 19, and 20, not argued separately, are affirmed for the same reasons as discussed above.

DECISION

The Examiner’s rejection of claims 1-2, 5-8, 11-15, and 17-20 is affirmed.

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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)(2011).

AFFIRMED

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