UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/140,399	05/27/2005	Geoffrey M. Clemm	LOT920040048US2 (006)	5090

46321 7590 01/29/2013
CAREY, RODRIGUEZ, GREENBERG & O""KEEFE, LLP
STEVEN M. GREENBERG
7900 Glades Road
SUITE 520
BOCA RATON, FL 33434

EXAMINER
BROPHY, MATTHEW J

ART UNIT	PAPER NUMBER
2191	

MAIL DATE	DELIVERY MODE
01/29/2013	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GEOFFREY M. CLEMM, HERBERT A. MILLER, and ALLAN R. TATE

Appeal 2010-008836
Application 11/140,399
Technology Center 2100

Before ROBERT E. NAPPI, GEORGIANNA W. BRADEN, and BARBARA A. PARVIS, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

DECISION ON APPEAL

The Appellants appeal under 35 U.S.C. § 134 from the Examiner's decision finally rejecting claims 9-11. We have jurisdiction over the appeal under 35 U.S.C. § 6(b). Claims 1-8 and 12-14 have been cancelled.

We affirm.

STATEMENT OF THE CASE

Appellants' invention relates to a method for resolving artifact references in a software configuration management tool.

CLAIMED SUBJECT MATTER

Claim 9 is the independent claims on appeal. Claim 9 is representative of the subject matter on appeal, and recites:

> 9. A method for resolving artifact references in a software configuration management tool, the method comprising:
> reading a uniform reference to an artifact;
> parsing said uniform reference to identify said artifact and a reference kind;
> selecting a resolution routine to reduce said uniform reference to a path name to said artifact; and,
> executing said resolution routine to produce said path name.

REJECTIONS

Claims 9-11 are rejected under 35 U.S.C. § 102(e) as unpatentable over Kaler et al. (US PG Publication 2004/0216090 A1, "Kaler"). (Answer 3.)[1]

APPELLANTS CONTENTIONS

Appellants argue on pages 3 through 7 of the Appeal Brief that the Examiner's rejection of independent claim 9 under 35 U.S.C. § 102(e) is in

[1] Throughout this opinion we refer to the Examiner's Answer mailed on January 21, 2010.

error.[2] Appellants contend that the Examiner failed to identify the following limitations of claim 9:

"parsing said uniform reference to identify said artifact and a reference kind;" and

"selecting a resolution routine to reduce said uniform reference to a path name to said artifact."

Appellants have not presented separate arguments for claims 10 and 11. (Brief 7.)

ISSUES

Did the Examiner err in finding that Kaler teaches the "parsing said uniform reference to identify said artifact and a reference kind" limitation of claim 9?

Did the Examiner err in finding that Kaler teaches the "selecting a resolution routine to reduce said uniform reference to a path name to said artifact" limitation of claim 9?

ANALYSIS

We have reviewed the Examiner's rejections in light of the Appellants' arguments that the Examiner has erred. We disagree with Appellants' conclusion. We adopt as our own the findings and reasons set forth by the Examiner in the action from which this appeal is taken and the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. However we highlight and address specific findings and arguments regarding claim 9 for emphasis as follows.

---

[2] Throughout this opinion we refer to Appellants' Appeal Brief of October 23, 2009.

Did the Examiner err in finding that Kaler teaches the "parsing said uniform reference to identify said artifact and a reference kind" limitation of claim 9?

Appellants' first contention focuses on the construction of "reference kind." (Reply 3.)[3] The key difference in the proposed constructions relates to whether "reference kind" must provide an indication of the type of file pointed to. Appellants argue, "[c]learly, a unique file identifier provides no indication as to the type of file pointed to by the 'unique file identifier.'" (Reply 4.) The Examiner construes "reference kind" to mean "a type of reference to a particular artifact used to identify that artifact." (Answer 7.)

The express language of claim 9 does not call for limiting the term "reference kind" as proposed by Appellants. As is acknowledge by Appellants, the USPTO gives claims their broadest reasonable interpretation. (Brief 4.) Here, the Appellants' argument is not commensurate with the limitations of representative claim 9. We decline to read the argued limitation into the claim from the Specification. We further note that limitation of a "reference kind" is just describing the data and as such is nonfunctional descriptive material.[4]

---

[3] Throughout this opinion we refer to Appellants' Reply Brief of March 22, 2010.

[4] The Examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See In re Lowry*, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004) and our decision in *Ex parte Curry*, 84 USPQ2d 1272 (BPAI 2005) (informative opinion).

Did the Examiner err in finding that Kaler teaches the "selecting a resolution routine to reduce said uniform reference to a path name to said artifact" limitation of claim 9?

Again this argument focuses on construction of a claim term. (Brief 6.) The disputed term in this instance is "path." However, in the Reply, Appellants agree with the Examiner's proposed construction of the disputed term thus resolving the issue. (Reply 3.)

The rejections of claims 10 and 11 as unpatentable over Kaler

Regarding Appellants' contentions with respect to the remaining claims, Appellants do not argue additional arguments with sufficient specificity so they fall with Claim 9. For the same reasons noted above, we agree with the Examiner's findings and stated conclusions with respect to the remaining claims.

DECISION

We AFFIRM the rejections of claims 9-11 under 35 U.S.C. § 102(e) as unpatentable over Kaler.

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

AFFIRMED

msc