



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.
11/365,297	02/28/2006	Gianfranco Putzolu	50277-3077	1396

42425 7590 02/28/2013
HICKMAN PALERMO TRUONG BECKER BINGHAM WONG/ORACLE
1 Almaden Boulevard
Floor 12
SAN JOSE, CA 95113

EXAMINER

CHEN, TE Y

ART UNIT	PAPER NUMBER
----------	--------------

2168

MAIL DATE	DELIVERY MODE
-----------	---------------

02/28/2013

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 GIANFRANCO PUTZOLU

Appeal 2010-009686
Application 11/365,297
Technology Center 2100

Before JASON V. MORGAN, ERIC B. CHEN, and JOHN G. NEW,
Administrative Patent Judges.

NEW, *Administrative Patent Judge.*

DECISION ON APPEAL

SUMMARY

Appellant files this appeal under 35 U.S.C. § 134(a) from the Examiner's Non-Final Rejection of claims 1-40. Specifically, the Examiner rejected claims 1-40 as unpatentable under 35 U.S.C. § 112(b) as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner also rejected claims 1-6, 11-16, 21-26, and 31-36 as unpatentable under 35 U.S.C. § 102(e) as being anticipated by Moiin et al. (US 6,192,483 B1, February 20, 2001) ("Moiin").¹

We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Appellant's invention is directed to database systems and, more particularly, to a partitioning ownership of a database among different database servers to control access to the database. Spec. 1.

GROUPING OF CLAIMS

¹ Appellant also appeals the Examiner's objections to claims 11-20 as being substantially duplicative of claims 1-10, and claims 31-40 as being substantially duplicative of claims 21-30 under 35 C.F.R. § 1.75. As we have no jurisdiction over objections made by the Examiner, we do not address Appellant's argument in these respects. *See* M.P.E.P. § 706.01 ("[T]he Board will not hear or decide issues pertaining to objections and formal matters which are not properly before the Board."); *see also* 37 C.F.R. § 41.31(a)(1) ("Every applicant, any of whose claims has been twice *rejected*, may appeal from the decision of the examiner to the Board") (emphasis added).

Appellant argues that the claims at issue either depend from claim 1 or incorporate similar disputed limitations. App. Br. 12, 15, 17, 19. We therefore select claim 1 as exemplary. Claim 1 recites:

1. A computer-implemented method comprising:
 - maintaining a plurality of persistent data items on a persistent storage accessible to a plurality of nodes;
 - assigning ownership of each of the persistent data items to at least one of the plurality of nodes, wherein each of the persistent data items resides at a particular location on said persistent storage;
 - a certain node of said plurality of nodes sending a request to perform an operation that involves a particular data item of said plurality of persistent data items to a particular node assigned as an owner to the particular data item to cause the particular node to perform the operation on the particular data item, wherein said particular data item resides at a particular location on said persistent storage;
 - reassigning ownership of the particular data item from the particular node to another node without moving the particular data item from said particular location on said persistent storage;
 - after the reassignment, when any node of said plurality of nodes wants an operation performed that involves said particular data item, the node that desires the operation to be performed sending a request to perform the operation to said another node for the another node to perform the operation on the particular data item while said particular data item continues to reside at said particular location.

App. Br. 21.

ISSUES AND ANALYSES

A. Rejection of claims 1-40 under 35 U.S.C. § 112(b)

Issue

Appellant argues that the Examiner erred in rejecting claim 1-40 under 35 U.S.C. § 112(b) as failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention. App. Br. 10. We therefore address the issue of whether the Examiner so erred.

Analysis

Appellant argues that Appellant believes that, *contra* the Examiner's finding, the language of the claims is such that a person of ordinary skill in the art is able to interpret the metes and bounds of the claims because the terms "a certain node," "a particular data item," and "a particular node assigned as an owner to the particular item" have well recognized meanings, which allow the reader to infer the meaning of the entire phrase with reasonable confidence. App. Br. 10-11. Moreover, Appellant argues that Appellant believes that the punctuation and indentation in the claims is proper and that the language of the claims is such that a person of ordinary skill in the art is able to interpret the metes and bounds of the claims. App. Br. 11. Appellant confesses to being "at a loss as to the reasons for the [Examiner's] difficulties in understanding the meaning of the above terms."

Id.

Regardless of what Appellant believes, such arguments do not amount to evidence, supported by the Specification or extrinsic sources, and thus constitute no more than mere attorney argument. Arguments of counsel cannot take the place of factually supported objective evidence.

See, e.g., In re Huang, 100 F.3d 135, 139-140 (Fed. Cir. 1996). We are therefore not persuaded by Appellant's argument and affirm the Examiner's rejection of claims 1-40.

B. Rejection of claim 1 under 35 U.S.C. § 102(e)

Issue 1

Appellant argues that the Examiner erred in finding that Moiin discloses the limitation of claim 1 reciting "sending, to a particular node assigned as an owner to the particular data item, a request to perform an operation that involves the particular data item ... accessible to a plurality of nodes, to cause the particular node to perform the operation on the particular data item" App. Br. 13. We therefore address the issue of whether the Examiner so erred.

Analysis

Appellant argues that the sequence number that Moiin discloses as being sent to all active nodes, and which prevents failed nodes from accessing the shared data, is not a "request to perform an operation that involves a particular data item of said plurality of persistent data items." App. Br. 13-14.

The Examiner responds that Moiin explicitly discloses maintaining a plurality of data items, such as the shared and sequence number data items, by each active node in a distributed, clustered computer system in an exclusive manner. Ans. 12 (citing Moiin, Figs. 1-3). The Examiner finds that Moiin discloses an application for assigning data items using the Veritas Volume Manager ("VxVM"), which operates on the assumption

that the underlying architecture is a shared-nothing architecture. Ans. 13. The Examiner finds that such an architecture assumes that there is only one “master” that can access a data item at any given time. *Id.* Therefore, finds the Examiner, when the master is no longer part of the cluster, the resources owned by it will be transferred to a secondary node that will then become the new master. *Id.* The Examiner thus finds that Moiin discloses the claimed assigning of ownership to a particular node for accessing a particularly (or exclusively) shared data items in a persistent storage per the VxVM clustered resources transferring operations, such as the forced reserve Input Output Control (IOCTL) operations or the N-2 ownership transferring operations. Ans. 13-14.

The Examiner also finds that Moiin also discloses an improved OPS CVM system reconfiguration. Ans. 14 (citing Fig. 3 and associated text). The Examiner finds that the claimed assigning and reassigning limitation is met by steps 302-306 of Moiin’s Fig. 3; that the claimed sending operation is performed by the public net broadcasting steps of Fig.3; and that the reconfigured looping steps: 302 - 310 in Fig. 3 read on the limitation of claimed after reassigning ownership post operations.

We are not persuaded by the Examiner’s reasoning that Moiin discloses the limitation of claim 1 reciting a “plurality of nodes sending a request to perform an operation that involves a particular data item.” Moiin teaches a system for the detection of node failure wherein:

Periodically, each node exchanges its sequence number with all other nodes of the cluster. If a particular node detects that it believes itself to be a member of a preceding configuration to that to which another node belongs, the node determines that the cluster has been reconfigured since the node last performed a reconfiguration. Therefore, the node must no longer be a

member of the cluster. The node then refrains from accessing shared data.

Moiin, col. 3; ll. 50-57. Moiin does not explicitly or inherently disclose (nor does the Examiner persuasively find evidence supporting) the limitation of claim 1 reciting “sending a request to perform an operation that involves a particular data item.” (emphasis added). We consequently conclude that the Examiner erred in finding that Moiin discloses this limitation of claim 1, and we reverse the Examiner’s rejection of the claim.²

DECISION

The Examiner’s rejection of claims 1-40 as being unpatentable under 35 U.S.C. § 112(b) is affirmed.

The Examiner’s rejection of claims 1-6, 11-16, 21-26, and 31-36 as being unpatentable under 35 U.S.C. § 102(e) is reversed.

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

tj

² We note that the issue of the obviousness of claims 1-6, 11-16, 21-26, and 31-36 under 35 U.S.C. § 103(a) is not before us in the instant appeal and we therefore do not reach any conclusion in that respect.