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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LOUIS BURGER, THOMAS JULIEN, and
FRANK RODERIC VANDERVORT

Appeal 2010-010696
Application 11/554,113
Technology Center 2100

Before JOSEPH L. DIXON, ST. JOHN COURTENAY III, and
CARLA M. KRIVAK, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 1-17. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

The invention on appeal is directed generally to managing the workload of a database system. More particularly, Appellants' invention manages the workload resulting from a query requiring a product join. (Spec. 1). Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A database system workload management method comprising:

providing populated input tables of a database query;

calculating one or more parameters reflective of resource requirements of the query, wherein the resource requirements of the query are based on the populated input tables;

determining whether the one or more of the parameters exceed a respective specified parameter maximum value; and

in the event that the one or more parameters do not exceed the respective maximum value proceeding with execution of the query.

REFERENCE

The prior art relied upon by the Examiner as evidence in rejecting the claims on appeal is:

Anjur

US 7,069,264 B2

Jun. 27, 2006

REJECTION

Claims 1-17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Anjur.

Contentions

Appellants contend, *inter alia*:

Anjur et al. does not disclose a database system workload management method including "calculating one or more parameters reflective of resource requirements of the query, wherein the resource requirements of the query are based on the populated input tables," "determining whether the one or more of the parameters exceed a respective specified parameter maximum value," or "in the event that the one or more parameters do not exceed the respective maximum value proceeding with execution of the query."
(App. Br. 5-6, *see also* claim 1).

Referring particularly to Anjur, column 6, lines 12-22, Appellants contend:

Here, Anjur et al. generally describes results of a query including a sample stratified clause that results in samples of rows in subgroups that satisfy a stratification condition and a process for obtaining random samples. Anjur et al. does not remotely describe or suggest a method of determining whether the one or more parameters that are reflective of resource requirements of the query exceed a respective specified parameter maximum value. For at least this reason, Anjur et al. fails to anticipate claim 1, and withdrawal of the rejection of claim 1 under 35 U.S.C. 102 is respectfully requested.

With regard to the claim 1 limitation of "in the event that the one or more parameters do not exceed the respective maximum value proceeding with execution of the query," Applicants note that Anjur et al. is necessarily precluded from disclosing such a method step because Anjur et al. fails to describe or suggest determining whether the one or more of the

parameters exceed a respective specified parameter maximum value as discussed above.
(App. Br. 5-6, *see also* claim 1).

Issue: Under § 102, did the Examiner err in finding that Anjur discloses:

calculating one or more parameters reflective of resource requirements of the query, wherein the resource requirements of the query are based on the populated input tables;

determining whether the one or more of the parameters exceed a respective specified parameter maximum value; and

in the event that the one or more parameters do not exceed the respective maximum value proceeding with execution of the query,

within the meaning of claim 1, and the commensurate limitations of claims 16 and 17? (Emphasis added).

ANALYSIS

We agree with Appellants that the Examiner has not established that Anjur discloses at least the last recited conditional step of method claim 1:

in the event that the one or more parameters do not exceed the respective maximum value proceeding with execution of the query.

The Examiner points to col. 3, line 65 to col. 4, line 7, and col. 6, lines 12-22, as describing the claimed conditional execution of the query. (Ans. 4). In the “Response to Arguments” section of the Answer, the Examiner explains:

According to Col. 3, lines 55-65, Col. 5, lines 60-65 of Anjur, Anjur clearly include a step of determining whether the

one or more parameters such as age exceed a respective specified parameter maximum value such as "age > 30", "age > 20", "age > 40" and "age < 50". Thus Anjur does include a step of determining whether the age as parameter exceed[s] 30, 20, 40, 50 as the specified parameter maximum value.

(Ans. 7).

However, the Examiner fails to address the disputed conditional execution of the query limitation (*id.*; claim 1, last step). Moreover, we agree with Appellants that the *age parameters* cited by the Examiner are not reasonably interpreted as “parameters reflective of *resource requirements of the query*,” within the meaning of claim 1:

```
SELECT sampleid, age, SUM (assets)
FROM employee
SAMPLE STRATIFIED WHEN (sex = 'male' and age > 30) THEN
60
WHEN (sex = 'female' and age > 20) THEN 30
WHEN (age > 40 and age < 50) THEN 10
WHERE Department = 'Finance' and Location = 'Los Angeles'
```

(Anjur, col. 3, ll. 55-65).

Even if we consider the aforementioned last conditional WHEN statement “WHEN (age > 40 and *age < 50*) THEN 10” (*id.*), which returns a sample of 10 rows in the third subgroup as specified by the third stratification condition (Anjur, col. 4, ll. 3-4), we find the Examiner has not fully developed the record to establish where in Anjur the *age parameter* is previously *calculated* as a parameter *reflective of resource requirements of the query*, as required by the antecedent in claim 1 (“calculating one or more parameters”).

Regarding the Examiner's additional reliance on Anjur at column 5, lines 60-65 (Ans. 7), we agree with Appellants that the SQL statement shown at the bottom of column 5 merely discloses:

[i]n the CASE statement, if the first WHEN condition (stratification condition) is satisfied, then a stratum number of "1" is returned; if the second WHEN condition is satisfied, then a stratum number of "2" is returned; and if the third WHEN condition is satisfied, then a stratum number of "3" is returned. (App. Br. 6).

Nor do we find that the portion of column 6 cited by the Examiner (Ans. 4) remedies the aforementioned deficiencies of Anjur:

As shown in FIG. 3, a general process of obtaining random samples in plural strata is illustrated. The AMP receives N input spool files 202, 208 that correspond to plural strata. Random sampling is then performed (at 204, 210) of records in each spool file. Each AMP uses a pseudo-random number generator 152 (FIG. 1) to perform the random sampling. The sampling algorithm employed is random so that any sample data in a table is equally likely to be selected. The rows obtained as a result of the random sampling of each spool file are outputted as sample rows in a corresponding output file 206, 212. (Anjur, col. 6, ll. 12-22).

For these reasons, we are persuaded that the Examiner's finding of anticipation is not supported by the evidence. We reverse the anticipation rejection of independent claim 1, and independent claims 16 and 17 which recite commensurate limitations. Because we have reversed the rejection of each independent claim on appeal, we also reverse the rejection of each dependent claim.

Appeal 2010-010696
Application 11/554,113

DECISION

We reverse the Examiner's rejection of claims 1-17 under §102.

ORDER

REVERSED

Tk1/pgc