



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.
11/646,365	12/28/2006	John J. Kaiser	08350.6352-00000	8997

58982 7590 02/02/2015
CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 New York Avenue, NW
WASHINGTON, DC 20001-4413

EXAMINER

SINGH, GURKANWALJIT

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

3623

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

02/02/2015

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 JOHN J. KAISER
and
KEITH E. THACH

Appeal 2012-005066
Application 11/646,365
Technology Center 3600

Before MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and JAMES
A. WORTH, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claims 1–4, 10–12, 15, 16, and 20–26. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We REVERSE.

Claim 1 is illustrative:

1. A method for managing a plurality of processes associated with a supply chain network using a computer, the method comprising:

accumulating, using the computer, performance data relating to each of the plurality of processes associated with a plurality of clients and a process type or facility associated with each of the clients;

comparing, using the computer, the accumulated performance data against at least one predetermined threshold value;

assigning, using the computer, a performance indicator to each of the clients based on the comparison between the accumulated performance data for the respective client and the at least one predetermined threshold value;

displaying, using the computer, a first detail level of data indicating the performance indicators for the clients;

assigning, using the computer, a performance indicator to the process type or facility associated with each of the clients based on the comparison between the accumulated performance data for the respective process type or facility and the at least one predetermined threshold value;

receiving user input to the computer selecting one of the clients displayed in the first detail level of data; and

in response to the user input, displaying, using the computer, a second detail level of data indicating the performance indicator for the process type or facility associated with the selected client.

Appellants appeal the following rejections:

1. Claims 15, 16, and 20–26 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

2. Claims 1–4, 10–12, 15, 16, and 20–26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cudahy (US 6,567,822 B1; iss. May 20, 2003).

ISSUES

Did the Examiner err in rejecting claims 15, 16, and 20–26 under 35 U.S.C. § 101 because the claims are not drawn to software *per se*, but to “a non-transitory computer readable medium”?

Did the Examiner err in rejecting claim 1 because Cudahy does not disclose assigning a performance indicator to each of the clients based on the comparison between the accumulated performance data for the respective client?

ANALYSIS

Rejection under 35 U.S.C. § 101

We will not sustain this rejection because we agree with the Appellants that because claim 15–16 and 20–26 are drawn to “a non-transitory computer medium,” they are directed to more than software *per se*.

Rejection under 35 U.S.C. § 103(a)

We will not sustain the Examiner’s rejection of claim 1 as unpatentable over Cudahy because we agree with the Appellants that Cudahy does not disclose assigning performance indicators to each client as required by claim 1. It is not clear from the Answer where in Cudahy the Examiner finds the assigning of performance indicators to each client. The Examiner directs our attention to column 14, lines 58–67. In this portion of Cudahy, key performance indicators for each project are compared against a benchmark database (col. 15, ll. 12–13). However, we find that in Cudahy, the performance indicators are not assigned based on a comparison between

Appeal 2012-005066
Application 11/646,365

the accumulated performance data for a client and a benchmark or threshold value. As such, we will not sustain the Examiner's rejection of claim 1 and claims 2, 3, 4, 10–12, 23, and 24. We will also not sustain the rejection as it is directed to the remaining claims (15, 16, 20, 21, 22, 25, and 26) because each of these claims requires the subject matter we have found lacking in Cudahy.

DECISION

The decision of the Examiner is reversed.

REVERSED

hh