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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JOHN B. HARTLEY and NEIL PENMAN

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Appeal 2012-010346  
Application 12/202,501  
Technology Center 2100

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Before JEAN R. HOMERE, DANIEL N. FISHMAN, and  
CATHERINE SHIANG, *Administrative Patent Judges*.

FISHMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) of the final rejection of claims 1–19.<sup>1</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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<sup>1</sup> In this Opinion, we refer to the Appeal Brief (“App. Br.,” filed January 17, 2012), the Reply Brief (“Reply Br.,” filed June 25, 2012), the Examiner’s Answer (“Ans.,” mailed April 25, 2012), and the original Specification (“Spec.,” filed September 2, 2008).

STATEMENT OF THE CASE

*THE INVENTION*

Appellants' invention relates to "business process servers (especially business process servers implemented with Service Oriented Architecture, or 'SOA'), enterprise models, enterprise meta models and enterprise databases." Spec. ¶ 1. The invention provides for "an information meta model and a process model, where automated tools are used to maintain some degree of equivalence and/or synchronization between the two models." Spec. ¶ 9.

Claim 1, reproduced below, is illustrative:

1. A method of providing an enterprise level view of an organization's data, the method comprising the steps of:

generating a plurality of service definitions;

providing the plurality of service definitions to a business process server, with the business process server including a plurality of business processes being based on the plurality of service definitions;

providing the plurality of service definitions to a service definition analyzer;

parsing, in the service definition analyzer, the plurality of service definitions to create an enterprise meta model based on the plurality of service definitions;

harvesting enterprise data that has flowed through the business process server to add data to the enterprise meta model; and

creating an enterprise level view of the organization's data at least partially based on the enterprise meta model.

### *THE REJECTIONS*

Claims 1–8, 14, and 15 are rejected under 35 U.S.C. § 102(b) as anticipated by Rogers (US 2005/0026129 A1).

Claims 9–13 are rejected under 35 U.S.C. § 103(a) as unpatentable over Dreiling (US 2007/0179825 A1) and Rogers.

Claims 16–19 are rejected under 35 U.S.C. § 103(a) as unpatentable over Rogers and Cutlip (US 2007/0179826 A1).

### ISSUE

Appellants’ arguments present the following dispositive issue: Has the Examiner erred by finding Rogers teaches “harvesting enterprise data that has flowed through the business process server to add data to the enterprise meta model,” as recited in independent claim 1?

### ANALYSIS

In rejecting claim 1, the Examiner finds Rogers teaches the harvesting step citing process server 130 as described in paragraph 39 and the configuration process of Figure 4 as described in paragraphs 89–93. Ans. 6, 14–15.

Appellants characterize the teachings of each cited paragraph (App. Br. 12–13) and argue, “None of these paragraphs of Rogers teaches or suggests that the process server of Rogers supplies data to the Rogers’ database and/or the Rogers’ Information Model *as the process server is executing business processes*” (App. Br. 13 (emphasis added)). Appellants further argue, “Because Rogers does not disclose that its process server provides data that it gathers *when executing processes* to its database, claims

1-8 are not anticipated by Rogers.” *Id.* (emphasis added). Appellants further contend server 130 of Rogers does not harvest any information that is then added to the enterprise meta model. Reply Br. 3. Rather, Appellants contend “‘business process server 130’ takes requests for information received from a user/worker and determines what information properly responsive to that user/worker request may exist in the informational database 150”, and such retrieved information is delivered to the user/worker. *Id.* In other words, Rogers’ process server 130 does not harvest any data applied to it to add to database 150 but instead, merely queries the database to provide information to a user.

We observe claim 1 does not recite harvesting data “as the process server is executing business processes” or “when executing processes” (as argued by Appellants (App. Br. 13)) but more broadly recites harvesting “data that has flowed through the business process server.” Thus, the data to be harvested has, at some time, flowed through the server and is not necessarily harvested as the process is executed. Regardless, we are persuaded that the Examiner has erred in rejecting claim 1 as anticipated. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) (citations omitted). We agree with Appellants that,

In a meaningful sense, Rogers is doing the opposite of the present invention. Instead of getting information from the workers (or, more precisely, from the substantive business processes being executed in the context of SOA type software), Rogers is sending information from its enterprise meta model back to the workers.

Reply Br. 4. The Examiner has not shown that server 130 of Rogers expressly or inherently performs the recited function of the harvesting step to add data to the enterprise meta model.

Thus, we agree with Appellants that the Examiner erred by finding Rogers teaches “harvesting enterprise data that has flowed through the business process server to add data to the enterprise meta model,” as recited in independent claim 1. Other independent claims 5, 9, and 14 include similar recitations and are rejected applying the same teachings of Rogers. Therefore, we are persuaded the Examiner erred in rejecting claims 5, 9, and 14 as well as all dependent claims for the same reason as claim 1.

Although server 130 of Rogers (as cited by the Examiner) does not expressly or inherently perform the function of the harvesting step, Rogers discusses other servers that may be configured as physically separate or integrated with the functions of server 130. *See, e.g.*, Rogers ¶¶ 32–40. Furthermore, Rogers appears to be silent as to which server performs the functions of paragraphs 89–93. Appellants’ Specification broadly defines a “[b]usiness process server” as “any sub-system for creating and using business processes including the hardware and/or software required to execute business processes” (Spec. ¶ 98) and does not provide any narrowing definition of “business process.” Thus, any computer (i.e., any server in Rogers) that creates and uses business processes (i.e., any process used in any business) may be within the scope of the recitations of claim 1.

Regardless, whether other portions of Rogers (not relied upon by the Examiner to reject the claims in this appeal) may be read to anticipate the claims or render the claims obvious is not an issue before us on this appeal.

DECISION<sup>2</sup>

For the above reasons, the Examiner's rejections of claims 1–19 are reversed.

REVERSED

gvw

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<sup>2</sup> Should there be further prosecution of this application (including any review for allowance), the Examiner may wish to review the claims for compliance under 35 U.S.C. § 101 in light of the recently issued preliminary examination instructions on patent eligible subject matter. *See* **“Preliminary Examination Instructions in view of the Supreme Court Decision in *Alice Corporation Pty. Ltd. v. CLS Bank International, et al.*,”** Memorandum to the Examining Corps, June 25, 2014.