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NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			KRAFT, SHIH-WEI	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HARALD SCHONING¹

Appeal 2014-005768
Application 12/926,223
Technology Center 2100

Before LARRY J. HUME, JEFFREY A. STEPHENS, and
NATHAN A. ENGELS, *Administrative Patent Judges*.

ENGELS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–26. No other claims are pending. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹Appellant identifies Software AG as the real party in interest. App. Br. 3.

APPELLANT'S INVENTION

Appellant states the claimed invention relates to “timely processing of events for streams of data by attaching boundary conditions to events and then processing in one mode if the event can be processed within an attached boundary and processing in another mode otherwise.” App. Br. 5. Claims 1, 14, 23, 24, 25, and 26 are independent claims. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for handling a stream of events, the method comprising:
 - receiving the stream of events, at least one of said events having boundary conditions attached thereto, the boundary conditions being maximum reaction times and/or priorities;
 - executing, via at least one processor of a computer system, predefined queries on the events;
 - for each said event having a maximum reaction time and/or a priority attached thereto:
 - estimating whether the event can be processed within the attached boundary condition,
 - processing the predefined queries according to a first mode when the event can be processed within the attached boundary condition, and
 - processing the predefined queries according to a second mode when the event cannot be processed within the attached boundary condition, wherein the second mode is practiced by at least temporarily suspending queries that do not consume events with attached boundary condition instead processing other queries; and
 - ending the second mode returning to processing according to the first mode when it is estimated that unconsumed events having attached boundary conditions can be processed within their attached boundary conditions.

THE EXAMINER'S REJECTION²

Claims 1–26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Korupolu et al. (US 2008/0262890 A1; Oct. 23, 2008) and Beaulieu et al. (US 6,182,120 B1; Jan. 30, 2001).

ANALYSIS

Appellant argues Korupolu fails to teach or suggest “receiving the stream of events, at least one of said events *having boundary conditions attached thereto* and processing the predefined queries according to a second mode *when the event cannot be processed within the attached boundary condition*” as required by independent claim 1 and similarly required by independent claims 14, 23, 24, 25, and 26. App. Br. 15. Paraphrasing the disputed limitations, Appellant contends Korupolu does not teach altering processing for a query when an event cannot be processed within the boundary conditions, describing instead either proactive or reactive triggering events used to schedule appropriate corrective actions based on risk, utility, and other variables. App. Br. 15–18.

² Should there be further prosecution of this application (including any review for allowance), the Examiner may wish to review the claims for patent-eligible subject matter under 35 U.S.C. § 101. *See* 2014 Interim Guidance on Patent Subject Matter Eligibility, 79 Fed. Reg. 74618 (Dec. 16, 2014); “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; July 2015 Update on Subject Matter Eligibility, 80 Fed. Reg. 45429 (July 30, 2015); *see also, e.g., Intellectual Ventures I LLC v. Capital One Bank (USA)*, No. 2014-1506, 2015 WL 4068798, at *2–7 (Fed. Cir. July 6, 2015) (holding claims directed to the abstract idea of budgeting not patent eligible).

The Examiner cites Korupolu as a controller that evaluates “triggering event details in light of [] business constraints to determine if corrective action is warranted (e.g., based on actual or anticipated system utility loss as a result of the current or anticipated workload SLO violations, respectively).” Ans. 42–43 (quoting Korupolu ¶ 8; additionally quoting Korupolu ¶¶ 7, 40). Further, quoting numerous paragraphs of Korupolu without explanation or analysis, the Examiner states “given the broadest reasonable interpretation in light of the specification, one of ordinary skill in the art would understand that Korupolu discloses processing predefined queries according to a second mode when the event cannot be processed within the attached boundary condition.” Ans. 46–47 (quoting Korupolu ¶¶ 14, 40, 50, 62, 63, 131); *accord* Final Act. 11–12 (quoting Korupolu ¶ 131; citing Korupolu ¶¶ 14–15, 21–23, 38, 40, 49–51, 53–55, 61–65, 67, 70–71, 106–108, 110–113, 131–141, 149).

The cited portions of Korupolu describe a normal mode and an unexpected-workload mode, explaining that a control-engine algorithm “enters the unexpected workload mode when it finds that the observed values for workload demands differ from the predicted values.” Korupolu ¶ 131. Further, the Examiner cites Korupolu’s description of the controller that “can continuously compare the current system states (i.e., observed values) against the check states (i.e., predicted values). If the difference is large then it moves into the unexpected workload mode.” Final Act. 53 (quoting Korupolu ¶ 141).

We do not find in the cited portions of Korupolu, however, evidence to teach that factors triggering the unexpected-workload mode are attached to an event. More particularly, the Examiner’s rejection does not adequately

explain how Korupolu teaches processing predefined queries in a first or second mode based on whether an event can be processed within a maximum reaction time and/or priority (e.g., boundary condition) for each event having such a boundary condition, as required by claim 1. *See* 37 C.F.R. § 1.104(c)(2). (“In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex . . . , the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.”).

It is unclear from the record how the teachings and disclosures of Korupolu and Beaulieu are being applied by the Examiner to reject the currently pending claims. Accordingly, having reviewed the Examiner’s rejections in light of Appellant’s arguments and the evidence of record, we reverse the Examiner’s rejection of claim 1, as well as the Examiner’s rejections of claims 2–26, each of which relies on the same portions of Korupolu for its purported teachings of the limitations discussed above or equivalent limitations.

DECISION

We reverse the Examiner’s rejection of claims 1–26.

REVERSED