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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HARVADAN NAGORIA NITIN, MARTIN BOSLER,
and AMIT KUMAR

Appeal 2015-006479
Application 13/571,214¹
Technology Center 2400

Before CARL L. SILVERMAN, NORMAN H. BEAMER,
and SCOTT E. BAIN, *Administrative Patent Judges*.

BEAMER, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1 and 3–20. Claim 2 is cancelled. We have jurisdiction over the pending rejected claims under 35 U.S.C. § 6(b).

We reverse.

¹ Appellants identify Hewlett-Packard Development Company, LP as the real party in interest. (App. Br. 3.)

THE INVENTION

Appellants' disclosed and claimed invention is directed to a monitoring engine to monitor configuration items of each layer of a multilayer network in a synchronized fashion. (Abstract)

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A system, comprising:

a monitoring engine to monitor configuration items of each layer of a multilayer network in a distributed fashion in which configuration items of each layer are monitored at a predefined time interval following monitoring of configuration items of another layer; and

a data structure to contain a plurality of records, each record pertaining to a corresponding configuration item, and each record to include a causal rule for the corresponding configuration item; and

wherein each causal rule is to specify a relationship between the configuration item corresponding to the causal rule and another configuration item.

REJECTIONS

The Examiner rejected claims 1 and 3–9 under 35 U.S.C. § 103(a) as being unpatentable over Lev et al. (US 7,142,516 B2, issued Nov. 28, 2006) and Kan et al. (US 7,483,379 B2, issued Jan. 27, 2009). (Final Act. 2–3.)

The Examiner rejected claims 10–20 under 35 U.S.C. § 102(b) as being anticipated by Lev. (Final Act. 4–5.)

ISSUES ON APPEAL

Appellants' arguments in the Appeal Brief present the following dispositive issues:²

Issue One: Whether the Examiner erred in finding the combination of Lev and Kan teaches or suggests the independent claim 1 limitation, “each causal rule is to specify a relationship between the configuration item corresponding to the causal rule and another configuration item.” (App. Br. 8–9.)

Issue Two: Whether the Examiner erred in finding Lev discloses the independent claim 10 limitation, “a causal rule that establishes a relationship between that configuration item and a configuration item in another layer,” and the similar limitation recited in independent claim 17. (App. Br. 11.)

ANALYSIS

Issue One

In finding the limitation at issue is taught or suggested by Lev and Kan, the Examiner relies on the disclosure in Lev of a performance monitoring system which includes associating a performance parameter with a set of events in a communications network, with information on the events stored in a bit map. (Final Act. 2; Lev col. 6, ll. 46–67.) The Examiner finds the bit map “comprises data regarding relationships between configuration items.” (*Id.*) The Examiner further finds Kan “teaches a network monitoring system that stores an evaluation rule at each

² Rather than reiterate the arguments of Appellants and the findings of the Examiner, we refer to the Appeal Brief (filed Dec. 10, 2014); the Reply Brief (filed June 22, 2015); the Final Office Action (mailed Sep. 30, 2014); and the Examiner's Answer (mailed Apr. 24, 2015) for the respective details.

configuration item, wherein the rules specify a relationship between configuration items,” relying on the disclosure in Kan of a network monitoring system which uses “rule sets” of criteria to measure data flow in the network. (Final Act. 2–3; Kan col. 6, ll. 19–63.)

Appellants argue neither Lev nor Kan teach or suggest a causal rule that specifies a relationship between configuration items, as required by the claim 1. (App. Br. 8–9.) At most, argue Appellants:

Lev discloses associating performance parameters with events. . . . The relationship in Lev is between performance parameters and events. An event is not a “configuration item.” Events are not configurable. Instead, events simply happen.

(App. Br. 8.) In regard to Kan, Appellants argue:

The cited passage of Kan refers to a “rule set.” Each rule set, however, “includes one or more criteria that may be measured from either data in or relating to each IP packet.” Kan at col. 6, lines 43-45. The rule sets in Kan do not “specify a relationship between configuration items” as is recited in claim 1.

(App. Br. 9.)

In response, the Examiner finds:

Lev’s performance primitives and/or parameters are clearly considered as “configuration items” because they can be defined, configured and modified by the users to measure the network performance.

(Ans. 7.) Based on this interpretation of “configuration item,” the Examiner finds the necessary teachings in the combination of Lev and Kan. (*Id.*)

We do not agree with the Examiner’s claim construction. The Specification defines “configuration item” as “an item of hardware and/or software that is configurable.” (Spec. ¶ 13.) We agree with appellants that

events cannot reasonably be construed as configurable items, from the standpoint of one of ordinary skill upon reading the Specification. Absent the Examiner's overbroad construction configuration item, we find no support in the cited references or the Examiner's analysis for a teaching or suggestion of the required "causal rule is to specify a relationship between the configuration item corresponding to the causal rule and another configuration item."

Therefore, on the record before us, we are constrained to find the Examiner errs in rejecting independent claims 1.

Issue Two

For the same reasons as discussed above, Lev taken alone does not disclose the required "causal rule that establishes a relationship between that configuration item and a configuration item in another layer." Therefore, we do not sustain the Examiner's rejection of independent claims 10 and 17.

CONCLUSIONS

For the reasons stated above, we do not sustain the obviousness rejection of claim 1 over Lev and Kan, or the anticipation rejection of claims 10 and 17 over Lev. We also do not sustain the obviousness rejections of claims 3–9 over Lev and Kan, or the anticipation rejection of claims 11–16 and 18–20 over Lev, which claims depend from claims 1, 10 or 17.

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Application 13/571,214

DECISION

We reverse the Examiner's rejections of claims 1 and 3–20.

REVERSED