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EXAMINER

ABRAHAM, AHMED M

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NORMAN R. McFARLAND

Appeal 2016-002343
Application 13/611,728¹
Technology Center 2100

Before JEAN R. HOMERE, KARA L. SZPONDOWSKI, and
JOHN R. KENNY,
, Administrative Patent Judges.

HOMERE, *Administrative Patent Judge.*

DECISION ON APPEAL

¹ Appellant identifies the real party in interest as Siemens Industry, Inc.
App. Br. 4.

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–20, which constitute all of the claims pending in this appeal. App. Br. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellant's Invention

Appellant invented a method and system for monitoring processes (e.g., HVAC) in a building over time by collecting performance data thereon and analyzing performance trends to thereby identify service actions that can be performed to improve process performance. Spec. ¶¶ 3, 4, Fig. 1.

Illustrative Claim

Independent claim 1 further illustrates the invention as follows:

1. A method performed by one or more data processing systems to generate building process summary data depicting a process over time, the method comprising:
 - receiving a process value and attribute information;
 - calculating, by the data processing system, statistical moments for the received data;
 - retrieving a "where used" database list for a specific process;
 - determining if received attribute information matches database record attributes;
 - where there is a match, adding calculated statistical moments for the received data into a current database record; and
 - while received attribute information matches additional database record attributes according to the "where used" database list, storing calculated statistical moments for the received data into same or additional database records as building process summary data.

Prior Art Relied Upon

The Examiner relies on the following prior art as evidence of unpatentability:

Salinger	US 6,304,594 B1	Oct. 16, 2001
Guo	US 2008/0243761 A1	Oct. 2, 2008
Lyon	US 2012/0271809 A1	Oct. 25, 2012

Rejections on Appeal

Claims 1, 2, 4–12, and 14–20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Lyon and Guo.

Claims 3 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Lyon, Guo, and Salinger.

ANALYSIS

We consider Appellant’s arguments *seriatim* as they are presented in the Appeal Brief, pages 12–63, and the Reply Brief, pages 8–43.

Appellant argues that the proposed combination of references does not teach or suggest upon determining a match between received attribute information and database record attributes, adding calculated statistical moments for the received data into a current database record, as recited in independent claim 1. App. Br. 17. In the Final Action, the Examiner relies on Guo for these limitations. Final Act. 3–4. Appellant argues although Guo discloses a preferable time and index to perform the collection of the data page repetition statistic, Guo does not teach adding such statistic or anything else to a current database record that matches a received entry. *Id.* at 18–19 (citing Guo ¶¶ 19, 21). According to Appellant, Guo merely increments a counter upon finding a repeated data page entry in the database.

Id. at 19. Therefore, Appellant submits that Guo does not cure the admitted deficiencies of Lyon. *Id.*

In the Answer, the Examiner finds Guo's disclosure of an RDBMS collecting page repetition statistics by scanning a database index, taken in combination with Lyon's disclosure of a data collection system searching keyword matches and correlating data with collected data, teaches the disputed limitations. Ans. 4, 5 (citing Guo ¶¶ 52, 53, Lyon ¶¶ 16, 20). We do not agree with the Examiner.

We begin our analysis by first considering the scope and meaning of the claim limitations "calculated statistical moments for the received data" which must be given the broadest reasonable interpretation consistent with Appellant's disclosure, as explained in *In re Morris*:

[T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification.

In re Morris, 127 F.3d 1048, 1054 (Fed. Cir. 1997). *See also In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989) (stating that "claims must be interpreted as broadly as their terms reasonably allow."). Our reviewing court further states, "the 'ordinary meaning' of a claim term is its meaning to the ordinary artisan after reading the entire patent." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1321 (Fed. Cir. 2005) (en banc).

In particular, Appellant's Specification states the following:

A statistical moment may include parameters such as an average (or mean), standard deviation, number of samples, minimum and maximum values, skewness, and kurtosis... *although individual*

readings may be captured for a process and then statistics calculated from them, it may be more memory efficient to keep over the process interval: 1) the sum of all process readings; 2) the sum of the square of the process readings; 3) sum of the cube of the process readings; 4) sum of the square of the square (4th power) of the process reading; and 5) the number of samples composing those values. These values, known sometimes as the statistical moments, can be used to calculate the mean (1 & 5), the standard deviation (1, 2, & 5), the skewness (1, 2, 3, & 5) and the kurtosis (1-5).

Spec. ¶ 64. Emphasis added

Consistent with the Specification, we broadly but reasonably construe “calculated statistical moments” as requiring representative statistics *computed* for the received data. As persuasively argued by Appellant, although each repeated data page entry identified in the database disclosed by Guo indicates an individual size statistic added to the database by incrementing an associated counter, such statistical value does not teach a statistical moment for the received data because it is not representative of a *statistical computation* for that data. Instead, it is simply a listing of each individual reading as well as its order in the number of matching repeat data pages in the database. Reply Br. 10–16 (citing Guo ¶¶ 52-53, Lyon ¶¶ 16, 20). We thus agree with Appellant that the cited textual portions of both Lyon and Gou are silent about, when there is a match, adding calculated statistical moments for the received data into a current data base record. *Id.*

Because Appellant has shown at least one reversible error in the Examiner’s rejections, we need not reach Appellant’s remaining arguments. Consequently, we reverse the Examiner’s rejection of claim 1, as well as claims 2–20, which recite the disputed limitations discussed above.

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DECISION

We reverse the Examiner's obviousness rejections under 35 U.S.C. § 103(a) of claims 1–20 as set forth above.

REVERSED