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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MATTHEW DUGGAN, KRISTIAN STEWART, and
ZHENNI YAN

Appeal 2016-005903
Application 13/784,579
Technology Center 2100

Before JOSEPH L. DIXON, LINZY T. McCARTNEY, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McCARTNEY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a rejection of claims
7–17. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE CASE

The present patent application “relates to log file analysis for computer troubleshooting and more particularly to log file reduction to facilitate log file analysis.” Spec. 1. Claim 12 illustrates the claimed subject matter:

12. A computer program product for log file reduction according to problem space topology, the computer program product comprising:

a computer readable storage memory having computer readable program code embodied therewith, the computer readable program code comprising:

computer readable program code for receiving a fault report for a fault in a solution executing in memory of one or more computers for a computer data processing system;

computer readable program code for extracting references to at least two resources of the computer data processing system from the fault report;

computer readable program code for filtering a set of all log files for the computer data processing system to only a subset of log files related to the at least two resources; and,

computer readable program code for displaying the subset of log files in a log file analyzer.

REJECTIONS

Claims 7–17 stand provisionally rejected on the ground of non-statutory double patenting as unpatentable over claims 1–6 of co-pending Application No. 14/059,675.

Claims 7–17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over two or more of Winteregg et al. (US 2011/0191394 A1; August 4, 2011), Yamamoto (US 2005/0015685 A1; January 20, 2005), Narayanan (US 2014/0025995 A1; January 23, 2014), Gupta et al. (US 2011/0060946

Appeal 2016-005903
Application 13/784,579

A1; March 10, 2011), and Fleming et al. (US 2013/0185592 A1; July 18, 2013).

ANALYSIS

Appellants have not challenged the Examiner’s provisional rejection of claims 7–17 on the ground of non-statutory double patenting. We therefore summarily affirm this rejection.

With respect to the Examiner’s obviousness rejections, Appellants contend the Examiner’s combination of Winteregg and Yamamoto fails to teach or suggest “computer readable program code for filtering a set of all log files for the computer data processing system to only a subset of log files related to the at least two resources” as recited in claim 12. *See* App. Br. 4–7; Reply Br. 1–7. Appellants argue the Examiner erroneously concluded this limitation does not require filtering based on any particular criterion. App. Br. 6; Reply Br. 4–5. According to Appellants, this limitation requires filtering a set of log files based on at least *two* resources, but the portion of Winteregg relied on by the Examiner teaches selecting log files based on only a *single* resource. *See* App. Br. 6–7. Moreover, Appellants contend that in light of the Federal Circuit’s decision in *CAE Screenplates, Inc. v. Heinrich Fiedler GmbH & Co. KG*, Winteregg’s equipment cannot be the claimed “resources.” *Id.* 7. This is because “Winteregg discloses both ‘equipment’ and ‘resource’ as separate terms—therefore it is not permissible under the law to equate equipment to a resource.” *Id.*

We disagree. First, the disputed limitation does not require filtering based on a specific criterion. The limitation simply recites the *result* achieved by the filtering process: “computer readable program code for filtering a set of all log files for the computer data processing system *to only*

a subset of log files related to the at least two resources.” The limitation does not recite *how* that result is accomplished. Appellants assert it is impossible to filter log results to at least two resources without providing criteria related to the resources, Reply Br. 4–5, but Appellants have not provide persuasive evidence or reasoning to support this assertion. Simply filtering log files using a random criterion (e.g., filtering logs based on the results of a random number generator or any other random process) will likely lead to a subset of logs related to the at least two resources, if the method executes the random filtering process enough times. Although it might be easier and more efficient to filter based on a criterion (or criteria) “related to the at least two resources,” the plain language of the limitation does not require doing so.

Second, even if Appellants were correct that the “filtering” limitation requires filtering based on criteria related to the at least two resources, the cited portion of Winteregg suggests filtering in this manner. For example, the following excerpt from paragraph 69 of Winteregg teaches selecting (that is, “filtering”) log files based on parts of a network and various “equipments” such as switches:

When a user or a system or a computer program requires a more detailed view on one or some events, a selection of a set of log files in storage unit is received from the log file selection unit The selection may be based on one or more events to be monitored or controlled, or on a resource, on a user, or any criteria relating to the network management and/or computer forensic. The selection may be pre-programmed, or prepared on the spot, for instance following a system failure or intrusion to be analyzed. For example, a user may indicate a specific time window to *restrict the selection to all events occurring in various equipments of the network, or in a selected portion of the network*, during this time window. Other selection criteria

include for example *a specific company department (such as finance, R&D etc), a subnetwork, a type of equipment (for example only events related to switches), a manufacturer of equipment, a user-entered selection of equipments, a type or severity of events, etc.*

Winteregg ¶ 69 (emphases added). The use of the plurals “equipments” and “switches” to describe these selection criteria indicates that Winteregg’s invention selects log files relating to at least two pieces of equipment. Moreover, one of ordinary skill in the art would have understood that subnetworks and company departments often include more than one “resource.” Accordingly, Winteregg’s disclosure that selection criteria can include specific subnetworks and company departments suggests that Winteregg’s invention selects log files that “relate to” two more resources included a subnetwork or company department.

We find Appellants’ arguments that Winteregg’s “equipments” cannot be “resources” within the meaning of claim 12 unpersuasive. Appellants’ written description does not explicitly define “resources,” but the written description explains “resources can include not only the computers, but also the applications executing therein, the switches, the application servers, and the database” found in a computer data processing system. Spec. 8 (reference numbers omitted). Thus, one of ordinary skill in the art would understand the term “resources” to include computers, switches, application servers, databases and the like that are included in computer data processing systems. As noted above, Winteregg explicitly discloses that selection criteria may include equipment such as the switches disclosed in Appellants’ written description. Winteregg ¶ 69 (“Other selection criteria include . . . a type of equipment (for example, only events related to switches) . . .”).

Appellants' reliance on *CAE Screenplates* to support their argument that Winteregg's "equipments" cannot be "resources" is unavailing. Appellants point out that the *CAE Screenplates* court stated that "[i]n the absence of any evidence to the contrary, we must presume that the use of these different terms in the claims connotes different meanings." App. Br. 7 n.1 (quoting *CAE Screenplates Inc. v. Heinrich Fiedler GmbH & Co. KG*, 224 F.3d 1308, 1317 (Fed. Cir. 2000)). Based on this quotation, Appellants argue that because "Winteregg discloses both 'equipment' and 'resource' as separate terms—therefore it is not permissible under the law to equate equipment to a resource." *Id.* This argument ignores that the *CAE Screenplates* court was referring to *claims terms* in this quotation; the quoted portion of *CAE Screenplates* does not stand for the proposition that different terms in the *written description* of a prior patent cannot have the same meaning. But this is beside the point—as noted above, Appellants' written description makes clear that "resources" includes switches, and Winteregg's "equipments" also include switches.

For the above reasons, we sustain the Examiner's rejection of claim 12. Because Appellants have not presented separate, persuasive patentability arguments for 7–11 and 13–17, we also sustain the Examiner's rejections of these claims.

DECISION

We affirm the Examiner's rejections of claims 7–17 on the ground of non-statutory double patenting and as obvious under 35 U.S.C. § 103.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2016-005903
Application 13/784,579

AFFIRMED