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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SERAPHIN BERNARD CALO,
DOUGLAS M. FREIMUTH, RAGHU KIRAN GANTI,
JAMES J. FAN, and FAN YE¹

Appeal 2017-005970
Application 13/912,147
Technology Center 2100

Before CARLA M. KRIVAK, JEREMY J. CURCURI, and
IRVIN E. BRANCH, *Administrative Patent Judges*.

BRANCH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–20, all pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ The Applicant is International Business Machines Corporation. App. Br. 1.

CLAIMED SUBJECT MATTER²

According to Appellants, the claims are directed to “data collection in networked devices.” Spec. ¶ 3.

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

1. A question answering system comprising:
a computing system comprising:
 - an application layer comprising at least one application running on a computing system, the application configured to receive a natural language query;
 - a semantic interpreter in communication with the application and configured to translate the natural language query into a data request specification, the data request specification comprising an identification of types of data to be obtained that are responsive to the natural language query;
 - a phenomenon layer configured to receive the data request specification and to generate data collection requirements comprising phenomena responsive to the data request specifications, each phenomenon comprising an event occurring in real time at a given physical location over a given time period; and
 - an edge layer in communication with the phenomenon layer and configured to receive the data collection requirements and to identify raw data required to satisfy the data collection requirements, the phenomena comprising a high level abstraction of the raw data;
- a plurality of data generating network devices, each data generating networked device comprising physical sensors;
- and
- a plurality of identical common software agents, each common software agent executing on one of the plurality of data generating networked devices and in communication with the edge layer, the common software agents configured to

² Appellants state that the instant appeal is related to US Patent Application No. 13/912,058 (Appeal 2017-005085). App. Br. 1–2.

use the physical sensors disposed in the given physical location during the given time duration to obtain the identified raw data required to satisfy the data collection requirements.

REFERENCES AND REJECTION³

Claims 1–20 stand rejected under 35 U.S.C. § 103 as unpatentable over the combination of Srikanth (US 2011/0196852 A1, published Aug. 11, 2011) and Feldman (US 2002/0026278 A1, published Feb. 28, 2002). Final Act. 2–12.

ANALYSIS

Because Appellants argue claims 2–20 based on claim 1 (App. Br. 13), our decision with respect to claim 1 is dispositive of this appeal.

Appellants' arguments (App. Br. 5–14; Reply Br. 2–7) alleging error in the Examiner's rejection of claim 1 (Final Act. 3–5) do not persuade us of error. Appellants' arguments are best exemplified by the following:

Therefore, as with Srikanth, Feldman does not disclose the data collection requirements that contain phenomena responsive to the data request specifications where each phenomenon is an event occurring in real time at a given physical location over a given time period and is a high level abstraction of the raw data obtained by the physical sensors that are disposed in the given physical location during the given time duration. Therefore, Feldman cannot provide teachings to one of skill in the art regarding these elements that can be used to modify Srikanth in order to achieve the claimed invention. Therefore, one of skill in the art given Srikanth either alone or in combination with

³ Claim 1 stands provisionally rejected on the ground of nonstatutory double patenting over claim 2 of copending US Patent Application No. 13/912,058. Final Act. 2.

Feldman would not be provided with sufficient teachings to practice the claimed invention as currently recited in claim 1.

App. Br. 12. Yet Appellants acknowledge the following:

Feldman transforms “a spatial representation of a road network 12 into a network of spatially interdependent and interrelated oriented road sections, for forming an oriented road section network 14.” (para. [0042]) Next a “variety of vehicular traffic data and information associated with the oriented road section network ... [is obtained] ... from a variety of sources.” (para. [0051]) This can be obtained from mobile sensors associated with vehicles including cellular phones contained within the vehicles.

Id. 11–12 (citing Feldman ¶¶ 42, 51).

We find no persuasive argument or evidence in the latter quote—or elsewhere—to convince us that the former claim is valid. Specifically, in our view, the claimed “raw data” reads directly on Feldman’s mobile sensor data (¶¶ 51, 55), and the claimed “phenomenon” (“an event occurring in real time at a given physical location over a given time duration that is a high level abstraction of raw data to be collected by the data capture system”) reads directly on Feldman’s “vehicular traffic data” and/or the higher level abstraction of “vehicular traffic related service applications” (“modeling and processing vehicular traffic data and information, and using the modeled and processed vehicular traffic data and information for providing a variety of vehicular traffic related service applications to end users”) (¶ 31).

Accordingly, we see no error in the Examiner’s finding that Feldman discloses whatever of claim 1 Srikanth lacks, namely “using physical sensors located in a plurality of data generating networked devices in the data capture system disposed in the given physical location during the given time duration to obtain the raw data in real time.” Final Act. 5. We adopt the Examiner’s findings and conclusion that claim 1 is unpatentable over the

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combination of Srikanth and Feldman (Final Act. 3–5) and the Examiner’s response (Ans. 2–9) to Appellants’ arguments (App. Br. 4–12).

DECISION⁴

We affirm the Examiner’s decision to reject claims 1–20.

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

AFFIRMED

⁴ In the event of further prosecution, we leave it to the Examiner to determine whether the claims recite patent eligible subject matter under 35 U.S.C. § 101. *See Alice Corporation Pty. Ltd. v. CLS Bank International*, 134 S.Ct. 2347, 2350 (2014).