UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/097,881	04/29/2011	Wen Hao An	CN920100019US1	7447

87048 7590 02/23/2018

Jordan IP Law (IBM - SVL)
12501 Prosperity Dr., Suite 401
Silver Spring, MD 20904

EXAMINER
WILLIS, AMANDA LYNN

ART UNIT	PAPER NUMBER
2158	

NOTIFICATION DATE	DELIVERY MODE
02/23/2018	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

admin@jordaniplaw.com
info@jordaniplaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex Parte WEN HAO AN, CHANG JIE GUO, BO GAO, ZHI HU WANG, and ZHE MA

Appeal 2017-009939
Application 13/097,881
Technology Center 2100

Before CAROLYN D. THOMAS, ERIC B. CHEN, and BETH Z. SHAW, *Administrative Patent Judges*.

SHAW, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

Appellants[2] seek our review under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 1–21, which represent all the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

---

[1] Throughout this Decision we have considered the Appeal Brief filed March 17, 2017 ("App. Br."), Reply Br. filed July 14, 2017, the Examiner's Answer mailed May 17, 2017 ("Ans.") and the Final Office Action mailed September 26, 2016 ("Final Act.").

[2] Appellants identify International Business Machines Corporation as the real party in interest. App. Br. 3.

INVENTION

Appellants' invention is directed to processing file access to a multi-tenant application. Spec. 1:1–2.

Claim 1 is illustrative and reproduced below, with disputed limitations emphasized:

> 1. A method comprising the following steps executed by a file proxy of a Java Virtual Machine (JVM):
>
> intercepting, by the file proxy, a file access request from one of a multitude of multitenant applications;
>
> converting, by the file proxy, the file access request based on a predetermined file isolation model to isolate files from different tenants by providing each tenant of a multi-tenant application with a dedicated folder containing files associated with the multi-tenant application that are inaccessible to other tenants; and
>
> transmitting, by the file proxy, the converted file access request to an operating system, wherein the dedicated folder for the tenant is established by:
>
> analyzing a file system of a multi-tenant application, and
>
> building an application folder for the multi-tenant application, and setting a tenant-specific tenant folder based on a tenant service level agreement (SLA) and the application folder, and copying a selected file from the application folder to the tenant folder,
>
> wherein the SLA is provided when a new tenant subscribes to use the multi-tenant application and a physical location where the tenant folder is located is assigned based on the SLA, and
>
> wherein *a data volume of the tenant-specific tenant folder is set based on the SLA*.

REJECTIONS

The Examiner rejected claim 16 under 35 U.S.C. § 112(b) or 112, second paragraph as being indefinite. Final Act. 5.

The Examiner rejected claims 1–6, 8–10, 12–18, 20, and 21 under 35 U.S.C. § 103(a) as being unpatentable over Tormasov (US 7,783,665 B1, Aug. 24, 2010) and Ahmed (US 8,291,490 B1, Oct. 16, 2012) and Chatley (US 2009/0132543 A1, May 21, 2009). Final Act. 7.

The Examiner rejected claims 7, 11, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Tormasov, Ahmed, Chatley, and Moir (US 5,113,442, May 12, 1992). Final Act. 21.

CONTENTIONS AND ANALYSIS

We have reviewed Appellants' arguments in the Brief, the Examiner's rejection, and the Examiner's response to Appellants' arguments. While Appellants raise an argument regarding 35 U.S.C. § 112, sixth paragraph, this argument is not germane to the appeal because it is not based on a rejection in the Final Office Action, and which we therefore need not address. *See* 37 C.F.R. § 41.37(c).

Indefiniteness

We concur with Appellants' conclusion that the Examiner erred in rejecting claim 16 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner rejected the claim because the Examiner finds it unclear what structure corresponds to the "calling module." Final Act. 6. Appellants contend the Specification, for example at page 5 lines 30–32, makes clear that a Java Virtual Machine (JVM) may transmit the converted file access request to an application program interface of the operating system by calling a method of file/IO implement class injected with file

access request conversion logic. App. Br. 12–13. The Examiner responds that a JVM is an abstract computing machine and not structural. Ans. 3–5. However, this rejection is based on whether the claim is sufficiently clear. "[A] claim is indefinite when it contains words or phrases whose meaning is unclear." *In re Packard*, 751 F.3d 1307, 1310 (Fed. Cir. 2014) (per curiam); *see also Ex parte McAward*, Appeal 2015-006416 (PTAB Aug. 25, 2017), Section I.B (precedential). The Examiner does not sufficiently explain why the claim is unclear. For these reasons, we do not sustain the Examiner's rejection of claim 16 under 35 U.S.C. § 112, second paragraph.

Obviousness

Appellants argue Chatley does not teach "a data volume of the tenant-specific tenant folder is set based on the SLA." App. Br. 14. In particular, Appellants argue that "Chatley merely teaches that policies in a customer's SLA may override some or all intrinsic features of the storage delivery network's storage and file manipulation rules." App. Br. 14. Appellants argue that "[o]ne of ordinary skill in the art would understand that a data volume of a folder may refer to the amount of data in the folder," based on the Specification. *Id.*

We are not persuaded. As the Examiner finds, and we agree, given broadest reasonable interpretation of the term, one of ordinary skill in the art may reasonably interpreted the term "data volume" as referring to a storage unit. Ans. 5. Appellants provide insufficient evidence to show that the Specification or claims[3] limit "data volume" in a way that, under a broad but

[3] We note that 35 U.S.C. § 112 "puts the burden of precise claim drafting squarely on the applicant." *In re Morris*, 127 F.3d 1048, 1056 (Fed. Cir. 1997).

reasonable interpretation, is not encompassed by Chatley's teachings of a logical storage unit in a server. Chatley ¶¶ 101, 103.

Moreover, as the Examiner explains, although Appellants argue that "claim differentiation" requires their interpretation of "data volume" as distinct from location, the only reference to a "location" in the claims is to "a physical location where the tenant folder is located." Ans. 7. Yet, even under the broadest reasonable interpretation, the *physical* location may still be distinct from the "data volume" of the tenant-specific tenant folder, which may refer to a *logical* storage unit. *Id.* Chatley explains that "a customer's SLA may dictate that certain groups of end users, which subscribe to the customer's services, be designated for service by specific nodes." Chatley ¶ 103. Therefore, Chatley teaches the claimed "data volume of the tenant-specific tenant folder is set based on the SLA."

For these reasons, and for the additional reasons stated in the Final Rejection and Answer, we sustain the 35 U.S.C. § 103 rejection of claim 1. We sustain the 35 U.S.C. § 103(a) rejection of claims 2–6, 8–10, 12–18, 20, and 21, which are not separately argued with particularity. We also sustain the rejection of claims 7, 11, and 19 under the 35 U.S.C. § 103(a) over the combination of Tormasov, Ahmed, Chatley, and Moir, because those claims are not separately argued with particularity.

CONCLUSION

We reverse the rejection of claim 16 under 35 U.S.C. § 112, second paragraph.

We affirm the rejections of claims 1–21 under 35 U.S.C. § 103.

DECISION

The decision of the Examiner to reject claims 1–21 is affirmed.

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).

AFFIRMED