

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KHACHATUR PAPANYAN, BRIAN L. KAISNER,
KEN MARANIAN, and JODY M. SMITH

Appeal 2007-2620
Application 10/365,929
Technology Center 2100

Decided: January 9, 2008

Before JAMES THOMAS, ALLEN R. MACDONALD,
and THU A. DANG, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF CASE

Appellants appeal the Examiner's final rejection of claims 1-16 under 35 U.S.C. § 134(2002). We have jurisdiction under 35 U.S.C. § 6(b)(2002).

A. INVENTION

According to Appellants, the invention is a method for converting an inline database query to a stored procedure. The method includes the steps of receiving an inline database query, determining from a mapping table whether an equivalent stored procedure exists, using the generic version of the inline database query to produce a stored procedure in case the stored procedure does not exist, and executing the stored procedure instead of the inline database query to speed the data retrieval from the database (Spec., Abstract).

B. ILLUSTRATIVE CLAIM

Claim 1 is exemplary and is reproduced below:

1. A method for converting an inline database query to a stored procedure database query comprising:

receiving an inline database query, the inline database query including a sequence of database statements to provide a query string;

determining whether a generic version of the inline database query is present in a mapping table; and

using the generic version of the inline database query to produce a stored procedure database query when the generic version of the inline database query is present in the mapping table.

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C. REJECTIONS

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Singh	US 6,477,540 B1	Nov. 5, 2002
Li	US 6,591,266 B1	Jul. 8, 2003
(filed Aug. 14, 2000)		

Claims 1, 2, 4-6, 8-10, 12-14, and 16 stand rejected under 35 U.S.C. § 102(e) over the teachings of Li; and

Claims 3, 7, 11, and 15 stand rejected under 35 U.S.C. § 103(a) over the teachings of Li and Singh.

We affirm.

II. ISSUES

The issues are whether Appellants have shown that the Examiner erred in finding that

- A. Claims 1, 2, 4-6, 8-10, 12-14, and 16 are unpatentable under 35 U.S.C. § 102(e) over the teachings of Li; and
- B. Claims 3, 7, 11, and 15 are unpatentable under 35 U.S.C. § 103(a) over the teachings of Li and Singh.

III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

Li

1. Li teaches an intelligent Web page caching and refreshing mechanism, wherein the Web server receives a Web page request from an end user (Col. 7, ll. 41-44). After the application server receives the request from the Web server, it will process the request and access the underlying DBMS as needed, through queries to the DBMS. When the DBMS receives the query or queries from the application server, it may keep a database query log (Col. 7, ll. 58-60).
2. When the application server issues a query, it may be a "direct call" SQL exec string in the form of an API. This SQL exec query has two parameters, query string and handler cursor. The query string identifies the query itself, while the handler cursor is a pointer that points to the result located in a DBMS (Col. 11, ll. 13-25).
3. In an embodiment, a content delivery services provider, CachePortalTM server, receives a Web server log, database query log, and operation log information. With this information, CachePortalTM can generate and maintain a URL/relevant operation mapping table, which stores the associations between URLs and operations or queries (Col. 8, ll. 13-20). The CachePortalTM system accesses the URL

relevant operation mapping table to identify those URLs associated with those queries (Col. 11, ll. 42-45).

Singh

4. Singh discloses the parsing of a query (Col. 8, ll. 54-55). “When a query comes into the system the query is sent to the query optimizer, where the query is parsed.” Singh particularly discloses that the use of stored procedure make the query processing faster (Col. 2, ll. 48-50).

IV. PRINCIPLES OF LAW

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner’s position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (“On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.”) (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

The *claims* measure the invention. *See SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). "[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)). Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc). During prosecution before the USPTO, claims are to be given their broadest reasonable interpretation, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989); *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969).

"[T]he words of a claim 'are generally given their ordinary and customary meaning.'" *Phillips v. AWH Corp.*, 415 F.3d at 1312 (Fed. Cir. 2005) (en banc) (internal citations omitted). "[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, *i.e.*, as of the effective filing date of the patent application." *Phillips v. AWH Corp.*, 415 F.3d at 1313 (Fed. Cir. 2005) (*en banc*).

In the absence of separate arguments with respect to claims subject to the same rejection, those claims stand or fall with the claim for which an argument was made. *See In re Young*, 927 F.2d 588, 590 (Fed. Cir. 1991). *See also* 37 C.F.R. § 41.37(c)(1)(vii)(2004).

V. ANALYSIS

35 U.S.C. § 102(e)

As to claims 1, 5, 9, and 13, the Appellants argue “the generic version of the inline query as disclosed and claimed in [Appellants’] Application is patentably distinct from a mapping table which identifies URLs associated with particular queries” (Reply Br. 2). The Appellants reference the Application

The query execution function replaces the integer values within the query with generic integer parameter (e.g., “@param_xx_int”). The query execution function replaces all of the string values within the query with generic string parameters (e.g., “@param_xx_str”). Once the query is converted to a generic form, the stored procedure module 122 performs a lockup in the mapping table to determine whether this inline query has an equivalent stored procedure. (Page 7, ll. 1-11).

We disagree. The term “generic version” cannot be confined to the identified specific version set forth as an exemplary embodiment in Appellants’ Specification. Appellants’ claims simply do not place any limitation on what the “generic version” is to be, to represent, or to mean, other than that it is determined whether a “generic version” of the inline

database query is present in a mapping table. Appellants' arguments are not commensurate with the invention that is claimed.

We construe the term "generic version" by giving the term its customary and ordinary meaning. The customary and ordinary meaning of "generic" is "relating to or descriptive of an entire group or class." *The American Heritage Dictionary of the English Language* (4th ed. 2000), found at www.bartelby.com.

Accordingly, we construe "generic version" of an inline database query to be a version that relates to an entire group or class of inline database queries.

Li discloses a content delivery services provider, CachePortalTM server, which can generate and maintain a URL/relevant operation mapping table, and stores the associations between URLs and operations or queries, whereby CachePortalTM accesses the URL relevant operation mapping table to identify those URLs associated with those queries (FF 3). We find the URL associated with an inline database query, as disclosed by Li, to be a version that relates to an entire group or class of inline database queries.

As to the other claimed elements of claims 1, 5, 9, and 13, Appellants provide no argument to dispute that the Examiner has correctly shown where all these claimed elements appear in the prior art. Accordingly, we find that the Appellants have not shown that the Examiner erred in rejecting claim 1, 5, 9, and 13 as anticipated by Li.

Appellants do not provide a separate argument for claims 2, 4, 6, 8, 10, 12, 14, and 16, and thus, claims 2, 4, 6, 8, 10, 12, 14, and 16 stand or fall with claim 1, 5, 9, and 13.

For at least the above reasons, we conclude that Appellants have not shown that the Examiner erred in rejecting claims 1, 2, 4-6, 8-10, 12-14, and 16 under 35 U.S.C. § 102(e).

35 U.S.C. § 103(a)

As to claims 3, 7, 11, and 15, Appellants provide no argument to dispute that the Examiner has correctly shown where all the claimed elements appear in the prior art, and that it would have been obvious to one of ordinary skill in the art to combine the teachings of Singh to those of Li.

Accordingly, we conclude that Appellants have not shown that the Examiner erred in rejecting claims 3, 7, 11, and 15 under 35 U.S.C. § 103(a).

CONCLUSIONS OF LAW

(1) Appellants have not shown that the Examiner erred in finding that claims 1, 2, 4-6, 8-10, 12-14, and 16 are unpatentable over the teachings of Li.

(2) Appellants have not shown that the Examiner erred in finding claims 3, 7, 11, and 15 are unpatentable over the teachings of Li and Singh.

(3) Claims 1-16 are not patentable.

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DECISION

The Examiner's rejection of claims 1, 2, 4-6, 8-10, 12-14, and 16 under 35 U.S.C. § 102(e) and claims 3, 7, 11, and 15 under 35 U.S.C. § 103(a) 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

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