

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD D. DETTINGER, RICHARD J. STEVENS, and
JEFFREY W. TENNER

Appeal 2008-0419
Application 10/264,188
Technology Center 2100

Decided: June 17, 2008

Before JAMES D. THOMAS, JAY P. LUCAS, and STEPHEN C. SIU,
Administrative Patent Judges.

SIU, *Administrative Patent Judge.*

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1-26. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

A. INVENTION

The invention at issue involves saving query conditions as reusable query components (Spec. 1). In particular, query conditions are included in a query component that is identified by a name. The query component is specified by the name to build a query (*id. 3*).

B. ILLUSTRATIVE CLAIM

Claim 1, which further illustrates the invention, follows:

1. A method for generating a reusable query component, comprising:

specifying, via a graphical user interface (GUI), one or more query conditions to include in the reusable query component, wherein the reusable query component comprises at least the one or more query conditions;

specifying, via the GUI, a name to identify the reusable query component; and

storing the reusable query component and the name for use in building a database query by specifying the name in order to include all of the query conditions of the reusable query component without explicitly listing all the query conditions in the database query.

C. REJECTION

Claims 1, 2, 4-13, and 15-26 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,594,669 (“Asami”). Claims 3 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Asami and U.S. Patent No. 6,799,184 (“Bhatt”).

II. CLAIM GROUPING

When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.

37 C.F.R. § 41.37(c)(1)(vii) (2006).¹

Appellants argue claims 1, 2, 4-13, and 15-26 as a first group (App. Br. 12-16) and claims 3 and 14 as a second group (App. Br. 16). We select claim 1 as the sole claim on which to decide the appeal of the first group and claim 3 as the sole claim on which to decide the appeal of the second group.

III. CLAIMS 1, 2, 4-13, AND 15-26

Appellants assert that although Asami discloses “the use of a set of ‘query components’ associated with a given ‘data definition’” (Reply Br. 2), Asami, according to Appellants, fails to disclose “a ‘reusable query component’ that includes ‘one or more query conditions’” (Reply Br. 3).

¹ We cite to the version of the Code of Federal Regulations in effect at the time of the Appeal Brief. The current version includes the same rules.

Asami discloses “a set of query components **221** corresponding to the data definitions **210** of data types that have been newly added to the database management system **200**” (col. 5, ll. 26-29). The data definitions are “user-defined type definitions and implementations (program) thereof . . . for performing full-text searches of specified structures in the structured document . . .” (col. 5, ll. 1-6). In addition, the query components register information “used to assist queries of newly defined data types in the database management system 200 . . . along with information about the data type” (col. 5, ll. 40-44).

While Appellants assert that the Specification provides an example in which “the query conditions ‘ICD-9 = 410’ OR ‘ICD-9 = 412’ cause only those data records having values of ‘410’ or ‘412’ in the data field ‘ICD-9’ to be returned in the query results” (Reply Br. 4), we do not find, and Appellants do not indicate, an explicit definition of the term “query condition” in the Specification. Appellants further assert that “query conditions are entered by the user when composing a query” (App. Br. 16), however, Appellants fail to provide an explicit definition in the Specification or with extrinsic evidence to support this contention.

Therefore, we adopt a broad but reasonable interpretation of the term “query condition” using a plain and customary meaning of the term to include any state or status (i.e., “condition”) of a request or inquiry (i.e., “query”). “[T]he PTO gives claims their ‘broadest reasonable interpretation.’” *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting

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In re Hyatt, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). Claim terms are presumed to have the ordinary and customary meanings attributed to them by those of ordinary skill in the art. *Sunrace Roots Enterprise Co. v. SRAM Corp.*, 336 F.3d 1298, 1302 (Fed. Cir. 2003); *Brookhill-Wilk I, LLC. v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 (Fed. Cir. 2003) (“In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art.”).

Under this broad but reasonable interpretation, we agree with the Examiner that the data definitions that form the “query components” of Asami are reasonably equivalent to “query conditions” because the data definitions include functions “for performing full-text searches” (col. 5, l. 5) or information “used to assist queries of newly defined data types” (col. 5, ll. 40-41), for example. We find that information for searching or for assisting queries of data types equates with information pertaining to the state/status of a request or inquiry (i.e., “query conditions”). Because Asami discloses that the set of query components correspond “to the data definitions **210** of data types that have been newly added to the database management system **200**” (col. 5, ll. 27-29), and because we find that the data definitions are equivalent to the “query conditions” recited in claim 1, we also find that the query components comprise at least one or more query conditions, as recited in claim 1.

Appellants also argue that “*Asami* fails to disclose a step of ‘storing the reusable query component and the name for use in building a database query by specifying the name in order to include all of the query conditions of the reusable query component without explicitly listing all the query conditions in the database query’” (App. Br. 15) as recited in claim 1.

As set forth above, we find that *Asami* discloses query components containing data definitions (i.e., “query conditions”). The Examiner finds that “the components are stored and named (col. 9, lines 13-21, and figs. 1 and 5, item 601, *Asami*) which serves as information used by the user to identify components . . . components may be searched by name, data type and search conditions (see figs. 1, 4, 5, 9 and col. 5, lines 15-25 and 49-56)” (Ans. 9). Because *Asami* discloses query components including query conditions and are identified by or searched by name, we disagree with Appellants that *Asami* fails to disclose this feature of claim 1.

We are further unconvinced by Appellants arguments because we find that the “query conditions” and “query component” recited in claim 1 constitute “non-functional descriptive material” and are not accorded patentable weight. *Non-functional* descriptive material refers to data content that does not exhibit a functional interrelationship with the substrate and does not affect the way the computing processes are performed. See Examination Guidelines for Computer-Related Inventions, 1184 Off. Gaz. U.S. Pat. & Trademark Office (O.G.) 87, 89 (March 26, 1996) (““Non-

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functional descriptive material’ includes but is not limited to music, literary works and a compilation of mere arrangement of data.”).

When “non functional descriptive material” is recorded or stored in a memory or other medium (i.e., substrate) it is treated as analogous to printed matter cases where what is printed on a substrate bears no functional relationship to the substrate and is given no patentable weight. *See In re Gulack*, 703 F.2d 1381, 1385 (Fed. Cir. 1983) (“Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability. Although the printed matter must be considered, in that situation it may not be entitled to patentable weight.”). *See also Ex parte Curry*, 84 USPQ2d 1272 (BPAI 2005) (nonprecedential) (Federal Circuit Appeal No. 2006-1003, *aff’d* Rule 36 Jun. 12, 2006). The Examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See In re Lowry*, 32 F.3d 1579, 1582-83 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004). *See also Ex parte Nehls*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/fd071823.pdf> (BPAI Jan. 28, 2008); *Ex parte Mathias*, 84 USPQ2d 1276 (BPAI 2005) (nonprecedential) (191 Fed.Appx. 959 (Fed. Cir. 2006)).

In the present case, the “query conditions,” “query component,” and the “name” do not affect the way the computing processes are performed. Claim 1 recites specifying a query condition, including the query condition

in a query component, naming the query component, and storing the query component and the name. The functionality of the process is unchanged if the content of the query condition, query component, or name of the query component is changed. Although claim 1 recites including a “condition” in a “component” and storing the “component” with a “name” of the “component,” no functionality is imparted on the process based on the nature or content of any of the “condition,” “component,” or “name.” Therefore, each of the condition, component, and name bears no functional relationship with the substrate or computer system performing the steps of specifying, naming, or storing and is not accorded patentable weight as non-functional descriptive material. For this additional reason, we find that the use of the data definitions of Asami are equivalent to the use of “query conditions” recited in claim 1.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 1. Therefore, we affirm the rejection of claim 1 and of claims 2, 4-13, and 15-26, which fall therewith.

IV. CLAIMS 3 AND 14

Appellants argue patentability of claims 3 and 14 because “Asmai (sic) does not anticipate these two independent claims (claims 1 and 11)” (App. Br. 16). (Emphasis added). As set forth above, Appellants have not demonstrated that the Examiner erred in the rejection of claim 1 over Asami.

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Therefore, we affirm the rejection of claim 3, and of claim 14 which falls therewith.

V. ORDER

In summary, the rejection of claims 1, 2, 4-13, and 15-26 under § 102(e) and the rejection of claims 3 and 14 under 103(a) is affirmed.

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

AFFIRMED

rwk

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