

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SALESFORCE.COM, INC.,
Petitioner,

v.

APPLICATIONS IN INTERNET TIME LLC,
Patent Owner.

Case CBM2014-00162
Patent 8,484,111 B2

Before LYNNE E. PETTIGREW, MITCHELL G. WEATHERLY, and
JENNIFER M. MEYER, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

DECISION

Denying Institution of Covered Business Method Patent Review
37 C.F.R. § 42.208

I. INTRODUCTION

Petitioner, Salesforce.com, Inc., filed a corrected Petition requesting covered business method (“CBM”) patent review of claims 1–18 of U.S. Patent No. 8,484,111 B2 (Ex. 1001, “the ’111 patent”), pursuant to

35 U.S.C. § 321 and section 18 of the Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284, 329 (2011) (“AIA”) (stating that transitional proceedings for covered business method patent review under section 18 of the AIA shall employ the standards and procedures for post-grant reviews under chapter 32 of title 35, United States Code). Paper 6 (“Pet.”). Patent Owner, Applications in Internet Time LLC, filed a Preliminary Response. Paper 10 (“Prelim. Resp.”). With its Preliminary Response, Patent Owner provided evidence it has filed a statutory disclaimer of claims 1–12 of the ’111 patent pursuant to 37 C.F.R. § 1.321(a). Prelim. Resp. 1; Ex. 2001. Accordingly, no covered business method patent review will be instituted for claims 1–12. *See* 37 C.F.R. § 42.207(e). For claims 13–18, we determine whether to institute a covered business method patent review under 35 U.S.C. § 324.

A transitional proceeding under section 18 of the AIA may be instituted only for a patent that is a covered business method patent. AIA § 18(a)(1)(E). Upon consideration of the Petition and the Preliminary Response, we conclude Petitioner has not established that the ’111 patent is a “covered business method patent” pursuant to the statutory definition in section 18(d)(1) of the AIA. Therefore, we deny the Petition.

A. Related Matters

The parties indicate that Patent Owner is asserting the ’111 patent against Petitioner in *Applications in Internet Time LLC v. Salesforce.com, Inc.*, No. 3:13-CV-00628-R CJ-VPC (D. Nev.) (filed Nov. 8, 2013). Pet. 3; Paper 9, 2 (Patent Owner’s Mandatory Notice).

B. The '111 Patent

According to its Abstract, the '111 patent is directed to an “integrated system for managing changes in regulatory and non-regulatory requirements for business activities at an industrial or commercial facility.” Ex. 1001, Abstract. The integrated system described in the '111 patent manages data that is constantly changing by (1) “provid[ing] one or more databases that contain information on operations and requirements concerning an activity or area of business,” (2) “monitor[ing] and evaluat[ing] the relevance of information on regulatory and non-regulatory changes that affect operations of the business and/or information management requirements,” (3) “convert[ing] the relevant changes into changes in work/task lists, data entry forms, reports, data processing, analysis and presentation . . . of data processing and analysis results to selected recipients, without requiring the services of one or more programmers to re-program and/or re-code the software items affected by the change,” and (4) “implement[ing] receipt of change information and dissemination of data processing and analysis results using the facilities of a network, such as the Internet.” *Id.* at 8:37–52, 9:4–5.

Figure 1 of the '111 patent is reproduced below:

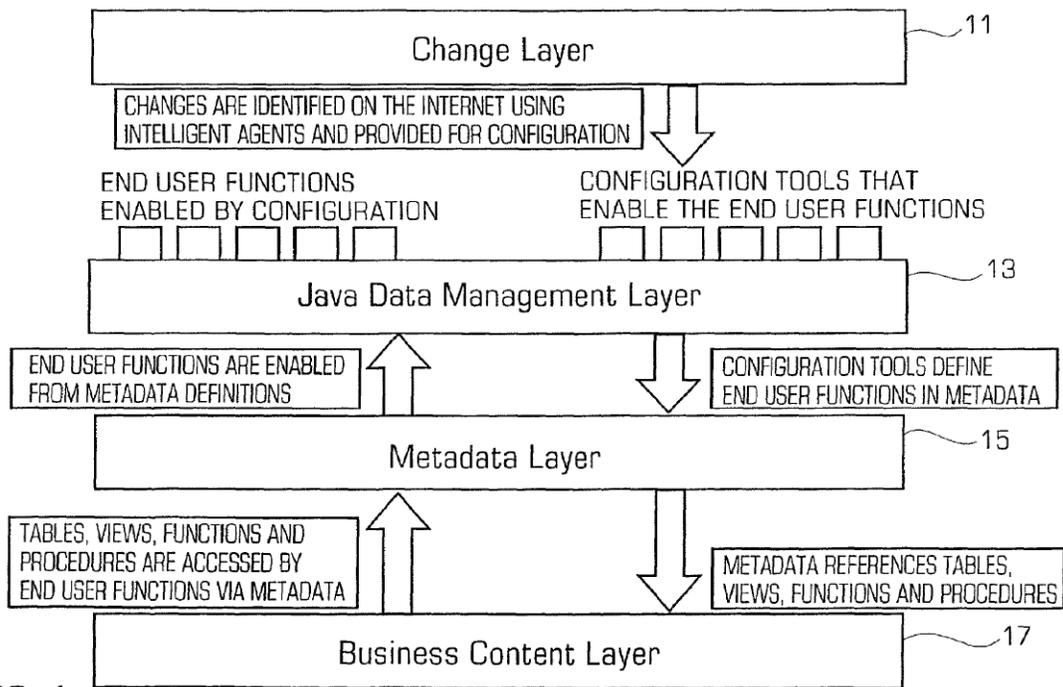


FIG. 1

As shown in Figure 1, the integrated system operates at four layers: (1) a change management layer that identifies on the Internet regulatory and non-regulatory changes that may affect a user's business, (2) a Java data management layer that generates a user interface, (3) a metadata layer that provides data about the user interface including "tools, worklists, data entry forms, reports, documents, processes, formulas, images, tables, views, columns, and other structures and functions," and (4) a business content layer that is specific to the particular business operations of interest to the user. *Id.* at 9:38–52.

C. Illustrative Claim

Claim 13, the only independent claim remaining in the '111 patent after the statutory disclaimer, is illustrative of the claimed subject matter:

13. A system, comprising:

a server accessible by a browser executed on a client device, the server including a first portion, a second portion, a third portion, and a fourth portion,

the first portion of the server having information about unique aspects of a particular application,

the second portion of the server having information about user interface elements and one or more functions common to various applications, the various applications including the particular application,

the third portion of the server being configured to dynamically generate a functionality and a user interface for the particular application, the functionality and the user interface of the particular application being based on the information in the first portion of the server and the information in the second portion of the server, the third portion of the server being configured to send the functionality and the user interface for the particular application to the browser upon establishment of a connection between the server and the client device,

the fourth portion of the server being configured to automatically detect changes that affect the information in the first portion of the server or the information in the second portion of the server.

Ex. 1001, 33:19–34:8.

D. Asserted Grounds of Unpatentability

Petitioner contends that claims 13–18 are unpatentable based on the following grounds (*see* Pet. 20–21):¹

Reference(s)	Basis
Peters ²	35 U.S.C. § 102
Gordon ³	35 U.S.C. § 102
Haverstock ⁴	35 U.S.C. § 102
Bederson/Pad++ ⁵	35 U.S.C. § 102
Peters in view of Gordon, Haverstock, and/or Bederson/Pad++	35 U.S.C. § 103
Gordon in view of Peters, Haverstock, and/or Bederson/Pad++	35 U.S.C. § 103
Haverstock in view of Peters, Gordon, and/or Bederson/Pad++	35 U.S.C. § 103
Bederson/Pad++ in view of Peters, Gordon, and/or Haverstock	35 U.S.C. § 103

¹ The Petition also includes a ground based on 35 U.S.C. § 101, but only for claims 1–12, which have been disclaimed. *See* Pet. 20.

² Kathleen A. Peters, THE DESIGN OF A CHANGE NOTIFICATION SERVER FOR CLIENTS OF A PASSIVE OBJECT-ORIENTED DATABASE MANAGEMENT SYSTEM (Simon Fraser University 1992) (Ex. 1003, “Peters”).

³ U.S. Patent No. 6,243,717 B1, issued June 5, 2001 (Ex. 1004, “Gordon”).

⁴ U.S. Patent No. 6,064,977, issued May 16, 2000 (Ex. 1005, “Haverstock”).

⁵ For grounds based on the “Bederson/Pad++” reference, Petitioner cites two publications: Benjamin B. Bederson et al., *Pad++: A Zoomable Graphical Sketchpad for Exploring Alternate Interface Physics*, 7 J. VISUAL LANGUAGES & COMPUTING 3 (1996) (Ex. 1006, “Bederson I”), and Benjamin B. Bederson et al., *A Zooming Web Browser*, in *Proceedings of SPIE Conference on Multimedia Computing and Networking* (1996) (Ex. 1007, “Bederson II”).

II. DISCUSSION

A transitional proceeding under section 18 of the AIA may be instituted only for a patent that is a covered business method patent. AIA § 18(a)(1)(E). Petitioner bears the burden of demonstrating that the '111 patent is a covered business method patent. *See* 37 C.F.R. § 42.304(a). For the reasons explained below, Petitioner has not demonstrated that the '111 patent is a covered business method patent.

The AIA defines “covered business method patent” as “a patent that *claims* a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service, except that the term does not include patents for technological inventions.” AIA § 18(d)(1) (emphasis added); *see* 37 C.F.R. § 42.301(a). In promulgating rules for CBM review, the Office considered the legislative intent and history behind the AIA’s definition of “covered business method patent.” *See* Transitional Program for Covered Business Method Patents—Definitions of Covered Business Method Patent and Technological Invention, 77 Fed. Reg. 48,734, 48,735–36 (responses to comments 1, 3, 4, and 8). The “legislative history explains that the definition of covered business method patent was drafted to encompass patents ‘*claiming* activities that are financial in nature, incidental to a financial activity or complementary to a financial activity.’” *Id.* at 48,735 (emphasis added) (quoting 157 Cong. Rec. S5432 (daily ed. Sept. 8, 2011) (statement of Sen. Schumer)). In determining whether a patent qualifies as a covered business method patent, we focus on the claims. *Id.* at 48,736 (stating that the definition of a covered business method patent “is based on

what the patent claims”). A patent needs only one claim directed to a covered business method to be eligible for review. *Id.*

As an initial matter, we are not persuaded by Patent Owner’s argument that because claim 1 has been disclaimed, Petitioner has not shown the ’111 patent is a covered business method patent. *See* Prelim. Resp. 2. Specifically, we disagree with Patent Owner’s contention that Petitioner argues only that claim 1 is directed to a covered business method. *See id.* Although Petitioner uses claim 1 as an example when asserting that the ’111 patent is not directed to a technological invention, we understand Petitioner’s argument to apply more broadly to the subject matter of all the claims. *See* Pet. 11–15.

We turn now to whether Petitioner has shown that the ’111 patent meets the first requirement for a covered business method patent, i.e., whether it is “a patent that claims a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service.” AIA § 18(d)(1). Independent claim 13 of the ’111 patent recites a system comprising a server accessible by a browser on a client device. Ex. 1001, 33:19–21. The server includes four “portions” that generally correspond to the four layers shown in Figure 1 of the ’111 patent. *Id.* at 33:21–34:8. The “third portion” is “configured to dynamically generate a functionality and a user interface for [a] particular application” and “to send the functionality and the user interface for the particular application to the browser upon establishment of a connection between the server and the client device.” *Id.* at 33:29–34:4.

Neither claim 13 nor any of its dependent claims expressly claims an apparatus “for performing data processing or other operations used in the practice, administration, or management of a financial product or service.” Indeed, the claims on their face are directed to technology “common in business environments across sectors” with “no particular relation to the financial services sector,” which the legislative history indicates is outside the scope of covered business method patent review. 157 Cong. Rec. S5441 (daily ed. Sept. 8, 2011) (statement of Sen. Leahy).

In support of its argument that the ’111 patent is a covered business method patent eligible for review under section 18 of the AIA, Petitioner relies on two passages in the written description of the ’111 patent. First, Petitioner contends that the ’111 patent “acknowledges that the purported invention disclosed therein is usable in the context of government regulatory activities including those related to ‘banking, financial and securities activities and foreign trade.’” Pet. 8 (quoting Ex. 1001, 1:39–40). The reference in the ’111 patent to “banking, financial and securities activities” is part of a long list of regulated industries (with citations to more than half of the titles of the Code of Federal Regulations) that use business software and could benefit from the invention described in the ’111 patent. *See* Ex. 1001, 1:31–58.

Petitioner also cites the description in the ’111 patent of a “business content layer” as including “business knowledge, logical designs, physical designs, physical structures, relationships, and data associated with a selected area of business activity,” which may be “a functional field within an organization, such as finance or human resources.” Ex. 1001, 12:20–24; *see* Pet. 8–9. In this second passage relied on by Petitioner, the word

“finance” merely refers to an example of a business area within an organizational structure whose data may be stored in a business content database.

Petitioner does not explain how either passage from the written description of the ’111 patent relates to the practice, administration, or management of *a financial product or service*, as required by section 18(d)(1) of the AIA. *See* Pet. 8–9. Moreover, Petitioner’s argument fails to address the language of the claims, which is the focus of our inquiry. *See* 77 Fed. Reg. at 48,736; *see also* AIA § 18(d)(1) (defining “covered business method patent” based on what the patent claims); 37 C.F.R. § 42.301(a) (same). Notably, Petitioner’s analysis does not cite any claim language or assert that any specific claim is directed to a covered business method. *See* Pet. 7–9. In particular, Petitioner fails to show any relationship between the two references to “finance” in the written description and the system recited in claims 13–18. Therefore, Petitioner’s contentions based on the written description alone do not show that the ’111 patent *claims* a method or apparatus “for performing data processing or other operations used in the practice, administration, or management of a financial product or service” or *claims* an activity that is “financial in nature, incidental to a financial activity or complementary to a financial activity.”

Petitioner also relies on the classification of the ’111 patent in Class 705/35, which Petitioner states is “directed to ‘finance (e.g., banking, investment or credit)’ and is specifically ‘drawn to a computerized arrangement for planning the disposition or use of funds or securities, or extension of credit.’” Pet. 9. According to Petitioner, the classification in Class 705 is evidence that the Office believes the ’111 patent is related to the

financial services industry. *Id.* (citing 77 Fed. Reg. at 48,739 (stating that “patents subject to covered business method patent review are anticipated to be typically classifiable in Class 705”)). Petitioner, however, fails to explain how the system recited in claims 13–18 of the ’111 patent plans the disposition or use of funds or securities or the extension of credit. In the absence of such an explanation in this case, we are not persuaded that mere classification in Class 705 supports a conclusion that the ’111 patent claims a method or apparatus “for performing data processing or other operations used in the practice, administration, or management of a financial product or service,” as required by section 18(d)(1) of the AIA.

III. CONCLUSION

For the foregoing reasons, based on the present record and particular facts of this case, we determine that the information presented in the Petition does not establish that the ’111 patent qualifies as a covered business method patent under section 18 of the AIA. Petitioner, therefore, has failed to satisfy the jurisdictional requirements for a covered business method patent review under section 18.

IV. ORDER

Accordingly, it is:

ORDERED that the Petition is denied and no trial is instituted.

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