

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 CBM2014-00168
Patent 7,356,482 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 Petition requesting covered business method (“CBM”) patent review of claims 1–59 of U.S. Patent No. 7,356,482 B2 (Ex. 1001, “the ’482 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 2 (“Pet.”). Patent Owner, *Applications in Internet Time LLC*, filed a Preliminary Response. Paper 9 (“Prelim. Resp.”).

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 ’482 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 ’482 patent against Petitioner in *Applications in Internet Time LLC v. Salesforce.com, Inc.*, No. 3:13-CV-00628-RCJ-VPC (D. Nev.) (filed Nov. 8, 2013). Pet. 7; Paper 8, 2 (Patent Owner’s Mandatory Notice).

B. The ’482 Patent

According to its Abstract, the ’482 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 ’482 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 recode 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 8:30–46, 8:66–67.

Figure 1 of the '482 patent is reproduced below:

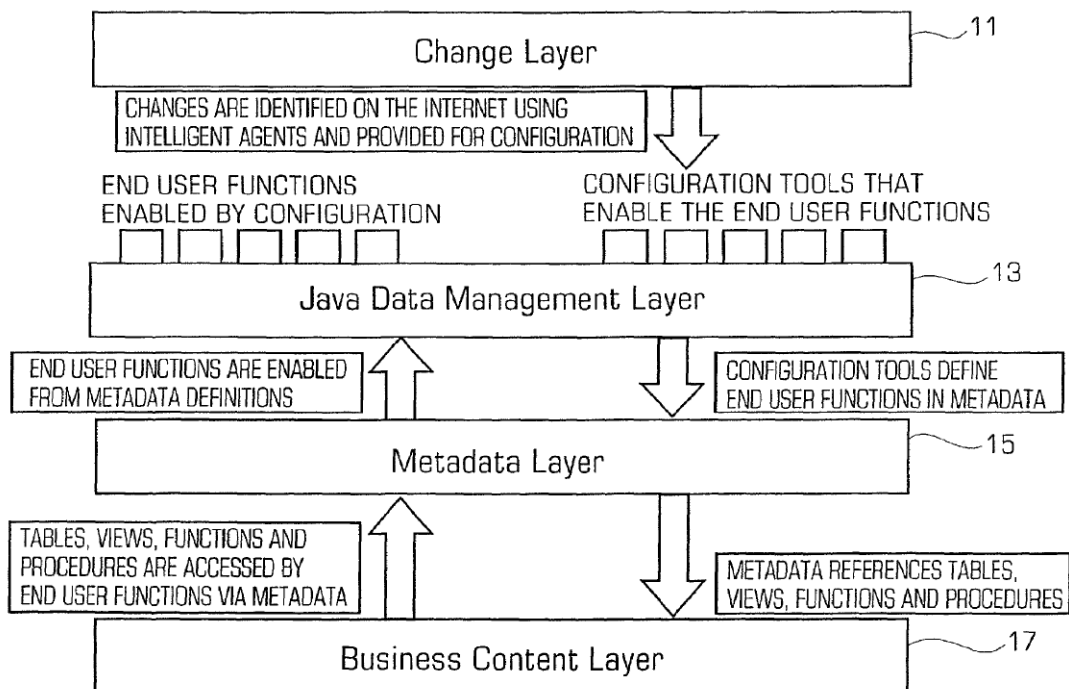


FIG. 1

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 9:33–48.

C. Illustrative Claim

Claims 1, 21, and 41 of the '482 patent are independent. Claim 1 is illustrative of the claimed subject matter:

1. A system for providing a dynamically generated application having one or more functions and one or more user interface elements; comprising:

a server computer;

one or more client computers connected to the server computer over a computer network;

a first layer associated with the server computer containing information about the unique aspects of a particular application;

a second layer associated with the server computer containing information about the user interface and functions common to a variety of applications, a particular application being generated based on the data in both the first and second layers;

a third layer associated with the server computer that retrieves the data in the first and second layers in order to generate the functionality and user interface elements of the application; and

a change management layer for automatically detecting changes that affect an application,

each client computer further comprising a browser application being executed by each client computer, wherein a user interface and functionality for the particular application is

distributed to the browser application and dynamically generated when the client computer connects to the server computer.

Ex. 1001, 32:9–34.

D. Asserted Grounds of Unpatentability

Petitioner contends that all claims of the '482 patent (claims 1–59) are unpatentable under 35 U.S.C. § 112, second paragraph. Pet. 25–32.

Petitioner also contends that claims 1, 3, 5, 6, 10, 20, 21, 23–26, 30, 40, 41, 43, 45, 46, and 49 are unpatentable based on the following grounds (*see* Pet. 24–25):

Reference(s)	Basis
Peters ¹	35 U.S.C. § 102
Gordon ²	35 U.S.C. § 102
Haverstock ³	35 U.S.C. § 102
Bederson/Pad++ ⁴	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

¹ 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”).

² U.S. Patent No. 6,243,717 B1, issued June 5, 2001 (Ex. 1004, “Gordon”).

³ U.S. Patent No. 6,064,977, issued May 16, 2000 (Ex. 1005, “Haverstock”).

⁴ 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 (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”).

Reference(s)	Basis
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

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 '482 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 '482 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.*

Claim 1 of the ’482 patent recites a “system for providing a dynamically generated application having one or more functions and one or more user interface elements.” Ex. 1001, 32:9–11. The system comprises a server and one or more client computers, each comprising a browser application. *Id.* at 32:12–14. The system further comprises four layers associated with the server, generally corresponding to the four layers shown in Figure 1 of the ’482 patent. *Id.* at 32:15–28. When the client connects to the server, a user interface and functionality for a particular application are dynamically generated and distributed to the browser application. *Id.* at 35:29–34. Independent claims 21 and 41 are directed to a method and a server, respectively, with limitations similar to those of claim 1. *Id.* at 33:34–58, 34:54–35:5. None of the independent claims or dependent claims expressly 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.” Indeed, the claims on their face are directed to technology “common in business environments across sectors” with “no particular relat[i]onship] to the financial services sector,” which Patent Owner contends is outside the scope of covered business method patent review. Prelim. Resp. 3 (alteration in original) (quoting 157 Cong. Rec. S5441 (daily ed. Sept. 8, 2011) (statement of Sen. Leahy)) (internal quotation marks omitted).

In support of its argument that the '482 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 '482 patent. First, Petitioner contends that the '482 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. 12 (quoting Ex. 1001, 1:24–25). As Patent Owner notes, the reference in the '482 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 '482 patent. *See* Prelim. Resp. 4.

Petitioner also cites the description in the '482 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, 12:16–20; *see* Pet. 12. 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. *See* Prelim. Resp. 5.

Petitioner does not explain how either passage from the written description of the '482 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. 12. 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. 11–12. In particular, Petitioner fails to show any relationship between the two references to “finance” in the written description and the systems and methods recited in the claims, which are directed to providing dynamically generated applications. Therefore, Petitioner’s contentions based on the written description alone do not show that the ’482 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 ’482 patent in Class 705/7.12, which Petitioner states is “drawn to a computerized arrangement for planning or assigning of resources in an optimal or systemic way in order to achieve a business goal, or drawn to the management or planning of a business task or operation.” Pet. 13.⁵ According to Petitioner, the classification in Class 705 is evidence that the Office believes the ’482 patent is related to the financial services industry. *Id.* (citing 77 Fed. Reg. at 48,739 (stating that “patents subject to covered business method

⁵ Petitioner provides no citation for its contention that the ’482 patent is classified in Class 705, subclass 7.12, which differs from the classification listed on the face of the patent. *See* Pet. 13; Ex. 1001. We assume for purposes of our discussion that Petitioner is correct that the ’482 patent currently is classified in Class 705, subclass 7.12.

patent review are anticipated to be typically classifiable in Class 705”)). Petitioner, however, does not explain how the quoted subclass definition relates to a “financial product or service” or an activity that is “financial in nature, incidental to a financial activity or complementary to a financial activity.” Moreover, even if the subclass definition relates to a financial product or service, Petitioner fails to explain how the systems and methods recited in the claims plan or assign resources to achieve a business goal or manage or plan a business task or operation. For these reasons, we are not persuaded in this case that mere classification in Class 705 supports a conclusion that the ’482 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 ’482 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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FOR PETITIONER:

Kevin P.B. Johnson
Edward J. DeFranco
Quinn Emanuel Urquhart & Sullivan, LLP
kevinjohnson@quinnemanuel.com
SFDC_CBM@quinnemanuel.com

FOR PATENT OWNER:

Steven Sereboff
M. Kala Sarvaiya
SoCal IP Law Group LLP
ssereboff@socalip.com
ksarvaiya@socalip.com