

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CRS ADVANCED TECHNOLOGIES, INC.
Petitioner

v.

FRONTLINE TECHNOLOGIES, INC.
Patent Owner

Case CBM2012-00005
Patent 6,675,151 C1

Before SALLY C. MEDLEY, THOMAS L. GIANNETTI, and
JENNIFER S. BISK, *Administrative Patent Judges*.

BISK, *Administrative Patent Judge*.

FINAL WRITTEN DECISION

35 U.S.C. § 328(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. Background

On September 21, 2012, CRS Advanced Technologies, Inc. (“CRS” or “Petitioner”) filed a Petition under 35 U.S.C. § 321, pursuant to Section 18 of the Leahy-Smith America Invents Act¹ (“AIA”). Paper 2 (“Pet.”). The Petition challenged claims 3, 6, 7, 16, 24, and 33 of U.S. Patent No. 6,675,151 C1 (“the ’151 patent”, Ex. 1001). On January 23, 2013, the Patent Trial and Appeal Board (the “Board”) instituted a transitional covered business method patent review for all challenged claims based solely upon Petitioner’s assertion that the claims are unpatentable under 35 U.S.C. § 101. Paper 17 (“Decision to Institute”).

After institution, Frontline Technologies, Inc. (“Frontline” or “Patent Owner”) filed a Patent Owner Response on March 18, 2013 (Paper 36; “PO Resp.”) and CRS filed a Reply to the Patent Owner Response on June 20, 2013 (Paper 48; “Reply”). A hearing was held on August 13, 2013, a transcript of which appears in the record. Record of Oral Hearing, Paper 62 (“Transcript”).

This decision is a final written decision under 35 U.S.C. § 328(a) as to the patentability of the challenged claims. Based on the record presented, we hold that all the challenged claims, claims 3, 6, 7, 16, 24, and 33 of the ’151 patent, are unpatentable under 35 U.S.C. § 101.²

¹ Pub. L. No. 112–29, 125 Stat. 284 (2011).

² This decision addresses issues and arguments raised during the trial. Issues and arguments raised prior to institution of trial, but not made during trial, are not addressed in this decision.

B. The '151 Patent

The '151 patent generally relates to “human resources management.” Ex. 1001, col. 1, ll. 14-15. In particular, the patent describes “automating the performance of substitute fulfillment to assign a replacement worker to substitute for a worker during a temporary absence, performing placement of floating workers, tracking absences and entitlements of workers, notifying interested parties regarding unexpected events and daily announcements, and bidding for temporary workers.” Ex. 1001, Abstract.

The '151 patent describes known methods for supporting substitute fulfillment in the education field that typically use “one dedicated computer, combined with specialized telephony equipment, including multiple phone lines, and other equipment,” and a database accessed through a dial-up connection. *Id.* at col. 3, ll. 36-42, ll. 51-56. The invention described in the '151 patent improves the prior art systems with a system implemented using a central database located on a server and accessed over a communication connection such as the Internet. *Id.* at Abstract, col. 7, ll. 25-34. One preferred embodiment uses the described invention to fulfill substitute teller requirements in a retail bank. *Id.* at col. 14, ll. 47-50.

An *ex parte* reexamination of claims 3-13 of the '151 patent was granted on October 24, 2007, based upon several prior art references. A reexamination certificate was issued on October, 20, 2009 (prior to the decision in the Supreme Court case of *Bilski v. Kappos*, 130 S. Ct. 3218 (2010) (“*Bilski II*”)), with original claims 1 and 2, amended claims 3, 6, and 9, and new claims 14-55. Ex. 1002.

The challenged claims encompass a method and system of substitute fulfillment “for a plurality of organizations.” Ex. 1002, claims 3 and 6. Of

the six challenged claims, claims 3 and 6 are independent, claim 7 depends from claim 6, and claims 16, 24, and 33 depend from claim 3. Both independent claims are reproduced below. Claim 3 is as follows:

3. A method for performing substitute fulfillment for a plurality of different organizations comprising:

receiving absentee information representing an absent worker that will be or is physically absent from an organization worksite via at least one communication link;

generating and posting by one or more computers a list of one or more positions of one or more absent workers that need to be filled by one or more substitute workers on a website and providing, for one or more of the positions, information indicating directly or indirectly an organization worksite location for the respective position;

receiving a response by comprising an acceptance, by the one or more computers, from a substitute worker selecting a posted position on the website via an Internet communication link; and

securing, in response to receiving the acceptance from the substitute worker, via the Internet communication link and the one or more computers, the posted position for the substitute worker who selected the posted position to fill in for the absent worker, the securing comprising halting, at the one or more computers, further processing to fulfill the posted position with any other substitute worker.

Claim 6 is as follows:

6. A substitute fulfillment system that secures one or more substitute workers for a plurality of organizations comprising:

a database comprising worker records, said worker records having information associated with workers for each of the organizations, and substitute records, said substitute records having information associated with at least one substitute worker, and;

one or more computers comprising a server connected to the database, the server configured for:

receiving absentee information representing an absent worker that will be or is physically absent from an organization worksite via at least one communication link;

generating and posting a list of one or more positions of one or more absent workers that need to be filled by one or more substitute workers on a website and providing, for one or more of the positions, information indicating directly or indirectly an organization worksite location for the respective position;

receiving a response by comprising an acceptance from a substitute worker selecting a posted position on the website via an Internet communication link; and

securing, in response to receiving the acceptance from the substitute worker, via the Internet communication link and the one or more computers, the posted position for the substitute worker who selected the posted position to fill in for the absent worker, the securing comprising halting, at the one or more computers, further processing to fulfill the posted position with any other substitute worker.

II. ANALYSIS

CRS contends that the challenged claims are unpatentable because they are abstract and not directed to statutory subject matter under 35 U.S.C. § 101. Pet. 20-31. Specifically, CRS states that the challenged claims are directed to the abstract idea of a method of hiring temporary workers. Pet. 5.

Frontline contends that that the challenged claims are not abstract, but instead are patent-eligible under § 101. Frontline maintains that each of the claims, considered as a whole, is directed to “a specific and novel way for computing and communication technology to perform substitute fulfillment,” with the claimed technology playing a central role in the process. PO Resp. 24.

CRS, as petitioner, bears the ultimate burden of proof that Frontline’s claims are unpatentable under § 101. We begin our analysis with claim

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