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10/365,298	02/12/2003	David Gerard Herbeck	ROC920020187US1	8187
	7590	01/28/2011	EXAMINER	
Grant A. Johnson IBM Corporation, Dept. 917 3605 Highway 52 North Rochester, MN 55901-7829			OSMAN, RAMY M	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* DAVID GERARD HERBECK  
and  
SUSETTE MARIE TOWNSEND

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Appeal 2009-008033  
Application 10/365,298  
Technology Center 2400

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Before ROBERT E. NAPPI, CARLA M. KRIVAK, and  
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-5, 8-17, 25, and 26. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

## STATEMENT OF THE CASE

Appellants' claimed invention is a method for improving the response time to IT problems by employing an intelligent agent for selecting an administrator ready and qualified to respond to an alert (Abstract).

Independent claim 1, reproduced below, is representative of the subject matter on appeal.

1. A computer-implemented method of responding to a problem condition, comprising:

automatically detecting availability of a first candidate to respond to a problem condition;

responsive to the detecting:

automatically assigning responsibility for the problem condition to the first candidate; and

receiving a confirmation from the first candidate indicating acceptance of responsibility for the problem condition.

## REFERENCES

The Examiner rejected claims 1-5, 8-17, 25, and 26 under 35 U.S.C. § 102(e) based upon the teachings of Venkatesh (US 7,120,647 B2).

Appellants contend the Examiner is incorrect in finding Venkatesh teaches, in a computer-implemented method, “automatically” detecting availability of a first candidate, assigning responsibility, or selecting a qualified candidate available to respond (App. Br. 10; Reply Br. 1-2; Supp. Reply Br. 1-2).

The Examiner responds that because “Venkatesh teaches user inputs into a computer, this demonstrates the computer processes the inputs

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“automatically” and thus satisfies the broad claim language” (Ex. Resp. to Reply Br. 2). We do not agree. As asserted by Appellants, Venkatesh teaches a user manually selects several experts provided by the system (App. Br. 10). Merely because Venkatesh has “computers as both client and server systems . . . that communicate with each other” does not provide support for automatically performing various steps as part of a computer-implemented method as claimed (Reply Br. 3). Since all the independent claims contain the feature of “automatically,” claims 1-5, 8-17, 25, and 26 do not teach all the features of Appellants’ claimed invention.

#### DECISION

The Examiner’s decision rejecting claims 1-5, 8-17, 25, and 26 is reversed.

REVERSED

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