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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/944,716	04/03/2018	Javier Nisim Flores ASSAD	404001-US-NP (169-6100US)	1669
146114	7590	04/03/2019	EXAMINER	
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Non-Export			ART UNIT	PAPER NUMBER
900 LAFAYETTE STREET			2191	
SUITE 301			NOTIFICATION DATE	DELIVERY MODE
SANTA CLARA, CA 95050			04/03/2019	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@fountainheadlaw.com
rbaumann@fountainheadlaw.com

Office Action Summary

Application No.

15/944,716

Applicant(s)

ASSAD, Javier Nisim Flores

Examiner

Anil Khatri

Art Unit

2191

AIA (FITF) Status

Yes

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/3/18.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

- 5) ☒ Claim(s) 1-20 is/are pending in the application.
5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-20 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) ☒ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 4/3/18 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

- a) ☐ All b) ☐ Some** c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date 4/3/18.
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 4) ☐ Other: ____.

Notice of Pre-AIA or AIA Status

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Specification

The disclosure is objected to because of the following informalities: it recite verbatim as an abstract. Appropriate correction is required.

Content of Specification

(a) TITLE OF THE INVENTION: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words. It may not contain more than 500 characters.

(b) CROSS-REFERENCES TO RELATED APPLICATIONS: See 37 CFR 1.78 and MPEP § 211 et seq.

(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT: See MPEP § 310.

(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT. See 37 CFR 1.71(g).

(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC OR AS A TEXT FILE VIA THE OFFICE ELECTRONIC FILING

SYSTEM (EFS-WEB): The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. See also the Legal Framework for EFS-Web posted on the USPTO website (www.uspto.gov/patents-application-process/applying-online/legal-framework-efs-web-06april11) and MPEP § 502.05

(f) STATEMENT REGARDING PRIOR DISCLOSURES BY THE INVENTOR OR A JOINT INVENTOR. See 35 U.S.C. 102(b) and 37 CFR 1.77.

(g) BACKGROUND OF THE INVENTION: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

(1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

(2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

(h) BRIEF SUMMARY OF THE INVENTION: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of

the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(i) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S):

See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

(j) DETAILED DESCRIPTION OF THE INVENTION: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described, and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

(k) CLAIM OR CLAIMS: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on a separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the

claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP 608.01(i)-(p).

(l) ABSTRACT OF THE DISCLOSURE: See 37 CFR 1.72(b) and MPEP § 608.01(b). The abstract is a brief narrative of the disclosure as a whole, as concise as the disclosure permits, in a single paragraph preferably not exceeding 150 words, commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

(m) SEQUENCE LISTING: See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2422.01.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to an abstract idea without significantly more. The claim recites receive a specification of a target computing device through an IDE, receive input referencing an API, in response to the input send second computing system...receive the data associated... and present the data through IDE.

The limitation of receiving a specification of a target computing... as drafted, is a process that, under its broadest reasonable interpretation, covers performance of the limitation in the mind but for the recitation of generic computer components. That is, other than reciting “by a processor,” nothing in the claim element precludes the step from practically being performed in the mind. For example, but for the “by a processor” language, “receiving in the context of this claim encompasses the user manually receive a specification, receive an input.... Similarly, the limitation of in response to the input send a second computing system a request for data..., as drafted, is a process that, under its broadest reasonable interpretation, covers performance of the limitation in the mind but for the recitation of generic computer components. For example, but for the “by a processor” language, “receive the data” in the context of this claim encompasses the user thinking that the data is received manually. The claim limitation, under its broadest reasonable interpretation, covers performance of the limitation in the mind but for the recitation of generic computer components, it appears to be a “Mental Processes” of abstract ideas. Accordingly, the claim recites an abstract idea.

This judicial exception is not integrated into a practical application. In particular, the claim only recites one additional element – using a processor to perform receiving a specification, responding or sending and then presenting steps. The processor in both

steps is recited at a high-level of generality (*i.e.*, as a generic processor performing a generic computer function of receiving, sending and presenting data) such that it amounts no more than mere instructions to apply the exception using a generic computer component. Accordingly, this additional element does not integrate the abstract idea into a practical application because it does not impose any meaningful limits on practicing the abstract idea. The claim are directed to an abstract idea.

The claim does not include additional elements that are sufficient to amount to significantly more than the judicial exception. As discussed above with respect to integration of the abstract idea into a practical application, the additional element of using a processor to performing said receiving, sending and presenting amounts to no more than mere instructions to apply the exception using a generic computer component. Mere instructions to apply an exception using a generic computer component cannot provide an inventive concept. The claims are not patent eligible.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are is/are rejected under 35 U.S.C. 103 as being unpatentable over Todd et al USPN in view of Meijer et al USPN 8,127,284.

Regarding claims 1, 19 and 20

Todd et al teaches

a processor a computer readable storage medium having stored thereon program code that, when executed by the processor, causes the processor to receive a specification of a target computing device through an integrated development environment (IDE) operating on the first computer system (column 9, line 54, in act 345, the process also automatically provisions target storage locations for the database to be migrated. In the example shown in FIG. 2, the target storage locations are the logical volumes 235-236 in the storage system 227. As with the identification act 343, the provisioning act 345 can also be performed to varying levels of granularity, as the present invention is not limited to any particular granularity. Furthermore, the embodiments of the present invention described herein are not limited to any particular technique for performing automatic provisioning, but one example is described below. In this respect, the term provisioning is used herein to reference identifying available target storage resources and/or configuring them so that they can be used to receive the migrated database or other logical object);

receive input referencing an application programming interface (API) call through the IDE operating on the first computer system (column 22, line 54, an illustrative form for the data structure is depicted in FIG. 7. As discussed in more detail below, this data

structure serves the dual purpose of providing input to the agent to control aspects of a migration session, and also allows the agent to provide status regarding a previously initiated migration session. In this respect, in one embodiment, when the agent receives the data structure, it loads the migration parameters provided therein into the data repository. When the agent is queried to determine the status of an ongoing migration session, in one embodiment the agent recreates the data structure based on the most current data in the repository, and returns the updated data structure (e.g., to the user interface). It should be appreciated, however, that the invention is not limited to employing the same data structure as an input to and output from the agent, as different structures may be used for these purposes. Also, the particular fields and format of the data structure shown in FIG. 7 are merely illustrative, as the invention is not limited in this respect);

in response to the input, send a second computing system a request for data associated with resource consumption during execution of the API call by a set of source devices, the set of source devices each having the same specification as the target computing device (column 26, line 10, the data structure 703 further includes a checkpoint field 735 which indicates whether the agent should track the progress of the migration so that if the migration is interrupted by the failure of any component in the system, the migration can be restarted from the point of failure. This field is intended for use with a migration process that has the capability to log the state of a migration and restart it in the event of an interruption. One example of such a migration process is described in co-pending commonly assigned application Ser. No. 10/211,469, entitled

"Migration Host-Based Mirroring," which is incorporated herein by reference. However, the present invention is not limited to use with this migration process, as other techniques may be employed to log the state of a migration and resume from a point of failure, and aspects of the present invention can be employed with migration techniques that do not have this capability. Use of the checkpoint field may be advantageous because it provides an administrator control over whether such logging is performed, thereby preventing the unnecessary consumption of system resources if such logging is not desired). Todd et al teaches receive data and resource consumption but doesn't teach explicitly receive the data associated with the during execution of the API call by the set of source devices and present the data through the IDE however Meijer et al teaches (column 7, line 5, as noted above, the transport mechanism 112 (FIG. 1) that can be used by the client-side code loading system 101 is pluggable so that the appropriate transport mechanism can be used for transporting code from the server computer 102 to the client computer 100. When the loader 110 is executed in the client computer 100, the loader 110 calls out a routine to detect the loading mechanism used at the client computer 100. In one example, this detection routine can be referred to as DetectLoadingMechanism. The programmer for a proprietary platform at the client computer 100 can overwrite the DetectLoadingMechanism routine to add the desired transport mechanism 112. To do so, a LoadCode() API routine can be defined that can be assigned a function corresponding to the transport mechanism. Note that the DetectLoadMechanism and LoadCode routine can be part of the API(s) 120 depicted in FIG. 4. In one example, the DetectLoadMechanism() routine can be defined as follows). Therefore, it would have been obvious to a person of ordinary skill in the art

Art Unit: 2191

before the effective filing date of the claimed invention to incorporate source device where data to be stored. The modification would have been obvious because one of ordinary skill in the art would have been motivated to combine teaching into sending or transferring data or code from first device to the second in integrated environment where device are compatible and available.

Regarding claim 2

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 3

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 4

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 5

Meijer et al teaches

wherein the data comprises statistics data generated by the second computer system based on resource consumption data that the second computer system received from the set of source devices (column 3 line 62, in accordance with some

embodiments, to enable the on-demand code loading system 101 in the client computer 100 to perform on-demand transport of types of code from the server computer 102 to the client computer 100, containers 114 are provided from the server computer 102 to the client computer 100. The containers 114 hold information to enable the client-side code loading system 101 to deduce types of code that may be needed by the program 108. The containers 114 can refer to each other).

Regarding claim 6

Todd et al teaches

wherein the resource consumption data that the second computer system received from each source device in the set of source devices comprises a latency between a start of the execution of the API call on the source device and an end of the execution of the API call on the source device (column 13, line 31, after a provisioning request has been created (automatically, manually or through a combination thereof, as described above), in one embodiment, the provisioning request serves as an input to a process which automatically provisions a computer system to satisfy the request. In one embodiment, the automatic target provisioning process includes three primary acts: resource selection, transaction creation and transaction execution. Resource selection involves identifying and selecting resources (such as storage systems, connectivity components and host computer resources) to fulfill the provisioning request.

Transaction creation involves creating a program or log of commands that, when executed, perform the configuration acts that will configure the computer system as defined in the provisioning request. Transaction execution involves actually executing

the acts to configure the computer system. Each of these portions of the automatic provisioning process is discussed in greater detail below).

Regarding claim 7

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 8

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 9

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 10

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 11

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 12

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 13

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 14

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 15

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 16

Rejection of claim 1 is incorporated and further claim recite similar limitation as claim 1 therefore claim is rejected under same rationale.

Regarding claim 17

Todd et al teaches

wherein the IDE comprises a graphical user interface (GUI) comprising a plurality of panels, wherein receiving the input referencing the API call through the IDE comprises receiving the input referencing the API call through a panel in the plurality of panel (column 38, line 49, in one embodiment, the agent operates in response to instructions provided by a user (which may be an administrator, although the invention is not limited in this respect). The user may provide these instructions via a graphical user interface (GUI) (e.g., provided by a management tool), which may allow the user to specify parameters for each source/target pair and/or the migration session overall. However, the invention is not limited in this respect, as other input facilities (such as a command line interface, or other suitably designed input facility) may be employed).

Regarding claim 18

Todd et al teaches

wherein the panel is a first panel, wherein presenting the data through the IDE comprises presenting the data in a second panel in the plurality of panels (column 38, line 49, in one embodiment, the agent operates in response to instructions provided by a user (which may be an administrator, although the invention is not limited in this respect). The user may provide these instructions via a graphical user interface (GUI) (e.g., provided by a management tool), which may allow the user to specify parameters for each source/target pair and/or the migration session overall. However, the invention is not limited in this respect, as other input facilities (such as a command line interface, or other suitably designed input facility) may be employed).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri whose telephone number is (571)272-3725. The examiner can normally be reached on M-F 8:30-5:00.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ANIL KHATRI/

Primary Examiner, Art Unit 2191

<i>Notice of References Cited</i>	Application/Control No. 15/944,716		Applicant(s)/Patent Under Reexamination ASSAD, Javier Nisim Flores	
	Examiner Anil Khatri		Art Unit 2191	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	CPC Classification	US Classification
*	A	US-7263590-B1	08-2007	Todd; Stephen J.	G06F12/02	711/165
*	B	US-8127284-B2	02-2012	Meijer; Henricus Johannes Maria	G06F9/44521	717/166
*	C	US-9843624-B1	12-2017	Taagholt; Pouya	H04L67/10	1/1
*	D	US-9813318-B2	11-2017	Iyoob; Ilyas	H04L43/08	1/1
*	E	US-7305671-B2	12-2007	Davidov; Eran	G06F8/30	717/108
*	F	US-6049664-A	04-2000	Dale; Geoffrey W.	G06F9/4862	717/174
*	G	US-7140012-B2	11-2006	Pugh; William A.	G06F8/71	717/170
*	H	US-7055149-B2	05-2006	Birkholz; Suellen Kae	G06F8/65	705/59
*	I	US-20090328028-A1	12-2009	O'Rourke; Connor	G06F8/65	717/173
	J					
	K					
	L					
	M					

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	CPC Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Johann et al, "Sustainable Development, Sustainable Software, and Sustainable Software Engineering An Integrated Approach", IEEE, pp 1-6 (Year: 2011)
	V	Chang et al, " Issues of Extending the User Interface of Integrated Development Environment", ACM, pp 23-30 (Year: 2008)
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.