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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* RODERICK JAMES MOORE

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Appeal 2012-007235  
Application 11/571,490<sup>1</sup>  
Technology Center 3600

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*Before* ANTON W. FETTING, PHILIP J. HOFFMANN, and  
BRADLEY B. BAYAT, *Administrative Patent Judges*.

BAYAT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals 35 U.S.C. § 134(a) from the Examiner’s final rejection of claims 1–22, 46, and 61–83. We have jurisdiction under 35 U.S.C. § 6(b).

STATEMENT OF THE DECISION

We AFFIRM.<sup>2</sup>

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<sup>1</sup> Appellant identifies the real party in interest as Genbook, Inc. (App. Br. 2).

<sup>2</sup> Our decision references Appellant’s Appeal Brief (“App. Br.,” filed Dec. 27, 2011) and Reply Brief (“Reply Br.,” filed Apr. 3, 2012), and the Examiner’s Answer (“Ans.,” mailed Feb. 3, 2012).

## CLAIMED INVENTION

The claimed invention relates to an online booking method for managing bookings for a plurality of service providers (Spec.¶ 1). Claim 1 reproduced below, is illustrative of the subject matter on appeal.

1. A computer-implemented method, comprising:

providing a booking engine with a plurality of customizable booking interfaces for populating by a plurality of service providers via service provider interfaces;

providing a plurality of bookable service provider entries with a plurality of corresponding booking links for display on a search engine results interface as a subset of search engine results, said booking links including associated booking tags indicative of a booking option, said search engine results including entries which have associated booking tags and entries which do not have associated booking tags, said entries which have associated booking tags being at least one of directly and indirectly bookable;

hosting a plurality of dedicated service provider booking interfaces on the booking engine, said booking interfaces being accessible via the corresponding booking links by selection of the associated booking tags;

receiving at the booking engine a booking request from a user, said booking request being initiated by user selection of a booking tag on said search engine results interface; and

using said booking request to access a corresponding booking interface hosted on the at least one booking engine, said booking interface being populated with service provider specific details for enabling users to make a booking.

## REJECTIONS

The following rejections are before us for review.

Claims 1–22 are rejected under 35 USC § 101 as being directed to non-statutory subject matter.

Claims 1–4, 7–10, 16, 19, 46, 60–64, 67–70, 76, 79, and 83 are rejected under 35 USC § 103(a) as being unpatentable over Crici (US 2005/0027580 A1, pub. Feb. 3, 2005), Vavul (US 2005/0033616 A1, pub. Feb. 10, 2005), and Barenbaum (US 2001/0039514 A1, pub. Nov. 8, 2001).

Claims 5, 6, 65, and 66 are rejected under 35 USC § 103(a) as being unpatentable over Crici, Vavul, Barenbaum, and Sobalvarro (US 2006/0287897, pub. Dec. 21, 2006).

Claims 11, 12, 71, and 72 are rejected under 35 USC § 103(a) as being unpatentable over Crici, Vavul, Barenbaum, and Bhushan (US 2006/0026194 A1, pub. Feb. 2, 2006).

Claims 15 and 75 are rejected under 35 USC § 103(a) as being unpatentable over Crici, Vavul, Barenbaum, and Patullo (US 2005/0086129 A1, pub. Apr. 21, 2005).

Claims 20–22 and 80–82 are rejected under 35 USC § 103(a) as being unpatentable over Crici, Vavul, Barenbaum, and Gross (US 2008/0195603 A1, pub. Aug. 14, 2008).

Claims 14 and 74 are rejected under 35 USC § 103(a) as being unpatentable over Crici, Vavul, Barenbaum, Bhushan, and Official Notice.

Claims 13, 17, 18, 73, 77, and 78 are rejected under 35 USC § 103(a) as being unpatentable over Crici, Vavul, Barenbaum, and Official Notice.

## FINDINGS OF FACT

We have determined the findings of fact in the Analysis section below are supported at least by a preponderance of the evidence.<sup>3</sup>

### ANALYSIS

#### *Non-statutory Rejection*

##### *Claims 1–22*

The Examiner rejects claims 1–22 as non-statutory subject matter for being directed to an abstract idea and lacking sufficient recitation of a machine or transformation to render the claims statutory (Ans. 4–5).

Appellant contends that the preamble of claim 1 recites a computer-implemented method, a general purpose computer, and upon implementing the recited steps of the method, the particular machine becomes a special purpose computer, and thus patentable under 35 USC § 101 (App. Br. 14, Reply Br. 2–3).

We note “computer-implemented” only appears in the preamble of claim 1. “[A] preamble does not limit claim scope if it ‘merely states the purpose or intended use of an invention.’” *Digitech Image Technologies, LLC v. Electronics for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014) (quoting *Bicon, Inc. v. Straumann Co.*, 441 F.3d 945, 952 (Fed. Cir. 2006) (affirming a finding that the recitation of a “digital image reproduction system” in the preamble of the claims did not limit the claims and the claims were directed to a patent ineligible abstract idea)). Here, the recitation of “computer-implemented” in the preamble of claim 1 merely states the

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<sup>3</sup> See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

intended use of the claimed invention and does not provide any antecedent basis for limitations in the body of the claim. *Catalina Mktg. Intl., Inc. v. Coolsavings.com, Inc.*, 289 F.3d 801, 808 (Fed. Cir. 2002). Therefore, we conclude that use of “computer-implemented” in the preamble of claim 1 does not meaningfully limit the claims.

Subsequent to the filing of briefs in this appeal, the Supreme Court in *Alice Corp. v. CLS Bank Int'l*, 134 S. Ct. 2347 (2014), reiterated the framework set out previously in *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 134 S. Ct. at 2355. The first step in the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* If they are directed to a patent-ineligible concept, the second step in the analysis is to consider the elements of the claims “individually and ‘as an ordered combination’” to determine whether there are additional elements that “‘transform the nature of the claim’ into a patent-eligible application.” *Id.* at 2350 (quoting *Mayo*, 132 S. Ct. at 1297). In other words, the second step is to “search for an ‘inventive concept’—i.e., an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Id.* at 2355 (quoting *Mayo*, 132 S. Ct. at 1294).

*Alice* involved “a method of exchanging financial obligations between two parties using a third-party intermediary to mitigate settlement risk.” *Alice*, 134 S. Ct. at 2356. Like the method of hedging risk in *Bilski v. Kappos*, 561 U.S. 593 (2010)—which the Court deemed “a method of

organizing human activity”—Alice’s “concept of intermediated settlement” was held to be “a fundamental economic practice long prevalent in our system of commerce.” *Alice*, 134 S. Ct. at 2356. Similarly, the Court found that “[t]he use of a third-party intermediary . . . is also a building block of the modern economy.” *Id.* at 2350. “Thus,” the Court held, “intermediated settlement . . . is an ‘abstract idea’ beyond [the scope of] § 101.” *Id.*

In this case, claim 1 is drawn to a method of “providing booking services” including the steps of providing a booking engine, providing service provider entries and corresponding booking links, hosting service provider interfaces, receiving a booking request, and using the booking request to access a corresponding booking interface (App. Br. 9, citing Spec. ¶ 114). Similar to *Alice*, the concept of booking—the practice of making reservations—is a well-known economic practice long prevalent in our system of commerce. An arrangement whereby something is booked or reserved in advance provides assurances to the consumer and the service provider. Thus, booking, like the concept of intermediated settlement, is an “abstract idea” beyond the scope of § 101.

Having determined that the Appellant’s method claim is directed to a patent-ineligible concept, we must now consider whether the claim contains additional substantive limitations that narrow, confine, or otherwise tie down the claim so that, in practical terms, it does not fully cover the abstract idea itself. *See Alice*, 134 S. Ct. at 2357 (“we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application. A claim that recites an abstract idea must include ‘additional features’ to

ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’”) (citations omitted). Here, Appellant argues that the claim “passes at least the machine-or-transformation test or the practically applied idea test” (App. Br. 14); however, claim 1 merely suggests the use of a computer by utilizing an interface or link for instance. *See supra*. The introduction of a generic element, such as a computer (server) or storage medium, into a method, apparatus, or article claim, has been deemed insufficient by the Supreme Court to transform a patent-ineligible claim into one that is patent-eligible, and it fails to do so in this claim as well. *See Alice*, 134 S. Ct. at 2358. In addition, the claim steps do not recite a specialized algorithm that could move the claims from the abstract to the concrete, and simply executing an abstract concept on a computer does not render a computer “specialized,” as argued by Appellant. Further, the recited claim limitations both individually and as an ordered combination fail to transform the nature of the claim into a patent-eligible application. Therefore, independent claim 1 does not recite any limitation that, in practical terms, limits the scope of the claim so it does not fully cover the abstract idea itself.

For the foregoing reasons, we sustain the Examiner's rejection of claims 1–22 under 35 U.S.C. § 101, as directed to non-statutory subject matter.

### *Obviousness Rejections*

#### *Independent Claims 1, 46, and 61*

Appellant argues independent claims 1, 46, and 61 as a group (App. Br. 15). We select claim 1 as being representative. The remaining claims stand or fall with claim 1. 37 C.F.R. § 41.37 (c)(1)(vii). In particular,



Appellant contends that the obviousness rejection of independent claim 1 over Crici, Vavul and Barenbaum is improper because “Barenbaum’s system does not provide a search engine that displays booking links which include ‘booking tags indicative of a booking option’ to the user” (Reply Br. 4, *see also* App. Br. 20).

The Examiner maintains that the rejection of record is proper, citing the teachings of Barenbaum at paragraph 33 (Ans. 18–19).

After carefully considering Appellant’s arguments against the combination, we are not persuaded that the Examiner erred in rejecting claim 1. We agree with and adopt the Examiner’s findings and rationale set forth in the Answer on pages 5–8 and 17–19. We note the following for emphasis.

Barenbaum is directed to a reservation system including a resource database that contains a list of reservable resources, such as hotels, restaurants, or sports facilities (Barenbaum ¶ 33). Barenbaum discloses:

The resource search engine accepts search criteria and returns matching results. Each result is a link to the system transaction server, which brokers the transaction between the user and the site directly handling the reservation. The system 100 has the ability to make the reservation instantly using an extensive database of information on users. Simply clicking on the reserve button will allow the system 100 to access the users' name, credit card, special travel deal access (miles rewards programs, frequent flier programs) and all other relevant information needed to make the reservation

(*Id.*, emphasis added).

The Specification indicates that “booking links include a booking tag providing a visual representation indicative of a booking option [] wherein the visual representation may comprise an icon and the associated booking

link comprises a hyperlink” (Spec. ¶ 215–216, (emphasis added)). By utilizing search criteria to implement a search of the resource search engine and returning with each matching result a link with a reserve button (booking tag/icon) to provide the ability to make a reservation instantly (booking option), Barenbaum teaches “a search engine that displays booking links which include ‘booking tags indicative of a booking option’ to the user” (Reply Br. 4).

Appellant further argues that “Barenbaum presents potential deal opportunities to a user device without having knowledge of a deal’s availability” (App. Br. 20).

“The test for obviousness is not whether . . . the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.” *In re Keller*, 642 F.2d 413, 425 (CCPA 1981) (citations omitted). “Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references.” *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (citing *Keller*, 642 F.2d at 425). In determining obviousness, furthermore, a reference “must be read, not in isolation, but for what it fairly teaches in combination with the prior art as a whole.” *Id.*

Here, the Examiner relies on the combined teachings of Crici, Vavul and Barenbaum to reject the limitations at issue (Ans. 5–8, 18–19). As the Examiner indicates, Crici was relied upon for teaching availability of time slots for appointment scheduling (*Id.* at 18). Consequently, the Appellant’s individual attack on the references cannot establish non-obviousness. The

Appellant's argument thus fails to address the Examiner's aforementioned findings and conclusions.

Therefore, the rejection of claim 1 under 35 U.S.C. § 103(a) is sustained and claims 46 and 61 fall with claim 1.

*Dependent Claims 2–22, 60, and 62–83*

With respect to arguments presented with regards to dependent claims 2–22, 60, and 62–83 rejected as obvious in further combination with Sobalvarro, Bhushan, and Patullo (App. Br. 22–28), Appellant merely asserts, without further explanation, that the prior art does not teach the limitations. In the absence of a more detailed explanation, Appellant's argument is not persuasive of error on the part of the Examiner. *See In re Jung*, 637 F.3d 1356, 1365 (Fed. Cir. 2011) (“[I]t has long been the Board's practice to require an applicant to identify the alleged error in the examiner's rejections,” (citing *Ex Parte Frye*, 94 USPQ2d 1072 (BPAI 2010) (precedential) (“The panel then reviews the obviousness rejection for error based upon the issues identified by appellant, and in light of the arguments and evidence produced thereon.”))).

Inasmuch as Appellant has relied upon arguments presented with respect to claims 1, 46, and 61, we sustain the rejection of these dependent claims under 35 USC § 103(a) for the reasons set forth above.

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Application 11/571,490

DECISION

The Examiner's rejection under 35 U.S.C. § 101 is affirmed.

The Examiner's rejections under 35 U.S.C. § 103(a) are affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. 1.136(a)(1)(iv).

AFFIRMED

rvb