



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/004,647	01/11/2011	James LeClair	1502-001	1917
22208	7590	11/25/2016	EXAMINER	
The Marbury Law Group, PLLC 11800 SUNRISE VALLEY DRIVE 15TH FLOOR RESTON, VA 20191			NGUYEN, TRAN N	
			ART UNIT	PAPER NUMBER
			3686	
			NOTIFICATION DATE	DELIVERY MODE
			11/25/2016	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):

ptonotices@marburylaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* JAMES LECLAIR  
and  
RANDAL MILLER

---

Appeal 2014-005341  
Application 13/004,647  
Technology Center 3600

---

Before MURRIEL E. CRAWFORD, BIBHU R. MOHANTY, and  
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants seek our review under 35 U.S.C. § 134 of the final rejection of claims 1–9, 11–13, and 15–18 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.

## THE INVENTION

The Appellants' claimed invention is directed to managing the transportation of harvested organs from the donor to a recipient (Spec., page 3, lines 1-3). Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A method for managing an organ transplant process on a central server, comprising:
  - receiving transplant process data in the central server;
  - identifying members of a transplant team based on the received transplant process data;
  - identifying members of a harvesting team based on the received transplant process data;
  - identifying members of a transport team based on the received transplant process data;
  - creating a harvest/transplant plan based on the received transplant process data, wherein the harvest/transplant plan comprises:
    - a name of at least one participant in the organ transplant process;
    - contact information associated with the at least one participant;
    - a role of the at least one participant in the organ transplant process; and
    - an alert level associated with the at least one participant, wherein the alert level is based on the importance of the role of the at least one participant in the organ transplant process;
  - creating a chain of custody model based on the received transplant process data;
  - identifying unfavorable issues based upon the received transplant process data; and
  - providing management reports, wherein the management reports document errors, workflow, missing information and time management.

### THE REJECTIONS

The Examiner relies upon the following as evidence in support of the rejections:

Abukweddar	US 2005/0010437 A1	Jan. 13, 2005
Solis et al.	US 2005/0262088 A1	Nov. 24, 2005
Waterhouse et al.	US 2005/0251330 A1	Nov. 10, 2005
Timothy et al.	US 2007/0285227 A1	Dec. 13, 2007
Taylor et al.	US 2009/0226878 A1	Sept. 10, 2009

Norm Barber, *The Nasty Side of Organ Transplanting, The Cannabalistic [sic] Nature of Transplant Medicine*, 3<sup>rd</sup> Ed. 2007, (extract from Chapter 25, “*Sociological Implications*”) 1–136, (hereinafter “Barber”).

The following rejections are before us for review:

1. Claims 1–9, 11–13, and 15–18 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.
2. Claims 1 and 11 are rejected under 35 U.S.C. § 103(a) as unpatentable over Solis, Barber, and Taylor.
3. Claims 2–5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solis, Barber, Taylor, and Abukweddar.
4. Claims 6–9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solis, Barber, Taylor, Abukweddar, and Timothy.
5. Claim 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solis, Barber, Taylor, and Waterhouse.
6. Claim 15 is rejected under 35 U.S.C. 103(a) as being

unpatentable over Solis, Barber, Taylor, and applicant admitted prior art.

7. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solis, Barber, Taylor, Abukweddar, and Waterhouse.
8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Solis, Barber, Taylor, Abukweddar, Waterhouse, and Agnew.

#### FINDINGS OF FACT

We have determined that the findings of fact in the Analysis section below are supported at least by a preponderance of the evidence.<sup>1</sup>

#### ANALYSIS

##### *35 U.S.C. § 101*

The Appellants have argued that the rejection under 35 U.S.C. § 101 is improper (App. Br. 5, 6).

Under 35 U.S.C. § 101, an invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: “laws of nature, natural phenomena, and abstract ideas” are not patentable. *See, e.g., Alice Corp. Pty Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014).

---

<sup>1</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).

In judging whether claim 1 falls within the excluded category of abstract ideas, we are guided in our analysis by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1296–97 (2012)). In accordance with that framework, we first determine whether the claim is “directed to” a patent-ineligible abstract idea. If so, we then consider the elements of the claim both individually and as “an ordered combination” to determine assess whether the additional elements “transform the nature of the claim” into a patent-eligible application of the abstract idea. *Id.* This is a search for an “inventive concept” an element or combination of elements sufficient to ensure that the claim amounts to “significantly more” than the abstract idea itself. *Id.* The Court also stated that “the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Id.* at 2358.

Here, we find that the claim is directed to the concept of managing a process. In this case, the process of managing is directed to managing an organ transplant process and is an abstract idea beyond the scope of § 101.

We next consider whether additional elements transform the nature of the claim into a patent-eligible application of the abstract idea, e.g., whether the claim does more than simply instruct the practitioner to implement the abstract idea over the using generic computer components. We conclude that it does not. Considering each of the claim elements in turn, the function performed by the computer server at each step of the process is purely conventional. Each step of the claimed method does no more than require a generic computer to perform a generic computer function.

For these reasons this rejection of claim 1 and its dependent claim is sustained.

*35 U.S.C. § 103(a)*

The Appellants argue that the rejection of claim 1 is improper because the cited prior art fails to disclose creating a harvest/transport plan that includes “*an alert level . . . based on the importance of the role of the at least one participant in the organ transplant process*” (App. Br. 8, 9).

In contrast, the Examiner has determined that the cited claim limitation is disclosed by Solis at Figure 101 and Barber at page 24 (see last 3 paragraphs) and page 25 (see paragraphs 5, 6) (Final Act. 6; *see also* Ans. 4-6).

We agree with the Appellants. The Specification at Figure 5 shows for example an “Alert Level” with a hierarchy level of 1 to 5. Here, the cited claim limitation requires not only an “alert” but an “*alert level*” based on the importance of the role of the at least one participant in the organ transplant process. Here, the above citations to Solis and Barber fail to disclose “*an alert level . . . based on the importance of the role of the at least one participant in the organ transplant process.*” While Barber page 24, last 3 paragraphs, does disclose that coordinators notify or even broadly “alert” parties of the need for the transplants, there is no specific “*alert level . . . based on the importance of the role of the at least one participant in the organ transplant process.*” Accordingly, the rejection of claim 1 and its dependent claims is not sustained.

### CONCLUSIONS OF LAW

We conclude that Appellants have not shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 101.

We conclude that Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 103(a) as listed in the Rejections section above.

### DECISION

The Examiner's rejection of claims 1–9, 11–13, and 15–18 is sustained.

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) (2011).

AFFIRMED