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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/908,449	06/03/2013	Curtis C. Cook	CCK-P-101	7659
32566	7590	11/25/2016	EXAMINER	
PATENT LAW GROUP LLP PO Box 61839 Sunnyvale, CA 94088			ROBINSON, KITO R	
			ART UNIT	PAPER NUMBER
			3695	
			NOTIFICATION DATE	DELIVERY MODE
			11/25/2016	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CURTIS C. COOK

Appeal 2015-000552
Application 13/908,449¹
Technology Center 3600

Before HUBERT C. LORIN, BRUCE T. WIEDER, and
BRADLEY B. BAYAT, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Curtis C. Cook (Appellant) seeks our review under 35 U.S.C. § 134 of the non-final rejection of claims 1–23. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We REVERSE and enter a NEW GROUND OF REJECTION.

¹ The Appellant identifies Curtis Cook as the real party in interest. App. Br. 1.

THE INVENTION

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A system for allocating monetary amounts from deposits in a primary account to one or more secondary accounts comprising:

a server;

the server being able to access allocation files that are programmable via the internet by a user;

a primary account, associated with a first entity, into which deposits are made from one or more sources; and

allocation files stored in a memory accessible by the server, the allocation files containing rules programmed by the user via the internet, the rules comprising at least the following:

one or more percentages associated with respective one or more secondary accounts to be applied to future deposits made to the primary account, the one or more secondary accounts being under control of the user and being associated with the user;

one or more priorities associated with the respective one or more of the secondary accounts,

wherein the server is programmed to automatically apply the one or more percentages and the one or more priorities to amounts later deposited in the primary account and initiate transfer of those percentages of the deposits to the respective one or more secondary accounts in accordance with rules pre-programmed by the user, and

wherein the server is programmed to deduct from the primary account a predetermined first percentage, associated with a certain priority secondary account, in accordance with the rules, then, after the first percentage has been subtracted from the primary account, deduct from the remaining primary account a predetermined second percentage, associated with a lower priority secondary account, in accordance with the rules.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Thomas et al.	US 2004/0254835 A1	Dec. 16, 2004
Ebersole et al.	US 7,792,748 B1	Sept. 7, 2010
Owen et al.	US 2012/0023008 A1	Jan. 26, 2012
Biske	US 2013/0238487 A1	Sept. 12, 2013

The following rejections are before us for review:

1. Claims 1–10, 13–19, 22, and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Biske and Ebersole.
2. Claims 11 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Biske, Ebersole, and Owen.
3. Claims 12 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Biske, Ebersole, and Thomas.

ISSUES

Did the Examiner err in rejecting claims 1–10, 13–19, 22, and 23 under 35 U.S.C. §103(a) as being unpatentable over Biske and Ebersole?

Did the Examiner err in rejecting claims 11 and 20 under 35 U.S.C. §103(a) as being unpatentable over Biske, Ebersole, and Owen?

Did the Examiner err in rejecting claims 12 and 21 under 35 U.S.C. §103(a) as being unpatentable over Biske, Ebersole, and Thomas?

ANALYSIS

The rejection of claims 1–10, 13–19, 22, and 23 under 35 U.S.C. §103(a) as being unpatentable over Biske and Ebersole.

The Examiner’s position with respect to both independent claims (claims 1 and 15) is that Biske discloses all that is claimed but for the following limitations for which Ebersole is relied upon:

- *one or more percentages (column 17, lines 7-18)*
- *wherein the server is programmed to deduct from the primary account a predetermined first amount, associated with a certain priority secondary account, in accordance with the rules, then, after the first amount has been subtracted from the primary account, deduct from the remaining primary account a predetermined second amount, associated with a lower priority secondary account, in accordance with the rules (column 17, lines 7-18).*
- *one or more percentages associated with respective one or more secondary accounts to be applied to future deposits made to the primary account, the one or more secondary accounts being under control of the user and being associated with the user (column 17, lines 7-18).*

Non-Final Act. 4. According to the Examiner,

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Biske with the technique of Ebersole because it is an easy and convenient way to accurately track both short term and long term financial transactions and goals in a manageable and accurate manner (Biske para. 0004).

Id.

The Appellant challenges the rejection, in part, on the ground that “[i]n contrast to Ebersole, Applicant's Claims 1 and 15 expressly recite

that the programmed percentages are based on what is left after the deduction for the higher priority accounts.” App. Br. 7.

The limitation at issue is “deduct[ing] from [a] primary account a predetermined first percentage, associated with a certain priority secondary account, in accordance with [certain] rules [as claimed], then, after the first percentage has been subtracted from the primary account, deduct from the remaining primary account a predetermined second percentage, associated with a lower priority secondary account, in accordance with the rules” (Claim 1). The Examiner relied on col. 17, lines 7–18 of Ebersole as evidence that this is shown in the prior art. Col. 17, lines 7–18 of Ebersole is reproduced below:

In various exemplary embodiments, user interface 300 may allow the user to select a number of accounts in which to deposit incoming money. For instance, the user may enter in a pop-up window, text box, web page, or other mechanism percentages for multiple accounts (e.g., 70% to "Spending Money" 320, 20% to "Groceries" 321, and 10% to "All Purpose Savings" 322) or a hierarchy of selected accounts (e.g., all deposits to "Spending Money" 320 until account reaches a balance of \$1000.00, then all deposits to "All- Purpose Savings" 322) or a selection based on types of deposits (e.g., all paycheck deposits to "Spending Money" 320 and all other deposits to "All-Purpose Savings" 322).

There is no mention in this passage of a remaining primary account, deducting from it a predetermined second percentage, or an association with a lower priority secondary account. Therefore, we do not see how said passage would lead one to “deduct from [a] remaining primary account a predetermined second percentage, associated with a lower priority secondary account” as claimed.

For the foregoing reasons, a prima facie case of obviousness has not been made out in the first instance by a preponderance of the evidence. The rejection is not sustained.

The rejection of claims 11 and 20 under 35 U.S.C. §103(a) as being unpatentable over Biske, Ebersole, and Owen.

The rejection of claims 12 and 21 under 35 U.S.C. §103(a) as being unpatentable over Biske, Ebersole, and Thomas.

These rejections of dependent claims are not sustained for the same reasons discussed above.

NEW GROUND OF REJECTION

Claims 1–23 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Alice Corp. Pty. Ltd. v. CLS Bank International, 134 S. Ct. 2347 (2014) identifies a two-step framework for determining whether claimed subject matter is judicially-excepted from patent eligibility under § 101.

According to *Alice* step one, “[w]e must first determine whether the claims at issue are directed to a patent-ineligible concept,” such as an abstract idea. *Alice*, 134 S. Ct. at 2355.

Taking claim 1 as representative of the claims on appeal, the claimed subject matter is directed to funds transfer. Funds transfer is a fundamental economic practice. As such it is an abstract idea.

Step two is “a 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.* (alteration in original) (quoting *Mayo Collaborative Services v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1294 (2012)).

We see nothing in the subject matter claimed that transforms the abstract idea of funds transfer into an inventive concept.

The method of claim 1 sets out steps “for allocating monetary amounts from deposits in a primary account to one or more secondary accounts” (claim 1) that depends on user-defined percentages associated with one or more secondary accounts to be applied to future deposits made to a primary account and priorities associated with one or more secondary accounts. Allocating funds among accounts, whether by percentage and/or priority, is a known operation and thus adds little to patentably transform the information gathering abstract idea. The particular scheme as claimed allocates the funds a particular way. But this does no more than express a practical application of the funds transfer idea. *Cf. CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1371 (Fed. Cir. 2011) (“The Court [*Parker v. Flook*, 437 U.S. 584 (1978)] rejected the notion that the recitation of a practical application for the calculation could alone make the invention patentable.”).

Finally, claim 1 calls for the use of a server, memory accessible by the server for storing files, and programming rules by a user via the internet. But any general-purpose computer available at the time the application was filed would have satisfied these limitations. The Specification supports that view. *See Spec.*, 4:9–11. “[T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.

Stating an abstract idea “while adding the words ‘apply it’” is not enough for patent eligibility.” *Alice*, 134 S. Ct. at 2358.

For the foregoing reasons, we find that claim 1 covers subject matter that is judicially-excepted from patent eligibility under § 101. The other independent claim — method claim 15 parallels claim 1 — similarly covers claimed subject matter that is judicially-excepted from patent eligibility under § 101. The dependent claims describe various funds transfer schemes which do little to patentably transform the abstract idea.

Therefore, we enter a new ground of rejection of claims 1–23 under 35 U.S.C. § 101.

For the foregoing reasons, the rejections are reversed but the claims are newly rejected under § 101.

CONCLUSIONS

The rejections of claims under 35 U.S.C. § 103(a) as being unpatentable over 1–23 are reversed.

Claims 1–23 are newly rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

DECISION

The decision of the Examiner to reject claims 1–23 is reversed.

Claims 1–23 are newly rejected.

NEW GROUND

This decision contains a new ground of rejection pursuant to 37 C.F.R. § 41.50(b). 37 C.F.R. § 41.50(b) provides “[a] new ground of

rejection pursuant to this paragraph shall not be considered final for judicial review.” 37 C.F.R. § 41.50(b) also provides that the Appellant, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of the appeal as to the rejected claims:

(1) *Reopen prosecution.* Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the proceeding will be remanded to the examiner. . . .

(2) *Request rehearing.* Request that the proceeding be reheard under § 41.52 by the Board upon the same record. . . .

REVERSED; 37 C.F.R. § 41.50(b)