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Row 2: 60033, 7590, 07/13/2017, MARK TERRY, ESQ., 801 BRICKELL AVE., SUITE 900, Miami, FL 33131
Row 3: EXAMINER FU, HAO
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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* BERTRAM V. BURKE

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Appeal 2015-004310<sup>1</sup>  
Application 13/479,221<sup>2</sup>  
Technology Center 3600

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Before JAMES A. WORTH, TARA L. HUTCHINGS, and  
AMEE A. SHAH, *Administrative Patent Judges*.

HUTCHINGS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner’s final rejection of claims 1–18. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE and enter a NEW GROUND OF REJECTION pursuant to our authority under 37 C.F.R. § 41.50(b).

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<sup>1</sup> Our decision references Appellant’s Appeal Brief (“App. Br.,” filed Aug. 25, 2014), the Examiner’s Answer (“Ans.,” mailed Jan. 16, 2015), the Final Office Action (“Final Act.,” mailed Mar. 28, 2014), and the Specification (“Spec.,” filed May 23, 2012).

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

### CLAIMED INVENTION

Appellant's claimed invention "relates generally to financial industries and, more specifically, to processes for accumulating credits for savings or donations programs over telecommunications networks." Spec. ¶ 4.

Claims 1 and 11 are the independent claims on appeal. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A system for accumulating funds in a target account, the system comprising:
  - a mobile computing device operated by a user, the computing device comprising:
    - a graphical user interface including a text field for directly entering transaction data from the user, wherein the transaction data includes at least a unique identifier for the user and a spending amount;
    - a memory storage;
    - a network connection device communicatively coupled to a communications network; and
    - a processing unit coupled to the memory storage, wherein the processing unit is operative to:
      - generating a formatted message including the transaction data; and
      - transmitting the message over the communications network, via the network connection device, to a central server;
  - the central server independent from, and having no control over, a financial account provider, the central server comprising:
    - a receiver configured for receiving transaction data from the user via the communications network, the user being independent from the financial account provider;

a memory storage;  
a network connection device communicatively coupled to the communications network; and  
a processing unit coupled to the memory storage, wherein the processing unit is configured for:  
accessing in a connected database a record associated with the user based on the unique identifier for the user and storing the record in a memory storage;  
reading at least a savings determinant, source account data and target account data from the record associated with the user;  
calculating a savings amount based on the savings determinant and the spending amount;  
incrementing a current value based on the savings amount, wherein the current value is associated with the user; and  
transmitting, over the communications network, via the network connection device, a message to a provider of a source account defined by the source account data, wherein the message includes a request to transfer the current value from the source account to a target account defined by the target account data.

#### REJECTIONS

Claims 1, 4, 5, 7, 8, 10, 11, and 15–18 are rejected under 35 U.S.C. § 103(a) as unpatentable over Burke (US 7,571,849 B2, iss. Aug. 11, 2009) and Ross (US 2012/0296809 A1, pub. Nov. 22, 2012).

Claims 2 and 12 are rejected under 35 U.S.C. § 103(a) as unpatentable over Burke, Ross, and Teicher (US 2010/0312692 A1, pub. Dec. 9, 2010).

Claims 3, 6, 9, 13, and 14 are rejected under 35 U.S.C. § 103(a) as unpatentable over Burke, Ross, and Young (US 2010/0049652 A1, pub. Feb. 25, 2010).

ANALYSIS

*Independent Claims 1 and 11, and Dependent Claims 4, 5, 7, 8, 10, and 15–18*

We are persuaded by Appellant’s argument that the Examiner erred in rejecting independent claims 1 and 11 under 35 U.S.C. § 103(a) because Burke does not disclose or suggest the central server “receiving transaction data from the user via the communications network,” and “transmitting . . . a message to a provider of a source account defined by the source account data, wherein the message includes a request to transfer the current value from the source account to a target account defined by the target account data,” as recited in independent claim 1, and similarly recited in independent claim 11. The Examiner cites column 2, lines 1–17, column 3, lines 44–56, column 6, lines 33–45, column 7, lines 32–47, column 10, lines 17–51, and column 12, line 9 through column 13, line 15, and claim 3 of Burke as disclosing the argued limitations. Final Act. 4. However, we agree with Appellant (App. Br. 7) that there is nothing in the cited portions of Burke that discloses or suggests that the central server receives transaction data from the user, and sends a message to a provider of a source account that includes a request to transfer.

Burke describes creating excess funds from spending transactions that are set aside in special accounts for future spending. Burke, col. 1, ll. 30–34. The excess funds are created at a point of sale (“POS”) counter by a merchant collector (“MC”) on behalf of a subscriber payor (“SP”) who tenders an excess payment. *Id.* at col. 2, ll. 56–66. The SP provides the MC with a transaction card or account number to deposit the excess amount into a clearinghouse central computer (“CCC”). *Id.* at col. 2, l. 65– col. 3, l. 6.

The MC captures the transaction data, such as the account number and amount of funds to be deposited with the CCC, and prints a receipt for the SP. *Id.* at col. 3, ll. 6–12. The depositing transactions into the MC remote terminal is completed off-line, or on-line, or a combination of both. *Id.* at col. 3, ll. 13–15. For example, the transactions may be accumulated in transaction files stored at the MC terminal and batched to the CCC. *Id.* at col. 3, ll. 15–19. The transaction files transferred to the CCC contain details of each deposited transaction. *Id.* at col. 3, ll. 25–29. After the MC deposits funds from the SP into the clearinghouse’s bank account, the CCC transfers funds to each provider account (“PC”) indicated in the transaction files. *Id.* at col. 3, ll. 29–34.

The Examiner finds that Burke’s CCC constitutes the claimed central server. Ans. 4. But Burke describes the MC receiving the transaction data from the user, not the CCC, as required by claims 1 and 11. Instead, the MC sends the transaction data to the CCC. In addition, Burke describes the MC sending funds to a bank of the CCC, and the CCC distributing funds to the PC, not the CCC sending a message to a source account that includes a request to transfer the current value from the source account to a target, as recited in claim 1, and similarly recited by claim 11.

In view of the foregoing, we do not sustain the Examiner’s rejection of independent claims 1 and 11 under 35 U.S.C. § 103(a). For the same reasons, we also do not sustain the rejection of dependent claims 4, 5, 7, 8, 10, and 15–18.

*Dependent Claims 2, 3, 6, 9, and 12–14*

Claims 2, 3, 6, 9, and 12–14 depend from independent claims 1 and 11, respectively. The Examiner’s rejections of these claims do not cure the

deficiency in the Examiner's rejection of independent claims 1 and 11. Therefore, we do not sustain the Examiner's rejections under 35 U.S.C. § 103(a) of these claims for the same reasons set forth above with respect to claims 1 and 11.

#### NEW GROUND OF REJECTION

Claims 1–18 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. We select independent claim 1 as representative of the claims being rejected.

The Court in *Alice* emphasized the use of the two-step framework for analysis of patentability:

First, we determine whether the claims at issue are directed to one of those patent-ineligible concepts. If so, we then ask, “[w]hat else is there in the claims before us?” To answer that question, we consider the elements of each claim both individually and “as an ordered combination” to determine whether the additional elements “transform the nature of the claim” into a patent-eligible application.

*See Alice Corp., Pty. Ltd. v CLS Bank Intl*, 134 S. Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012))(Internal citations omitted).

We determine that the subject matter of the claims, as reasonably broadly construed, is about accumulating funds in a target account (i.e., saving money in an account). Claim 1, for example, recites a system for accumulating funds in a target account that comprises a mobile computing device, and a central server. The mobile unit operated by a user generates a formatted message including transaction data, and transmits the message with transaction data to a central server over a communications network. The central server receives transaction data, accesses a record associated

with the user, reads a savings determinate associated with the user, calculates a savings amount based on the savings determinant, increments a current value based on the savings amount, and transmits a message to transfer the current value from a source account to a target account. A savings determinate is defined by the Specification at paragraph 38 as “any data indicat[ing] which of the savings schemes defined above is used for a particular spending transaction,” and savings scheme information defines how the user intends to save funds, credits, or money using the invention (*see* Spec. ¶¶ 28–37). In other words, the claimed system recites steps for accumulating funds in a target account based on a savings scheme associated with a user.

Our review of the Specification also supports the determination that the claims are directed to accumulating funds in a target account. For example, the Specification describes that “a need exists for improvements over the prior art . . . that provide more flexibility when accumulating funds or credits in a savings or charitable account.” *Id.* ¶ 6. Likewise, the Specification characterizes the technical field of the invention as relating to “processes for accumulating credits for savings or donations programs over telecommunications networks.” *Id.* ¶ 4.

Similar to *Bilski v. Kappos*, 561 U.S. 593 (2010), which involved risk hedging, *Alice*, which involved intermediated settlement (*see Alice*, 134 S. Ct. at 2356–57), *Intellectual Ventures*, which involved budgeting (*see Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1367 (Fed. Cir. 2015)), *Cybersource*, which involved verifying credit card transactions (*see CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011)), accumulating funds in a target account is a



fundamental economic practice long prevalent in our system of commerce and, as such, is abstract. *Bilski*, 561 U.S. at 611; *see Alice*, 134 S. Ct. at 2356, 2357.

In addition, the claimed steps performed by the system of claim 1 could be performed entirely through mental thought or with pen and paper. *Cybersource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1373 (Fed. Cir. 2011) (“[A] method that can be performed by human thought alone is merely an abstract idea and is not patent eligible under § 101.”)

Turning to step two of the analysis, we see nothing in the subject matter claimed, when considering the claimed elements both individually and as an ordered pair, that transforms the abstract idea of accumulating funds in a target account into an inventive concept. Nothing in the claims purports to improve computer functioning or “effect an improvement in any other technology or technical field.” *Alice*, 134 S. Ct. at 2359.

Claim 1 additionally recites various generic computer devices and technology, including a “central server” and “mobile computing device” that perform steps recited in the claims over a “communications network.” Nothing in the claims or Specification indicates any technological improvements to these elements (or their recited sub-components). *See, e.g.*, Spec. ¶¶ 18, 23–26, 56–63 (describing that the invention employs known technology).

The Specification at paragraph 8 describes that the claimed central server’s performance of the recited steps “solves [a] . . . problem that requires the entity providing the savings or donation accounts [to] hav[e] access to the consumer’s spending transaction data.” But this solution, recited by the ordered combination, does not address any technical problem,

such as a problem particular to computer networks or the Internet, nor does it involve an improvement to computers or other technology. To the contrary, it addresses a business challenge particular to implementing the abstract idea of accumulating funds to a target account based on a user's savings scheme, that is, accumulating funds without providing the target account with access to the user's transaction data that the savings scheme employs. The performance of the recited steps by generic computer hardware, taken individually or as an ordered combination, are merely directed to the same abstract idea of accumulating funds in a target account. *See also Cybersource*, 654 F.3d at 1375 (“[t]hat purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*, [409 U.S. 63 (1972)]”).

For these reasons, we enter a new ground of rejection under § 101 as to independent claim 1. Further, based on a review of the remaining claims and their additional limitations, we enter a new ground of rejection under § 101 as to claims 2–18, for similar reasons, as for independent claim 1.

#### DECISION

The Examiner's rejections of claims 1–18 under 35 U.S.C. § 103(a) are reversed.

A NEW GROUND OF REJECTION has been entered for claims 1–6, 8–54, and 61 under 35 U.S.C. § 101.

37 C.F.R. § 41.50(b) provides that “[a] new ground of rejection . . . 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

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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 . . . .

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

REVERSED; 37 C.F.R. § 41.50(b)