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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KEVIN SCOTT CUTLER and
KALYAN PREMCHAND SIDDAM

Appeal 2015-004975
Application 12/777,713
Technology Center 2400

Before JOHN A. EVANS, NORMAN H. BEAMER, and JOYCE CRAIG,
Administrative Patent Judges.

CRAIG, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants¹ appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1, 2, 4–9, 11–15, and 17–23, which are all of the claims pending in this application.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ According to Appellants, the real party in interest is Alcatel-Lucent Canada, Inc. App. Br. 2.

² Claims 3, 10, and 16 have been canceled. App. Br. 21, 23, 25.

INVENTION

Appellants' invention relates to implementing policy rules for controlling the behavior of a policy and charging rules node. Abstract. Claim 1 is illustrative and reads as follows:

1. A method for determining the behavior of a policy and charging rules node (PCRN), the method comprising:
receiving a message at a PCRN;
determining that a policy decision should be made with regard to the received message; and
in response to determining that a policy decision should be made:
identifying a rule of a plurality of rules as applicable to processing the received message, wherein the identified rule specifies an action to be taken in response to the received message, wherein the action includes a reference to a predefined routine,
retrieving previously-stored definition data defining the predefined routine based on the reference to the predefined routine, [and]
performing, by the PCRN, the action specified by the identified rule in response to the received message, comprising performing the predefined routine based on the definition data.

REJECTIONS

Claims 1, 2, 4–9, 11–15, and 17–23 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Ans. 23–24.

Claims 1, 2, 4, 8, 9, 11, 14, 15, 17, and 21–23 stand rejected under 35 U.S.C. § 102(b) as anticipated by Belling (US 2008/0271113 A1; Oct. 30, 2008) as supported by teaching reference Universal Mobile Telecommunications System (UMTS); LTE; Policy and charging control

over Gx reference point (ETSI TS 129 212 V9.2.0 (2010–04)) (“TS 29.212”). Final Act. 2.

Claims 5, 6, 12, 18, and 19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Belling (supported by TS 29.212) and Castellanos Zamora et al. (US 2010/0040047 A1; Feb. 18, 2010) (“Castellanos”). Final Act. 16.

Claims 7, 13, and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Belling (supported by TS 29.212) and Moran et al. (US 2008/0155643 A1; June 26, 2008) (“Moran”). Final Act. 19.

ANALYSIS

We have considered Appellants’ arguments, but do not find them persuasive of error. We agree with and adopt as our own the Examiner’s findings of facts and conclusions as set forth in the Answer and in the Action from which this appeal was taken. We provide the following explanation for emphasis.

35 U.S.C. § 101 Rejection of Claims 1, 2, 4–9, 11–15, and 17–23

In rejecting the pending claims as directed to nonstatutory subject matter, the Examiner found that the claims are directed to the abstract idea of “identifying and applying an appropriate rule to incoming message ((iii) an idea of itself).” Ans. 24. The Examiner further found that, viewed as a whole, the additional claim elements do not provide meaningful limitations to transform the abstract idea into a patent eligible application of the abstract

idea such that the claims amount to significantly more than the abstract idea itself. *Id.*

Appellants contend the Examiner erred because the claims “do not seek to entirely tie up the concept of ‘identifying and applying a rule to an incoming message.’” Reply Br. 3. In particular, Appellants argue that the claims relate specifically to a policy and charging rules node (PCRN) that, based on identifying a rule applicable to a received message, retrieves separate definition data identified by that rule to perform a predefined routine. *Id.* at 3–4. Appellants further argue that the claims “provide[] a specific improvement to a particular machine (a PCRN and similar policy nodes) that provide an improvement to a technical field (LTE and other carrier technology).” *Id.* at 5–6. Relying on the Federal Circuit’s decision in *DDR Holdings*, Appellants also argue that the claimed solution is “necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.” Reply Br. 6–7 (quoting *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014)).

We agree with the Examiner that representative claim 1 is ineligible for patent protection. *See* Ans. 24. We analyze claim 1 to determine whether the claim embodies a patent-eligible application of an abstract idea or merely nothing more than the abstract idea itself. *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2350 (2014).

We first decide whether the claim is directed to a patent-ineligible concept. *Id.* at 2355. We agree with the Examiner that claim 1 is directed to the abstract idea of “identifying and applying an appropriate rule to incoming message,” and requires no more than a generic computer to

perform “functions that are well-understood, routine, and conventional activities previously known in the art.” Ans. 24.

We are not persuaded by Appellants’ argument that the claimed solution is “rooted in computer technology to overcome problems specifically arising in the realm of computer networks” because “[t]he claims specifically recite steps related to receiving and processing network messages and overcome problems that arise in this area.” *See* Reply Br. 6 (citing *DDR Holdings*, 773 F.3d 1245). While Appellants identify problems that claim 1 allegedly overcomes (*see* Reply Br. 6), Appellants point to no specific solution in the claim. Moreover, the recitation of “a policy and charging rules node (PCRN)” appears only in the preamble of claim 1, and Appellants present no persuasive explanation or evidence that it limits the claim. We find that the resulting solution is routine and conventional activity that is not rooted in computer technology, but rather in identifying a rule to apply to a message and taking action based on the rule.

We next decide whether an element or combination of elements is sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the abstract idea. *Alice*, 134 S. Ct. at 2357. We agree with the Examiner that the additional elements in claim 1, taken individually or as an ordered combination, are merely necessary and conventional steps in identifying and applying a rule to an incoming message, and do not add enough to the claims to transform the recited method into patent-eligible subject matter. *See* Ans. 24.

Appellants’ argument that “any device that is not a PCRN or an equivalent policy device would still be able to identify and apply rules to incoming messages” does not persuade us that claim 1 precludes

performance of the recited steps by a generic computer. To the contrary, there is no indication or evidence that performance of the method by a “policy device” would preclude performance by a generic computer. *See* Reply Br. 3–4; *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) (recitation of generic computer elements does not make a claim directed to an abstract idea patent-eligible).

Appellants’ argument that claim 1 is “tied to a policy and charging rules node (PCRN) which is a particular machine that performs specific and standard-defined functionality within the technological field of long-term evolution carrier networks,” as evidenced by “performing policy decisions,” is also unpersuasive. *See* Reply Br. 5–6. As the Examiner found, the additional elements amount to mere instructions to implement the idea on a computer and recitation of generic computer structure that serves to perform generic computer functions that are well-understood, routine, and conventional activities previously known in the art. *See* Ans. 24.

For these reasons, we are not persuaded the Examiner erred in rejecting claim 1 as directed to nonstatutory subject matter. The same reasoning applies to independent claim 8, which, although directed to “[a] policy and charging rules node (PCRN),” recites in the body of the claim generic computer components for performing the method of claim 1. Our reasoning also applies to independent claim 14, which is directed to a machine readable storage medium. *See Alice*, 134 S. Ct. at 2360 (system and media claims that add nothing of substance to the underlying abstract idea are also patent ineligible under § 101). We further find that dependent claims 2, 4–7, 9, 11–13, 15, and 17–23 do not add anything materially more patent-eligible than the abstract concepts recited in the independent claims.

Accordingly, we sustain the Examiner's § 101 rejection of claims 1, 2, 4–9, 11–15, and 17–23.

*35 U.S.C. § 102(b) Rejection of
Claims 1, 2, 4, 8, 9, 11, 14, 15, 17, and 21–23*

Regarding the anticipation rejection of claims 1, 2, 4, 8, 9, 11, 14, 15, 17, and 21–23, Appellants first contend the Examiner's interpretation of the claim term "identified rule [that] specifies an action to be taken in response to the received message, wherein the action includes a reference to a predefined routine" is overly broad because it encompasses the "PCC rule" disclosed in Belling. App. Br. 5–6. Appellants argue that an artisan of ordinary skill would have understood Belling's PCC rule to refer to the PCC rule defined in TS 29.212, which does not specify an action to be taken or refer to a predefined routine. *Id.* at 6–7. Appellants further argue that the Examiner's interpretation of the disputed limitation is inconsistent with Appellants' Specification because the Specification "describes PCC rules separately and as a different entity from the rule that is claimed." *Id.* at 7 (citing Spec. ¶¶ 49–54).

Appellants' arguments do not persuade us of error. The Examiner found that TS29.212 defines a PCC rule as a data object including pieces of data that "clearly dictate how to handle messages and therefore specific actions to be taken." Ans. 31. The Examiner also found that the portion of the Specification cited by Appellants is consistent with the application of QoS parameters as described by TS 29.212 (section 4.3.1) in particular, and application of rules as known in the art in general. *Id.* at 32. Appellants

present no persuasive explanation or evidence to rebut the Examiner's findings.

Appellants next contend the Examiner's anticipation rejection is not supported by sufficient reasoning. App. Br. 8. In response, the Examiner explained the Examiner's reasoning as to how the reproduced quotations are believed to correspond to the claim language and to show the identical invention in as complete detail and as arranged in the claim was provided in previous office actions and interviews, and reproduced such reasoning. Ans. 33–35. In the Reply Brief, Appellants present no persuasive rebuttal to the Examiner's findings and explanations.

Appellants also contend the cited portions of Belling fail to disclose identifying a rule of a plurality of rules as applicable to processing the received message, wherein the identified rule specifies an action to be taken, as the claims require. App. Br. 11.

We disagree. The Examiner found that Belling discloses that the identified rule (PCC rule) specifies an action to be taken, and the Examiner provided several examples of such actions. Ans. 35–40 (citing Belling Fig. 2, ¶¶ 18, 19, 20, 26, 44, 50–54, 56). Appellants present no persuasive explanation or evidence to rebut the Examiner's findings.

Appellants further contend Belling fails to disclose retrieving definition data based on a reference to a predefined routine carried by a rule, as the claims require. App. Br. 15. In particular, Appellants argue that “the cited portion of Belling discloses only a list of individual actions that may be performed” and does not disclose a reference to or retrieval of and previously-stored definitional data defining a routine. *Id.*

Appellants' arguments do not persuade us of Examiner error. The plain language of the claims does not recite a "predefined routine carried by a rule," and Appellants present no persuasive basis for interpreting the claims to require that. Moreover, in response to Appellants' argument, the Examiner explained that Belling discloses retrieving definition data (PCC rules) based on a reference to a predefined routine (policy) carried by a rule (PCC rule). Ans. 44–47 (citing Belling Fig. 2, ¶¶ 18–20, 26, 44, 50–54, and 56). Appellants present no persuasive explanation or evidence to rebut the Examiner's findings.

For these reasons, we are not persuaded that the Examiner erred in finding that Belling, as supported by TS 29.212, anticipates the claims. Accordingly, we sustain the 35 U.S.C. § 102(b) rejection of claims 1, 2, 4, 8, 9, 11, 14, 15, 17, and 21–23.

35 U.S.C. § 103(a) Rejections of Claims 5–7, 12, 13, and 18–20

Appellants summarily state that dependent claims 5–7, 12, 13, and 18–20 are allowable "based on their respective dependencies, as well as the separately patentable subject matter recited therein." App. Br. 17–18.

For the reasons given above, we sustain the 35 U.S.C. § 103(a) rejections of claims 5–7, 12, 13, and 18–20, not argued separately.

Appeal 2015-004975
Application 12/777,713

DECISION

We affirm the decision of the Examiner rejecting claims 1, 2, 4–9, 11–15, and 17–23.

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).

AFFIRMED