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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STANLEY GENE BOYER, JOSEPH ROBERT OFFUTT, and
KIMBERLY PATRICK FARROW

Appeal 2015-005238
Application 11/851,828¹
Technology Center 3600

Before HUBERT C. LORIN, NINA L. MEDLOCK, and
BRUCE T. WIEDER, *Administrative Patent Judges*.

WIEDER, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's rejection of claims 1–4, 6–13, and 23–25.² We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ According to Appellants, the real party in interest is Sabre Inc. (Appeal Br. 1.)

² The Examiner states that “[c]laims 5 and 14–22 have been cancelled.” (Final Action 2.) Therefore, we treat the statement that “[c]laims 1–4, 6–13 and 22–25 is/are pending” as a typographical error. (*See id.* at 1.)

CLAIMED SUBJECT MATTER

Appellants' claimed invention "relates to distributing information on a network." (Spec. ¶ 2.) More particularly, the claimed invention relates to "providing an automated notification process that listens for events matching an entity's criteria and automatically notifies the entity of the event." (*Id.* at ¶ 11.)

Claims 1, 6, and 7 are the independent claims on appeal. Claim 1 is illustrative and is reproduced below:

1. A method for notifying travelers of changes in travel information in an integrated event notification system, the method comprising:

monitoring travel information for changes and publishing the changes in travel information upon occurrence of each of the changes;

detecting when at least one of the changes in travel information has been published based upon a previous subscription to receive notification of changes in travel information;

automatically initiating re-accommodation of travel with a receiving system for at least one traveler in response to detecting the change in travel information and without awaiting a request from the at least one traveler, wherein automatically initiating the re-accommodation of travel comprises notifying an airline operating system of the change in travel information to complete the re-accommodation for the at least one traveler without awaiting a request from the at least one traveler; and

notifying the at least one traveler of the re-accommodation, the at least one traveler having previously subscribed to receive notification of changes in travel information affecting the traveler's itinerary.

REJECTIONS

Claims 1–4, 6–13, and 23–25 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

Claims 1–4, 6–13, and 23–25 are rejected under 35 U.S.C. § 103(a) as unpatentable in view of Nelson (US 6,496,568 B1, iss. Dec. 17, 2002); Ru L. Bailey, *Travel Hassles Were Expected by Northwest Airlines Ticketholders*, Knight-Ridder Tribune Business News (Detroit Free Press), Sept. 2, 1998 (hereinafter “Bailey”); and High-tech Writers, *HP’s E-speak Software Nominated for Computerworld Smithsonian Award; E-speak Recognized for Leading the Next Evolution of the Internet*, Business Wire, Mar. 27, 2000 (hereinafter “Business Wire”).

ANALYSIS

The § 101 rejection

After the Final Action was mailed, the Supreme Court decided *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347 (2014). *Alice* applies a two-part framework, earlier set out in *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (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.

Under the two-part framework, it must first be determined if “the claims at issue are directed to a patent-ineligible concept.” *Id.* If the claims are determined to be directed to a patent-ineligible concept, e.g., an abstract idea, then the second part of the framework is applied to determine if “the elements of the claim . . . contain[] an ‘inventive concept’ sufficient to

‘transform’ the claimed abstract idea into a patent-eligible application.” *Id.* at 2357 (citing *Mayo*, 566 U.S. at 72–73, 79).

In the new ground § 101 rejection, the Examiner determines that the claims “are directed to [the] abstract idea of organizing human activities for travelers whose travel plans are changed.” (Answer 3.) The Examiner further determines that the claims

do not include additional elements that are sufficient to amount to significantly more than the judicial exception because the additional elements are (i) mere instructions to implement the idea on a computer, and/or (ii) recitation of generic computer structure that serves to perform generic computer functions that are well-understood, routine, and conventional activities previously known to the pertinent industry.

(*Id.*)

Appellants argue that “although the allegedly abstract concept is ‘organizing human activities for travelers whose travel plan are changed,’ this concept is not recited anywhere in the claim.” (Reply Br. 3.) Moreover, Appellants argue, the rejection “fails to establish either [sic] where the judicial exception is recited in the claims, and also fails to establish why it is considered an exception.” (*Id.*)

Under part one of the *Alice* framework, we “look at the ‘focus of the claimed advance over the prior art’ to determine if the claim’s ‘character as a whole’ is directed to excluded subject matter.” *Affinity Labs of Texas, LLC v. DirectTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016) (quoting *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016)). Thus, while we consider the claim as a whole, the “directed to” inquiry focuses on the claim’s “character as a whole.” In short, there is no requirement that the claim recites “organizing human activities” for the

Examiner to correctly find that the claim’s character as a whole is directed to the “abstract idea of organizing human activities for travelers whose travel plans are changed.” (Answer 3.)

Moreover, that Appellants’ invention is directed to an abstract idea is further evidenced by the Specification that discloses that the invention relates to “providing an automated notification process that listens for events matching an entity’s criteria and automatically notifies the entity of the event.” (Spec. ¶ 11.) *See, e.g., Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1317–18 (Fed. Cir. 2016) (determining that methods of screening/listening for messages that correspond to particular rules and taking further action based on the result of the screening/listening are abstract ideas).

Therefore, we are not persuaded that the Examiner erred in determining that the claims are directed to an abstract idea.

With regard to part two of the *Alice* framework, Appellants argue that “the claims certainly recite significantly more than ‘organizing human activities for travelers whose travel plans are changed.’ For instance, independent claim 1 recites ‘monitoring travel information,’ and independent claims 6 and 7 recite similar features. As noted above, this claim feature is different from monitoring a traveler’s plans.” (Reply Br. 8, footnote omitted.)

But Appellants do not persuasively argue why monitoring travel information, as opposed to monitoring travel plans, transforms the patent-ineligible abstract idea into a patent eligible invention. *See Alice*, 134 S. Ct. at 2357. Nor does claim 1 recite a computer or computer system. Nor do

Appellants argue that claims 6 or 7 recite anything more than generic computer hardware.

Therefore, we are not persuaded that the Examiner erred in rejecting claim 1 under § 101. Also, because claims 2–4, 6–13, and 23–25 are not separately argued, they fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2014).

The § 103 rejection

Appellants argue that

none of the cited references, taken alone or in combination, teaches or suggests **automatically initiating re-accommodation of travel with a receiving system for at least one traveler in response to detecting the change in travel information and without awaiting a request from the at least one traveler**, as recited by Claims 1 and 6.

(Appeal Br. 8.)

We are not persuaded of error. Bailey discloses: “Jim Faulkner, Northwest Airlines spokesman, said, ‘We automatically start to rebook passengers’ once flights are canceled. ‘And we call (passengers) and tell them what their new flights are.’” (Bailey 1, ¶ 8.) In view of this, the Examiner finds, and we agree, that

it is clear from Bailey’s disclosure that a flight cancellation was detected and rebooking was then initiated as a result of the flight cancellation. Such act is done with a receiving system because traveler’s new flight is booked, which means some system capable of receiving the rebooking request must be involved so that traveler may receive [a] new ticket to board the new flight. Therefore, Bailey teaches the limitation.

(Answer 12.)

Appellants further argue that “before applying the references to the claimed invention, there must be some teaching or suggestion to combine the references and to modify the references in light of the teachings of the references.” (*Id.* at 9.)

However, the Examiner finds that

Nelson discloses that “travelers desire reliable, faster, and better methods of receiving notification of airline schedule information which affects their travel as well as easier methods for updating their travel plans” (1: 26–[29]). Bailey describes that Northwest’s method of handling affected passengers in addition to the ample supply of workers has “helped to ease passenger discomfort” (page 1, paragraph 9). Business Wire describes that that using E-speak to automatically adjust travel plans would have the advantage of “not need[ing] to change arrangements with each vendor” (page 1, paragraph [4]). Therefore, all the references are directed to a better customer experience when there is a change in travel plan. As a result, there is teaching, suggestion, and motivation to combine the references.

(Answer 13; *see also* Final Action 5–6.)

Moreover, in *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007), the Supreme Court stated:

Under the correct analysis, any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed.

....

When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense.

KSR, 550 U.S. at 420–21. Additionally, “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416.

In view of the Examiner’s findings, Appellants do not persuasively argue why a person of ordinary skill would not have had good reason to pursue these known options and why the claimed invention is not the product of “ordinary skill and common sense.”

With regard to independent claim 7, Appellants additionally argue that “[c]laim 7 explicitly requires that the receiving system detect the change in travel information.” (Appeal Br. 11.) Appellants further argue that

Nelson does not teach or suggest that the notifier and updater system detects when a change in travel information has been published, as the notifier and updater system only receives or polls for notification messages that may require notification to the customer. In addition, the Examiner acknowledges that Bailey does not teach or suggest who or what is detecting the change in travel information. Thus, neither Nelson nor Bailey, taken alone or in combination, teaches or suggests a system comprising a receiving system that both detects when at least one change in travel information has been published and automatically initiates re-accommodation of travel in response to detecting the change in travel information.

(*Id.*)

However, the Examiner finds that “[t]he specification does not even define what a ‘receiving system’ is. In fact, it is unclear [] if such ‘receiving system’ is an actual machine or mere software modules.” (*See Answer 14.*) Nor is it clear whether the receiving system excludes other things, e.g., human interaction. (*See Claim 7.*) Therefore, the Examiner finds that “Bailey discloses that such detection is performed” and that whatever

performed that detection in Bailey can be considered part of a receiving system. (Answer 14.)

In short, Appellants do not persuasively argue why Bailey's disclosure of Northwest Airlines's system to automatically rebook passengers once flights are cancelled does not disclose a system that detects a change in travel information and automatically initiates re-accommodation/rebooking. (*See Bailey 1, ¶ 8.*)

Therefore, we are not persuaded of error.

DECISION

The Examiner's rejection of claims 1–4, 6–13, and 23–25 under 35 U.S.C. § 101 is affirmed.

The Examiner's rejection of claims 1–4, 6–13, and 23–25 under 35 U.S.C. § 103(a) is 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)(1)(iv).

AFFIRMED