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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ANDREW JOHN COOK, RAJENDRA TANNIRU PRASAD, GAYATHRI PALLAIL, UMA BALASUBRAMANIAN, LAKSHMI ABBURU, and SREEVIDYA PRASAD

Appeal 2015-007829
Application 13/426,674[1]
Technology Center 3600

Before BIBHU R. MOHANTY, AMEE A. SHAH, 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 1–5 and 7–22 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.

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[1] According to the Appellants, Accenture Global Services Limited is the real party in interest. App. Br. 1.

THE INVENTION

The Appellants' claimed invention is directed to a productivity prediction technique and system (Spec. 2). Claim 19, reproduced below, is representative of the subject matter on appeal.

> 19. A method comprising:
> receiving, by a computing device, user input defining workforce capability parameters;
> accessing, from an electronic storage, a prediction model that quantifies an impact of workforce capability on productivity and that was generated by applying statistical analysis on historical workforce data for projects and historical process metrics data for the projects;
> calculating, by the computing device and using the prediction model, a productivity prediction for the workforce capability parameters comprising calculating, using the prediction model, a probability distribution of predicted productivity for the workforce capability parameters;
> storing the productivity prediction in the electronic storage; and
> providing the productivity prediction for the workforce capability parameters for presentation on a monitor by displaying, on a graph presented on the monitor, the probability distribution of predicted productivity for the workforce capability parameters.

THE REJECTION

The following rejection is before us for review:

Claims 1–5 and 7–22 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

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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.[2]

ANALYSIS

The Appellants argue that the rejection of claim 1 is improper because the claim is not directed to an abstract idea and further that the additional features of the claim add "significantly more" to the alleged abstract idea (App. Br. 9). The Appellants provide further arguments in this regard and also argue that the rejection does not address all the limitations in the claim in the rejection (App. Br. 9–12). The Appellants have provided further arguments in the Reply Brief at pages 2–4.

In contrast, the Examiner has determined that the rejection is proper (Final Rej. 3–5, Ans. 3–5).

We agree with the Examiner. 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).

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*

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[2] *See Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

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 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 predicting productivity for a workforce using a prediction model. This can be performed using a mathematical model to make the prediction and can also be considered a method of organizing human activities in a workforce system and is an abstract idea beyond the scope of § 101.

We next consider whether additional elements of the claim, both individually and as an ordered combination, 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 using generic computer components. We conclude that it does not.

Considering each of the claim elements in turn, the function performed by the computer system 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.

Here the claim is not rooted in technology but rather in the abstract concept of using a mathematical model to predict productivity for a workforce in organizing human activities using only generic computer components in a conventional manner.

For these above reasons the rejection of claim 19 is sustained. The Appellants have provided the same arguments for similar claims 1–5, 7, 8, and 20 and the rejection of these claims is sustained as well.

With regard to claim 9, the Appellants argue that the claim limitation for "historical **automation data** in calculating **automation related prediction data"** takes the claim out of the realm of being an abstract idea. Similarly, for claims 17 and 18, the Appellants argue that the claim limitation to "**tune a prediction model**" takes the claim out of the realm of being an abstract idea as well. We disagree with both these contentions. Even taking these cited argued claim limitations into account, claims 9, 17, and 18 are all essentially directed to the same abstract idea as claim 1, and like that claim, the language of each of those respective claims also fails to transform each claim from being "significantly more" than an abstract idea. For these reasons, the rejection of these claims is sustained as well. The Appellants have provided the same arguments for the remaining claims and the rejection of these claims is sustained for the same reasons given above.

CONCLUSIONS OF LAW

We conclude that the Appellants have not shown that the Examiner erred in rejecting claims 1–5 and 7–22 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

DECISION

The Examiner's rejection of claims 1–5 and 7–22 is sustained.

AFFIRMED