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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KENNETH L. ADDY

Appeal 2016-000189
Application 13/661,074¹
Technology Center 3600

Before MURRIEL E. CRAWFORD, BRADLEY B. BAYAT, and
SHEILA F. McSHANE, *Administrative Patent Judges*.

BAYAT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Kenneth L. Addy (“Appellant”) seeks our review under
35 U.S.C. § 134 from the final rejection of claims 10–15.² We have
jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF DECISION

We AFFIRM.

¹ The Appellant identifies “Honeywell International Inc.” as the real party in
interest. App. Br. 2.

² Claims 1–9 are canceled. *Id.* at 9.

THE INVENTION

Appellant's invention relates to a system and method of providing monitoring service on demand. Spec., Title.

Claims 10 and 14 are the independent claims on appeal. Independent claim 14, reproduced below with added formatting, is illustrative of the claimed subject matter.

14. A method of providing third party monitoring of a security system on demand, comprising:

- [1] one or more processors establishing at least one date and duration during which third party monitoring of a security system, from a site displaced from the security system, is required;
- [2] establishing an appropriate financial credit to address costs of the required monitoring;
- [3] evaluating which one of a plurality of monitoring stations should be selected to monitor the security system, and, arranging to have the security system monitored thereby in accordance with the at least one date and duration; and
- [4] terminating the monitoring in accordance with the at least one date and duration.

App. Br. 9, Claims Appendix (with added formatting).

THE REJECTION

The following rejection is before us for review:

Claims 10–15 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

ANALYSIS

Upon consideration of Appellant's assertions in the Briefs (App. Br. 6–8; Reply Br. 2–4), we are not persuaded that the Examiner erred in

concluding that claims 10–15 are directed to non-statutory subject matter. We concur with the applicable conclusions reached by the Examiner (Final Act. 2–3; Ans. 3–5) and address each argument contesting the rejection under § 101, in turn.

Appellant argues claims 10–15 as a group. *See* App. Br. 6. We select independent claim 14 as the representative claim for this group, and the remaining claims 10–13 and 15 stand or fall with claim 14. 37 C.F.R. § 41.37(c)(1)(iv).

Alice Corp. Party 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. The Examiner determined that the claims are “directed to an on demand monitoring service”, an abstract idea. Final Act. 3. Appellant disagrees.

Appellant argues that “[n]one of claims 10–15 is directed towards an abstract idea.” App. Br. 6 (emphasis omitted). In support of this argument, Appellant asserts that “examples of abstract ideas discussed in *Alice Corp.* include algorithms and mathematical formulas as well as methods of risk-hedging and intermediated settlement, which are abstract ideas because they are fundamental economic practices . . . [but] providing third party monitoring of a security system on demand is not an algorithm, is not a mathematical formula, and is not a method that involves only fundamental economic practices.” *Id.*; *see also* Reply Br. 2–3.

Appellant’s argument is unpersuasive at least because abstract ideas are not limited to algorithms, mathematical formulas, or fundamental economic practices. “The ‘abstract idea’ step of the inquiry calls upon us to 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 Tex. 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))); *see also Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016). There is no definitive rule to determine what constitutes an “abstract idea.” Rather, the Federal Circuit has explained that “both [it] and the Supreme Court have found it sufficient to compare claims at issue to those claims already found to be directed to an abstract idea in previous cases.” *Enfish*, 822 F.3d 1327, 1334 (Fed. Cir. 2016); *see also Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016) (explaining that, in determining whether claims are patent eligible under § 101, “the decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen-- what prior cases were about, and which way they were decided”).

In this regard, claim 14 of the instant application is similar to the claims in *Electric Power*, which did “not go beyond requiring the collection, analysis, and display of available information in a particular field, stating those functions in general terms, without limiting them to technical means for performing the functions that are arguably an advance over conventional computer and network technology.” *Id* at 830 F.3d at 1351. Specifically, our reviewing Court held that “collecting information, including when limited to particular content (which does not change its character as information), as

within the realm of abstract ideas” and that “analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category.” *Id.* at 1353–54 (citations omitted).³

Here, the preamble of claim 14 calls for the claimed method of “providing third party monitoring of a security system on demand”, the basic character of the claimed subject matter is that of satisfying certain conditions in exchange for payment to a third party provider.

According to claim 14, upon establishing a date and duration for third party monitoring of a security system and establishing financial credit to address costs of the monitoring, arranging to have the security system monitored in accordance with the date and duration. The advance over the prior art is that “[f]or those people who are reluctant to pay a regular monthly fee for security monitoring, it would be advantageous to be able to order ‘monitoring-on-demand’.” Spec. ¶ 4; *Id.* ¶ 3 (“Unmonitored and self-monitored systems do not require paying a monthly monitoring fee to a displaced monitoring station, or, other third party monitoring service, and are increasingly popular. The disadvantage however is that an event may be missed.”). As such, the focus of the claim is on a process that qualifies as an abstract idea for which computers are invoked merely as a tool. Unlike *Enfish*, the plain focus of the claim here is not on a specific asserted

³ See *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1375 (Fed. Cir. 2011) (“That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*”). “[A] method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101.”

improvement in computer capabilities, but rather, “on economic or other tasks for which a computer is used in its ordinary capacity.” *Enfish*, 822 F.3d at 1336; *see* Spec. ¶ 5 (“One way of providing monitoring-on-demand would be to build a central station business model where the account is only charged for an ‘arm-away’ event.”).

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.’” *Alice*, 134 S.Ct. at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72–73 (2012)).

Turning to step two of *Alice*, Appellant argues that “even if the Office determines that each of claims 10–15 is directed towards an abstract idea (a point that appellant does not concede), the claims contain an inventive concept that transforms the claimed system and method into patent eligible subject matter.” App. Br. 6. In support of this argument, Appellant merely asserts that the claim “limitations, alone or in combination are more than a generic system comprising commonly used elements performing common tasks,” reproducing the limitations of each independent claim. *See id.* at 6–7; Reply Br. 4 (“the claimed method is inventive and improves known methods by evaluating which one of a plurality of monitoring stations should be selected to monitor a security system and arranging to have the security system monitored by the selected monitoring station.”). We are not persuaded that this represents an improvement to any technology as opposed to an improvement to a general business practice, as disclosed by the Specification *supra*.

Looking at the claim steps separately, the function performed by the processor at each step of the process is purely conventional. Using a computer to obtain and analyze data are the most basic functions of a computer. Programming conventional software or hardware to apply rules and data is a routine and conventional practice. Moreover, there is no indication in the record that any specialized computer hardware or other “inventive” computer components are required. In fact, claim 14 merely requires “one or more processors” in the first step of the claimed process, with none of the remaining steps requiring or being tied to any computer. Considered as an ordered combination, the processor component of Appellant’s method adds nothing that is not already present when the steps are considered separately. *See Alice*, 134 S. Ct. at 2359 (noting, in carrying out the second step, that the relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea on a generic computer).

We also find no parallel here between claim 14 and the claims in *Diamond v. Diehr*, 450 U.S. 175 (1981). *See* App. Br. 7–8 (“‘evaluating’ and ‘arranging’ steps transform the claimed method into an inventive application of on demand monitoring.”). Appellant’s reliance on *Diehr* is misplaced because the claims in *Diehr* were directed to a process for curing synthetic rubber, and recited a series of steps (*e.g.*, the loading of a mold with raw, uncured rubber, closing the mold, constantly determining the mold temperature, constantly recalculating the cure time, and automatically opening the press at the proper time) that together provided a significant and novel practical application of the abstract idea (*i.e.*, the well-known

Arrhenius equation) and transformed uncured synthetic rubber into a new state or thing. *See Diehr*, 450 U.S. at 184–87.

Unlike the process claimed in *Diehr*, which was directed to a specific industrial process, i.e., “a physical and chemical process for molding precision synthetic rubber products,” *id.* at 184, the claims here merely recite a computer-implemented system and method for identifying a data and duration for third party monitoring of a security system, establishing a financial credit account to cover the cost of the required monitoring, evaluating which monitoring station should be selected to monitor the security system, arranging to have the security system monitored for the required data and time, and terminating the monitoring in accordance with the date and duration. Contrary to Appellant’s assertions, we find the computer implementation of claim 14 is neither sufficiently tied to a particular machine or apparatus, nor involved in any type of transformation of any particular article.⁴

In view of the foregoing, we sustain the Examiner’s rejection under 35 U.S.C. § 101 of claim 14, and claims 10–13 and 15, which fall with claim 14.

⁴ *See Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1344–45 (Fed. Cir. 2013) (claims reciting “generalized software components arranged to implement an abstract concept [of generating insurance-policy-related tasks based on rules to be completed upon the occurrence of an event] on a computer” not patent eligible); and *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333–34 (Fed. Cir. 2012) (“[s]imply adding a ‘computer aided’ limitation to a claim covering an abstract concept, without more, is insufficient to render [a] claim patent eligible” (internal citation omitted)).

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DECISION

The decision of the Examiner to reject claims 10–15 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).

AFFIRMED