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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JAIDEEP JAYARAM and NAGARAJ V. RAO
(WEBCETERA, L.P.)

Appeal 2016-001397
Application 13/622,967
Technology Center 3600

Before NINA L. MEDLOCK, KENNETH G. SCHOPFER, and
AMEE A. SHAH, *Administrative Patent Judges*.

SHAH, *Administrative Patent Judge*.

DECISION ON APPEAL¹

The Appellants² appeal under 35 U.S.C. § 134(a) from the Examiner's final decision rejecting claims 1–11 under 35 U.S.C. § 101 as directed to non-statutory subject matter. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Throughout this opinion, we refer to the Appellants' Appeal Brief ("Appeal Br.," filed May 5, 2015), Reply Brief ("Reply Br.," filed Nov. 17, 2015), and Specification ("Spec.," filed Sept. 19, 2012), and to the Examiner's Answer ("Ans.," mailed Sept. 18, 2015) and Final Action ("Final Act.," mailed Dec. 5, 2014).

² According to the Appellants, the real party in interest is Webcetera, L.P. Appeal Br. 2.

STATEMENT OF THE CASE

The Appellants' invention relates to "providing location-based insurance rate quotes." Spec. ¶¶ 2–7.

Claims 1, 5, and 9 are the independent claims on appeal. Claim 1 (Appeal Br. 18 (Claims App.)) is representative of the subject matter on appeal and is reproduced below:

1. A method of providing location-based insurance rate quotes, comprising:

prompting, by a mobile electronic device, a user of the mobile electronic device to input a name into the mobile electronic device;

transmitting, by the mobile electronic device over a network to a server, the name input by the user and global positioning system (GPS)-based location data corresponding to a location of the mobile electronic device;

receiving from the server by the mobile electronic device an indication of an insurable property based on the location data; and

receiving and displaying on the mobile electronic device a response received from the server including an insurance rate quote for the insurable property.

ANALYSIS

Under 35 U.S.C. § 101, a patent may be obtained for "any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof." The Supreme Court has "long held that this provision contains an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable." *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014) (quoting *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 133 S. Ct. 2107, 2116

(2013)). The Court has, thus, made clear that “[p]henomena of nature, though just discovered, mental processes, and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work.” *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972) (emphasis added).

The Supreme Court in *Alice* reiterated the two-step framework, set forth previously in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 132 S. Ct. 1289, 1300 (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. The first step in that analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* If so, the second step is to consider the elements of the claims “individually and ‘as an ordered combination’” to determine whether the additional elements “‘transform the nature of the claim’ into a patent-eligible application.” *Id.* (citing *Mayo*, 132 S. Ct. at 1298). In other words, the second step is to “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.’” *Id.* (alteration in original) (citing *Mayo*, 132 S. Ct. at 1294).

The Court acknowledged in *Mayo*, that “all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Mayo*, 132 S. Ct. at 1293. We, therefore, look to whether the claims focus “on the specific asserted improvement in computer capabilities ... or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016).

Turning to the first step of the analysis, the Appellants argue that independent claims 1, 5, and 9 are “not directed toward a fundamental economic practice, such as hedging,” nor any abstract idea. Appeal Br. 6, 9–10, 14. The Appellants characterize claims 1, 5, and 9 as directed to “a mobile electronic device that transmits GPS-based location data to receive an indication of an insurable property based on the GPS-based data.” *Id.*; Reply Br. 3, 6, 9. This argument is not persuasive.

The Examiner finds that the claims are directed to the abstract idea of “determining a rate quote for an insurable property based on the location (i.e. address) of the property and providing the rate quote to a requesting person.” Final Act. 3. Claim 1 is not directed to a device, but to “[a] method of providing location-based insurance rate quotes.” Appeal Br. 18 (Claims App.). Independent claim 5 is directed to a storage device with instructions that would implement the process of claim 1. *Id.* at 19. Independent claim 9 is directed to a system comprising a processor with modules that perform the functions similar to those of claim 1. *Id.* at 20. The limitations of claim 1 (and of claims 5 and 9) provide for prompting input of data, transmitting data, receiving data, and displaying data including a rate quote. *Id.* at 18–20. The Specification provides that the invention is directed to a location-based insurance quote system and method. Spec. ¶¶ 2–7, 33. In that context, we find that claims 1, 5, and 9 are directed to receiving, transmitting, and displaying data of location-based insurance quotes,³ an idea of itself, a method of organizing human activity, and a

³ We note that “[a]n abstract idea can generally be described at different levels of abstraction. . . . The Board’s slight revision of its abstract idea

fundamental economic practice long prevalent in commerce. This abstract idea is similar to ones our reviewing courts have deemed ineligible. *See Versata Dev. Group, Inc. v. SAP America, Inc.*, 793 F.3d 1306, 1333–34 (Fed. Cir. 2015) (determining a price), *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1369 (Fed. Cir. 2015) (tailoring content based on a user’s address or location), *Bancorp Svcs., L.L.C. v. Sun Life Assur. Co. of Canada (U.S.)*, 687 F.3d 1266, 1278–79 (Fed. Cir. 2012) (managing a life insurance policy), *Credit Acceptance Corp. v. Westlake Svcs.*, 859 F.3d 1044, 1054 (Fed. Cir. 2017) (processing an application for financing a purchase), *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (collecting, recognizing, and storing data), *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016) (gathering and analyzing information), and *OIP Tech., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362 (Fed. Cir. 2015) (offer-based price optimization). The steps and functions recited in claims 1, 5, and 9 involve nothing more than transmitting, receiving, and displaying data without any specific technology – an abstract idea. *See Elec. Power*, 830 F.3d at 1354.

Turning to the second step of the analysis, the Examiner finds that the elements of the claims, taken individually and as an ordered combination, are not “‘significantly more’ than the abstract idea. Final Act. 5–7. We agree with and adopt the Examiner’s findings that the claims’ limitations require no more than a generic computer, do not improve the functioning of the device or server, nor effect an improvement in any technology or

analysis does not impact the patentability analysis.” *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1240–41 (Fed. Cir. 2016).

technical field. *Id.* We find unpersuasive the Appellants’ arguments contending otherwise.

For example, we find unpersuasive the Appellants’ argument that each of the independent claims “at least recites limitations other than what is well-understood, routine and conventional in the field, or adds unconventional steps that confine the claim to a particular useful application.” Appeal Br. 7, 11, 15; Reply Br. 3, 7, 9. The Specification supports the Examiner’s finding that the steps of transmitting, receiving, and displaying data are routine, conventional, well-understood functions of a generic computer (Final Act. 5–6) in providing for generic servers and mobile electronic devices for performing the functions. *See* Spec. ¶¶ 8–11, 13, 16, 20, 26, Figs. 1–3. There is no further specification of particular technology for performing the steps. *See Versata*, 793 F.3d at 1334; *see also Enfish*, 822 F.3d. at 1336 (focusing on whether the claim is “an improvement to [the] computer functionality itself, not on economic or other tasks for which a computer is used in its ordinary capacity”); *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) (“[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible. The bare fact that a computer exists in the physical rather than purely conceptual realm ‘is beside the point’” (citation omitted) (quoting *Alice*, 134 S. Ct. at 2358)). The introduction of a computer to implement an abstract idea is not a patentable application of the abstract idea. *Alice*, 134 S. Ct. at 2357–58. The computer implementation here is purely conventional and performs basic functions. *See id.* at 2359–60. The Appellants do not provide evidence to the contrary.

To the extent the Appellants argue that the use of GPS data to identify a property is not a conventional, routine, well-understood function of a generic computer (Appeal Br. 7, 11, 15; Reply Br. 3, 7, 15), we note that claims 1 and 5 recite receiving an indication of a property based on GPS location data, and claim 9 recites determining a property affiliated with the address/converted GPS coordinates. However, none of the independent claims recites how such an identification or determination would be performed. *See TDE Petroleum Data Sols., Inc., v. AKM Enter., Inc.*, 657 F. App'x 991, 993 (Fed. Cir. 2016), *cert. denied*, 137 S. Ct. 1230 (2017) (“As we discussed at greater length in *Electric Power*, the claims of the ‘812 patent recite the *what* of the invention, but none of the *how* that is necessary to turn the abstract idea into a patent-eligible application”) (citing *Elec. Power*, 830 F.3d at 1353); *see also Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1348 (Fed. Cir. 2015) (“As the district court observed, claim 1 contains no restriction on how the result is accomplished.”). Rather, claims 1, 5, and 9 recite receiving, transmitting, determining (in claim 9), and displaying data using existing, generic technology. *See* Appeal Br. 18–20 (Claims App.).

We also find unpersuasive the Appellants’ argument that the claims are “rooted in computer technology” and “provide a technical connection.” Reply Br. 8, 11. The Appellants do not identify the technology in which the claims are rooted, or how the steps of transmitting, receiving, and displaying data improve computer technology or provide a “technical connection” in a way that is not generic, i.e., via generic networks.

We further find unpersuasive the Appellants’ argument that “the claimed invention is not attempting to preclude others from obtaining an

insurance rate quote for an insurable property or from providing an insurance rate quote.” Appeal Br. 8, 12, 16; Reply Br. 4, 7, 11 (emphasis omitted). Although the Supreme Court has described “the concern that drives this exclusionary principle [i.e., the exclusion of abstract ideas from patent eligible subject matter] as one of pre-emption,” *see Alice*, 134 S. Ct. at 2354, characterizing pre-emption or monopolization as a driving concern for patent eligibility is not the same as characterizing pre-emption as the sole test for patent eligibility. “The Supreme Court has made clear that the principle of preemption is the basis for the judicial exceptions to patentability,” and “[f]or this reason, questions on preemption are inherent in and resolved by the § 101 analysis.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (citing *Alice*, 134 S. Ct. at 2354). Although “preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Id.*

For at least the reasons above, we are not persuaded of Examiner error in the rejection of independent claims 1, 5, and 9 under 35 U.S.C. § 101. Thus, we sustain the Examiner’s rejection under 35 U.S.C. § 101 of claims 1, 5, and 9, and also of dependent claims 2–4, 6–8, 10, and 11, not argued separately.

DECISION

The Examiner’s rejection of claims 1–11 under 35 U.S.C. § 101 is **AFFIRMED**.

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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