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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SCOTT L. EVANS

Appeal 2016-001879
Application 14/021,609
Technology Center 3600

Before MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and
CYNTHIA L. MURPHY, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ seeks our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claim 1. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Appellant is the Applicant, Collections Marketing Center, Inc., which, according to the Brief, is the real party in interest. Appeal Br. 1.

BACKGROUND

Appellant's invention is directed to a system and method for debt presentment and resolution. Spec. 1.

Claim 1 recites:

1. A method of improving a computerized system through a web-based transaction community with a client side and a server side, comprising:

linking within the server side, via a local network and the Internet, one or more web servers, one or more SQL database servers, and one or more computer processors to form a transaction community with creditor servers from multiple unique creditor institutions, wherein each creditor server's authorized access within the transaction community is limited to the unique creditor institution to which the creditor server is affiliated;

batch processing, through the transaction community's one or more processors, updated financial information from each creditor institution, wherein the processed financial information includes updated debtor account data regarding overdue debts owed to a specific creditor institution;

hosting, through the transaction community's one or more SQL database and web servers information related to credit agency scoring that is specific to a debtor with an overdue debt account, wherein the hosted information is synchronized, through the transaction community, with the information of the creditor institutions, and exchanged at regular intervals;

hyperlinking on the client side of the transaction community, via the Internet, a passcode secured graphical user interface that is dynamic based on the determination of the locality of a debtor and the brand of the creditor institution, as determined by the transaction community's one or more SQL database and web servers;

interactively guiding the debtor through a series of web-based system options presented through the interface regarding the overdue debt;

comparing, through the transaction community's one or more processors, (a) rules established on behalf of the creditor institution, with (b) account data for the overdue debt;

automatically determining in realtime, through the transaction community's one or more processors, an acceptable range of transaction settlement offers to settle the overdue debt based on the processor(s) comparison;

presenting to the debtor, through the interface, a hyperlinked binding settlement offer that the debtor may select through the interface to automatically settle the overdue debt in real-time without the intervention of a human agent, wherein the settlement offer does not include the creation of a new debt instrument.

Appellant appeals the following rejection:

Claim 1 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

PRINCIPLES OF LAW

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 implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g.*, *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S.Ct. 2347, 2354 (2014).

In determining whether a claim 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 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. *See Alice*, 134 S. Ct. at 2356 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk.”); *Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk.”); *Diamond v. Diehr*, 450 U.S. 175, 184 (1981) (“Analyzing respondents’ claims according to the above statements from our cases, we think that a physical and chemical process for molding precision synthetic rubber products falls within the § 101 categories of possibly patentable subject matter.”); *Parker v. Flook*, 437 U.S. 584, 594–595 (1978) (“Respondent’s application simply provides a new and presumably better method for calculating alarm limit values.”); *Gottschalk v. Benson*, 409 U.S. 63, 64 (1972) (“They claimed a method for converting binary-coded decimal (BCD) numerals into pure binary numerals.”).

The patent-ineligible end of the spectrum includes fundamental economic practices, *Alice*, 134 S. Ct. at 2357; *Bilski*, 561 U.S. at 611; mathematical formulas, *Parker*, 437 U.S. at 594–95; and basic tools of scientific and technological work, *Gottschalk*, 409 U.S. at 69. On the patent-eligible side of the spectrum are physical and chemical processes, such as curing rubber, *Diamond*, 450 U.S. at 184 n.7, “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores,” and a process for manufacturing flour, *Gottschalk*, 409 U.S. at 69.

If the claim is “directed to” a patent-ineligible abstract idea, we then consider the elements of the claim—both individually and as an ordered combination—to assess whether the additional elements transform the nature of the claim into a patent-eligible application of the abstract idea. *Alice*, 134

S. Ct. at 2355. 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.*

ANALYSIS

The Examiner held that the claims were directed to debt resolution which is both a fundamental economic practice and a method of organizing human activity by providing an opportunity for parties to enter into a specified agreement. Fin. Act. 4.

Appellant argues that the Examiner failed to provide factual evidence to satisfy the prima facie burden to show that claim 1 is directed to an abstract idea. App. Br. 5.

Regarding step 1 of *Alice*, we agree with the Examiner’s explanation why, and the Examiner’s determination that, the claimed concept is directed to an abstract idea. Moreover, we deem the Examiner’s statement of the rejection, which Appellant acknowledges he has read, to be sufficient to place Appellant on notice as to step 1 of *Alice* as required under 35 U.S.C. § 132. *In re Jung*, 637 F.3d 1356 (Fed. Cir. 2011). On the issue of prima facie notice, particularly to anticipation but also generally, our reviewing court was clear in *Jung* that:

There has never been a requirement for an examiner to make an on-the-record claim construction of every term in every rejected claim and to explain every possible difference between the prior art and the claimed invention in order to make out a prima facie rejection.

637 F.3d at 1363.

The Federal Circuit further stated:

“[Section 132] does not mandate that in order to establish prima facie anticipation, the PTO must explicitly preempt every possible response to a section 102 rejection. Section 132 merely ensures that an applicant at least be informed of the broad statutory basis for the rejection of his claims, so that he may determine what the issues are on which he can or should produce evidence.” *Chester*, 906 F.2d at 1578 (internal citation omitted). As discussed above, all that is required of the office to meet its prima facie burden of production is to set forth the statutory basis of the rejection and the reference or references relied upon in a sufficiently articulate and informative manner as to meet the notice requirement of § 132. As the statute itself instructs, the examiner must “notify the applicant,” “stating the reasons for such rejection,” “together with such information and references as may be useful in judging the propriety of continuing prosecution of his application.” 35 U.S.C. § 132.

Id.

We conclude that the Examiner's determination that the claimed concept is directed to debt resolution and that debt resolution is a fundamental economic practice (*see* Final Act. 3) is sufficient to place the Appellant on notice of the basis of the rejection. Likewise, the Examiner's determination that the act of managing the resolution of debt is a method of organizing humans (*see id.*) is also sufficient to notify Appellant of the basis of the rejection. We further note that the Examiner's determination of abstractness is aligned with case law (*see* Answer 4). As such, the Appellant has been provided with ample information and opportunity to argue against the Examiner's determination that claim 1 is directed to an abstract idea.

In regard to the second step articulated in *Alice*, the Examiner held that the elements involved in the recited process undertake their roles in performance of their activities according to their generic functionalities

which are well-understood, routine and conventional. The Examiner further stated that the elements together execute in routinely and conventionally accepted coordinated manners and interact with their partner elements to achieve an overall outcome which is merely the combined and coordinated execution of generic computer functionalities. Fin. Act. 4–5.

We are not persuaded of error on the part of the Examiner by Appellant’s argument that the combination of the elements of claim 1 form a specialized computer network. We agree with the Examiner’s response to this argument found on pages 5–7 of the Answer and adopt it as our own. In particular, we agree that the steps which execute the method of claim 1 such as linking servers and computer processors, batch processing financial information, hosting databases and web servers, hyperlinking graphical interfaces etc. are conventional steps of conventional elements that operate in a conventional manner. We agree with the Examiner and find that one of ordinary skill in the art would be familiar with graphic user interfaces, computer processors and network communication in the recited configuration and the combination of elements performing in the manner claimed. Fin. Act. 4.

We do not agree with the Appellant that claim 1 is necessarily rooted in computer technology and overcomes technological problems that arise in the realm of the Internet and computer networks and is analogous to the invention in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014). In *DDR*, the Court noted that a claim may amount to more than any abstract idea recited in the claims when it addresses a business challenge, such as “retaining website visitors,” where that challenge is particular to a specific technological environment, such as the Internet.

In *DDR*, the court stated that “the [] patent’s claims address the problem of retaining website visitors that, if adhering to the routine, conventional functioning of Internet hyperlink protocol, would be instantly transported away from a host’s website after ‘clicking’ on an advertisement and activating a hyperlink.” *DDR Holdings*, 773 F.3d at 1257. This was done in the claim by serving a composite page with content based on the link that was activated to serve the page.

Appellant contends that the invention of claim 1 arose in the realm of the Internet and computer networks and specifically as they are applied to resolving overdue debt and is a specific way to automate a functionality based on data from multiple sources. App. Br. 8–9. We do not agree. In our view, the problem arose in the realm of debt collection. A debt collection problem is not a technical problem, it is a business problem. The alleged improvement that Appellant touts does not concern an improvement to computer capabilities but instead relates to an alleged improvement in implementing debt collection for which a computer is used as a tool in its ordinary capacity.

We are not persuaded of error on the part of the Examiner by Appellant’s argument that claim 1 is a new and nonobvious and thus the elements do not operate in a routine, conventional and generic fashion. To the extent that Appellant is arguing that the claim recites significantly more because the claim is novel and nonobvious over the prior art, Appellant misapprehends the controlling precedent. Although the second step in the *Alice/Mayo* framework is termed a search for an “inventive concept,” the analysis is not an evaluation of novelty or non-obviousness, but rather, a search for “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. A novel and nonobvious claim directed to a purely abstract idea is, nonetheless, patent-ineligible. *See Mayo*, 132 S. Ct. at 1304.

Appellant lastly argues that the claims present no risk of monopolizing one of the basic tools of scientific and technological work. While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015), cert. denied, 136 S. Ct. 701, 193 (2015) (“[T]hat the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract.”). And, “[w]here a patent's claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa*, 788 F.3d at 1363, 1379.

In view of the foregoing, we will sustain the Examiner’s rejection of claim 1.

DECISION

We affirm the Examiner’s § 101 rejection of claim 1.

TIME PERIOD

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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). *See* 37 C.F.R. § 1.136(a)(1) (2009).

ORDER
AFFIRMED