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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* WARREN L. WOLF and MANU REHANI

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Appeal 2016-002393  
Application 13/284,750  
Technology Center 2100

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Before DEBRA K. STEPHENS, AARON W. MOORE, and  
DAVID J. CUTITTA II, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–20, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

## THE INVENTION

The application is directed to a “relationship analysis engine.” (Abstract.) Claim 1, reproduced below, exemplifies the subject matter on appeal:

1. A relationship analysis engine, comprising:
  - a controller;
  - a data miner coupled to the controller and configured to mine relationship information on a network;
  - a plurality of sender nodes determined by the data miner, each sender node representing a sender of a message;
  - a plurality of recipient nodes determined by the data miner, each recipient node representing a receiver of a message; and
  - an actionable analytics section coupled to the controller and configured to analyze messages that are transmitted between the sender nodes and the recipient nodes,wherein the actionable analytics section is configured to produce historical analytics, real-time analytics, and predictive analytics associated with at least one relationship based on the analyzed transmitted messages and the mined relationship information.

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<sup>1</sup> Appellants identify DW Associates, LLC as the real party in interest. (*See* App. Br. 3.)

### THE REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Bradshaw et al.	US 5,835,722	Nov. 10, 1998
Shirai	US 2006/0271872 A1	Nov. 30, 2006
Hunt et al.	US 2008/0288889 A1	Nov. 20, 2008
Hildreth et al.	WO 2008/148819 A2	Dec. 11, 2008

### THE REJECTIONS

1. Claim 20 stands rejected under 35 U.S.C. § 101 “because the claimed invention is directed to nonstatutory subject matter.” (Final Act. 2.)
2. Claims 1, 2, 12–14, 17, 18, and 20 stand rejected under 35 U.S.C. § 102(b) as anticipated by Hildreth. (*See* Final Act. 3–7; Ans. 5–10.)
3. Claim 3 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Hildreth and Shirai. (*See* Final Act. 8.)
4. Claims 4–11 and 19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Hildreth, Shirai, and Hunt. (*See* Final Act. 8–10.)
5. Claims 15 and 16 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Hildreth and Bradshaw. (*See* Ans. 14–16.)

### ANALYSIS

#### ***Section 101***

The Examiner rejected claim 20 under Section 101 because “the broadest reasonable interpretation of [the] claim covers a signal per se.” (Final Act. 2.) Appellants argue “claim 20 recites ‘[o]ne or more tangible computer-readable media storing non-transitory computer-executable

instructions,” and that “[t]he word ‘tangible’ means ‘easily seen or recognized’, or ‘able to be touched or felt.’” (App. Br. 10.) Appellants additionally argue “[t]he Examiner has . . . provided no specific discussion as to why the use of the ‘non-transitory’ language does not make claim 20 recite statutory subject matter.” (*Id.*)

We agree with Appellants that the claim recitation “computer-readable media storing non-transitory computer-executable instructions” adequately excludes ineligible transitory signals and, therefore, reverse the Section 101 rejection of claim 20.

### ***Prior Art Rejections***

Appellants argue claim 1 “recites that the actionable analytics section is configured to produce ‘predictive analytics,’” but “Hildreth does not do predictive analytics.” (App. Br. 14.) The Examiner responds that Hildreth’s “‘identify potential terrorists’ is a prediction that [results] from a (predictive) analytics performed by the Relationship Analysis Engine based on mining of user communication via the communications network.” (Ans. 16, citing Hildreth, p. 6, ll. 23–36.) Appellants reply that “[i]dentify[ing] potential terrorists’, from its plain language, means identifying someone who is suspected of being a terrorist,” and that “[t]his is not a prediction,” but, instead, “is, at best, identifying someone who is believed to be a terrorist, but who has not yet been detected committing a terrorist act.” (Reply. Br. 32.)

Claim 1 recites that the actionable analytics section is “configured to produce historical analytics, real-time analytics, and predictive analytics associated with at least one relationship based on the analyzed transmitted messages and the mined relationship information.” Taking a broad, but reasonable interpretation consistent with the Specification and Appellants’

arguments, we interpret “predictive analytics” to mean analytics intended to predict or determine possible future events. This comports with the common meaning of “predictive”<sup>2</sup> and is also consistent with the claim itself, which distinguishes “predictive analytics” from “real-time analytics.”

In view of that interpretation, we agree with Appellants that Hildreth does not teach or suggest using the Relationship Analysis Engine to perform “predictive analytics” because, as Appellants argue, the identification of “potential terrorists” in Hildreth “is not predicting which persons will or might become terrorists.” (App. Br. 15.) Instead, it is an effort to determine who presently is a terrorist, which would fall into the category of “real-time analytics,” not “predictive analytics.”

Because we agree with Appellants that Hildreth does not teach or suggest “predictive analytics,” we reverse the Section 102 rejection of claim 1, as well as the Section 102 rejection of claims 2, 12–14, 17, 18, and 20, all of which include the same limitation. For the same reason, we reverse the Section 103 rejections of claims 3–11, 15, 16, 19, as the other references do not cure the deficiency. Because this issue is dispositive, we do not reach Appellants’ other arguments.

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<sup>2</sup> For example, Merriam-Webster defines “predictive” as “being a sign of a later course of events.” See <https://www.merriam-webster.com/thesaurus/predictive> (last visited March 28, 2018).

Appeal 2016-002393  
Application 13/284,750

DECISION

The rejections of claims 1–20 are reversed.

REVERSED