



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/926,087	06/25/2013	Michael H. Benveniste	CAM920115012US2_8150-0396	1561

112978 7590 03/20/2018  
Cuenot, Forsythe & Kim, LLC  
20283 State Road 7, Suite 300  
Boca Raton, FL 33498

EXAMINER
----------

SORKOWITZ, DANIEL M

ART UNIT	PAPER NUMBER
----------	--------------

3681

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

03/20/2018

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ibmptomail@iplawpro.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex Parte* MICHAEL H. BENVENISTE, DAVID F. CHEUNG,  
RUBY L. KENNEDY, YUCHUN LEE, and PATRICK MARTIN

---

Appeal 2016-003381  
Application 13/926,087  
Technology Center 3600

---

Before MURRIEL E. CRAWFORD, MICHAEL W. KIM, and  
BETH Z. SHAW, *Administrative Patent Judges*.

SHAW, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

Appellants<sup>2</sup> seek our review under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 34–53, which represent all the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

---

<sup>1</sup> Throughout this Decision we have considered the Appeal Brief filed April 9, 2015 (“App. Br.”), Reply Br. filed February 4, 2016, the Examiner's Answer mailed December 4, 2015 (“Ans.”) and the Final Office Action mailed November 13, 2014 (“Final Act.”).

<sup>2</sup> Appellants identify IBM Corporation as the real party in interest. App. Br. 1.

## INVENTION

Appellants' invention is directed to a method for producing a contact history for a marketing campaign. Spec., Abstract.

Claim 34 is representative and reproduced below:

34. A computer-implemented method for producing a contact history for a marketing campaign, comprising:

creating a first link between a promotion version history table and a treatment history table;

creating a second link between the treatment history table and a contact history table; and

generating the contact history using the promotion version history table, the treatment history table, and the contact history table, wherein

the promotion version history table is a record of promotion attributes values for each promotion version of the marketing campaign, and

the treatment history table is a record of promotion instances in the marketing campaign, and

the contact history table is a record of contact entities in a particular group.

## REJECTIONS

The Examiner rejected claims 34–53 under 35 U.S.C. § 101 as directed to non-statutory subject matter. Final Act. 2.

The Examiner rejected claims 34–53 under 35 U.S.C. § 103(a) as being unpatentable over Reed (US 2004/0103017 A1; published May 27, 2004). Final Act. 3–11.

## CONTENTIONS AND ANALYSIS

We have reviewed Appellants' arguments in the Briefs, the Examiner's rejection, and the Examiner's response to Appellants' arguments. Appellants do not proffer sufficient argument or evidence for us to find error in the Examiner's findings. For at least the reasons discussed below, we agree with and adopt the Examiner's findings and conclusions in the Final Action and Answer.

### *Section 101*

The Examiner determines claims 34–53 are directed to the abstract idea of providing and tracking advertising, a fundamental economic practice. Final Act. 3; Ans. 9. The Examiner also determines additional elements recited in these claims do not amount to significantly more than the abstract idea itself. *Id.*

Appellants present several arguments against the 35 U.S.C. § 101 rejection. App. Br. 9–14; Reply Br. 2–5. Appellants contend the claims are not directed to an abstract idea and that the claims amount to significantly more than an abstract idea. *Id.*

We are unpersuaded by Appellants' arguments. The Supreme Court has long held that “[l]aws 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 *Assoc. for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)). The “‘abstract ideas’ category embodies ‘the longstanding rule that ‘[a]n idea of itself, is not patentable.’” *Id.* at 2355 (quoting *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)).

In *Alice*, the Supreme Court sets forth an analytical “framework for distinguishing patents that claim laws of nature, natural phenomena, and

abstract ideas from those that claim patent-eligible applications of those concepts.” *Id.* at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–78 (2012)). The first step in the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts,” such as an abstract idea. *Id.*

If the claims are directed to a patent-ineligible concept, the second step in the analysis is to consider the elements of the claims “individually and ‘as an ordered combination’” to determine whether the additional elements [that] “‘transform the nature of the claim’ into a patent-eligible application.” *Id.* (quoting *Mayo*, 566 U.S. at 77–79). 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) (quoting *Mayo*, 566 U.S. at 77–78). The prohibition against patenting an abstract idea “‘cannot be circumvented by attempting to limit the use of the formula to a particular technological environment’ or adding ‘insignificant postsolution activity.’” *Bilski v. Kappos*, 561 U.S. 593, 610–11 (2010).

Addressing the first step of the *Alice* inquiry, we agree that Appellants’ claims are directed to an abstract idea, as explained by the Examiner. Ans. 9. The steps recited in Appellants’ claims are abstract processes of providing and tracking advertising data. *Cf. Elec. Power Grp. LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (“collecting information, analyzing it, and displaying certain results of the collection and analysis” is abstract); *In re Salwan*, Appeal No. 2016-2079, 2017 WL 957239 at \*3 (Fed. Cir. Mar. 13, 2017) (affirming the rejection under § 101

of claims directed to “storing, communicating, transferring, and reporting patient health information,” noting that “while these concepts may be directed to practical concepts, they are fundamental economic and conventional business practices”); *Cyberfone Systems, LLC v. CNN Interactive Grp, Inc.*, 558 F. App’x 988, 992 (Fed. Cir. 2014) (nonprecedential) (“using categories to organize, store, and transmit information is well-established”); *Apple, Inc. v. Ameranth*, 842 F.3d 1229, 1241 (Fed. Cir. 2016) (“ability to generate menus with certain features” held abstract). Additionally, the claims are not directed to a specific improvement in the way computers operate. *Cf. Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016).

Turning to the second step of the *Alice* inquiry, the limitations in Appellants’ claims do not add anything “significantly more” to transform into a patent-eligible application the abstract concept of providing and tracking advertising data. *Alice*, 134 S. Ct. at 2357.

The specific details of the claims are not “significantly more” than the abstract idea. These are ordinary steps in data analysis and are recited in an ordinary order. Limiting an abstract concept of tracking data to a general purpose computer having generic components, such as the “computer-implemented method” recited in Appellants’ claim 34, does not make the abstract concept patent-eligible under 35 U.S.C. § 101. *See also* Spec. 37:29–31 (“Processors suitable for the execution of a computer program include, by way of example, both general and special purpose microprocessors, and any one or more processors of any kind of digital computer.”).

As recognized by the Supreme Court, “the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Alice*, 134 S. Ct. at 2358; *see id.* at 2359 (concluding claims “simply instruct[ing] the practitioner to implement the abstract idea of intermediated settlement on a generic computer” are not patent eligible).

Because Appellants’ claims are directed to a patent-ineligible abstract concept and do not recite something “significantly more” under the second prong of the *Alice* analysis, we sustain the Examiner’s rejection of these claims under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter in light of *Alice* and its progeny.

For these reasons, and for the additional reasons stated in the Final Rejection and Answer, we sustain the 35 U.S.C. § 101 rejection of claims 34–53.

#### *Section 103 Rejection*

We do not concur with Appellants’ conclusion that the Examiner erred in rejecting claims 34–53 under 35 U.S.C. § 103 as unpatentable over *Reed*. Appellants argue the Examiner has not identified which portions of *Reed* map to the claimed “treatment history table” and “promotion version history table.” App. Br. 16. Appellants also argue the Examiner erred in concluding it would have been obvious to one skilled in the art to create a link between the promotion version history table and the treatment history table. *Id.* at 16–17.

The Examiner finds paragraph 38 of *Reed* teaches the promotion version history table and the promotion treatment table. Final Act. 4–5; Ans. 11. We agree because the Examiner maps *Reed*’s “promotions offered to a customer”, which are stored in the contact history of a customer analytic

record (CAR), to the claimed promotion version history table. *Id.* (citing Reed ¶ 38). We also agree with the Examiner’s mapping of Reed’s contact history and promotions redeemed by the customer (a record of promotion instances in the marketing campaign) to the claimed “treatment history table.” *Id.* The Examiner explains that it would have been obvious to one skilled in the art, based on Reed’s explanation of data sources and linking fields and records in a database management system (Reed ¶¶ 37, 47) to link the promotion version history table and the treatment history table. Final Act. 5; Ans. 11–12. We agree.

Appellants argue in the Reply Brief that Reed’s paragraph 38 does not explicitly teach that “versions of each advertisement is tracked.” Reply Br. 6. However, this argument is not commensurate in scope with claim 34, which does not recite this limitation, and we are therefore not persuaded by this argument. Appellants also argue the Examiner relies on a single feature to teach two different and distinct claimed elements. *Id.* We are not persuaded by this argument because the Examiner does not rely on a single feature to teach two elements. Rather, as described above, the Examiner maps the features of Reed to the claimed elements.

Accordingly, we sustain the Examiner’s rejection of claims 34–53 under 35 U.S.C. § 103 as unpatentable over Reed.

#### CONCLUSION

We affirm the rejections of claims 34–53.

#### DECISION

The decision of the Examiner to reject claims 34–53 is affirmed.

No time period for taking any subsequent action in connection with



Appeal 2016-003381  
Application 13/926,087

this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED