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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAVID K. MURRAY

Appeal 2016-003527
Application 11/334,730[1]
Technology Center 3600

Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and ROBERT J. SILVERMAN, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's decision rejecting claims 1, 5, 8, 9, 11, 12, 14–16, and 18–21. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] According to the Appellant, "[t]he real party in interest is HRB Tax Group, Inc., which . . . operates as a subsidiary of H&R Block Group, Inc., which . . . operates as a subsidiary of H&R Block, Inc. Appeal Br. 3.

ILLUSTRATIVE CLAIM

1. A method of acquiring tax data for a user to be used in preparing a tax return for a current tax-reporting period, the method comprising:

initiating an interview;

retrieving, from a database, a set of unmodified tax-data items associated with the user for a prior tax-reporting period;

generating a summary of said retrieved set of unmodified tax-data items, wherein the summary includes information for at least a portion of tax-data items previously entered by the user for the prior tax-reporting period;

providing a graphical user interface displayable on a display device, the interface operable to present to the user:

(i) said summary of said set of unmodified tax-data items previously entered by the user for the prior tax-reporting period,

(ii) at least one tax-data category, and

(iii) at least one tax-data subcategory;

presenting to the user, via the interface, said summary of said set of unmodified tax-data items previously entered by the user for the prior tax-reporting period and said at least one tax-data category;

receiving from the user, via the interface, a selection of said at least one tax-data category, wherein the user's selection of said at least one tax-data category indicates the user's desire to modify at least one tax-data item for the current tax-reporting period;

in response to the user's selection of said at least one tax-data category, generating said at least one tax-data subcategory corresponding to the selected at least one tax-data category;

presenting to the user, via the interface, the generated at least one tax-data subcategory,

wherein the summary, the at least one tax-data category, and the generated at least one tax-data subcategory are

simultaneously displayed via one or more viewing panes of the graphical user interface;

determining at least one tax-data item that corresponds to the generated at least one tax-data subcategory;

presenting to the user, via the interface, the determined at least one tax-data item that corresponds to the generated at least one tax-data subcategory;

receiving from the user, via the interface, at least one modified tax-data item, said at least one modified tax-data item modifying the determined at least one tax-data item that corresponds to the generated at least one tax-data subcategory; and

processing the at least one modified tax-data item for preparing said tax return for the current tax-reporting period.

REJECTION

Claims 1, 5, 8, 9, 11, 12, 14–16, and 18–21 are rejected under 35 U.S.C. § 101 ineligible subject matter.

ANALYSIS

According to the rejection, applying the first of the two analytical steps articulated in *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014), the claims are directed to acquiring tax data for a user in preparing a tax return for a current tax reporting period — or to reusing user's prior tax data for current tax year without manually reentering all the details while allowing for some modification or updates to said user's prior tax data if necessary for the current year — which is characterized as an abstract idea, because it constitutes a fundamental economic practice. Final Action 3–5. With regard to the second *Alice* step, the various claim limitations, whether considered individually or in combination, are said to amount to no more than instructions to implement the abstract idea on a

computer and/or a recitation of generic computer functions, such that the claim does not recite significantly more than the abstract idea itself. *Id.* at 3–4.

The Appellant disputes the Examiner's characterization of the claimed subject matter, in the first *Alice* step, stating that the claims are instead directed to "retrieving unmodified tax-data items associated with the user for a prior tax-reporting period." Appeal Br. 13. The Appellant says that this is not a fundamental economic practice, because it is not a contract, legal obligation, or business relation and is not foundational or basic to the economy. *Id.* at 14.

However, the Appellant's description of the claimed subject matter does not differ materially from the Examiner's characterization. Moreover, regardless of whether the described practice is a fundamental economic practice, it is essentially a fundamental way of handling information — much like the subject matter held to be ineligible by the Federal Circuit in cases such as *Cyberfone Sys., LLC v. CNN Interactive Grp., Inc.*, 558 Fed. App'x 988 (Fed. Cir. 2014) (nonprecedential) and *SmartGene, Inc. v. Advanced Biological Labs., SA*, 555 Fed. App'x 950 (Fed. Cir. 2014) (nonprecedential) (both of which the Examiner cites, Answer 2–3), as well as the more recent decisions, I*n re TLI Communications LLC Patent Litigation*, 823 F.3d 607 (Fed. Cir. 2016) and *Electric Power Group, LLC v. Alstom SA*, 830 F.3d 1350 (Fed. Cir. 2016).

With regard to *Alice*'s second step, the Appellant argues that presenting all the relevant information to the user simultaneously in a graphical user interface, without redirecting the user to multiple pages amounts to an unconventional use of elements, solves a problem in computer

technology, and consequently amounts to significantly more than the purported abstract idea itself. Appeal Br. 15–16. According to the Appellant:

> [T]he GUI of the pending claims provides a solution to the problem of presenting certain categories of information to the user in a viewable format and accounting for information that needs to be modified by the user for the current tax-reporting period. The invention thus improves the computer's basic ability to display information and interact with the user.

Appeal Br. 18.

The Appellant argues that such simultaneous display is what patent-eligibility turned upon for an exemplary claim in PTO guidance (*July 2015 Update Appendix 1: Examples* 7–12, Example 23, claim 1) (Appeal Br. 17–21) and in *Trading Technologies International, Inc. v. CQG, Inc.*, 1:05-cv-04811, 2015 WL 774655 (N.D. Ill. Feb. 24, 2015), *aff'd*, 675 Fed. App'x 1001 (Fed. Cir. Jan. 18, 2017) (Reply Br. 5–6). The Appellant argues that the GUI is no mere field-of-use limitation, but is a specific structure through which the claimed computer program is implemented; "[a]s such, reciting a 'graphical user interface' can and does supply patentable weight to a claim." Appeal Br. 18.

In response, the Examiner's Answer states that "[t]he concept of simultaneously displaying multiple data on a GUI is well-understood, routine and conventional" and "[i]t is not clear what computer technology problem the claim is intended to solve." Answer 3.

The Appellant does not adequately show how the claims are technically performed such that they are not routine, conventional functions of a generic computer. As the Examiner indicates, the use of multiple viewing panes simultaneously does not present an unconventional visual

output, but instead simply uses the computer interface as the medium, tool, or technical environment for implementing the abstract idea. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016) (considering, under the first step of the *Alice* framework, "whether the focus of the claims is 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.") In addition the Appellant's argument that a graphical user interface provides "patentable weight" (Appeal Br. 18) does not resolve the question of subject-matter eligibility; simply having "patentable weight" does not mean that a feature transforms a claim into something beyond an abstract idea.

The Appellant also argues that dependent claims 8 and 9 contain features (generating a tax form and interacting with the user in regard to a potential modification of data in a future tax year) that are beyond the abstract idea itself (Appeal Br. 22), but does not explain this position.

In view of the foregoing analysis, the Appellant's arguments are not persuasive of error in the rejection of the appealed claims. Accordingly, we sustain the rejection of claims 1, 5, 8, 9, 11, 12, 14–16, and 18–21 under 35 U.S.C. § 101.

DECISION

We AFFIRM the Examiner's decision rejecting claims 1, 5, 8, 9, 11, 12, 14–16, and 18–21 under 35 U.S.C. § 101.

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