UNITED STATES PATENT AND TRADEMARK OFFICE

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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 CHRIS STONER

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Appeal 2016-004823
Application 11/153,975[1]
Technology Center 3600

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Before JOSEPH A. FISCHETTI, NINA L. MEDLOCK, and MATTHEW S. MEYERS, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant seeks our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1, 3, 4, 6, 10, and 14–16. We have jurisdiction under 35 U.S.C. § 6(b).

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[1] Appellant identifies International Business Machines Corporation as the real party in interest. (Appeal Br. 2).

SUMMARY OF DECISION

We AFFIRM.

THE INVENTION

Appellant claims a calendaring and scheduling system for storing meeting information. (Specification ¶ 1.)

Claim 1 reproduced below, is representative of the subject matter on appeal.

1. A calendaring and scheduling (C&S) data processing system comprising:
 a data processing system with processor and memory;
 a C&S system executing in the data processing system comprising program code enabled upon execution in memory of the data processing system to render a calendar view for viewing scheduled events within a calendar, to render an activatable user interface element associated with a plurality of different calendar folders, to schedule a calendar event through a user interface of the C&S system, the calendar event having a categorization, and to receive workflow content including documents;
 a calendar folder data store in the data processing system configured to store the plurality of different calendar folders, each of said different calendar folders is associated with a category and is also configured to store both calendar events associated with said category and also to store workflow content associated with said category;
 calendar folder processing logic executing in the data processing system comprising program code enabled upon execution in memory of the data processing system to assign different categorizations to different calendar folders in memory by the C&S system, to store said calendar event in one of said calendar folders in which said calendar event has said

categorization consistent with said category for said calendar
folder, to determine whether said workflow content is related to
said calendar event, to identify said calendar event associated
with said workflow content in response to determining that said
workflow content is related to said calendar event, to store said
workflow content determined to be related to said calendar
event in said calendar folder having said category consistent
with said categorization for said calendar event, resulting in
said calendar event and also said workflow content being stored
in a same calendar folder, to detect an activation of said
activatable user interface element, to display said plurality of
different calendar folders in said calendar view in response to
detecting said activation by expanding a view of the plurality of
different calendar folders, and to display only said calendar
event and also said workflow content stored upon a selection of
one of the plurality of different calendar folders from the
expended view of different calendar folders.

THE REJECTION

The Examiner relies upon the following as evidence of

unpatentability:

Jalon et al. US 2005/0039142 A1 Feb. 17, 2005
(hereinafter "Jalon")

The following rejections are before us for review:[2]

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[2] The Examiner withdrew the rejection of claims 1, 6 and 10 under 35 U.S.C.
§ 112(b) or 35 U.S.C. § 112 (pre-AIA), second paragraph. (Answer 3.)

Claims 1, 6, 10, and 14–16 are rejected under 35 U.S.C. § 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description.

Claims 1, 3, 4, 6, 10, and 14–16 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1, 3, 4, 6, 10, and 14–16 are rejected under 35 U.S.C. § 102(e) as being anticipated by Jalon.

FINDINGS OF FACT

We adopt the Examiner's findings as set forth on pages 8–10 of the Final Action concerning the 35 U.S.C. § 101 rejection.

ANALYSIS

35 U.S.C. § 112(a) REJECTION

The Examiner rejected claims 1, 6, 10, and 14–16, because the claims recite "expanding a/the view of the plurality of different calendar folders" and claims 14–16 recite "revealing a hierarchy of different calendar folders" as failing to comply with the written description requirement. (Final Act. 6–7).

Appellant argues,

> More specifically, Figure 2 along with paragraphs [0015] and [0018] provide support such that those skilled in the art would reasonably conclude that the inventor had possession of the claimed invention. In particular, reference 240 of Figure 2 illustrates an

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> > activatable calendar folders user interface and
> > paragraph [0018] describes how the user interface
> > element provides access to a file view of different
> > calendar folders, such that an end user activating the
> > user interface element can view all related materials
> > ancillary to a scheduled event associated with a
> > selected calendar folder. Further, paragraph [0015]
> > references a hierarchy of folders. As such, one
> > skilled in the art would appreciate that when the user
> > interface element 240 is selected, the view of the
> > different folder would be shown. In other words,
> > the activation of the user interface element toggles
> > the view of the different folders between a collapsed
> > view and an expanded view of a hierarchy of the
> > different calendar folders.

(Appeal Br. 8–9).

We agree with Appellant that the disclosed storage hierarchy of folders 180, each having an association with a different category for the events, would be understood by one of ordinary skill in the art to expand the view of the plurality of different calendar folders depending on the level of the hierarchy which was selected.

We, therefore, will not sustain the rejection of claims 1, 6, 10, and 14–16 under this section.

35 U.S.C. § 102(e) REJECTION

Each of claims 1, 6 and 10 recites in one form or another,

> > *calendar folder processing logic...to store said
> > calendar event in one of said calendar folders in
> > which said calendar event has said categorization*

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> *consistent with said category for said calendar folder, to determine whether said workflow content is related to said calendar event, to identify said calendar event associated with said workflow content in response to determining that said workflow content is related to said calendar event, to store said workflow content determined to be related to said calendar event in said calendar folder having said category consistent with said categorization for said calendar event, resulting in said calendar event and also said workflow content being stored in a same calendar folder....*

(Appeal Br. 31, Claims App'x (claim 1) (emphasis added)).

The Examiner found concerning this limitation,

> The calendar from which the event is taken is also displayed at 24; the event may be moved from one calendar to another by changing the associated calendar appearing at 24. The details (content) of the event are displayed at 26; not only the event be changed but also properties associated with the event may be changed' (¶ 41-43. Thus, both the calendar event and the event content (e.g., description, to-do item, and alarm) are associated with the selected calendar [folder]); and 'a computer server 200 on which is stored a calendar [folder] 400 containing at least one event' (see ¶ 55). Thus, as shown in Fig. 4, the detail information (workflow content) displayed on the main calendar view is determined based on the selected calendar event.

(Answer 11–12 (alteration in original)).

Appellant argues,

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> in Jalon, for example in Figure 20, a user determines
> what calendar a new event is associated with,
> whether a default (which is determined by
> Examiner) or a different user selected calendar.
> Further, Jalon does not disclose the determination
> of whether said workflow content is related to a
> calendar event. In other words, based on Examiner's
> mapping, Jalon does not describe determining
> whether event data, a to do item, or an alarm is
> related to an event. Instead, Jalon just discloses that
> a user can create event data, a to do item, or an alarm
> and that the user can associate such with a specific
> calendar. As such, Examiner fails to prove a prima
> facie case.

(Appeal Br. 22).

We agree with Appellant.

Our review of paragraph 55 of Jalon reveals that Jalon discloses "a computer server 200 on which is stored a calendar 400 containing at least one event." In paragraph 43, Jalon discloses "To do Items" which "include those tasks for which a specific time is not required but set for a particular day, week, month or year, depending upon the primary date range selected." Jalon ¶ 43. The Examiner finds the claimed folder is met by the calendar 400 in Jalon. (Answer 12).

We disagree with the Examiner because the claims require in one form or another, "stor[ing] said calendar event in one of said calendar folders in which said calendar event has said categorization consistent with said category for said calendar folder, to determine whether said workflow content is related to said calendar event, to identify said calendar event

associated with said workflow content in response to determining that said workflow content is related to said calendar event. . . ." The "To Do items" window in Jalon only categorizes "depending upon the primary date range selected" (Jalon ¶ 43), but does not store data by a relational categorization as by association of events with work flow content as required by the claims. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir.), *cert. denied*, 484 U.S. 827 (1987).

We do not affirm the rejection of independent claims 1, 6, and 10 under this section. Because claims 3, 4, and 14–16 depend from one of claims 1 6, and 10, and because we cannot sustain the rejection of claims 1 and 10, the rejection of claims 3, 4, and 14–16 likewise cannot be sustained.

35 U.S.C. § 101 REJECTION

We will sustain the rejection of claims 1, 3, 4, 6, 10, and 14–16 under 35 U.S.C. § 101.

> The Supreme Court
>
> set forth a framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts. First, . . . determine whether the claims at issue are directed to one of those patent-ineligible concepts. If so, we then ask, "[w]hat else is there in the claims before us?" To answer that question, . . . consider the elements of each claim both individually and "as an ordered combination" to determine whether the additional elements "transform the nature of the claim" into a patent-

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eligible application. [The Court] described step two of this analysis as a 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."

Alice Corp., Pty. Ltd. v CLS Bank Int'l, 134 S. Ct. 2347, 2355 (2014) (second and fifth alterations in original) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72–73 (2012)).

To perform this test, we must first determine whether the claims at issue are directed to a patent-ineligible concept.

Although the Court in *Alice* made a direct finding as to what the claims were directed to, we find that this case's claims themselves and the Specification provide enough information to inform one as to what they are directed to.

The steps in claim 1 result in:

> to store said calendar event in one of said calendar folders in which said calendar event has said categorization consistent with said category for said calendar folder, to determine whether said workflow content is related to said calendar event, to identify said calendar event associated with said workflow content in response to determining that said workflow content is related to said calendar event, to store said workflow content determined to be related to said calendar event in said calendar folder having said category consistent with said categorization for said calendar event, resulting in said calendar event and also said workflow content being stored in a same calendar folder, to detect an

> activation of said activatable user interface element,
> to display said plurality of different calendar folders
> in said calendar view in response to detecting said
> activation by expanding a view of the plurality of
> different calendar folders, and to display only said
> calendar event and also said workflow content
> stored upon a selection of one of the plurality of
> different calendar folders from the expended view
> of different calendar folders . . . .

The Specification further states,

> Oftentimes, heavy C&S users can schedule
> so many meetings that a user cannot readily locate
> a particular meeting of interest in a calendar
> interface. Specifically, meetings of interest can
> become lost in a sea of meetings so that important
> meetings cannot be readily identified among the
> noise. In the context of task management, C&S
> users have grown accustomed to categorizing and
> filing tasks to better identify tasks of interest.
> Meetings differ from tasks, however, in that
> meetings are closely linked to participants, times
> and locations. Thus, the preferred view for a
> meeting is not a list as in the case of a task, but in a
> calendar. Also, whereas tasks generally are
> standalone elements, meetings often involve
> ancillary documents and even tasks.

Specification ¶ 4. Thus, all this evidence shows that claim 1 is directed to

collecting category specific workflow content data and relating the collected

workflow content data to a calendar event(s). It follows from prior Supreme

Court cases, and *Gottschalk v. Benson*, 409 U.S. 63 (1972) in particular, that

the claims at issue here are directed to an abstract idea. Relating category

specific workflow content data to a calendar event in a dedicated file is a form of organizing human behavior because workflow is a working process which uses human involvement. The patent-ineligible end of the 35 U.S.C. § 101 spectrum includes organizing human behavior. *See Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2355–56. Also, we find the steps of:

    i)   assigning different categorizations to different calendar folders,

    ii)   determining whether the workflow content is related to the calendar event, and

    iii)   identifying the calendar event associated with said workflow content in response to determining that the workflow content is related to said calendar event,

constitute physical acts by a human and/or "analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category." *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016); *see also buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014) (finding claims directed to certain arrangements involving contractual relations are directed to abstract ideas). Thus, relating category specific workflow content data to a calendar event in a dedicated file is an "abstract idea" beyond the scope of § 101.

As in *Alice Corp. Pty. Ltd.*, we need not labor to delimit the precise contours of the "abstract ideas" category in this case. 134 S. Ct. at 2357. It is enough to recognize that there is no meaningful distinction in the level of

abstraction between the concept of an intermediated settlement in *Alice* and the concept of relating category specific workflow content data to a calendar event in a dedicated file, at issue here. 134 S. Ct. at 2357. Both are squarely within the realm of "abstract ideas" as the Court has used that term. 134 S. Ct. at 2357. That the claims do not preempt all forms of the abstraction or may be limited to workflow content, does not make them any less abstract. *See OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1360–62 (Fed. Cir. 2015).

The introduction of a computer into the claims does not alter the analysis at *Mayo* step two.

> [T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. Stating an abstract idea "while adding the words 'apply it'" is not enough for patent eligibility. Nor is limiting the use of an abstract idea "'to a particular technological environment.'" Stating an abstract idea while adding the words "apply it with a computer" simply combines those two steps, with the same deficient result. Thus, if a patent's recitation of a computer amounts to a mere instruction to "implemen[t]" an abstract idea "on ... a computer," that addition cannot impart patent eligibility. This conclusion accords with the pre-emption concern that undergirds our § 101 jurisprudence. Given the ubiquity of computers, wholly generic computer implementation is not generally the sort of "additional featur[e]" that provides any "practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself."

Alice Corp. Pty. Ltd., 134 S. Ct. at 2358 (alterations in original) (citations omitted).

"[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea . . . on a generic computer." *Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2359. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer to take in data, compute a result, and return the result to a user amounts to electronic data query and retrieval—some of the most basic functions of a computer. All of these computer functions are well-understood, routine, conventional activities previously known to the industry. In short, each step does no more than require a generic computer to perform generic computer functions.

Considered as an ordered combination, the computer components of Appellant's method add nothing that is not already present when the steps are considered separately. Viewed as a whole, Appellant's claims simply recite the concept of relating category specific workflow content data to a calendar event in a dedicated file. The claims do not, for example, purport to improve the functioning of the computer itself. Nor do they effect an improvement in any other technology or technical field. Instead, the claims at issue amount to nothing significantly more than instructions for relating category specific workflow content data to a calendar event in a dedicated file. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2360.

As to the structural claims, they

> are no different from the method claims in substance. The
> method claims recite the abstract idea implemented on a generic
> computer; the system claims recite a handful of generic computer
> components configured to implement the same idea. This Court
> has long "warn[ed] ... against" interpreting § 101 "in ways that
> make patent eligibility 'depend simply on the draftsman's art.'"

Alice Corp. Pty. Ltd., 134 S. Ct. at 2360 (alterations in original) (citing *Mayo Collaborative Servs.*, 566 U.S. at 72).

We have reviewed all the arguments (Appeal Br. 11–17) Appellant has submitted concerning the patent eligibility of the claims before us which stand rejected under 35 U.S.C. § 101. We find that our analysis above substantially covers the substance of all the arguments which have been made. But, for purposes of completeness, we will address various arguments in order to make individual rebuttals of same.

Appellant argues,

> As in <u>DDR Holdings</u> where the Federal Circuit
> found the claims statutory under § 101 and noted
> that the claims are necessarily rooted in computer
> technology in order to overcome a problem
> specifically arising in the realm of computer
> networks, the claimed solution in the instant
> Application is necessarily rooted in computer
> technology in order to overcome a problem
> specifically directed at the lack of current C&S
> systems allowing access to all related materials
> produced in consequence of a meeting.

(Appeal Br. 13).

In light of the breadth of the claim, the Appellant's argument is not

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persuasive as to error in the rejection because first, for example, claim 1 does not even require an internet connection as was claimed in *DDR*. Second, in *DDR*, the claims at issue involved, *inter alia*, "web pages display[ing] at least one active link associated with a commerce object associated with a buying opportunity of a selected one of a plurality of merchants" (claim 1 of U.S. 7,818,399 assigned to DDR Holdings LLC). There is no such claim element with this degree of detail here before us. All that is required by the claims before us are generically recited "data processing system[s] with processor[s] and memory." The Specification supports the view that these items are conventional. *See, e.g.*, Specification ¶¶ 14, 15.

Appellant next argues, "it is clear that Appellant's claimed invention directed to providing, in a calendar and scheduling (C&S) system, access to all related materials ancillary to a scheduled event is not directed to an idea of organizing human activities." (Appeal Br. 16).

We disagree with Appellant because even if the argument could be made that workflow does not incorporate organizing human activity, as found above, the claims are also directed to "analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category." *Elec. Power Grp., LLC*, 830 F.3d at 1354. "Adding one abstract idea . . . to another abstract idea . . . does not render the claim non-abstract." *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017).

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CONCLUSIONS OF LAW

We conclude the Examiner did err in rejecting claims 1, 3, 4, 6, 10, and 14–16 under 35 U.S.C. § 102(e).

We conclude the Examiner did not err in rejecting claims 1, 3, 4, 6, 10, and 14–16 under 35 U.S.C. § 101.

We conclude the Examiner did err in rejecting claims 1, 6, 10, and 14–16 under 35 U.S.C. § 112(a).

DECISION

The decision of the Examiner to reject claims 1, 3, 4, 6, 10, and 14–16 is affirmed.

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)(iv).

<u>AFFIRMED</u>