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EXAMINER

LOHARIKAR, ANAND R

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PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PREETI CHATURVEDI, DAVID FLEMING,
MICHAEL KNORR, TOMASZ SMILOWICZ, THOMAS KO, and
GERARD DOYLE

Appeal 2016-005235
Application 13/409,767
Technology Center 3600

Before BIBHU R. MOHANTY, TARA L. HUTCHINGS, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants seek our review under 35 U.S.C. § 134 of the Final Rejection of claims 1–12 and 14–22 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.

THE INVENTION

The Appellants' claimed invention is directed to financial transactions and performing mobile collections (Spec., para. 1). Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A method, comprising:

receiving, by a collection system processor, transaction data comprising an agent identifier, a delivery identifier and a submit request associated with the delivery identifier from a remote agent mobile communication device processor;

sending, by the collection system processor, the transaction data to a payment processor;

verifying, by the payment processor, compliance with predefined transaction rules prescribing at least for which supplier the agent is permitted to deliver and a preregistered buyer identifier based on the transaction data;

generating, by the payment processor, a transaction verification request for a delivery associated with the delivery identifier to a buyer communication device processor;

receiving, by the payment processor a transaction authorization response for the delivery associated with the delivery identifier comprising a unique buyer PIN or password from the buyer communication device processor;

generating, by the payment processor, a settlement request for the delivery associated with the delivery identifier via a banking network to a buyer's bank processor; and

receiving, by the payment processor, confirmation of settlement of payment for the delivery associated with the delivery identifier in an account of the supplier.

THE REJECTION

The following rejection is before us for review:

Claims 1–12 and 14–22 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

FINDINGS OF FACT

We have determined that the findings of fact in the Analysis section below are supported at least by a preponderance of the evidence.¹

ANALYSIS

Rejection under 35 U.S.C. § 101

The Appellants argue that the rejection of claim 1 is improper because the claim is not directed to an abstract idea or shown to be an abstract idea (App. Br. 12–16). The Appellants also argue that the claims are “significantly more” than the alleged abstract idea (App. Br. 17–18).

In contrast, the Examiner has determined that rejection is proper (Final Act. 2–4, Ans. 3–6).

We agree with the Examiner. Under 35 U.S.C. § 101, 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 an implicit exception: “laws of nature, natural phenomena, and abstract ideas” are not patentable. *See, e.g., Alice Corp. Pty Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014).

¹ *See Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

In judging whether claim 1 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. If so, we then consider the elements of the claim both individually and as “an ordered combination” to determine whether the additional elements “transform the nature of the claim” into a patent-eligible application of the abstract idea. *Id.* 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.* The Court also stated that “the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Id.* at 2358.

Here, we find that the claim is directed to the concept of making a verified payment and the confirmation of settlement. This is a fundamental economic practice long prevalent in our system of commerce, and is an abstract idea beyond the scope of § 101. The Specification states that the invention is drawn to financial transactions and performing mobile collections (paras. 1, 13). In *buySAFE, Inc. v. Google, Inc.* 765 F.3d 1350, 1355 (Fed. Cir. 2014) it was held that claims drawn to creating a contractual relationship are directed to an abstract idea. In *Inventor Holdings, LLC v. Bed Bath & Beyond Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) claims directed to the local processing of payments for remotely purchased goods were held to be directed to an abstract idea.

We next consider whether additional elements of the claim, both individually and as an ordered combination, transform the nature of the claim into a patent-eligible application of the abstract idea, e.g., whether the claim does more than simply instruct the practitioner to implement the abstract idea using generic computer components. We conclude that it does not.

Considering each of the claim elements in turn, the function performed by the computer system at each step of the process is purely conventional. The Specification at paragraphs 58–60 discloses the use of conventional computer components in the system. Each step of the claimed method does no more than require a generic computer to perform a generic computer function.

We note the point about pre-emption (App. Br. 16). While pre-emption “might tend to impede innovation more than it would tend to promote it, ‘thereby thwarting the primary object of the patent laws’” (*Alice*, 134 S. Ct. at 2354 (quoting *Mayo*, 132 S. Ct. at 1293), “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.”).

For these reasons the rejection of claim 1 and its dependent claims is sustained. Independent claim 22 is drawn to similar subject matter and the rejection of this claim is sustained as well.

We reach the same conclusion as to independent system claim 21. Here, as in *Alice*, “the system claims are no different in substance from the method claims. 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.” *Alice* 134 S. Ct. at 2351. “[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.” *Id.* at 2358 (quoting *Mayo*, 132 S. Ct. at 1294).

CONCLUSIONS OF LAW

We conclude that Appellants have not shown that the Examiner erred in rejecting claims 1–12 and 14–22 are rejected under 35 U.S.C. § 101

DECISION

The Examiner’s rejection of claims 1–12 and 14–22 is sustained.

AFFIRMED