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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LIMIN HU, BABAK KHANPOUR and TING-HU WU

Appeal 2016-005252
Application 13/725,688
Technology Center 3600

Before BIBHU R. MOHANTY, MICHAEL W. KIM, and ALYSSA A. FINAMORE, *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 1–11 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 processing and fulfilling loan applications over a network (Spec., para. 1). Claim 1, reproduced below, is representative of the subject matter on appeal.

> 1. A method for the formatting and transmission of data from a loan originator system to one or more partner systems, the method comprising:
>
> providing a loan origination software program including client and server portions, the client portion including an interface for receiving loan application data, the server portion including formatting and transmitting capability wherein the formatting and transmitting capability facilitates the entry of information into one or more loan forms associated with a target partner system;
>
> identifying a target partner system of one or more partner systems that interfaces with the loan origination software program including determining loan forms associated with the target
> partner system that are to be populated with data included in the loan application data, determining data from the received loan application data for populating respective forms and determining a target format compatible with a financial service software program of the target
> partner system for display of the data on the respective forms;
>
> determining a first format of data included in the loan application data and being associated with the loan origination software program, wherein the first format is different from
> the target format;
>
> formatting, by one or more computers associated with the server portion, the data included in the loan application data including re-formatting the data from the first format into the target format and publishing loan application information provided by the loan origination software program in the target format compatible with the financial service software program of the target partner system of the one or more partner systems in the respective forms; and

> transmitting re-formatted loan application information including the data in the target format to the target partner system.

THE REJECTION

The following rejection is before us for review:

Claims 1–11 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 rejection has identified two different abstract ideas (App. Br. 9, 10). The Appellants further argue that the claim elements are "significantly more" than the recited abstract ideas in the rejection (App. Br. 10–13).

In contrast the Examiner has determined that the rejection of record is proper (Final Act. 2–6, Ans. 3–10).

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,

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[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).

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).

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 determine that the claim is directed to the concept of processing loan information between a loan broker and clients. This is a fundamental economic practice long prevalent in our system of commerce and a method of organizing human activities, and is an abstract idea beyond the scope of § 101. The Specification at paragraph 10 states that the system is for "facilitating the processing of loan applications by loan originators." In *Dealertrack, Inc. v. Huber, LLC*, 674 F.3d 1315 (Fed. Cir. 2012), the processing of credit applications over electronic networks was held to be directed to an abstract idea and patent ineligible.

The Appellants argue that the Examiner has failed by categorizing the claims as being directed to an abstract idea in both "processing loan application data" and "business principles," and has not met the analysis framework as two different abstract ideas are identified (App. Br. 9). However, abstract ideas can be generally described at different levels abstraction. *See Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1240 (Fed. Cir. 2016) ("An abstract idea can generally be described at different levels of abstraction.").

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. The Specification at paragraphs 23–25 describes using generic CPUs, desktop computers, servers, and networks in a conventional manner. The Specification at paragraph 24 states that the invention is not limited to any specific combination of hardware circuity or software. We agree with the Examiner's determination in the Final Action at page 4 that the generic computer structures used serve generic computer functions that are conventional.

Considering each of the claim elements both in turn and as an ordered combination, the function performed by the computer system at each step of the process is purely conventional. 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 preemption (App. Br. 10). While preemption "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.), *cert. denied*, 136 S. Ct. 701 (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.").

The Appellants also argue that the claim is rooted in technology (App. Br. 13). Here, however, we are unpersuaded that the claim is rooted in technology, but rather appears to be in the abstract concept of processing loan information between a loan broker and clients, and we are unpersuaded that any of the limitations of the claim identified by the Appellants transform the abstract nature of the claim into patent-eligible subject matter.

For these reasons the rejection of claim 1 is sustained. The remaining claims are directed to similar subject matter, and as the same arguments have been presented for these claims the rejection of these claims is not sustained as well.

CONCLUSIONS OF LAW

We conclude that the Appellants have not shown that the Examiner erred in rejecting claims 1–11 under 35 U.S.C. § 101

DECISION

The Examiner's rejection of claims 1-11 is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED