



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.
13/177,807	07/07/2011	Jenny Jing He	GB920110004US1_068	7204
51835	7590	06/20/2018	EXAMINER	
IBM Lotus & Rational SW c/o Schmeiser, Olsen & Watts LLP 33 Boston Post Road West Suite 410 Marlborough, MA 01752			KONERU, SUJAY	
			ART UNIT	PAPER NUMBER
			3624	
			MAIL DATE	DELIVERY MODE
			06/20/2018	PAPER

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JENNY JING HE and JOHN ARNOLD OWEN

Appeal 2016-005605
Application 13/177,807
Technology Center 3600

Before JOHN A. EVANS, LARRY J. HUME, and JAMES W. DEJMEK,
Administrative Patent Judges.

EVANS, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants¹ seek our review under 35 U.S.C. § 134(a) of the Examiner’s Final Rejection of Claims 1, 3–9, and 19. App. Br. 1. Claims 10–18 have been withdrawn. App. Br. 3–4. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.²

¹ Appellants identify International Business Machines Corporation, as the real party in interest. App. Br. 3.

² Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed November 17, 2015, “App. Br.”); the Reply Brief (filed May 6, 2016, “Reply Br.”); the Examiner’s Answer (mailed March 9, 2016, “Ans.”); the Final Action (mailed August 28, 2015, “Final

STATEMENT OF THE CASE

The Invention

The claims relate to a system, method for reminding a user of on-line scheduled, repeated events. *See* Abstract.

Claims 1 and 19 are independent. Claim 1 is illustrative and is reproduced below with some formatting added:

1. A computer-implemented method for reminding a user of an online scheduled repeating event, comprising:

generating, by a special purpose computer, a repeating event schedule record in a calendar application corresponding to a first repeating meeting schedule including a repeating event, the first repeating meeting schedule including a first range of dates between a first date and a second date, the first date being a starting date of the first repeating meeting schedule;

generating, by a special purpose computer, a reminder record to inform a user of an approaching end of the repeating event at the second date, wherein generating the reminder record comprises:

providing a repeating event schedule form for scheduling the repeating event;

selecting from the repeating event schedule form a reminder request;

displaying a reminder request form in the calendar application when a response is received to the reminder request; and

generating the reminder record from the reminder request form;

Act.”); and the Specification (filed July 7, 2011, “Spec.”) for their respective details.

configuring, by a special purpose computer, the repeating event schedule record to include a link to the reminder record, wherein the reminder record is automatically displayed at a computer display when the link is selected, and wherein the link to the reminder record includes an electronic connector that establishes access to a record stored in a memory and corresponding to a last event of the first repeating event schedule; and

accessing, by a special purpose computer, the reminder record in response to the link being selected, the reminder record including a connector that presents a second repeating meeting schedule that is different from the first repeating meeting schedule, and includes data from the first repeating meeting schedule, the second repeating meeting schedule including a second range of dates between a third date and a fourth date, the third date corresponding to a repeating event after the repeating event at the second date, the third date being a starting date of the second repeating meeting schedule, the third date being after the first and second dates, the third date being different than the first date, the reminder record further including a link to the first repeating meeting schedule to display the first repeating meeting schedule, and the repeating event schedule record including a field indicating whether the second repeating meeting schedule has been scheduled.

(App. Br., Claims Appendix, 21–22.)

Rejection

Claims 1, 3–9, and 19³ stand rejected under 35 U.S.C. § 101 as directed to patent-ineligible subject matter (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more. Final Act. 4–6.

³ Claim no. 2 was cancelled by Amendment, filed June 9, 2015.

ANALYSIS

We have reviewed the rejection of Claims 1, 3–9, and 19 in light of Appellants’ arguments that the Examiner erred. We have considered in this Decision only those arguments Appellants actually raised in the Brief. Any other arguments which Appellants could have made but chose not to make in the Briefs are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). We are not persuaded that Appellants identify reversible error.

Upon consideration of the arguments presented in the Appeal Brief and the Reply Brief, we agree with the Examiner that all the pending claims are patent ineligible under 35 U.S.C. § 101. We adopt as our own the findings and reasons set forth in the rejections from which this appeal is taken and in the Examiner’s Answer, to the extent consistent with our analysis below. We provide the following explanation to highlight and address specific arguments and findings primarily for emphasis. We consider Appellants’ arguments *seriatim*, as they are presented in the Appeal Brief, pages 10–19.

CLAIMS 1, 3–9, AND 19: NON-STATUTORY SUBJECT MATTER.

Appellants argue these claims generally as a group. *See* App. Br. 18–19.

35 U.S.C. § 101

Section 101 provides that a patent may be obtained for “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” 35 U.S.C. § 101. The Supreme Court has long recognized, however, that § 101 implicitly excludes “laws of nature, natural phenomena, and abstract ideas” from the realm of patent-eligible

subject matter, as monopolization of these “basic tools of scientific and technological work” would stifle the very innovation that the patent system aims to promote. *Alice Corp. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014) (quoting *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 133 S. Ct. 2107, 2116 (2013)); see also *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1294-97 (2012); *Diamond v. Diehr*, 450 U.S. 175, 185 (1981).

The Examiner finds Claims 1, 3–9, and 19 are directed to patent-ineligible subject matter, specifically the abstract idea of reminding a user of an online, scheduled repeating event, which, the Examiner concludes, is a type of organizing human activity. Final Act. 4.

Appellants contend the claimed method is not directed to an abstract concept, but rather addresses a problem with managing electronic calendar applications. App. Br. 11. Specifically, Appellants argue the claimed “computer-implemented method for reminding a user of an online scheduled repeating event” does not recite a fundamental economic practice, a method of organizing human activity, a bare concept, a mathematical relationship, or mental process that can be performed in the human mind or using pen and paper. *Id.*

Alice Step 1.

The Supreme Court has instructed us to use a two-step framework to “distinguish[] patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 134 S. Ct. at 2355. At the first step, we determine whether the claims at issue are “directed to” a patent-ineligible concept. *Id.* The Court also cautions that we must “tread carefully in construing this

exclusionary principle lest it swallow all of patent law.” *Alice*, 134 S. Ct. at 2354. This is because at some level, “all inventions . . . embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Id.* Thus, an invention is not rendered ineligible for patent protection simply because it involves an abstract concept. *See Diamond v. Diehr*, 450 U.S. 175, 187 (1981). “[A]pplication[s]” of such concepts “to a new and useful end,” we have said, remain eligible for patent protection. *Id.* (quoting *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)).

To answer the question whether the claims are directed to a patent-ineligible concept, “we 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-eligible application.” *Alice*, at 2355 (citations omitted).

At Step 1, we agree with the Examiner that the claims are directed to a method, albeit computerized, of reminding persons of scheduled events. We also agree that the claimed method is abstract because it is a method of organizing human behavior.

Alice Step 2.

Appellants rely on *DDR Holdings*⁴ to argue their claimed solution is necessarily rooted in computer technology in order to overcome a problem “specifically arising in the realm of computer networks,” or more specifically, to overcome a problem specifically arising in post-Internet technology, and not “merely reciting the performance of some business

⁴ *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014).

practice known from the pre-Internet world along with the requirement to perform it on the Internet.” App. Br. 12.

The Examiner finds scheduling and calendar issues such as managing recurring meetings existed before the Internet and the claims are merely addressing such a problem within the current context of computers and technology. Ans. 4.

The Examiner finds the claims recite a special purpose computer, but the actual computer limitations in the claims do not recite anything that can be considered beyond generic or conventional features. *Id.*⁵

Appellants admit “scheduling concepts obviously existed before computers,” but repeat their contention that the present claims address a problem “peculiar to the internet.” Reply Br. 3. However, Appellants fail to persuasively distinguish the purported internet-specific problem addressed by the claims.

Therefore, in light of the above factual findings and legal conclusions and, on the record before us, we are not persuaded the claims recite “significantly more” than an abstract idea.

DECISION

We affirm the rejection of Claims 1, 3–9, and 19 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)(1)(iv). *See*

⁵ As evidence of the conventional nature of the claimed computer components, we point to Appellants’ Specification at paragraph 44.

Appeal 2016-005605
Application 13/177,807

37 C.F.R. § 41.50(f).

AFFIRMED