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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KATHIE KNAPP

Appeal 2016-005832
Application 12/012,581
Technology Center 3600

Before ANTON W. FETTING, JOSEPH A. FISCHETTI, and
BIBHU R. MOHANTY, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE¹

Kathie Knapp (Appellant) seeks review under 35 U.S.C. § 134 of a final rejection of claims 1, 2, 4, 6–9, 11, 13, 14, 16, and 18–36, the only claims

¹ Our decision will make reference to the Appellant’s Appeal Brief (“App. Br.,” filed September 24, 2015) and Reply Brief (“Reply Br.,” filed May 16, 2016), and the Examiner’s Answer (“Ans.,” mailed March 14, 2016), and Final Action (“Final Act.,” mailed April 20, 2015).

pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

The Appellant invented a way of handling data transfer to and from client and service provider and brokering interactions. Specification para. 1.

An understanding of the invention can be derived from a reading of exemplary claim 8, which is reproduced below (bracketed matter and some paragraphing added).

8. A method of

communicating accounting data over a communications network between an accounting system utilizing an accounting system software associated with delivery of professional services and a plurality of remote client systems utilizing external client accounting software applications and data having an external format,

the method comprising:

[1] electronically receiving by the accounting system a first financial data set

associated with a client

from a remote client system

for processing by accounting system software operating on the accounting system,

the first financial data set being in an external format associated with a client accounting software application operating on the remote client system;

[2] translating the first financial data set

from the external format

into a format adapted for use by the accounting system software

and

generating a translated first financial data set;

[3] determining the accuracy of data in the translated first financial data set

and

automatically generating a revised first financial data set upon detecting errors in the translated first financial data set;

[4] generating by the accounting system software a second financial data set

based at least in part on a set of data in the translated first financial data set

and,

in the event of errors detected in the translated first financial data set,

at least in part on the revised first financial data set,

wherein the second financial data set may be a structured data record representing a financial statement associated with the client;

and

[5] exporting the second financial data set from the accounting system to the remote client system,

the second financial data set

comprising data derived from the translated first financial data set

and

being adapted for use by the client accounting software operated at the remote client system,

the second financial data set further comprising data representing the revised first financial data set in the event of detected errors in the translated first financial data set.

Claims 1, 2, 4, 6–9, 11, 13, 14, 16, and 18–36 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

ISSUES

The issues of eligible subject matter turn primarily on whether the claims recite more than abstract conceptual advice of what a computer is to provide without implementation details.

ANALYSIS

Method claim 8 recites receiving by the accounting system a first financial data set, translating the first financial data set from the external format into a format adapted for use by the accounting system software, determining the accuracy of data, and generating and exporting a second financial data. Thus, claim 8 recites receiving, analyzing, modifying, and transmitting data. None of the limitations recite implementation details for any of these steps, but instead recite functional results to be achieved by any and all possible means. Data reception, analysis and modification, and transmission are all generic, conventional data processing operations to the point they are themselves concepts awaiting implementation details. The sequence of data reception-analysis-transmission is equally generic and conventional. The ordering of the steps is therefore ordinary and conventional. The remaining claims merely describe data characteristics, process repetition, and output characteristics, with no implementation details.

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-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) (citing *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012)).

To perform this test, we must first determine whether the claims at issue are directed to a patent-ineligible concept. The Examiner finds the claims directed to “communicating accounting data between an accounting system utilizing accounting system software and a plurality of remote client systems utilizing external client accounting software applications and data having an external format.” Final Act. 3. The Examiner further finds translating information to be a fundamental economic practice. *Id.* at 4.

While 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 preamble to claim 8 recites that it is a method of communicating accounting data between an accounting system and remote client systems utilizing external client accounting software applications. The steps in claim 8 result in sending translated accounting data to a remote client system. The Specification at paragraph 1 recites that the invention relates to handling data transfer to and from client and service provider and brokering interactions. Thus, all this evidence shows that claim 8 is directed to sending converted accounting data, i.e., translating accounting data.

It follows from prior Supreme Court cases, and *Bilski* (*Bilski v Kappos*, 561 U.S. 593 (2010)) in particular, that the claims at issue here are directed to an abstract idea. Like the risk hedging in *Bilski*, the concept of translating accounting data is a fundamental business practice long prevalent in our system of international commerce. The use of translating accounting data is also a building block of international trade and financial reporting. Thus, translating accounting data, like hedging, is an “abstract idea” beyond the scope of § 101. *See Alice*, 134 S. Ct. at 2356.

As in *Alice*, we need not labor to delimit the precise contours of the “abstract ideas” category in this case. It is enough to recognize that there is no meaningful distinction in the level of abstraction between the concept of risk hedging in *Bilski* and the concept of translating accounting data at issue here. Both are squarely within the realm of “abstract ideas” as the Court has used that term. *See Alice*, 134 S. Ct. at 2357.

Further, claims involving data collection, analysis, and display are directed to an abstract idea. *Elec. Power Grp. v. Alstom S.A.*, 830 F.3d 1350,

1353 (Fed. Cir. 2016) (holding that “collecting information, analyzing it, and displaying certain results of the collection and analysis” are “a familiar class of claims ‘directed to’ a patent-ineligible concept”); *see also In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016). Claim 8, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data retrieval, analysis, and transmission and does not recite an improvement to a particular computer technology. *See, e.g., McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314–15 (Fed. Cir. 2016) (finding claims not abstract because they “focused on a specific asserted improvement in computer animation”). As such, claim 8 is directed to the abstract idea of receiving, analyzing, and transmitting data.

The remaining claims merely describe data characteristics, process repetition, and output characteristics. We conclude that the claims at issue are directed to a patent-ineligible concept.

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

the 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 “implement[t]” an abstract idea “on . . . a computer,” that addition cannot impart patent

eligibility. This conclusion accords with the preemption concern that undergirds our § 101 jurisprudence. Given the ubiquity of computers, wholly generic computer implementation is not generally the sort of “additional feature[e]” that provides any “practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.”

Alice, 134 S. Ct. at 2358 (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*, 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 receive, translate, analyze, and send data amounts to electronic data query and retrieval—one 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 method claims simply recite the concept of translating accounting data as performed by a generic computer. To be sure, the claims recite doing so by advising one to translate and test the data, correct as needed, and format and send the resultant data. But this is no more than abstract conceptual advice on the parameters for such translating accounting data and the generic computer

processes necessary to process those parameters, and do not recite any particular implementation.

The method 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. The 13+ pages of Specification do not bulge with disclosure, but only spell out different generic equipment and parameters that might be applied using this concept and the particular steps such conventional processing would entail based on the concept of translating accounting data under different scenarios. They do not describe any particular improvement in the manner a computer functions. Instead, the claims at issue amount to nothing significantly more than an instruction to apply the abstract idea of translating accounting data using some unspecified, generic computer. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice*, 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, 134 S. Ct. at 2360.

We are not persuaded by Appellant’s argument that

The Court’s opinion in *Alice* is narrowly focused on the risk hedging claims of *Bilski* and the intermediate settlement concept at issue in *Alice*. The Court’s reasoning leads to a narrow definition of an “abstract idea” to be an idea so old and entrenched as the concepts of hedging risk or using a settlement intermediary, while excluding new or modern concepts.

App. Br. 9. Appellant conflates examples with definition. Although the examples the *Alice* opinion describes are notoriously old, the court did not define an abstract idea as equivalent to those examples. Instead, the court found that the concept the claims in *Alice* were drawn to was notoriously old, as shown by old examples. *Alice* continues the line of reasoning from *Bilski* that concepts as contrasted with implementations of concepts, are abstract ideas. The Supreme Court held that claims that explained the basic concept of an activity (hedging) would allow the Appellant to pre-empt the use of this approach in all fields, and would effectively grant a monopoly over an abstract idea. *Bilski*, 561 U.S. at 611–612. Abstract ideas are not patent-eligible. *Id.* at 601 and 653.

We are not persuaded by Appellant’s argument that “[t]he method described in the present invention is far removed from the concepts of risk hedging and intermediated settlements and solves a problem unique to data extraction, translation, communication, processing, generation, storage, and manipulation, one that did not exist prior to the advent of computers.” App. Br. 9. Both the problem as stated and the solution is within conventional data processing. *Elec. Power Grp.*, as we find *supra*, held that such data processing are a familiar class of claims “directed to” a patent ineligible concept. Further the problem of correcting, reformatting, and translating

data predates computer technology and is as old as copying of all forms of written material.

We are not persuaded by Appellant’s argument that “[g]enerating receiving, translating, error checking, generating new data sets, and communicating translated or error corrected data sets is not a fundamental economic practice or a longstanding commercial practice” (App. Br. 10) for similar reason.

Appellant further argues that the asserted claims are akin to the claims found patent-eligible in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014). In *DDR Holdings*, the Court evaluated the eligibility of claims “address[ing] the problem of retaining website visitors that, if adhering to the routine, conventional functioning of Internet hyperlink protocol, would be instantly transported away from a host’s website after ‘clicking’ on an advertisement and activating a hyperlink.” *Id.* at 1257. There, the Court found that the claims were patent-eligible because they transformed the manner in which a hyperlink typically functions to resolve a problem that had no “pre-Internet analog.” *Id.* at 1258. The Court cautioned, however, “that not all claims purporting to address Internet-centric challenges are eligible for patent.” *Id.* For example, in *DDR Holdings* the Court distinguished the patent-eligible claims at issue from claims found patent-ineligible in *Ultramerical*. *See id.* at 1258–59 (citing *Ultramerical*, 772 F.3d at 715–16). As noted there, the *Ultramerical* claims were “directed to a specific method of advertising and content distribution that was previously unknown and never employed on the Internet before.” *Id.* at 1258

(quoting *Ultramerical*, 772 F.3d at 715–16). Nevertheless, those claims were patent-ineligible because they “merely recite[d] the abstract idea of ‘offering media content in exchange for viewing an advertisement,’ along with ‘routine additional steps such as updating an activity log, requiring a request from the consumer to view the ad, restrictions on public access, and use of the Internet.’” *Id.*

Appellant’s asserted claims are analogous to claims found ineligible in *Ultramerical* and distinct from claims found eligible in *DDR Holdings*. The ineligible claims in *Ultramerical* recited “providing [a] media product for sale at an Internet website”; “restricting general public access to said media product”; “receiving from the consumer a request to view [a] sponsor message”; and “if the sponsor message is an interactive message, presenting at least one query to the consumer and allowing said consumer access to said media product after receiving a response to said at least one query.” *Ultramerical*, 772 F.3d at 712. Similarly, Appellant’s asserted claims recite receiving, analyzing, and transmitting data. This is precisely the type of Internet activity found ineligible in *Ultramerical*.

We are not persuaded by Appellant’s argument that the Examiner must consider the claim as a whole and as an ordered combination. App. Br. 11. We find the Examiner did so. Final Act. 5. As we find *supra*, the claim as a whole recites the concept of translating accounting data as performed by a generic computer by advising one to translate and test the data, correct as needed, and format and send the resultant data. The sequence of operations is purely conventional.

We are not persuaded by Appellant's argument that the invention is not one of those found ineligible in prior court cases. App. Br. 12–14. Few areas are more fundamental to business and commerce than accounting. Translating accounting data is itself a fundamental practice within accounting. Appellant lists several court cases in which fundamental business practices were at issue. Appellant appears to contend that it is the particular practice that makes the practice fundamental, but instead it is the fundamental nature of the practice that make it an abstract concept.

We are not persuaded by Appellant's argument that sending data is a physical process. App. Br. 15. This is no more physical than data processing *per se* found to be ineligible in *Electric Power*.

The remaining arguments are variations on those *supra*.

CONCLUSIONS OF LAW

The rejection of claims 1, 2, 4, 6–9, 11, 13, 14, 16, and 18–36 under 35 U.S.C. § 101 as directed to non-statutory subject matter is proper.

DECISION

The rejection of claims 1, 2, 4, 6–9, 11, 13, 14, 16, and 18–36 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) (2011).

Appeal 2016-005832
Application 12/012,581

AFFIRMED