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 HEMAL SANGHVI, SRIDHAR RAMALINGAM,
RICH AMPLEMAN, ROBERT HOFFMAN, PAULINE OW,
STEPHEN KLAUS, and GIDGET A. HALL

_____

Appeal 2016-005922
Application 13/358,276[1]
Technology Center 3600

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Before ST. JOHN COURTENAY III, JAMES W. DEJMEK, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's
rejection of claims 1–27, which are all the claims pending in this application.
We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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STATEMENT OF THE CASE

Introduction

Appellants' application relates to a transaction processing engine for consumer bill payment transactions. Spec. 2:3–6. Claim 1 illustrates the appealed subject matter and reads as follows:

 1. A method of operating a payment processing network connecting a plurality of biller entities and a plurality of customer service providers and configured for electronic bill payment, said method comprising the steps of:

  obtaining, by an operator of said payment processing network, from said plurality of customer service providers, a first plurality of messages specifying a plurality of bill payments to said plurality of biller entities, said first plurality of messages specifying, for each of said bill payments, an amount and an intended one of said biller entities to be paid;

  based on said first plurality of messages, dispatching, by said operator of said payment processing network, to said plurality of biller entities, a second plurality of messages initiating said plurality of bill payments through said payment processing network; and

  obtaining, by said operator of said payment processing network:

   first data from at least one of said plurality of customer service providers specifying when at least some of said first plurality of messages specifying said plurality of bill payments to said plurality of biller entities are to be obtained by said operator of said payment processing network, said obtaining of said first data being carried out by loading into a memory from a tangible non-transitory computer-readable storage medium a bill payment relational database module and executing, on at least one hardware processor coupled to said memory, said bill payment relational database module; and

   second data from at least one of said plurality of biller entities specifying when at least some of said second

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plurality of messages to initiate said plurality of bill payments are to be dispatched by said operator of said payment processing network, said obtaining of said second data being carried out by loading into said memory from said tangible non-transitory computer-readable storage medium said bill payment relational database module and executing, on said at least one hardware processor coupled to said memory, said bill payment relational database module;

wherein said operator of said payment processing network carries out:

scheduling said step of obtaining said first plurality of messages specifying said plurality of bill payments to said plurality of biller entities in accordance with said first data, said scheduling of said step of obtaining said first plurality of messages being carried out by loading into said memory from said tangible non-transitory computer-readable storage medium a bill payment inbound preprocessor module and executing, on said at least one hardware processor coupled to said memory, said bill payment inbound preprocessor module; and

scheduling said step of dispatching said second plurality of messages in accordance with said second data, said scheduling of said step of dispatching said second plurality of messages being carried out by loading into said memory from said tangible non-transitory computer-readable storage medium a scheduler daemon processor module and executing, on said at least one hardware processor coupled to said memory, said scheduler daemon processor module.

The Examiner's Rejections

Claims 1–27 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Ans. 2–4.

Claims 1–27 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lawrence et al. (US 2010/0205078 A1; Aug. 12, 2010) and Hanan et al. (US 2010/0030675 A1; Feb. 4, 2010). Final Act. 6–14.

ANALYSIS

Patent-Ineligible Subject Matter

Alice identifies a two-step framework for determining whether claimed subject matter is judicially-excepted from patent eligibility under § 101. In *Alice*, the Supreme Court reiterated the framework set out in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 132 S. Ct. 1289 (2012), for "distinguishing patents that claim . . . abstract ideas from those that claim patent-eligible applications of those concepts." *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014). Assuming that a claim nominally falls within one of the statutory categories of machine, manufacture, process, or composition of matter, the first step in the analysis is to determine if the claim is directed to a law of nature, a natural phenomenon, or an abstract idea (judicial exceptions). *Id.* If so, the second step is to determine whether any element or combination of elements in the claim is sufficient to transform the nature of the claim into a patent eligible application, that is, to ensure that the claim amounts to significantly more than the judicial exception. *Id.*

Instead of using a definition of an abstract idea, "the decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen—what prior cases were about, and which way they were decided." *Amdocs (Isr.) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016) (citing *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016)); *accord* United

States Patent and Trademark Office, *July 2015 Update: Subject Matter Eligibility* 3 (July 30, 2015), https://www.uspto.gov/sites/default/files/documents/ieg-july-2015-update.pdf (instructing Examiners that "a claimed concept is not identified as an abstract idea unless it is similar to at least one concept that the courts have identified as an abstract idea."). As part of this inquiry, we must "look at the 'focus of the claimed advance over the prior art' to determine if the claim's 'character as a whole' is directed to excluded subject matter." *Affinity Labs of Tex., LLC v. DirecTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016).

Our reviewing court has concluded that abstract ideas include the concepts of collecting data, recognizing certain data within the collected data set, and storing the data in memory. *Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.*, 776 F.3d 1343, 1347 (Fed. Cir. 2014). Additionally, the collection of information and analysis of information (e.g., recognizing certain data within the dataset) are also abstract ideas. *Elec. Power*, 830 F.3d at 1353. Similarly, "collecting, displaying, and manipulating data" is an abstract idea. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017). Also, the gathering and combining of data that does not require input from a physical device is an abstract idea. *Digitech*, 758 F.3d at 1351. Our reviewing court has also concluded that "creating an index and using that index to search for and retrieve data" is an abstract idea. *Intellectual Ventures I LLC v. Erie Indem. Co.*, 850 F.3d 1315, 1327 (Fed. Cir. 2017).

Appellants argue the Examiner erred in rejecting claim 1 as directed to patent-ineligible subject matter. App. Br. 12–16; Reply Br. 12–17. With regard to step one, Appellants argue the Examiner failed to establish a *prima*

facie case of patent ineligibility because the Examiner's rejection is nothing more than a conclusory allegation without a rational basis. App. Br. 12–13. Appellants further argue claim 1 is not directed to the "abstract idea of transaction processing of bill payments." Reply Br. 14–15. Appellants argue this distillation of the claims does not consider the explicitly claimed limitations, which tie the claims to a new and useful end. *Id.* at 15.

Appellants have not persuaded us of Examiner error. Claim 1 is directed to a method of operating a payment processing network comprising obtaining a plurality of messages specifying a plurality of bill payments and dispatching a plurality of messages indicating the bill payments. The source and destination of the messages and additional details regarding the contents of the messages. However, the steps recited in the claims involve nothing more than collecting, normalizing, analyzing, and acting upon data. The subject matter of the claims can be performed either mentally or with "pencil and paper." *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1371 (Fed. Cir. 2011). "[A] method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101." *Id.* at 1373.

In this regard, the claims are similar to the claims that the Federal Circuit determined are patent ineligible in *Elec. Power Grp.*, 830 F.3d at 1353–54 (collecting information and "analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, [are] essentially mental processes within the abstract-idea category"); *OIP Technologies, Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (offer-based price optimization); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015) (tailoring

information presented to a user based on particular information); *Digitech Image Technologies, LLC v. Electronics for Imaging, Inc.*, 758 F.3d 1344 (Fed. Cir. 2014 (employing mathematical algorithms to manipulate existing information); *Accenture Global Services, GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1346 (Fed. Cir. 2013) (generating tasks in an insurance organization); and *Versata Development Group v. SAP America*, 793 F.3d 1306, 1333–24 (Fed. Cir. 2015) (price-determination method involving arranging organizational and product group hierarchies).

Turning to step two, Appellants argue the claims encompass a practical application of "operating a payment processing network connecting a plurality of biller entities and a plurality of customer service providers." App. Br. 15. Appellants further argue the claims address a network-centric problem, specifically the challenge of transactions made over a payment processing network for electronic bill payment. *Id.* at 15–16. Appellants argue the claims address this problem by receiving data from customers allowing the customers to schedule payments. *Id.* at 15–16.

Appellants have not persuaded us of Examiner error. Our reviewing court has "made clear that mere automation of manual processes using generic computers does not constitute a patentable improvement in computer technology." *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1055 (Fed. Cir. 2017). Like the claims in *Credit Acceptance*, the focus of the claims here is on the business practice (processing payments from a customer to a biller entity), "and the recited generic computer elements 'are invoked merely as a tool.'" *Id.* (citing *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016)); *see also Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1334 (Fed. Cir. 2015) (collecting cases). Moreover,

Appellants' argument that the claims do more than generally link the abstract idea to a payment processing network (*see* App. Br. 16) is also unpersuasive because Appellants have failed to persuasively identify how claim 1 improves the functioning of a computer. Instead, claim 1 recites performing a method wherein the computer is merely a tool to perform this business practice method. The prohibition against patenting an abstract idea "'cannot be circumvented by attempting to limit the use of the formula to a particular technological environment' or adding 'insignificant postsolution activity.'" *Bilski v. Kappos*, 561 U.S. 593, 610–11 (2010) (citation omitted).

This guidance is applicable here. Accordingly, we are not persuaded of error regarding the Examiner's finding that the claims do not recite an "inventive concept" sufficient to transform the claims from an abstract idea to a patent eligible application. We, therefore, sustain the Examiner's rejection of claim 1 as being directed to patent-ineligible subject matter. We also sustain the rejection of independent claims 10, 11, and 19 and dependent claims 2–9, 12–18, and 20–27, for which Appellants do not provide separate argument. *See* App. Br. 16.
See 37 C.F.R. § 41.37(c)(1)(iv)(2015).

Obviousness

The Examiner rejects claim 1 under 35 U.S.C. § 103(a) as unpatentable over Lawrence and Hanan. Final Act. 6–14. The Examiner finds Hanan teaches or suggests "obtaining, by said operator of said payment processing network . . . second data from at least one of said plurality of biller entities specifying when at least some of said second plurality of

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messages to initiate said plurality of bill payments are to be dispatched."
Ans. 13–14 (citing Hanan ¶ 41); Final Act. 8 (citing Hanan ¶¶ 38, 41).

Appellants argue the Examiner erred in finding Hanan teaches the disputed limitation. App. Br. 17–18; Reply Br. 18–20. In particular, Appellants argue Hanan teaches the payor, not the biller, schedules when messages to initiate payment are dispatched. App. Br. 18 (citing Hanan ¶ 50). Appellants argue Hanan at most teaches the biller is capable of viewing a payment schedule, not scheduling the payments. *Id.* (citing Hanan ¶ 41).

Appellants have persuaded us of Examiner error. Hanan teaches the payor scheduling bill payments. Hanan ¶ 50. The passage cited by the Examiner teaches the biller may view and download payment information "to pre-reconcile their ERP systems and speed up posting of cash." Ans. 13–14 (citing Hanan ¶ 41). We agree with Appellants that the Examiner's finding that Hanan teaches the disputed limitation is unsupported by the evidence of record. Contrary to the Examiner's finding, Hanan, as relied on by the Examiner, teaches the biller may view and download payment information *before* the payment information is dispatched. *See* Hanan ¶ 41. The Examiner has failed to establish that Hanan teaches or suggests obtaining data specifying when payment messages are to be dispatched, as required by claim 1.

Accordingly, on the record before us, we are persuaded by Appellants' contentions that the Examiner erred in rejecting claim 1 as unpatentable over Lawrence and Hanan. We, therefore, do not sustain the obviousness rejection of claim 1, independent claims 10, 11, and 19, which

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recite commensurate limitations, and claims 2–9, 12–18, and 20–27 dependent therefrom.

DECISION

We affirm the decision of the Examiner rejecting claims 1–27 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter.

We reverse the decision of the Examiner rejecting claims 1–27 under 35 U.S.C. § 103(a) as unpatentable over Lawrence and Hanan.

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, the Examiner's decision is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

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* 37 C.F.R. § 41.50(f).

AFFIRMED