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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KEVIN FAVREAU, HOLLIS BAUGH,
and ROBERT ENZALDO

Appeal 2016-006054
Application 12/858,611
Technology Center 3600

Before HUNG H. BUI, ADAM J. PYONIN, and
KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

SZPONDOWSKI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–9, 11, 13–16, 18–27, 29, and 30, constituting all claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE CASE

Appellants' invention is directed to systems and methods for assessing fraud risk. Spec. ¶¶ 2, 3. Claim 1, reproduced below, is representative of the claimed subject matter:

> 1. A non-transitory computer-implemented method of assessing a fraud risk, the method comprising:
>
> receiving data associated with a plurality of customer complaints, wherein for each of the plurality of customer complaints:
>
> the data at least suggests that a money-transfer transaction between a first customer and a second customer did not complete as expected;
>
> the data is associated with first money-transfer agent and a second money-transfer agent who were responsible for facilitating the money-transfer transaction between the first customer and the second customer, wherein:
>
> the second money-transfer agent is different than the first money-transfer agent;
>
> the first money-transfer agent receives funds from the first customer;
>
> the second money-transfer agent disburses funds to the second customer; and
>
> the data is received after a third customer unsuccessfully attempts to receive funds from the money-transfer transaction which have already been paid to the second customer; electronically storing the data in a complaint database; and for at least one of the money-transfer agents:
>
> retrieving data associated with the money-transfer agent from the complaint database, and
>
> determining, based on the third customer unsucessfully attempting to receive funds, a fraud-risk index for the money-transfer agent based on the retrieved data, wherein the fraud-

risk index is indicative of a likelihood that the money-transfer agent is involved in fraudulent activity.

REJECTIONS

Claims 1–9, 11, 13–16, 18–27, 29, and 30 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to a judicial exception to statutory subject matter.

ANALYSIS

In *Alice Corp. Pty. Ltd. v. CLS Bank International*, 134 S. Ct. 2347 (2014), the Supreme Court reiterates an analytical two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 79 (2012), "for distinguishing 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. The first step in the analysis is to "determine whether the claims at issue are directed to one of those patent-ineligible concepts," such as an abstract idea. *Id.* If the claims are directed to a patent-ineligible concept, the second step in the analysis is to consider the elements of the claims "individually and 'as an ordered combination'" to determine whether there are additional elements that "'transform the nature of the claim' into a patent-eligible application." *Id.* (citing *Mayo*, 566 U.S. at 79, 78). In other words, the second step is to "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.'" *Id.* (citing *Mayo*, 566 U.S. at 72–73).

In rejecting independent claims 1, 13, and 30 and dependent claims 2–9, 11, 14–16, 18–27, and 29, the Examiner determines (1) the claims are directed to the abstract idea of determining fraud risk and that (2) the additional elements in the claim do not provide meaningful limitations to transform the abstract idea into a patent eligible application of the abstract idea such that the claims amount to significantly more than the abstract idea itself. Final Act. 2.

As to the first step of the *Alice* inquiry, Appellants argue "[t]he Office Action does not allege what type of abstract idea this is (i.e., fundamental economic practice), so for at least this reason Appellant believes the rejection to be inadequate." App. Br. 4.

Appellants' argument is not persuasive. The title of Appellants' Specification provides the invention is directed to "systems and methods for assessing fraud risk." The Specification further provides embodiments for "assessing a fraud risk" Spec. ¶¶ 3, 5, claims 1, 13, 20. Thus, we agree with the Examiner (*see* Ans. 4) that the claim is directed to the abstract idea of determining fraud risk, which is both a method of organizing human activity and a fundamental economic practice. Such activities are squarely within the realm of abstract ideas. Fraud risk assessment is a fundamental business practice long prevalent in our system of commerce, like the risk hedging in *Bilski* (*see Bilski v. Kappos*, 561 U.S. 593 (2010)), the intermediated settlement in *Alice* (*see Alice*, 134 S. Ct. at 2356–57), verifying credit card transactions in *CyberSource* (*see CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011)), collecting and analyzing information to detect and notify of misuses in *FairWarning* (*see FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir.

2016)), and guaranteeing transactions (*see buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1354 (Fed. Cir. 2014)). Assessing fraud risk is also a building block of a market economy. Thus, fraud risk detection, like risk hedging and intermediated settlement, is an "abstract idea" beyond the scope of § 101. *See Alice* 134 S. Ct. at 2356.

In the second step of the Alice inquiry, Appellants argue "[e]ach of the claims improves other technical fields beyond 'determining fraud risk' (the alleged abstract idea)." App. Br. 5. According to Appellants, "significantly more than just a mere 'determining fraud risk' is occurring in embodiments of the independent claims." *Id.* at 6. Specifically, Appellants assert agent tracking technology for money transfer entities and customer service technology is improved. *Id.* Appellants further argue "non-generic, machines/computers are necessary to implement the systems and methods of the claims." App. Br. 6. According to Appellants, "[o]ff-the-shelf generic computers are not capable of performing such functions, much less concurrently during an [sic] period of intense heavy transaction load as may be necessary in such industry." *Id.*

We are not persuaded by Appellants' arguments. Rather, we agree with the Examiner (Ans. 5) that Appellants are describing the same technical field as determining fraud risk, not a different technical field. The claims describe, *inter alia*, a "complaint database," a "complaint-receiving component," a "data-storing component," and a "risk processor." Although Appellants argue off-the-shelf generic computers are not capable of performing the functions in the claims, the Specification supports the view that these elements encompass what was generic and common in the field at the time of the invention. *E.g.*, Spec. ¶¶ 26 ("Transaction computer 204 may

include, for example, server computers, personal computers, workstations, web servers, and/or other suitable computing devices"), Spec. ¶ 27 ("Transaction database 205 may be a storage device that includes solid-state memory, such as RAM, ROM, PROM, and the like, magnetic memory, such as disc drives, tape storage, and the like, and/or optical memory, such as DVD"); Spec. ¶ 34 ("Risk processor 206 may be any microprocessor-based device capable of retrieving transaction information relating to money transfers conducted by a particular agent"); Spec. ¶ 42 ("risk processor 206 may be a single computer, such as a personal computer or a database server"); *see also* Spec. ¶¶ 26, 28, 29, 43, 44. Appellants have not directed our attention to anything in the record that shows specialized computer hardware is required, nor have Appellants shown how the claims are performed such that they are not routine, conventional functions of a generic computer. *See Alice*, 134 S. Ct. 2358 ("the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.")

Appellants further argue claims 1, 13, and 30 "include specific limitations other than what is well-understood, routine and conventional in the field, or add unconventional steps that confine the claim to a particular useful application" and "[t]he Office Action admits this implicitly because these claims do not stand rejected under § 102 or § 103." App. Br. 6.

We are not persuaded. Although the second step in the *Alice/Mayo* framework is termed a search for an "inventive concept," the analysis is not an evaluation of novelty or non-obviousness, but rather, a search for "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*, 134 S. Ct. at 2355. "The 'novelty' of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter." *Diamond v. Diehr*, 450 U.S. 175, 188-89 (1981). A novel and nonobvious claim directed to a purely abstract idea is, nonetheless, patent-ineligible. *See Mayo*, 132 S. Ct. at 1304. Appellants do not identify what specific limitations in the claims at issue are not well-understood, routine, and conventional in the field, or what unconventional steps have been added. The claims when viewed as whole are nothing more than performing conventional processing functions that courts have routinely found insignificant to transform an abstract idea into a patent-eligible invention. As such, the claims amount to nothing significantly more than an instruction to implement the abstract idea on a generic computer – which is not enough to transform an abstract idea into a patent-eligible invention. *See Alice*, 134 S. Ct. at 2360.

With respect to dependent claims 2–9, 11, 14–16, and 18–29, Appellants argue "the Office Action makes no effort to analyze these claims and state any grounds for why the recitations of these claims do not amount to significantly more than the alleged abstract idea." App. Br. 7.

Appellants present no discussion of the specific recitations of these claims, which merely include additional limitations pertaining to the data analyzing (claims 2–9, 11, 20–27, 29), as well as limitations adding generic computer components (claims 14, 15, 16, 18, 19). *See* App. Br. 7. Therefore, we are not persuaded of error in the Examiner's rejection of the dependent claims for the same reasons as set forth above.

Accordingly, we sustain the Examiner's 35 U.S.C. § 101 rejection of claims 1–9, 11, 13–16, 18–27, 29, and 30.

DECISION

We affirm the Examiner's 35 U.S.C. § 101 rejection of claims 1–9, 11, 13–16, 18–27, 29, and 30.

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