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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARTIN ROSJAT and STEFAN HESSE

Appeal 2016-007264¹
Application 13/719,845²
Technology Center 3600

Before BIBHU R. MOHANTY, BRADLEY B. BAYAT, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

FINAMORE, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ We make reference to the Specification (“Spec.,” filed Dec. 19, 2012), Appeal Brief (“App. Br.,” filed Nov. 30, 2015), and Reply Brief (“Reply Br.,” filed July 18, 2016), as well as the Examiner’s Answer (“Ans.,” mailed June 3, 2016) and Final Office Action (“Final Act.,” mailed June 2, 2015).

² According to the Appeal Brief, the real party in interest is SAP SE. App. Br. 4.

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant³ appeals from the Examiner's decision to reject claims 1–19. We have jurisdiction under § 6(b).

We AFFIRM.

SUBJECT MATTER ON APPEAL

The invention relates to “automatically monitoring occurrence and initiating actions in response to accidents in operations of an enterprise.” Spec., Abstract. Claims 1, 18, and 19 are the independent claims on appeal. Independent claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A computer-implemented method for automatically monitoring occurrence and initiating actions in response to accidents in operations of an enterprise, the method being executed using one or more processors and comprising:

receiving a plurality of vehicle data sets, each vehicle data set corresponding to a vehicle of a plurality of vehicles that support the operations of the enterprise and comprising at least one of explicit accident indications and implicit accident indications, the explicit accident indications comprising information provided by an operator of the vehicle and the implicit accident indications comprising information about a location of the vehicle during a stationary state of the vehicle and a duration of the stationary state;

receiving a first set of accident rules from a data repository;

processing, by the one or more processors, a first vehicle data set based on the first set of accident rules; and

³ We use the term “Appellant” herein to refer to any and all appellants collectively.

determining, by the one or more processors, that a first vehicle corresponding to the first data set was likely in an accident based on the at least one of explicit accident indications and implicit accident indications, and in response:

retrieving additional data from one or more of the first vehicle and a repository of the enterprise,

determining, based on the additional data, one or more remedial actions to be performed, at least one remedial action remediating a product supply interruption that would result from the accident,

identifying one or more entities, each entity performing at least one remedial action of the one or more remedial actions, and

transmitting a plurality of instruction data sets to the one or more entities, each entity of the one or more entities receiving at least one instruction data set.

REFERENCES

The Examiner relies on the following prior art in rejecting the claims on appeal:

Murata et al. (“Murata”)	US 5,487,516	Jan. 30, 1996
Burge	US 2002/0103622 A1	Aug. 1, 2002
Breed	US 2009/0043441 A1	Feb. 12, 2009
Wei et al. (“Wei”)	US 2009/0326991 A1	Dec. 31, 2009
Terlep	US 2011/0087505 A1	Apr. 14, 2011

REJECTIONS

The Examiner rejects the claims on appeal as follows:

claims 1–19 under 35 U.S.C. § 101 as non-statutory subject matter;

claims 1–7 and 9–19 under 35 U.S.C. § 103(a) as unpatentable over

Burge, Wei, Terlep, and Breed; and

claim 8 under 35 U.S.C. § 103(a) as unpatentable over Burge, Wei, Terlep, Breed, and Murata.

ANALYSIS

35 U.S.C. § 101

In *Alice Corp. Pty. Ltd. v. CLS Bank International*, 134 S. Ct. 2347 (2014), the Supreme Court identifies a two-step framework for determining whether claimed subject matter is judicially excepted from patent eligibility under 35 U.S.C. § 101. According to the first step of this analysis, “[w]e must first determine whether the claims at issue are directed to a patent-ineligible concept,” such as an abstract idea. *Alice*, 134 S. Ct. at 2355. If the claims are directed to an abstract idea, the second step includes determining whether the claims include 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.* at 2355 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1294 (2012)).

In rejecting the claims under 35 U.S.C. § 101, the Examiner applies this two-step framework. Final Act. 8–9. Pursuant to the first step, the Examiner determines the claims are directed to “the abstract idea of monitoring occurrence of accidents.” *Id.* at 8. Under the second step, the Examiner determines the claims do not recite significantly more than the abstract idea because they “require[] no more than a general purpose computer to perform generic computer functions that are well-understood in the art of vehicle management systems.” *Id.* at 9.

Appellant argues the claims are not directed to an abstract idea under the first step of the *Alice* analysis because they are “not directed to some fundamental truth or business practice that could have existed in the pre-Internet era.” App. Br. 13. Rather, according to Appellant, the claimed invention is “fundamentally rooted in computer technology.” *Id.* Appellant’s arguments do not apprise us of error.

In determining whether claims are directed to excluded subject matter, e.g., an abstract idea, under the first step of the *Alice* analysis, the Federal Circuit has explained that “the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether ‘their character as a whole is directed to excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). For computer-implemented inventions in particular, such as the present invention, “the first step in the *Alice* inquiry . . . asks whether the focus of the claims is on the specific asserted improvement in computer capabilities . . . or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Id.* at 1335–36.

Here, independent claim 1 recites a series of steps for: receiving accident indications from a plurality of vehicles that support the operations of an enterprise; receiving accident rules from a data repository; processing the accident rules to determine whether a given vehicle was likely in an accident based on the accident indications; and, in response, retrieving additional data, determining one or more remedial actions to remediate a product supply interruption resulting from the accident, identifying entities

to perform the remedial action, and transmitting instructions to entities. As such, the claimed steps result in determining remedial actions.

Independent claim 1 further recites computing components, such as one or more processors. However, the Specification does not describe any improvement to the computing components. Rather, the Specification explains that the invention relates to mitigating risks in the operation of an enterprise which utilizes vehicles. Spec. ¶ 1. According to the Specification, unanticipated events (e.g., vehicle accidents) caused by external factors outside of a company's control can lead to problems requiring immediate, short-term, and/or long-term remediation. *Id.* The Specification further explains that the claimed invention enables an enterprise to automatically identify the occurrence of an accident and initiate remedial actions, thereby "helping the enterprises to provide efficient supply transportation in safer conditions." *Id.* ¶ 66.

In light of the above, the claimed invention uses the recited computer components to perform a series of steps that enable remedial actions to be taken in response to an accident and thereby mitigate risk. The focus of the claimed invention, therefore, is not on an improvement in computer capabilities, but rather on a process that qualifies as an abstract idea, i.e., monitoring the occurrence of accidents to provide remedial actions to mitigate risk, for which the computer components are invoked merely as tools to implement the process.

Seeing no error in the Examiner's determination that the claims are directed to an abstract idea under the first step of the *Alice* analysis, we turn to Appellant's arguments under the second step. Appellant argues the claims recite significantly more than the abstract idea because the claimed

invention is rooted in computer technology. App. Br. 14–15. We find Appellant’s argument under the second step of *Alice* unpersuasive for essentially the same reasons we found it unpersuasive under the first step. Namely, the claimed invention being implemented in a computer environment does not, in and of itself, mean the claimed invention is rooted in computer technology. *Alice*, 134 S. Ct. at 2358 (“Given the ubiquity of computers, wholly generic computer implementation is not generally the sort of “additional featur[e]” that provides any ‘practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.’” (internal citation omitted) (quoting *Mayo*, 132 S. Ct. at 1297)).

Appellant also argues that the claims recite significantly more than the abstract idea because claimed invention is “directed to a problem that is unique to automatically monitoring occurrence and initiating actions in response to accidents in operations of an enterprise.” App. Br. 15. Appellant, however, does not explain what this problem is. Moreover, as set forth above, the Specification does not describe that the invention addresses a problem unique to automatically monitoring occurrences and initiating remedial actions. Rather, the Specification explains that the invention mitigates risk by providing remedial actions in response to determining an accident has occurred. Spec. ¶¶ 1, 66. Appellant, therefore, does not apprise us of error in the Examiner’s determination that the claims fail to recite significantly more than the abstract idea under the second step of the *Alice* analysis.

In view of the foregoing, Appellant does not apprise us of error in the Examiner’s determination that the claims are patent ineligible. We, therefore, sustain the Examiner’s rejection.

35 U.S.C. § 103(a)

In rejecting independent claim 1, the Examiner finds that Burge discloses the invention substantially as claimed, and relies on Wei, Terlep, and Breed for teaching certain limitations. Final Act. 10–28. In particular, the Examiner relies on Wei for teaching “determining, based on the additional data, one or more remedial actions to be performed, at least one remedial action remediating a product supply interruption that would result from the accident.” *Id.* at 18–19. The Examiner also finds Breed teaches “the explicit accident indications comprising information provided by an operator of the vehicle and the implicit accident indications comprising information about a location of the vehicle during a stationary state of the vehicle and a duration of the stationary state.” *Id.* at 24–28.

Appellant argues Wei’s teaching of “contacting the driver for explanation of the delay, and customer notification” cannot be considered “at least one remedial action remediating a product supply interruption that would result from the accident” as recited in independent claim 1. App. Br. 18 (citing Wei ¶¶ 54–55) (emphasis omitted). According to Appellant, “at least the cited portions of Wei are silent as to product supply.” *Id.* On the other hand, the Examiner determines that under the broadest reasonable interpretation, consistent with the specification, Wei can reasonably be said to “remediat[e] a product supply interruption” because: (i) the “product” being supplied in Wei is one or more working vehicles; (ii) the supply of that product can be “interrupted” when, e.g., one of the vehicles breaks down or is in an accident; and (iii) such an interruption can

be “remediated” by, e.g., sending another, nearby vehicle to the customer location. Ans. 43–44 (citing Wei ¶ 59). We agree with the Examiner.

Under the broadest reasonable interpretation standard, claim terms generally are given their ordinary and customary meaning, as understood by a person of ordinary skill in the art, in the context of the specification. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). If the specification does not assign or suggest a particular definition to a claim term, it is appropriate to consult a general dictionary definition of the word for guidance in determining the ordinary and customary meaning of the claim term as viewed by a person of ordinary skill in the art. *Comaper Corp. v. Antec, Inc.*, 596 F.3d 1343, 1348 (Fed. Cir. 2010).

Here, the Specification does provide or suggest a particular definition for “product.” The ordinary and customary meaning of “product” is “something produced” or “something (such as a service) that is marketed or sold as a commodity.” *Product*, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/product> (last visited July 10, 2018). Consequently, given its broadest reasonable interpretation consistent with the Specification, “product” includes Wei’s chauffeur service. Moreover, a vehicle in Wei becoming disabled would constitute a “product supply interruption,” where such interruption could be “remediated” by redirecting another, nearby vehicle to the location of the disabled one.

Appellant also argues Breed’s teaching of determining whether “a component is operating abnormally” could not be used as “information about a location of the vehicle during a stationary state of the vehicle and a duration of the stationary state,” as recited in independent claim 1. App. Br. 19 (citing Breed ¶ 807) (emphasis omitted). However, Appellant’s

argument is not persuasive because the Examiner is not relying solely on Breed's teaching of determining whether a component is operating abnormally to meet the limitation in question. Rather, the Examiner finds Breed teaches determining "information about a location of the vehicle during a stationary state" by virtue of Breed's use of "satellite-based or ground-based location determining techniques." Ans. 45 (citing Breed ¶ 807). Furthermore, the Examiner finds Breed teaches determining information about the "duration of the stationary state" by virtue of Breed's periodic evaluations of vehicles' operating status, which, if deemed "abnormal" for consecutive cycles, would cumulatively show how long a vehicle has been in the same location. *Id.* Consequently, the data collected by the various monitoring means of Breed teaches "information about a location of the vehicle during a stationary state of the vehicle and a duration of the stationary state," as recited in independent claim 1.

In view of the foregoing, Appellant does not apprise us of error in the Examiner's rejection of independent claim 1, and we sustain the Examiner's rejection. Appellant makes the same arguments for independent claims 18 and 19 (App. Br. 18–19), and we sustain the rejection of these claims for the same reasons as independent claim 1. Lastly, Appellant does not present any separate argument as to dependent claims 2–17, and we likewise sustain the Examiner's rejections of these claims.

DECISION

The Examiner's decision to reject claims 1–19 under 35 U.S.C. § 101 is affirmed.

Appeal 2016-007264
Application 13/719,845

The Examiner's decision to reject claims 1–19 under 35 U.S.C. § 103(a) 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). 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED