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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* MELVIN LEW, SYED HUSAIN,  
PERRY FOTINATOS, and JOHN WOSCHINKO

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Appeal 2016-007788  
Application 11/853,576  
Technology Center 3600

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Before HUNG H. BUI, JOSEPH P. LENTIVECH, and  
AARON W. MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1, 7, 10, 18, 19, and 25–29, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

## THE INVENTION

The application is directed to “[r]econciling corresponding data reported by multiple data sources and pertaining to hardware, software, and telecommunications assets distributed throughout an organization.”

(Abstract.) Claim 1, reproduced below, exemplifies the subject matter on appeal:

1. A processor-implemented method for reconciling data within a global inventory warehouse that maintains a global inventory of all or substantially all of hardware, software, and telecommunications assets distributed throughout an organization, comprising:

receiving data from the global inventory warehouse and maintained by a first data source considered an authoritative data source, the data pertaining to a portion of the hardware, software, and telecommunications assets distributed throughout the organization;

receiving second data from the global inventory warehouse and maintained by a second data source, the second data pertaining to the portion of the hardware, software, and telecommunications assets distributed throughout the organization;

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<sup>1</sup> Appellants identify Goldman, Sachs & Co. as the real party in interest. (See App. Br. 2.)

comparing, via a processor, the first data maintained by the first data source to the second data maintained by the second data source effective to determine at least one difference between the first data maintained by the first data source and the second data maintained by the second data source;

automatically reconciling the first data source and the second data source by altering the second data in the second data source to match the first data in the first data source considered the authoritative data source;

generating exception data in response to the determined at least one difference between the first data maintained by the first data source and the second data maintained by the second data source;

assigning at least one importance level to the generated exception data, the importance level reflecting a priority of the generated exception data relative to other exceptions; and

varying the at least one importance level, based at least in part, upon dynamically changing conditions of the generated exception data.

## THE REJECTIONS

1. Claims 1, 7, 10, 18, 19, and 25–29 stand rejected under 35 U.S.C. § 101 because “[t]he claimed invention is directed to non-statutory subject matter because the claims as a whole, considering all claim elements both individually and in combination, do not amount to significantly more than an abstract idea.” (*See* Final Act. 2–4.)

2. Claims 1, 7, 10, 18, 19, and 25–29 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Apte et al. (US 2009/0019089 A1; published Jan. 15, 2009) in view of Official Notice. (*See* Final Act. 5–8.)

## ANALYSIS

### *Section 101*

The Examiner finds “the claims are directed to the abstract idea of reconciling inventory, which is an example of a fundamental economic practice.” (Final Act. 3.) The Examiner further finds “[t]he additional elements or combination of elements . . . amount to no more than: (i) mere instructions to implement the idea on a computer, and/or (ii) recitation of generic computer structure that serves to perform generic computer functions that are well-understood, routine, and conventional activities previously known” and that, accordingly, “[v]iewed as a whole, these additional claim elements do not provide meaningful limitations to transform the abstract idea into a patent eligible application of the abstract idea.” (*Id.*)

Regarding the “abstract idea” portion of the *Mayo/Alice* analysis, Appellants argue that “[w]hile Claim 1 *relates* to reconciling inventory, Claim 1 does not *claim* the mere concept of reconciling inventory,” as the claim “recites a specific implementation that performs specific operations using specific data related to specific hardware, software, and telecommunications assets in an organization,” operations that “represent more than just an abstract idea.” (App. Br. 11.) We are not persuaded. Claim 1, for example, is directed a method that (a) receives data from an authoritative data source; (b) receives data from a second data source; (c) compares the data; (d) alters the data from the second source to match the authoritative source; (e) generates exception data; (f) assigns an importance level to the exception data; and (f) varies the importance level based upon dynamically changing conditions (e.g., the age) of the exception data. Receiving, comparing, and generating data are abstract ideas. *See, e.g.,*

*Elec. Power Grp. v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (claims directed to collection, manipulation, and display of data); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015) (customizing information and presenting it to users based on particular characteristics); *Content Extraction and Transmission LLC v. Wells Fargo Bank, National Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (“collecting data, . . . recognizing certain data within the collected data set, and . . . storing that recognized data in a memory”). That these claims are directed to an abstract idea is confirmed by the fact that the claimed system of identifying errors in inventory and assigning levels of importance to the errors is of the type that could be performed manually. *See CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1373 (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.”).

Regarding the “inventive step” portion of the *Mayo/Alice* analysis, Appellants argue that “[w]hen looking at the limitations of Claim 1 as an ordered combination, it is clear that Claim 1 as a whole amounts to significantly more than any alleged abstract idea,” that “Claim 1 meaningfully limits the claimed invention in various ways,” and that “[t]he elements of Claim 1 are significantly more than simply routine or fundamental functions.” (App. Br. 15.) We do not agree. Individually, the elements are nothing more than conventional steps of receiving, comparing, and altering data, and the ordered combination is simply a computerized system in which those conventional steps implement the abstract idea. Claims such as these, which recite a business process executed on a conventional computer for speed or convenience, are not eligible for

patenting under current law. *See, e.g., Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015) (“[M]erely adding computer functionality to increase the speed or efficiency of the process does not confer patent eligibility on an otherwise abstract idea.”).

Appellants separately argue claim 10, which adds to claim 1 “altering or implementing a workflow process to avoid exceptions of a same type as the generated exception.” (App. Br. 17–18.) We find that “altering or implementing a workflow process” is simply another abstract idea that is insufficient to impart patent eligibility.

Because we agree that Appellants claim an “abstract idea” and that abstract idea is not saved by an “inventive concept,” we sustain the rejection of claims 1, 7, 10, 18, 19, and 25–29 under 35 U.S.C. § 101.

***Section 103: Claims 1, 18, and 26-29***

Regarding claim 1, Appellants assert that “[n]othing in [paragraph 76] of Apte discloses or suggests assigning at least one importance level to generated exception data, where the importance level reflects a priority of the generated exception data relative to other exceptions” and that “[a] system that merely allows a user to focus on important discrepancies does not disclose or suggest anything about a system that actually determines which discrepancies are the most important.” (App. Br. 20.)

The Examiner responds that the subject limitation “is interpreted as some exceptions being more important than others, [and] does not require a system performing a step of ‘determining’ which discrepancies are most important.” (Ans. 9.) The Examiner further finds that “[g]iven the overall system disclosed by Apte, a person having ordinary skill in the art at the time of the invention would conclude that the disclosure of [0076] of

allowing a user to focus on those discrepancies that are most important, is equivalent to the claimed limitation,” and that “[s]pecifically, a user would not be able to focus on discrepancies that are the most important (i.e., discrepancies with a priority level relative to other discrepancies) if these discrepancies were not identified or assigned as most important.” (Ans. 10.)

We agree with the Examiner. Apte describes segregating discrepancies into those that “may need to be reviewed” and “others [that] can be easily corrected without human intervention,” which we find sufficient to teach “assigning at least one importance level to the generated exception data, the importance level reflecting a priority of the generated exception data relative to other exceptions.” The exceptions that need to be reviewed are a higher “priority” than those that do not need to be reviewed.

Appellants also argue with respect to claim 1 that the Examiner improperly relies on Official Notice for the concept of varying the importance level based on dynamically changing conditions of the generated exception data. (App. Br. 21–22.) Specifically, Appellants assert that the Examiner “provides no supporting documentation to support the assertion that these features are ‘old and well known,’” that “[n]one of the prior art references of record discloses or suggests these features” and that “these features are not ‘capable of instant and unquestionable demonstration as being well known.’” (App. Br. 21, citing MPEP § 2144.03.) We do not agree. As described in the Specification, the claimed feature corresponds to increasing the importance level according to age. (*See Spec.* ¶ 127.) We agree with the Examiner that prioritizing older items, such as the “help desk” tickets identified by the Examiner, is well known. Appellants’ focus on the specific help desk context of the Examiner’s example is too narrow; the



Examiner's point, which is well taken, is that the more general concept of prioritizing older items over newer items is common.

Because we find Appellants' arguments unpersuasive, we sustain the Section 103 rejections of claims 1 and 18 and, because claims 10 and 25–29 are not argued separately, we sustain those Section 103 rejections as well.

***Section 103: Claims 7 and 25***

Claim 7 recites that “the global inventory warehouse is configured to grade the first data or the second data, the grade being based, at least in part, on whether the first data or the second data has been reconciled or whether the first data or the second data has been deemed authoritative.” Claim 25 is similar.

The Examiner cites Apte's “Figure 7, wherein a symbol to the left of ‘IND01’ is shown, indicating that, similar to [Appellants'] Specification, data has been received from an authoritative source and has not yet been reconciled.” (Ans. 12.) Appellants argue “Figure 7 merely shows that Discovery location code ‘IND01’ and ARM location code ‘LOC1100051’ differ from each other and that, based on a rule, the ARM location code will be updated with the Discovery location code.” (Reply Br. 14.) Appellants further argue “the ‘!’ symbol shown in Figure 7 next to the ‘IND01’ is not a grade of either the Discovery location code ‘IND01’ or the ARM location code ‘LOC1100051,’” but instead “is merely a warning symbol that is associated with the condition that the ARM location code and the Discovery location code differ in value.” (*Id.*)

We agree with the Examiner. Paragraph 52 of Apte describes Figure 7, explaining that it shows a “sample exception listing which lists the attributes as stored in the asset repository compared to how they exist in the

discovery data.” We see no reason why identifying the data as unreconciled does not constitute “grading” it “based, at least in part, on whether [it] has been reconciled.” Appellants do not offer a construction of “grade” that would avoid what is described and shown in Apte.

The Section 103 rejections of claims 7 and 25 are sustained.

***Section 103: Claim 10***

Claim 10 depends from claim 1, and adds “altering or implementing a workflow process to avoid exceptions of a same type as the generated exception.”

The Examiner cites paragraph 55 of Apte and further states that “the limitation ‘to avoid exceptions of a same type as the generated exception’ is regarded as intended use language.” (Ans. 13.)

We do not agree that “to avoid exceptions of a same type as the generated exception” is a non-limiting “intended use.” Instead, it is functional language defining the workflow that is altered or amended as one that prevents exceptions from occurring. (*See, e.g.*, Spec. ¶ 131.) Giving meaning to that claim language, we do not agree with the Examiner that the claimed subject matter is taught or suggested in Apte. Paragraph 55 describes rules for handling exceptions that arise (“the user can specify actions to take place for an exception”) but not rules or workflows for avoiding exceptions in the first place. For this reason, we decline to sustain the Section 103 rejection of claim 10.

***Section 103: Claim 19***

Claim 18 is directed to a system for reconciling data collected by a first data source and corresponding data collected by a second data source. Claim 19 adds that “the first data source comprises a discovery tool to

automatically scan Internet Protocol (IP) addresses to identify each of the multiple hardware assets within the organization” and “the second data source comprises a software agent to identify each of the multiple hardware assets within the organization.” The Examiner finds this subject matter to be “intended use.” (*See* Final Act. 7–8.) We do not agree that the discovery tool and software agent are intended uses. Beyond that, the Examiner cites paragraphs 44, 64, and 72 of Apte. (*Id.*) Paragraph 44 simply explains that the asset information may include network addresses. Paragraph 64 describes how automatic reconciliation may be restricted, for example when the IP address of the asset falls within a particular range. Paragraph 72 relates to an optional rule called “Asset Retirements: serial ID not in discovery,” which “applies to those assets that are in the asset repository but have not been discovered.” Because the Examiner fails to explain how these passages teach or suggest the claimed discovery tool and software agent, we decline to sustain the Section 103 rejection of claim 19.

DECISION

The rejection of claims 1, 7, 10, 18, 19, and 25–29 under 35 U.S.C. § 101 is affirmed.

The rejection of claims 1, 7, 18, and 25–29 under 35 U.S.C. § 103 is affirmed.

The rejection of claims 10 and 19 under 35 U.S.C. § 103 is reversed.

Since at least one rejection encompassing all claims on appeal is affirmed, the decision of the Examiner 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)(1)(iv).

AFFIRMED