



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/356,329	01/23/2012	Bernie Apshago	20111294-US-NP/4244-01200	6805
144995	7590	11/14/2017	EXAMINER	
Conduent c/o Conley Rose, P.C. 5601 Granite Parkway Suite 500 Plano, TX 75024			PAULS, JOHN A	
			ART UNIT	PAPER NUMBER
			3626	
			MAIL DATE	DELIVERY MODE
			11/14/2017	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BERNIE APSHAGO,
LUCAS COCKERHAM, and THOMAS FRYAR

Appeal 2016-008186
Application 13/356,329
Technology Center 3600

Before HUNG H. BUI, JOYCE CRAIG, and
AARON W. MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants¹ appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1, 3–6, 8, 10–15, and 19–23, 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 “a provider data management and routing system.” (Spec. ¶ 6.) Claim 1, reproduced below, exemplifies the subject matter on appeal:

1. A provider data management and routing system comprising:

a communications interface configured to receive healthcare provider data from a plurality of healthcare providers and to receive third party data from a plurality of third parties, wherein the plurality of healthcare providers comprises individuals that provide healthcare services and organizations that provide healthcare services, wherein the plurality of third parties comprises vendors of healthcare products, vendors of medical products, and data management systems for a healthcare industry, and wherein the third party data comprises a name, an address, an electronic mail address, a phone number, a facsimile number, a social security number, a federal tax identifier, an employer identifier, and information about registered patients of payers; and

a hardware processor coupled to the communications interface and configured to:

convert a format of the healthcare provider data and the third party data to generate a first transactional packet;

apply local rules and global rules to the healthcare provider data and the third party data in the first transactional

¹ Appellants identify Xerox Business Services, LLC as the real party in interest. (*See* App. Br. 3.)

packet to consolidate the healthcare provider data and the third party data for a plurality of payers according to the local rules and the global rules associated with the plurality of payers, wherein the local rules comprise different requirements for different payers, wherein the local rules indicate a correct format for data in the first transactional packet, whether any errors are present in the first transactional packet, whether any missing information is needed for the first transactional packet, and what actions are to be performed on the first transactional packet, wherein the global rules comprise common requirements for the different payers, wherein the global rules are based on a common type of the different payers, wherein a first set of the global rules is based on whether the different payers are public payers or private payers, wherein a second set of the global rules is based on a common size of the different payers, wherein a third set of the global rules is based on whether there is a match between a provider's zip code and a provider's city on record, wherein the local rules override the global rules in consolidating the healthcare provider data when the local rules conflict with the global rules, wherein the local rules comprise a first local rule associated with a first payer and a second local rule associated with a second payer, wherein the first local rule and the second local rule require different information to complete a same action, wherein application of the first local rule and the second local rule triggers a workflow to perform a consolidated outreach, wherein the consolidated outreach is sent to one of the plurality of healthcare providers and requests that the one of the plurality of healthcare providers provide the information required by both the first local rule and the second local rule, wherein the workflow waits for a returned communication from the one of the plurality of healthcare providers, updates a local database with the returned communication once the returned communication is received from the one of the plurality of healthcare providers, and sends the returned communication to the first payer and the second payer, wherein the workflow with the consolidated outreach is repeated for additional multiple ones of the different payers, wherein the local rules and

the global rules trigger workflow actions, wherein the workflow actions comprise an electronic mail action, a facsimile action, a mail action, a call center action, a website action, and a client action, wherein the electronic mail action comprises sending an electronic mail to the one of the plurality of healthcare providers, wherein the facsimile action comprises sending a facsimile to the one of the plurality of healthcare providers, wherein the mail action comprises sending mail to the one of the plurality of healthcare providers, wherein the call center action comprises sending a pre-recorded call to the one of the plurality of healthcare providers, wherein the website action comprises requesting information from a website of the one of the plurality of healthcare providers, and wherein the client action comprises sending a response acknowledging receiving information from the one of the plurality of healthcare providers;

convert a format of the consolidated healthcare provider data and the consolidated third party data to generate a second transactional packet in a second format, wherein the second format is specified by at least one of the local rules and the global rules, wherein the second format is based at least in part on a communications technology used to send the second transactional packet to the different payers, wherein the second transactional packet is in an Ethernet format when the communications technology used to send the second transactional packet is Ethernet, and wherein the second transactional packet is in an Internet Protocol (IP) format when the communications technology used to send the second transactional packet is IP;

route the second transactional packet in the second format to the different payers; and

store the consolidated healthcare provider data and the consolidated third party data to a common log using a unified tracking scheme, wherein the common log is configured to store data changes associated with the consolidated healthcare provider data and the consolidated third party data and to provide the data changes to the different payers.

THE REJECTION²

Claims 1, 3–6, 8, 10–15, and 19–23 stand rejected under 35 U.S.C. § 101 “because the claimed invention is directed to a judicial exception (i.e. a law of nature, a natural phenomenon, or an abstract idea) without significantly more.” (*See* Final Act. 2–3.)

ANALYSIS

The Examiner finds the claims directed to the abstract idea of “data routing according to rules (i.e. using rules to identify options or using categories to organize, store and transmit information).” (Final Act. 2, emphasis omitted.) The Examiner further finds

[t]he claims do not include additional elements that are sufficient to amount to significantly more than the judicial exception because the additional elements or combination of elements in the claims other than the abstract idea per se amount to no more than recitation of A) generic computer structure that serves to perform generic computer functions that serve to merely link the abstract idea to a particular technological environment (i.e. a hardware processor, communications network) and B) functions that are well-understood, routine, and conventional activities previously known to the pertinent industry (i.e. receiving, converting, consolidating and routing data).

(*Id.* at 3, emphasis omitted.)

² Rejections of claims 1, 3–6, 8, 10–15, and 19–23 under 35 U.S.C. § 112, second paragraph, and claims 1, 3–6, 8, 10–15, 19, and 20 under 35 U.S.C. § 103(a) were overcome by an amendment after final. (*See* December 4, 2015 Advisory Action.)

Appellants argue the Examiner’s findings and conclusion of ineligibility are in error for four reasons, which we address in the order presented.

First, Appellants argue the claims are not directed to an abstract idea because they “are rooted in computer technology to overcome a problem specifically arising in the realm of computer networks” in that

(1) local rules and global rules trigger workflow actions, wherein the workflow actions comprise an electronic mail action, a facsimile action, a mail action, a call center action, a website action, and a client action; and (2) a second format is based at least in part on a communications technology . . . wherein the second transactional packet is in an Ethernet format when the communications technology used to send the second transactional packet is Ethernet, and . . . is in an Internet Protocol (IP) format when the communications technology used to send the second transactional packet is IP.

(App. Br. 16–17.)

Regarding the use of rules, the Federal Circuit in *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016), held claims directed to use of rules patent-eligible as not directed to an abstract idea. However, the rule-based method in that case “allow[ed] computers to produce ‘accurate and realistic lip synchronization and facial expressions in animated characters’ that previously could only be produced by human animators” providing “an improved technological result in conventional industry practice.” *Id.* at 1313, 1316. We do not find in Appellants’ claims an “improved *technological* result.” Instead, we find Appellants’ rules to simply define how data is manipulated and transmitted and, accordingly, insufficient to make the claims not abstract. *See, e.g., Accenture Global Services, GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1345 (Fed. Cir.

2013) (holding ineligible claims directed to “a database of tasks, a means to allow a client to access those tasks, and a set of rules that are applied to that task on a given event”); *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”).

Regarding the “workflow actions,” recitations of conventional technologies (e.g., e-mail, Ethernet) arranged or used in an ordinary way are not sufficient to make a claim not abstract. *See, e.g., Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (rejecting the patent owner’s attempt “to distinguish its claims from those found to be abstract in *Alice* and other cases by showing that its claims require not only a computer but also an additional machine—a scanner”).

Second, Appellants argue the claims “include[] significantly more than an abstract idea itself” because they

recite that global rules comprise common requirements for different payers, wherein a first set of the global rules is based on whether the different payers are public payers or private payers, wherein a second set of the global rules is based on a common size of the different payers, and wherein a third set of the global rules is based on whether there is a match between a provider’s zip code and a provider’s city on record.

(App. Br. 19–20.) We do not agree, as claim recitations regarding the manipulation of data, including by application of rules, are insufficient to confer patent eligibility. *See, e.g., Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1350–51 (Fed. Cir. 2014) (finding ineligible a

claim that “recites a process of taking two data sets and combining them into a single data set”); *Accenture*, 728 F.3d at 1345.

Third, Appellants contend the claims “are also directed to significantly more than an abstract idea itself” because they “improve an existing technological process,” namely a provider data management and routing process.” (App. Br. 22.) We do not agree that these claims are directed to an improvement to a “technological process”; instead, we find they are directed to a business process that uses a conventional computer for speed or convenience, which is insufficient, because “merely adding computer functionality to increase the speed or efficiency . . . does not confer patent eligibility on an otherwise abstract idea.” *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015); *see also LendingTree, LLC v. Zillow, Inc.*, 656 F. App’x 991, 997 (Fed. Cir. 2016) (holding ineligible claims to a computerized method of speeding up a loan-application process).

Finally, Appellants argue the claims “do not seek to pre-empt or tie-up the alleged abstract idea” and instead “add specific additional features to the abstract idea to prevent all uses of the abstract idea from being tied-up by the claims.” (App. Br. 26.) This is not a persuasive argument because, although “preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015). “Where a patent’s claims are deemed only to disclose patent ineligible subject matter” under the *Alice/Mayo* framework, “preemption concerns are fully addressed and made moot.” *Id.*

Appeal 2016-008186
Application 13/356,329

Because we find Appellants' arguments unpersuasive, we sustain the rejection of claims 1, 3–6, 8, 10–15, and 19–23 under 35 U.S.C. § 101.

DECISION

The rejection of claims 1, 3–6, 8, 10–15, and 19–23 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