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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RICHARD SHARPE, DON NAUMANN, TAMMY ROWDEN,
LYNNE GOLDSMAN, JOYCE QUINET,
BETH URBAN HART, and VINOD BINYALA

Appeal 2016-008517
Application 13/630,842¹
Technology Center 3600

Before JOSEPH A. FISCHETTI, CYNTHIA L. MURPHY, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1, 5, 8–11, 15, and 18–30. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF DECISION

We AFFIRM.

¹ Appellants identify Competitive Insights LLC as the real party in interest. Appeal Br. 1.

THE INVENTION

Appellants' claims are directed to a method for providing a supply chain performance management tool [which] may include profiling a supply chain by obtaining data indicative of stock keeping unit level activity associated with flows of items between entities within the supply chain of an organization, cleansing, via processing circuitry, the obtained data based on reconciliation of input from each functional category of entities within the supply chain, and providing performance results based on the cleansed data.

(Abstract.)

Claim 1 reproduced below, is representative of the subject matter on appeal.

1. A method for providing a supply chain performance management tool comprising:
 - providing a supply chain profile responsive to obtaining data indicative of stock keeping unit level activity associated with flows of items between entities within the supply chain of an organization;
 - cleansing, via processing circuitry, the obtained data based on reconciliation of input from each functional category of entities within the supply chain;
 - providing performance results based on the cleansed data; and
 - generating a visual functional representation of each of the entities and corresponding flows between respective ones of the entities generated on a graphical display based on the supply chain profile,
 - wherein cleansing the data comprises providing the obtained data to a cross functional team of individuals associated with each respective different functional category of entities to receive input from the cross functional team to validate the obtained data such that the obtained data represents data confirmed as accurate by the cross functional team,
 - wherein cleansing the data comprises reconciling terminology differences between each entity by having each

entity confirm that consistent terminology is employed in the cleansed data, and

wherein the visual functional representation is displayed on a user terminal and wherein links associated with each of the corresponding flows are also displayed on the user terminal, the links being selectable by a user to display detailed transactional data associated with a selected link, the detailed transactional data including cost and volume information at the stock keeping unit level.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Casey	US 2005/0021425 A1	Jan. 27, 2005
Oberoi	US 2006/0235771 A1	Oct. 19, 2006

Section B – Guideline for Cleansing and Validation of Legacy Data, NSW HEALTH 81–96 (2003) (“NSW Health”).

The following rejections are before us for review:

Claims 1, 5, 8–11, 15, and 18–30 are 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.

Claims 1, 5, 8–11, 15, and 18–30² are rejected under 35 U.S.C. § 103(a) as being unpatentable over Oberoi in view of NSW Health, and further in view of Casey.

² Appellants added dependent claims 21–30 by amendment dated June 3, 2015.

ANALYSIS

35 U.S.C. § 103(a) Rejection

Each of independent claims 1 and 11 recites, in pertinent part, wherein the visual functional representation is displayed on a user terminal and wherein *links associated with each of the corresponding flows* are also displayed on the user terminal, the links being selectable by a user to display detailed transactional data associated with a selected link, the detailed transactional data including cost and volume information at the stock keeping unit level.

The Examiner finds that Casey discloses this feature finding, “(paragraphs 0032-0035; 0044-0048 – visualization of the flows on a graphical display allows user to click to view detailed order information and the full supply chain; includes pricing, quantity, etc[.]).” (Final Act. 7.)

Appellants argue:

In particular, the table 122 that appears by clicking on the portion of the In Transit Ocean Display 140 sorts *all* order or shipment information associated with *each hub* in the depicted supply chain, as shown in FIG. 1. In fact, there appears to be no way to for [sic] the user to view, for example, only individual ones of those orders that are going to hub 108. Instead, when the user selects the In Transit Ocean Display 140, the user sees order information associated with both hubs 108 and 110.

(Appeal Br. 7.)

We agree with Appellants. Our review of Casey, and particularly at Figure 1, reveals that Casey discloses a hub-based system wherein, the claim requires “*links associated with each of the corresponding flows* are also displayed on the user terminal, the links being selectable by a user to display detailed transactional data associated with a selected link” (emphasis added). We construe this language to mean that each link has a dedicated corresponding flow associated with it. But, according to Casey,

the table display associated with either of Hub 1 tank 108 and Hub 2 tank 110 reports hub open order quantity value, each order number, the order quantity, the quantity issued to date, the remaining open quantity, and the date on which the last quantity was issued.

(Casey ¶ 48.) Thus, the table display 122 in Casey, which corresponds to the claimed “detailed transactional data associated with a selected ‘link”, is a table associated with all flows (“L41114 and L1158” (Casey ¶ 47)) flowing through a single hub, and is not one of “links *associated with each of the corresponding flows*” (emphasis added). That is, each of Casey’s hubs is not associated with a (singular) dedicated corresponding flow. The Examiner does not explain nor is it apparent how one of ordinary skill in the art would have understood this to be an obvious difference.

Since claims 5, 8–10, 15, and 18–30 depend from claims 1 and 11, respectively, the rejection of claims 5, 8–10, 15, and 18–30 cannot be sustained.

35 U.S.C. § 101 REJECTION

We will sustain the rejection of claims 1, 5, 8–11, 15, and 18–30 under 35 U.S.C. § 101.

The Supreme Court

set forth a framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts. First, . . . determine whether the claims at issue are directed to one of those patent-ineligible concepts. . . . If so, we then ask, “[w]hat else is there in the claims before us?” To answer that question, . . . consider the elements of each claim both individually and “as an ordered combination” to determine whether the additional elements “transform the nature of the claim” into a

patent-eligible application. . . . [The Court] described step two of this analysis as a 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.”

Alice Corp. Pty. Ltd. v CLS Bank Int’l, 134 S. Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72–73 (2012)).

To perform this test, we must first determine whether the claims at issue are directed to a patent-ineligible concept.

Although the Court in *Alice* made a direct finding as to what the claims were directed to, we find that this case’s claims themselves and the Specification provide enough information to inform one as to what they are directed to.

The preamble states it is for providing a supply chain performance management tool. The steps in claim 1 result in:

the visual functional representation is displayed on a user terminal and wherein links associated with each of the corresponding flows are also displayed on the user terminal, the links being selectable by a user to display detailed transactional data associated with a selected link, the detailed transactional data including cost and volume information at the stock keeping unit level.

The Specification further states, “cleansed and/or universally accepted data may be used to provide visibility of supply chain data at the SKU level based on all transactional level information from all parts of the supply chain operation and from all systems used in performing those transactions.”

(Spec. ¶ 6.) The Specification also describes to

provide a visual representation of supply chain processes based on functional analytics. In some cases, the visual representation may be tied to at least some of the cleansed data so that the cleansed data, or other information derived therefrom, may be accessed directly from links provided in the visual representation.

(Spec. ¶ 6.) The Specification describes cleansing, in the context of,

profiling a supply chain by obtaining data indicative of stock keeping unit level activity associated with flows of items between entities within the supply chain of an organization, cleansing, via processing circuitry, the obtained data based on reconciliation of input from each functional category of entities within the supply chain, and providing performance results based on the cleansed data.

(Spec. ¶ 7.) Thus, all this shows that claim 1 is directed to linking reconciled data to a corresponding flow of items between entities within the supply chain of an organization. It follows from prior Supreme Court cases, and *Gottschalk v. Benson*, 409 U.S. 63 (1972) in particular, that the claims at issue here are directed to an abstract idea. Linking reconciled data to a corresponding flow of items between entities within the supply chain of an organization is a fundamental economic practice of a transaction because supply chain management is “focused on managing operational costs and enhancing customer service.” (Spec. ¶ 3.) The patent-ineligible end of the 35 U.S.C. § 101 spectrum includes fundamental economic practices. *See Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2355–57.

Also, we find the steps of: cleansing data, providing performance results, generating visual functional results, constitute “analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category.” *Electric Power Grp., LLC v. Alstom S.A.*, 830 F.3d

1350, 1354 (Fed. Cir. 2016); *see also buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014) (claims directed to certain arrangements involving contractual relations are directed to abstract ideas). Thus, linking reconciled data to a corresponding flow of items between entities within the supply chain of an organization is an “abstract idea” beyond the scope of § 101.

As in *Alice Corp. Pty. Ltd.*, we need not labor to delimit the precise contours of the “abstract ideas” category in this case. It is enough to recognize that there is no meaningful distinction in the level of abstraction between the concept of an intermediated settlement in *Alice* and the concept of linking reconciled data to a corresponding flow of items between entities within the supply chain of an organization, at issue here. Both are squarely within the realm of “abstract ideas” as the Court has used that term. That the claims do not preempt all forms of the abstraction or may be limited to a supply chain, does not make them any less abstract. *See OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1360–61 (Fed. Cir. 2015).

The introduction of a computer into the claims does not alter the analysis at *Mayo* step two.

[T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. Stating an abstract idea “while adding the words ‘apply it’” is not enough for patent eligibility. Nor is limiting the use of an abstract idea “to a particular technological environment.” Stating an abstract idea while adding the words “apply it with a computer” simply combines those two steps, with the same deficient result. Thus, if a patent’s recitation of a computer amounts to a mere instruction to “implement[t]” an abstract idea “on . . . a computer,” that addition cannot impart patent eligibility. This conclusion accords with the pre-emption concern that undergirds our § 101 jurisprudence. 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.”

Alice Corp. Pty. Ltd., 134 S. Ct. at 2358 (alterations in original) (citations omitted).

“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea . . . on a generic computer.” *Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2359. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer to take in data, compute a result, and return the result to a user amounts to electronic data query and retrieval—some of the most basic functions of a computer. All of these computer functions are well-understood, routine, conventional activities previously known to the industry. In short, each step does no more than require a generic computer to perform generic computer functions.

Considered as an ordered combination, the computer components of Appellants’ method add nothing that is not already present when the steps are considered separately. Viewed as a whole, Appellants’ claims simply recite the concept of linking reconciled data to a corresponding flow of items between entities within the supply chain of an organization. The claims do not, for example, purport to improve the functioning of the computer itself. Nor do they effect an improvement in any other technology or technical field. Instead, the claims at issue amount to nothing significantly more than instructions to link reconciled data to a corresponding flow of items between entities within the supply chain of an organization. Under our precedents,

that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2360.

As to the structural claims, they are no different from the method claims in substance. The method claims recite the abstract idea implemented on a generic computer; the system claims recite a handful of generic computer components configured to implement the same idea. This Court has long “warn[ed] . . . against” interpreting § 101 “in ways that make patent eligibility ‘depend simply on the draftsman’s art.’”

Alice Corp. Pty. Ltd., 134 S. Ct. at 2360 (alterations in original).

We have reviewed all the arguments (Appeal Br. 10–15) Appellants have submitted concerning the patent eligibility of the claims before us which stand rejected under 35 U.S.C. § 101. We find that our analysis above substantially covers the substance of all the arguments which have been made. But, for purposes of completeness, we will address various arguments in order to make individual rebuttals of same.

Appellants argue, claims 1 and 11 further provide for **generating a visual functional representation of each of the entities and corresponding flows between respective ones of the entities generated on a graphical display based on the supply chain profile.** Moreover, as indicated thereafter, **the flows are visually represented by links on a graphical display. These links are further selectable to display detailed transactional data associated with a selected link, the detailed transactional data including cost and volume information at the stock keeping unit level.**

(Appeal Br. 11–12; *see also* Appeal Br. 15.)

We disagree with Appellants. The question here resides in the second step of the patent-eligibility analysis and is whether the computer

implementation of the process steps involves “more than performance of ‘well-understood, routine, [and] conventional activities previously known to the industry.’” *Content Extraction and Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1347–48 (Fed. Cir. 2014) (quoting *Alice*, 134 S. Ct. at 2359). Here, we refer to the Specification at paragraphs 48–53 in which the Specification only generically repeatedly states utilizing, “any means such as a device or circuitry operating in accordance with software or otherwise embodied in hardware or a combination of hardware and software.” (*See, e.g.*, Spec. ¶ 53.)

That the claims recite

visual functional representation is displayed on a user terminal and wherein links associated with each of the corresponding flows are also displayed on the user terminal, the links being selectable by a user to display detailed transactional data associated with a selected link, the detailed transactional data including cost and volume information at the stock keeping unit level,

does not make them patent eligible because they do not recite any specific means constituting an improvement in the technical field or technology of computing systems. *See McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016).

Significantly, the claims do not provide details as to any non-conventional software for enhancing the financial/business process. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017) (explaining that “[o]ur law demands more” than claim language that “provides only a result-oriented solution, with insufficient detail for how a computer accomplishes it”); *Elec. Power Grp.*, 830 F.3d at 1354 (explaining that claims are directed to an abstract idea where they do

not recite “any particular assertedly inventive technology for performing [conventional] functions”).

Appellants further argue:

For example, as recited in the claims at issue, associating data with the flow links allows the flow links to be selectable by a user to retrieve specific data associated with one particular flow link in a plurality of flow links. The particular flow link may indicate information about the corresponding data at the stock keeping unit (SKU) level or enable the user to drill down to the SKU level. Therefore, the user is provided, via a user terminal, increased visibility of supply chain data at the SKU level based on information gathered from all parts of the supply chain operation and from all systems used in performing those transactions.

(Appeal Br. 12.)

We disagree with Appellants. The question is whether the claims as a whole “focus on a specific means or method that improves the relevant technology” or are “directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.” *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016). In this case, claim 1 as a whole is focused on the effect of providing a user increased visibility of supply chain data without improving the relevant technology of linking data.

The question in step two of the Alice framework is not whether an additional feature is novel, but whether the implementation of the abstract idea involves “more than performance of ‘well-understood, routine, [and] conventional activities previously known to the industry.’” *Content Extraction and Transmission LLC*, 776 F.3d at 1347–48 (quoting *Alice*, 134 S. Ct. at 2359).

CONCLUSIONS OF LAW

We conclude the Examiner did not err in rejecting claims 1, 5, 8–11, 15, and 18–30 under 35 U.S.C. § 101.

We conclude the Examiner did err in rejecting claims 1, 5, 8–11, 15, and 18–30 under 35 U.S.C. § 103(a).

DECISION

The decision of the Examiner to reject claims 1, 5, 8–11, 15, and 18–30 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). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED