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Zilka-Kotab, PC - AMDC 1155 N. 1st St. Suite 105 San Jose, CA 95112			CAMPBELL, SHANNON S	
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* CINDY IRBY, MAXINE CAMPBELL, GREG VEREGO, and  
SHANNON CHAVIS-SMITH

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Appeal 2016-008533  
Application 11/226,653<sup>1</sup>  
Technology Center 3600

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Before HUBERT C. LORIN, JOSEPH A. FISCHETTI and  
MICHAEL C. ASTORINO, Administrative Patent Judges.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Cindy Irby, et al. (Appellants) seek our review under 35 U.S.C. § 134(a) of the Final Rejection of claims 49, 57 and 65. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF DECISION

We AFFIRM.

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<sup>1</sup> The Appellants identify AMDOCS SOFTWARE SYSTEMS LIMITED as the real party in interest. Br. 2.

## THE INVENTION

Claim 49, reproduced below, is illustrative of the subject matter on appeal.

49. A method, comprising:

creating by a system within a hardware database of the system a plurality of reusable definitions applicable to a plurality of products, the reusable definitions including:

a plurality of product definitions including descriptions of a unique identifier of a product, an alphanumeric descriptor of the product, a date and time from when a customer request for the product can be taken, an indication as to whether a customer may purchase multiple units of the product, and a period of time after the product expires during which the customer may continue to have the product,

a plurality of price definitions including descriptions of a type of applicable currency, an indication as to whether a price for the product is a recurring or one-time price, and a duration during which the price is available for the product,

a plurality of discount definitions including descriptions of a discount that applies to a price of the product, a discount that is applied to a price of a type of product, and a discount that applies to a price of a total bill of the customer, and

a plurality of commitment definitions including descriptions of an agreement to return the product within a specified timeframe once one or more of a disconnection and termination event have occurred, and an agreement to keep the product for a specified timeframe;

identifying by the system a selection of definitions, the selection of definitions comprising one definition from each of the plurality of product definitions, the plurality of price definitions, the plurality of discount definitions, and the plurality of commitment definitions; and

assembling by the system in an association table of the system a definition for a specific product by adding an identifier of each of the selected definitions to the association table of the system.

### THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Reuhl et al.	US 5,873,069	Feb. 16, 1999
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The following rejections are before us for review:

1. Claims 49, 57, and 65 are rejected under 35 U.S.C. § 101 as being directed to judicially-excepted subject matter.
2. Claims 49, 57, and 65 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Reuhl.

### ISSUES

Did the Examiner err in rejecting claims 49, 57, and 65 under 35 U.S.C. § 101 as being directed to non-statutory subject matter?

Did the Examiner err in rejecting claims 49, 57, and 65 under 35 U.S.C. § 103(a) as being unpatentable over Reuhl?

### ANALYSIS

*The rejection of claims 49, 57 and 65 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.*

The Appellants argued these claims as a group. *See* Br. 8-9. We select claim 49 as the representative claim for this group, and the remaining claims 57 and 65 stand or fall with claim 49. 37 C.F.R. § 41.37(c)(1)(iv).

*Alice Corp. Proprietary Ltd. v. CLS Bank International*, 134 S. Ct. 2347 (2014) 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 *Alice* step one, “[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.

In that regard, the Examiner determined that the claims:

are directed to creating a plurality of reusable definitions applicable to a plurality of products, identifying a selection of definitions, and assembling a definition for a specific product by adding an identifier of each of the selected definitions to a data table, which, when viewed individually and in combination, constitute an abstract idea of a certain method of organizing human activities.

Final Act. 4.

The Appellants do not challenge the Examiner’s *Alice* step one determination.

Step two is “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*, 134 S. Ct. at 2355 (*quoting Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 US 66, 73 (2012)).

In that regard, the Examiner determined:

the claims do not include additional elements that are sufficient to amount to significantly more than the judicial exception, because the claims do not include improvements to another technology or another technical field, improvements to the functioning of the computer itself, or meaningful limitations beyond generally linking the use of an abstract idea to a

particular technological environment. Rather, claims 49, 57, and 65 require no more than a performing of generic computer functions (e.g. creating, identifying a selection of data, and assembling data into a table) that are well-understood, routine and conventional activities previously known to the industry.

Final Act. 4.

The Appellants argue:

In this case, appellant notes that appellant specifically claims “creating by a system within a hardware database of the system a plurality of reusable [product, price, discount, and commitment] definitions” and “assembling by the system in an association table of the system a definition for a specific product by adding an identifier of each of [a plurality of] selected definitions to the association table of the system” (emphasis added).

Therefore, appellant specifically claims creation and use of reusable modular definitions that are referenced instead of using hardcoded processing steps to assemble specific product definitions over a network. This constitutes an improvement to the technical field of product definition implementation, and also includes a specific limitation other than what is well-understood, routine and conventional in the field, and is therefore significantly more than an abstract idea.

Furthermore, by referencing dynamic definitions instead of hard-coding definitions for each individual instance, less data is stored by the computing device, which improves the functioning of the computing device itself, and such language therefore constitutes an “inventive concept,” as claimed.

Br. 9.

A major difficulty with this argument is that the Appellants have not challenged the Examiner’s characterization of the concept to which claim 49 is directed to and the Examiner’s determination that the concept the Examiner has characterized claim 49 as being directed to is an abstract idea.

Given that the currently-unchallenged abstract idea to which claim 49 is directed to is:

creating a plurality of reusable definitions applicable to a plurality of products, identifying a selection of definitions, and assembling a definition for a specific product by adding an identifier of each of the selected definitions to a data table,

there is little in terms of additional claims limitations to consider in now determining whether an element or combination of elements present in claim 49 is sufficient to ensure that the subject matter claimed in practice amounts to significantly more than to be on said abstract idea itself. All that is left to consider are details about various “definitions” “creat[ed]”, “identif[ied]”, and “assembl[ed]” via the claimed process. For example, claim 49 calls for “creating by a system within a hardware database of the system a plurality of reusable definitions applicable to a plurality of products, the reusable definitions including” “a plurality of discount definitions” which further “includ[e] descriptions of a discount that applies to a price of the product, a discount that is applied to a price of a type of product, and a discount that applies to a price of a total bill of the customer.” Claim 49. But such details about various “definitions” “definitions” “creat[ed]”, “identif[ied]”, and “assembl[ed]” via the claimed process go to the particular content of the information the claimed process uses. Describing the content of the information being processed in greater detail does not change the character of the abstract idea. *Cf. SAP America, Inc. v. Investpic, LLC*, 890 F.3d 1016, 1022 (Fed. Cir. 2018) (“Contrary to InvestPic’s suggestion, it does not matter to this conclusion whether the information here is information about real investments. As many cases make clear, even if a process of collecting and analyzing information is “limited to particular content” or a particular

“source,” that limitation does not make the collection and analysis other than abstract.” (*Quoting Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016) (citing cases).).

Be that as it may, if we understand the Appellants correctly, the Appellants are arguing that the claim as a whole defines an unconventional technical improvement. The difficulty with this argument is that the claim is not so limited.

The Appellants argue that claim 49 provides for the “creation and use of reusable modular definitions that are referenced instead of using hardcoded processing steps to assemble specific product definitions over a network.” Br. 9.

But claim 49 does not mention *referencing* reusable modular definitions *to assemble* specific product definitions, let alone over a *network*. Accordingly, claim 49 does not describe the argued technical improvement over the use of hardcoded processing steps.

It is true that the Specification describes a system that overcomes “[p]ast approaches to determining what products are available [whereby] a customer relied upon inflexible hardcoded processing steps, databases, and other data structures” (Spec., para. 3) via, *inter alia*, a “product definition program” (Spec. para. 21). But claim 49 is not limited to the described system for accomplishing that goal. “The § 101 inquiry must focus on the language of the Asserted Claims themselves.” *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1149 (Fed. Cir. 2016). *See Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1345 (Fed. Cir. 2013) (admonishing that “the important inquiry for a § 101

analysis is to look to the claim”); *see also Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1346 (Fed. Cir. 2014) (“We focus here on whether the claims of the asserted patents fall within the excluded category of abstract ideas.”).

Rather, the method of claim 49 reasonably broadly covers creating information A (“a plurality of reusable definitions”) in a common database, using said database to identify information B (“a selection of definitions”) and using said database to assemble information C (“a definition for a specific Product”) in an association table. Other than specifying a particular content for the information being processed, no technical details are provided for the “creating,” “identifying,” and “assembling” steps, without which they read on activities commonly associated with the use of generic databases. Because of the missing technical detail, claim 49 does not reflect the improvement the Appellants are arguing over. *Cf. Credit Acceptance Corp. v. Westlake Services, LLC*, 859 F.3d 1044, 1057 (Fed. Cir. 2017):

Significantly, the claims do not provide details as to any non-conventional software for enhancing the financing 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 [*Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016)]; (explaining that claims are directed to an abstract idea where they do not recite “any particular assertedly inventive technology for performing [conventional] functions”).

Accordingly, the argument is unpersuasive in showing claim 49 presents an “inventive concept.”

We have considered all of the Appellants’ remaining arguments and have found them unpersuasive. Accordingly, because representative claim

49, and claims 57 and 65 which stand or fall with claim 49, are directed to an abstract idea and do not present an “inventive concept,” we sustain the Examiner's determination that they are directed to ineligible subject matter under 35 U.S.C. § 101. *Cf. LendingTree, LLC v. Zillow, Inc.*, 656 Fed.Appx. 991, 997 (Fed. Cir. 2016)(“We have considered all of LendingTree’s remaining arguments and have found them unpersuasive. Accordingly, because the asserted claims of the patents in suit are directed to an abstract idea and do not present an “inventive concept,” we hold that they are directed to ineligible subject matter under 35 U.S.C. § 101.”).

*The rejection of claims 49, 57, and 65 under 35 U.S.C. § 103(a) as being unpatentable over Reuhl.*

The Appellants argue that Reuhl discloses storing information, but not the “creating,” “identifying,” and “assembling” steps as claimed. “Reuhl only generally teaches product data such as category, style, description, and cost of the product that are stored in relationship with a SKU. This does not teach ‘creating... a plurality of reusable definitions applicable to a plurality of products’ (emphasis added), much less [the entire method recited in claim 49].” Br. 13.

We agree with the Examiner that differences over the prior art simply with respect to the content of the information being claimed are not patentably consequential. Final Act. 6. This is so because “[c]laim limitations directed to the content of information and lacking a requisite functional relationship are not entitled to patentable weight because such information is not patent eligible subject matter under 35 U.S.C. § 101.”

*Praxair Distribution, Inc. v. Mallinckrodt Hospital Products IP Ltd.*, 890 F.3d 1024, 1032 (Fed. Cir. 2018).

However, that does not pertain the actual steps of “creating,” “identifying,” and “assembling” recited in the claims.

In that regard, the Examiner cites the disclosures at col. 18, ll. 6–17 and col 8, ll. 36–45 of Reuhl (reproduced below) as evidence that said claim subject matter was disclosed in the prior art at the time of filing. Final Act. 6.

Col. 8, ll. 36–45:

The ITEM table contains a row for every product in the system user’s inventory, and establishes the relationship between item and SKU. The ITEM table stores for each item, a SKU, a product description, a vendor and vendor's model number, as seen in FIG. 4. The ITEM PRICE table stores prices for each item based on market and price type (i.e., REG, ADV, SALE, etc. price) and includes fields that hold the SKU, market, price, price effective date, price end date, company, company location and price type.

Col. 18, ll. 6–17:

As seen in FIG. 35, the Item Master Maintenance screen (IMMCM) **1038** is used to query and/or update existing SKUs or to create new SKUs. IMMCM **1038** is selected from the GMEN **402**. If the query mode is desired, the user then enters the SKU and executes query. The screen displays SKU, minor code, category code, style code, family code, vendor code, vendor name, vendor stock number, item type code, description, delivery volume, freight factor, last receiving date, retail price change last date, last active price, invoice cost, retail price, replacement cost, advertised price, commission code, warrantability.

While it arguable that storing information in a database necessarily creates a database with that information and thereby Ruehl meets the

“creating” step of claim 49, Ruehl does not disclose an identifying and assembling steps as claimed in said cited passages. Given no other evidence disclosing or suggesting said claim steps that would lead one of ordinary skill in the art to the claimed method as a whole, we find that a prima facie case of obviousness for the claimed subject matter has not been made in the first instance and the rejection is accordingly not sustained.

#### CONCLUSIONS

The rejection of claims 49, 57, and 65 under 35 U.S.C. § 101 as being directed to non-statutory subject matter is affirmed.

The rejection of claims 49, 57, and 65 under 35 U.S.C. § 103(a) as being unpatentable over Reuhl is reversed.

#### DECISION

The decision of the Examiner to reject claims 49, 57, and 65 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