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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* STEVEN TEDJAMULIA, RONALD VINCENT ROSE,  
MANISH C. MEHTA, and HENRY HAITIAN CHEN

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Appeal 2017-000155  
Application 12/951,513  
Technology Center 3600

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Before ERIC B. CHEN, MICHAEL J. STRAUSS, and AMBER L. HAGY,  
*Administrative Patent Judges.*

HAGY, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from the Examiner’s Final Rejection<sup>2</sup> of claims 1, 3–7, 9–13, and 15–20, which are all of the pending claims.<sup>3</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> Appellants identify Dell Products L.P. as the real party in interest. (Br. 1.)

<sup>2</sup> Although the cover page of the action dated April 22, 2015, indicates that the “action is non-final,” the Examiner states on page 2 of the action that “[t]he following is a final office action.” Appellants do not challenge this statement. We, therefore, refer herein to the April 22, 2015, action as a Final Action (“Final Act.”).

<sup>3</sup> Claims 2, 8, and 14 have been canceled. (Br. 8, 10, 11 (Claims App’x); *see also* Final Act. 2.)

## STATEMENT OF THE CASE

### *Introduction*

According to Appellants, “embodiments of the invention provide a method and system for conducting electronic commerce within a social media environment.” (Spec. ¶ 1.) By way of background, Appellants’ Specification describes well-known concepts of social media and electronic commerce, and notes that the intersection of these concepts has resulted in “social commerce,” which Appellants’ Specification describes as “the use of social media in the context of ecommerce, [including] . . . customer ratings and reviews, user recommendations and referrals, private and public forums and communities, and social advertising.” (*Id.* ¶¶ 3–4.) Appellants’ Specification states that a need exists “to seamlessly extend social commerce to provide complete ecommerce functionality from within a social media environment,” which Appellants purport to address with their claimed invention. (*Id.* ¶ 5.)

### *Exemplary Claim*

Claims 1, 7, and 13 are independent. Claim 1 reproduced below with the disputed limitations italicized, is exemplary of the claimed subject matter:

1. A computer-implementable method for conducting electronic commerce within a social media environment comprising:  
receiving, via a computer system, configuration data comprising social commerce site configuration data and further comprising product data;  
using, via the computer system, the social commerce site configuration data to configure a social commerce site;

activating the social commerce site to perform social commerce operations, the activating being executed on the computer system;

*accessing the social commerce site from within the social media environment, wherein the accessing is performed by a user of the social media environment, the accessing being executed on the computer system;*

performing electronic commerce operations associated with a vendor of the product, the performing being executed on the computer system;

*processing data associated with the social commerce operations to generate social commerce operations data;*

*processing data associated with the electronic commerce operations to generate electronic commerce operations data;*

*processing the social commerce operations data and the electronic commerce operations data to generate social commerce analysis data; and,*

*presenting the social commerce analysis data via a social commerce performance analysis panel.*

### *References*

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

|                          |                    |              |
|--------------------------|--------------------|--------------|
| Heller et al. (“Heller”) | US 8,452,865 B1    | May 28, 2013 |
| Paolini                  | US 2009/0089186 A1 | Apr. 2, 2009 |
| Cue et al. (“Cue”)       | US 2009/0177551 A1 | July 9, 2009 |

### *Rejections*

Claims 1, 3–7, 9–13, and 15–20 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. (Final Act. 2–4, 7.)

Claims 1, 3–7, 9–13, and 15–19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cue and Heller. (Final Act. 4–6, 8–13.)

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Cue, Heller, and Paolini. (Final Act. 13–14.)

### *Issues*

1. Whether the Examiner erred in rejecting claims 1, 3–7, 9–13, and 15–20 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter.

2. Whether the Examiner erred in finding the combination of Cue and Heller teaches or suggests “accessing the social commerce site from within the social media environment, wherein the accessing is performed by a user of the social media environment,” as recited in independent claim 1 and commensurately recited in independent claims 7 and 13.

3. Whether the Examiner erred in finding the combination of Cue and Heller teaches or suggests the “processing” and “presenting” steps as recited in independent claim 1 and commensurately recited in independent claims 7 and 13.

### ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments the Examiner has erred. We disagree with Appellants’ conclusions and we adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken (Final Act. 2–14); and (2) the reasons set forth by the Examiner in the Examiner’s Answer in response to Appellants’ Appeal Brief (Ans. 3–9). We concur with the

conclusions reached by the Examiner, and we highlight the following points for emphasis.

A. § 101 Rejection

The Supreme Court has set forth an analytical “framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *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, 71–73 (2012)). In the first step of the analysis, we determine whether the claims at issue are “directed to” a judicial exception, such as an abstract idea. *Alice*, 134 S. Ct. at 2355. If not, the inquiry ends. *Thales Visionix Inc. v. U.S.*, 850 F.3d 1343, 1346 (Fed. Cir. 2017); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1339 (Fed. Cir. 2016). If the claims are determined to be directed to an abstract idea, then we consider under step two whether the claims contain an “inventive concept” sufficient to “transform the nature of the claim into a patent-eligible application.” *Alice*, 134 S. Ct. at 2355 (quotations and citation omitted).

Noting that the two stages involve “overlapping scrutiny of the content of the claims,” the Federal Circuit has described “the first-stage inquiry” as “looking at the ‘focus’ of the claims, their ‘character as a whole,’” and “the second-stage inquiry (where reached)” as “looking more precisely at what the claim elements add—specifically, whether, in the Supreme Court’s terms, they identify an ‘inventive concept’ in the application of the ineligible matter to which (by assumption at stage two) the claim is directed.” *Electric Power Grp, LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). In considering whether a claim is directed to an

abstract idea, we acknowledge, as did the Court in *Mayo*, that “all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Mayo*, 566 U.S. at 71. We, therefore, look to: (1) whether the claims focus on a specific means or method that improves the relevant technology, or (2) are directed to a result or effect that itself is the abstract idea, in which the claims merely invoke generic processes and machinery. *See Enfish*, 822 F.3d at 1336.

*Step One: Whether the Claims Are Directed to a Patent-Ineligible Concept (Abstract Idea)*

The Examiner concludes the claims are directed to an abstract idea of “conducting electronic commerce,” which the Examiner finds is “a fundamental economic practice.” (Final Act. 2.) The Examiner further concludes: “The claims are directed to or describe an ‘idea of itself’ in that they recite an uninstantiated concept or scheme related specifically to the processing and organization of information.” (Ans. 3.) In particular, the Examiner concludes “claim 1 describes organizing information (e.g. processing data associated with social commerce operations and electronic commerce operations) through mathematical correlations (e.g. social commerce analysis data).” (*Id.* at 4.)

We agree with the Examiner’s conclusion that the claims are directed to an abstract idea. Each of the limitations of claim 1 pertains to “receiving,” “using,” “processing” or “presenting” some form of data (e.g., “configuration data”) or performing “social commerce operations,” which Appellants’ Specification describes as a form of electronic commerce. (*See* Spec. ¶ 4.) As such, the claims are directed to the abstract idea of combining social media with ecommerce, which includes gathering, manipulating, and outputting data. (*See also* Final Act. 2: “These steps merely represent the

performance of business related steps, and do not amount to more than automating the commercial interaction on a general purpose computer.”)

Appellants do not expressly challenge the Examiner’s conclusions at step one other than to assert that “the claims of the present application are unlike that of any of the examples provided by the Court” in *Alice*. (Br. 4.) We disagree. The *Alice* Court noted that the category of abstract ideas encompasses “fundamental economic practice[s].” *Alice Corp.*, 134 S. Ct. at 2356. The Examiner concludes, and we agree, the claims are directed to a “fundamental economic practice” of conducting ecommerce. (Final Act. 2.) This concept of conducting commercial transactions in an online environment, and the associated data collection and manipulation, are similar to other “fundamental economic concepts” found to be abstract ideas by the Federal Circuit applying *Alice*. See, e.g., *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362 (Fed. Cir. 2015) (“automatic pricing method and apparatus for use in electronic commerce”); *Ultramerical, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (“using advertising as an exchange or currency”); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (“data collection”).

Thus, at step one of the analysis, we are not persuaded that the Examiner erred in determining that the claims are directed to a patent-ineligible subject matter—that is, to an abstract idea.

*Step Two: Whether Additional Elements Transform the Idea into Patent-Eligible Subject Matter*

Having concluded that the claims are directed to an abstract idea, the Examiner also concludes that the additional elements or combinations of elements beyond the abstract idea do not amount to significantly more than

the abstract idea itself because “[t]he claims at issue amount to nothing significantly more than an instruction to apply the abstract idea using some unspecified, generic computer.” (Final Act. 4; *see also* Ans. 5: “[T]he additional elements are merely recited in a generic manner and operate using well-understood, routine and conventional functions.”)

Appellants argue the claims amount to a “substantial improvement” in the field and contain limitations that are sufficient to “transform” the claims into a patent-eligible application. (Br. 4.) Appellants further cite as support the Federal Circuit’s holding in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014). (Br. 4–5.)

We are not persuaded by Appellants’ arguments. First, combining social media and ecommerce, as Appellants’ claimed invention purports to address, is not a technical problem; it is a business problem. In addition, combining those concepts so that ecommerce may be conducted from within a social media environment, and gathering and manipulating related data, is a commercial solution, not a technical solution. The only portion of the pending claims that could be considered “technological” is the generic computer hardware, i.e., the claimed “computer system” used to implement the claimed invention, which is not enough to confer subject matter eligibility. *See Alice Corp.*, 134 S. Ct. at 2358 (“[I]f a patent’s recitation of a computer amounts to a mere instruction to ‘implemen[t]’ an abstract idea ‘on ... a computer,’ that addition cannot impart patent eligibility.”) (Internal citations omitted).

In *DDR Holdings*, in contrast, the Federal Circuit determined that, although the patent claims at issue involved conventional computers and the Internet, the claims addressed a challenge particular to the Internet, i.e.,

retaining website visitors who, if adhering to the routine, conventional functioning of Internet hyperlink protocol, would be transported instantly away from a host's website after "clicking" on an advertisement and activating a hyperlink. *DDR Holdings*, 773 F.3d at 1257. The Federal Circuit, thus, held that the claims were directed to statutory subject matter because they claimed a solution "necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks." *Id.*; see also *Enfish*, 822 F.3d at 1338 (holding that claims directed to a self-referential table for a computer database were patent eligible because the claims were directed to an improvement in the functioning of a computer); *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1259 (Fed. Cir. 2017) (holding that claims directed to "an improved computer memory system" having many benefits were patent eligible).

No such technological advance is evident in the present invention. (*See* Ans. 5–7.) Although claim 1 calls for certain steps to be performed "via a computer system," Appellants do not indicate, either on appeal or in the Specification, that the recited computer system is anything other than a generic version of such a system. Instead, the claims merely employ generic computer components to perform generic computer functions, i.e., receiving and processing information. Unlike the situation in *DDR Holdings*, Appellants do not identify any problem particular to computer networks and/or the Internet that the claims allegedly overcome. In particular, Appellants identify no improvement to another technology or technical field, no improvements to the functioning of the computer itself, and no meaningful limitations beyond generally linking the use of an abstract idea of ecommerce to a particular technological environment (within a social

media platform), and the claims require no more than a generic computer to perform generic computer functions that are well-understood, routine and conventional. *See Ultramercial, Inc.*, 772 F.3d at 715–16 (concluding claims merely reciting abstract idea of using advertising as currency as applied to particular technological environment of the Internet are not patent eligible).

For the foregoing reasons, we are not persuaded the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 101 as directed to patent-ineligible subject matter, or in rejecting on the same basis independent claims 7 and 13, as well as dependent claims 3–6, 8–12, and 15–20, which Appellants do not argue separately. (Br. 3.)

*B. § 103(a) Rejections*

The Examiner finds Cue teaches or suggests the limitations of independent claims 1, 7, and 13, except for the “processing” and “presenting” limitations, for which the Examiner combines Cue’s teachings with those of Heller. (Final Act. 8–14.)

Appellant argues the Examiner’s findings are in error because, according to Appellant:

[N]owhere within Figure 3 [of Cue] nor the accompanying specification for Figure 3 (nor anywhere else in Cue) is there any disclosure or suggestion of accessing a social commerce site from within *a social media environment*, much less where the accessing is performed by *a user of the social media environment*, as required by claims 1, 7, and 13.

(Br. 6.) Appellants’ argument is not persuasive of Examiner error because it further relies on an overly narrow reading of Cue that ignores pertinent teachings cited by the Examiner.

Cue discloses creation and use of a “custom web page” for ecommerce transactions for use by a particular group, in which “virtual bundles of products . . . are recommended to be purchased by members of the group.” (Cue ¶¶ 24, 36.) An example of such a store is shown in Cue’s Figure 7, which depicts an “Apple Store” customized for a group (“Denver Public Schools”), and which includes “Recommended Systems” as well as additional “[w]orkshops, products, and services” to help users “integrate technology and[] learning.” (*Id.* at Fig. 7.) The Examiner finds, and we agree:

Cue discloses where the present invention relates to electronic commerce sites, especially electronic commerce sites designed for the use of members of a group and the configuration data can include virtual bundles of products which are recommended (interaction of group members) to be purchased by the members of the group, as well as the blocking of certain products from purchase at the custom web site (see at least: paragraph [0001] and [0024]).

(Ans. 8; *see also* Final Act. 9.) Thus, the Examiner finds Cue teaches a “social media environment” in the form of the custom web page, which is customized by an “administrator associated with a group” for use by members of that particular group of people to purchase products (e.g., persons affiliated with Denver public schools) and includes, as part of that customization, purchasing recommendations relevant to those persons. (Final Act. 8–10 (citing Cue ¶¶ 7, 8, 24, 36, Fig. 3).)

Appellants fail to address the substance of the Examiner’s rejection and, in particular, do not address the foregoing findings that Cue’s teaching of a custom online store teaches a social commerce site that includes a social media environment. (Final Act. 4.) The Examiner bases these findings on a broad but reasonable interpretation of a “social media environment” as “the

means of interactions among people in which they create, share, exchange and comment contents among themselves in virtual communities and networks.” (Final Act. 4 (citing Wikipedia).) This interpretation is consistent with statements in Appellants’ Specification describing “social media” as “the use of web-based technologies for the creation and exchange of user-generated content for social interaction.” (Spec. ¶ 3.)

Appellants additionally argue the Examiner’s findings regarding Heller are in error. Appellants’ contentions as to the teachings of Heller amount to no more than terse restatements of the “processing” and “presenting” limitations of claim 1 for which the Examiner cites Heller, followed by a conclusory statement that “nowhere within Heller is there any disclosure or suggestion” of those limitations. (Br. 6–7.) Such conclusory assertions have little or no value in identifying the Examiner’s alleged error, and, consequently, have little persuasive value. *See* 37 C.F.R. § 41.37(c)(iv) (“A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.”); *see also In re Lovin*, 652 F.3d 1349, 1356 (Fed. Cir. 2011). Moreover, we agree the Examiner’s findings regarding Heller (Final Act. 5–6) are supported by the cited teachings.

For the foregoing reasons, we are not persuaded of error in the Examiner’s 35 U.S.C. § 103(a) rejection of independent claim 1, or of independent claims 7 and 13, which are argued collectively with claim 1. (Br. 7.) We, therefore, sustain the rejection of independent claims 1, 7 and 13 as unpatentable over the combination of Cue and Heller, along with the rejection of dependent claims 3–6, 9–12, and 15–20, which are not separately argued with particularity. (*Id.*)

Appeal 2017-000155  
Application 12/951,513

DECISION

The Examiner's 35 U.S.C. § 101 rejection of claims 1, 3–7, 9–13, and 15–20 is affirmed.

The Examiner's 35 U.S.C. § 103(a) rejections of claims 1, 3–7, 9–13, and 15–20 are 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