



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.
14/691,499	04/20/2015	Rabih S. Ballout	BAL-005.CIPI.C1	7055
28357	7590	05/31/2018	EXAMINER	
SAMUEL A. KASSATLY 20690 View Oaks Way SAN JOSE, CA 95120			NGUYEN, TIEN C	
			ART UNIT	PAPER NUMBER
			3694	
			MAIL DATE	DELIVERY MODE
			05/31/2018	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 RABIH S. BALLOUT

Appeal 2017-001029
Application 14/691,499
Technology Center 3600

Before JOHN A. EVANS, STEVEN M. AMUNDSON, and
JASON M. REPKO, *Administrative Patent Judges*.

REPKO, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Examiner’s rejection of claims 1–13. App. Br. 4.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellant identifies the real party in interest as Rabih S. Ballout. App. Br. 4.

² Throughout this opinion, we refer to the Final Rejection (“Final Act.”) mailed January 21, 2016; the Appeal Brief (“App. Br.”) filed June 23, 2016; the Examiner’s Answer (“Ans.”) mailed September 6, 2016; and the Reply Brief (“Reply Br.”) filed October 22, 2016.

THE INVENTION

Appellant's invention relates to financial transactions in a mobile-telecommunications environment. Abstract. In Appellant's system, users do not need to tender a financial instrument to deposit, withdraw, transfer, and exchange currency, commodities, and coupons. *Id.* Rather, the invention uses a code transmitted from a mobile device. Spec. ¶ 30. In one embodiment, the user's mobile device generates a code with information related to a financial transaction. *Id.* ¶ 122. The user's mobile device then transfers the code to an ATM to carry out the transaction. *Id.* According to the Specification, Appellant's system prevents fraud, among other advantages. *Id.*

Claim 1 is reproduced below:

1. A method to provide a cashless platform that prevents fraudulent transactions by supervising and controlling the execution of a financial transaction, without tendering a financial instrument, such as a credit card or a check, the method comprising:

a user mobile station recognizing a proximately located financial station and establishing communication with a mobile transaction platform;

wherein the financial station interfaces with a financial institution;

the mobile transaction platform recognizing the financial institution;

the financial institution recognizing the mobile transaction platform, and establishing direct communication with the mobile transaction platform;

entering financial information related to a financial transaction on the user mobile station;

the user mobile station generating a code containing the financial information on the user mobile station and identifying the type of the financial transaction;

the user mobile station automatically transferring the generated code to the mobile transaction platform;

the mobile transaction platform automatically transmitting the code to the financial institution;

based on the transferred code, the financial institution determines whether to accept or decline the financial transaction;

wherein when the financial transaction is accepted by the financial institution, the financial station directly executing the financial transaction;

wherein when the financial transaction is declined by the financial institution, the financial station preventing the execution of the financial transaction; and

the financial station transmitting a reverse code to the user mobile station, to confirm whether the financial transaction was either accepted or declined by the financial station.

THE REJECTION³

Claims 1–13 stand rejected under 35 U.S.C. § 101 as directed to patent-ineligible subject matter. Final Act. 2–3.

ANALYSIS

The Examiner rejected representative⁴ claim 1 under 35 U.S.C. § 101 because the claim as a whole (1) is directed to an abstract idea and (2) does

³ The Examiner has withdrawn the provisional obviousness-type double-patenting rejection of claims 1–13. Ans. 2.

⁴ Appellant argues claims 1–13 together. *See* App. Br. 9–50. We select independent claim 1 as representative of claims 1–13. *See* 37 C.F.R. § 41.37(c)(1)(iv).

not contain an “inventive concept” sufficient to transform the claimed abstract idea into a patent-eligible application. Final Act. 2–3. For the reasons discussed below, Appellant has not persuaded us of error.

I

The Supreme Court’s two-step framework guides our analysis. *See Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014).

According to step one, “[w]e must first determine whether the claims at issue are directed to a patent-ineligible concept,” such as an abstract idea. *Id.*

Claim 1 recites a method for “preventing fraudulent transactions.” The recited method prevents fraud by supervising and controlling a financial transaction in a cashless platform. According to the claim, the user does not have to tender a financial instrument, such as a credit card or check. The claimed method recites a “user mobile station” and a “mobile transaction platform” to carry out the method steps. These elements generate and exchange codes, as claimed. According to Appellant, this invention relates to protecting financial transactions from fraud, and thus is not a judicial exception. App. Br. 38.

Preventing fraudulent financial transactions, however, is not a problem rooted in technology. Rather, preventing fraud is a business problem that existed before the Internet and computers. Spec. ¶ 20 (discussing counterfeiting paper notes); *see also* App. Br. 12. Here, the claim is directed to a concept relating to commerce and the economy, like other claims that the courts have described as “fundamental economic practices.” *See, e.g., Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1054 (Fed. Cir. 2017) (explaining that processing an application for

financing a purchase is a “fundamental economic practice”); *In re Smith*, 815 F.3d 816, 818–19 (Fed. Cir. 2016) (concluding that a wagering game’s rules compare to other “fundamental economic practice[s]” found abstract); *accord* MPEP § 2106.04(a)(2) I. (9th ed. Rev. 08.2017, Jan. 2018) (“The courts have used the phrases ‘fundamental economic practices’ or ‘fundamental economic concepts’ to describe concepts relating to the economy and commerce, such as agreements between people in the form of contracts, legal obligations, and business relations.”). In this regard, we agree with the Examiner that the claims are directed to a fundamental economic practice. Final Act. 3.

To be sure, the claims recite computer components. But the claims are not directed to an improvement to the computer’s capabilities. Rather, the claims use the computer as a tool to carry out the abstract idea. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016) (“[T]he first step . . . asks whether the focus of the claims is on the specific asserted improvement in computer capabilities . . . or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.”).

For example, the recited computer components are used for exchanging data to carry out the transaction, instead of improving how the data is transmitted or created. Here, the claimed method carries out the fraud-prevention steps on generic computers. *Accord* App. Br. 38. In this way, Appellant’s claims are similar to those deemed abstract ideas by our reviewing court where the computer was used as a tool to detect or prevent fraud. *See, e.g., FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016) (finding ineligible claims directed to detecting

fraud or misuse in a computer environment); *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011) (finding ineligible claims directed to detecting fraud in financial transaction between a consumer and merchant). Similarly, the Federal Circuit has also found claims “directed to the formation of financial transactions in a particular field . . . and data collection related to such transactions” to be abstract. *Smart Sys. Innovations, LLC v. Chi. Transit Auth.*, 873 F.3d 1364, 1372 (Fed. Cir. 2017).

On this record, we are unpersuaded that the Examiner erred in concluding that claim 1 is directed to an abstract idea.

II

Because the claim is “directed to an abstract idea,” we analyze the claim to determine if the limitations, when considered both “individually and as an ordered combination” contain an “inventive concept” sufficient to transform the claimed “abstract idea” into a patent-eligible application. *Alice*, 134 S. Ct. at 2355–58.

We agree with the Examiner that the claim lacks an inventive concept. Final Act. 3.

Appellant argues that the Examiner has not met their burden to explain why the claim is unpatentable. App. Br. 41–46; *see also* Reply Br. 2–5. Appellant contends that the Examiner has presented unsupported conclusions that the claim does not recite significantly more than the abstract idea itself. *See id.* In Appellant’s view, the Examiner has failed to consider the invention as a whole and ignores the goal of the invention—i.e., fraud prevention. *See id.* at 41–49. We disagree.

To be sure, “[w]hether something is well-understood, routine, and conventional to a skilled artisan at the time of the patent is a factual determination.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1369 (Fed. Cir. 2018). Although the Examiner makes broad and generalized statements about what constitutes a prima facie case, the Examiner, nevertheless, expressly supports the rejection by referring to court decisions that recognize the well-understood, routine, and conventional nature of the additional elements. *See* Final Act. 14 (citing *July 2015 Update: Subject Matter Eligibility 7* (July 30, 2015), <https://www.uspto.gov/sites/default/files/documents/ieg-july-2015-update.pdf> (“Examiner Guidance”)). For instance, the Examiner finds that the recited transmitting is a general function and refers to page 7 of the Examiner Guidance. Final Act. 14. And as the cited page of the Examiner Guidance points out, the Federal Circuit has recognized that the function of “receiving or transmitting data” as well-understood, routine, and conventional. *See, e.g., buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (explaining that “computers in *Alice* were receiving and sending information over networks connecting the intermediary to the other institutions involved, and the Court found the claimed role of the computers insufficient”), *cited in* Examiner Guidance, 7 n. 25. The Examiner further finds that these limitations do not add significantly more to the abstract idea itself. *See, e.g.,* Final Act. 3, 14.

We agree with the Examiner’s findings. To the extent that the method relies on computer components, claim 1 broadly recites a “user mobile station,” “mobile transaction platform,” and “financial station.” Regarding the user mobile station, the Specification explains that “[t]he user station 105 can be a standalone device, such as a mobile phone, tablet, or computer, or it

can be used with other auxiliary devices, such as an external speaker 355, a GPS receiver 356, a microphone 357, a cellular (mobile or satellite) phone 358, or *any other available compatible device 360.*” Spec. ¶ 93 (emphasis added). The recited “mobile transaction platform” is a generic computing platform that includes servers and databases connected by a network. *See id.* ¶ 77. Regarding the “financial station,” the Specification discloses that “[t]he dispensation is effected by a financial station, for example, through an ATM, a vending machine, or *any other machine, device, system, or network* that allows for the dispensation of cash.” *Id.* ¶ 24 (emphasis added). The method uses these elements for their basic function of transmitting information. On this record, the limitations of the claim, taken individually, recite generic computer, network, and Internet components. Final Act. 3.

Appellant contends that, although the invention uses generic computing elements, the combination of elements performs functions that are not generic and amounts to significantly more than the abstract idea. App. Br. 46. Specifically, Appellant argues the invention (1) allows direct communication between parties to eliminate third-party interference, (2) does not directly transfer financial information, and (3) uses codes to send and receive information. *Id.* at 46–49. According to Appellant, the invention, as a whole, provides a solution to the problem of preventing fraud in a mobile environment by performing non-generic functions using a combination of components. *Id.* at 47.

We disagree. Claim 1 is distinguishable from the patent-eligible claims in *BASCOM Global Internet Services, Inc. v. AT&T Mobile LLC*, 827 F.3d 1341 (Fed. Cir. 2016), for example. *See* App. Br. 15–16; Reply Br. 3. In *BASCOM*, the inventive concept was found in the non-conventional and

non-generic arrangement of known, conventional pieces: “a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user.” *BASCOM*, 827 F.3d at 1350. That design gave “the filtering tool both the benefits of a filter on a local computer and the benefits of a filter on the ISP server.” *Id.* The Federal Circuit reasoned that the claims covered “a technology-based solution . . . to filter content on the Internet that overcomes existing problems with other Internet filtering systems” and “improve[s] an existing technological process.” *Id.* at 1351 (citing *Alice*, 134 S. Ct. at 2358 (explaining that “the claims in [*Diamond v. Diehr*, 450 U.S. 175 (1981)] were patent eligible because they improved an existing technological process”)).

Appellant has not provided, nor do we find, any similar arrangement even considering the limitations as an ordered combination. Unlike the claims in *BASCOM*, the claims here do not “improve[] an existing technological process.” *BASCOM*, 827 F.3d at 1351. The purported improvement here is directly transferring financial information to avoid third-party interference. App. Br. 46–49. Yet, direct communication between parties can be accomplished with or without a computer. *Accord* Final Act. 8. The computer components here are so broadly disclosed that they add little to a technology-based solution to this communication. *See, e.g.*, Spec. ¶¶ 22, 77, 93. Even the codes broadly encompass many different types of codes that can be read by many different devices. *Id.* ¶ 42. In this way, the claimed method adds generic technology after the fact as a tool to carry out the abstract idea. *See* Final Act. 14 (discussing the high level of generality in the claim). On this record, we agree with the Examiner (*id.* at 3) that the recited combination of elements does not add meaningful

limitations to the abstract idea that we identified in *Alice* step one. Essentially, the claims amount to nothing more than an instruction to apply the abstract idea using a generic computer, which does not render the abstract idea eligible under *Alice* step two. *Alice*, 134 S. Ct. at 2357.

Therefore, Appellant has not persuaded us of error in the rejection of representative claim 1 under 35 U.S.C. § 101, and claims 2–13, which are not separately argued with particularity.

DECISION

We affirm the Examiner’s rejection of claims 1–13.

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