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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NEELAKANTAN SUNDARESAN,
NAM DO, and ANDREW YEE

Appeal 2017-001395
Application 13/544,598¹
Technology Center 3600

Before CAROLYN D. THOMAS, JASON V. MORGAN, and
ADAM J. PYONIN, *Administrative Patent Judges*.

MORGAN, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Introduction

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 3–12, 14, 16–20, and 22–24. Claims 2, 13, 15, and 21 are canceled. Amend. 3–6 (Sept. 25, 2015). We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Appellants identify eBay Inc. as the real party in interest. App. Br. 2.

Invention

Appellants' disclosure relates to providing listing assistance to a user by: (1) receiving a query from the user; (2) accessing information from a category that corresponds to the query; (3) generating statistical data using the information accessed; and (4) displaying the statistical data to the user.

Abstract.

Representative Claim

1. A method performed by a specially configured machine to provide electronic listing assistance in a networked environment via an updateable user interface, the method comprising:

receiving, at a hardware-implemented search item module over a network, a keyword query for an item of interest from the user interface of a device of a user;

performing, by the hardware-implemented search item module, a search for categories related to the item of interest that correspond to the keyword query, the performing the search comprising making a call to a publication API;

transmitting instructions to cause the user device to revise the user interface to display a list of the categories related to the item of interest that resulted from the keyword query, the list of the categories to be displayed as selectable categories on the user interface of the device of the user;

receiving, over the network, a selection of a selectable category from the list of the selectable categories displayed on the user interface related to the item of interest that resulted from the keyword query;

retrieving, by a hardware-implemented retrieve data module from data storage, information from a plurality of current publications on a publication system corresponding to the category that was selected;

generating, by an analysis module comprising a processor, statistics data using the information from the plurality of current

publications on the publication system that corresponds to the category that was selected; and

transmitting, by a hardware-implemented format module, instructions to cause the user device to update the user interface with the statistics data, the user interface being expanded to include a statistic portion that displays the statistics data.

Rejection

The Examiner rejects claims 1, 3–12, 14, 16–20, and 22–24 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Act. 6–8; Ans. 4.

CONCLUSIONS AND CONTENTIONS

In rejecting claim 1 under 35 U.S.C. § 101, the Examiner concludes the claimed invention is directed to the abstract idea of “searching [for] and providing item information.” Final Act. 6; *see also* Ans. 4. The Examiner further determines the additional elements of claim 1, individually and in combination, merely represent generic “computer components [that] perform purely generic computer functions” and thus claim 1 does “not include additional elements that are sufficient to amount to significantly more than” the underlying abstract idea. Final Act. 7; *see also* Ans. 5–6

Appellants contend the Examiner erred because the Examiner has failed to clearly articulate why the claimed invention is not eligible, but has “rather chosen to rely on conclusory statements” (App. Br. 12 (citing, e.g., *July 2015 Update: Subject Matter Eligibility* § IV, available at <https://www.uspto.gov/sites/default/files/documents/ieg-july-2015-update.pdf>)) rather than providing, for example, “**authoritative documentation** that the identified economic component is long prevalent in our system of commerce” (App. Br. 19). Appellants argue “the alleged abstract idea of

‘searching [for] and providing item information’ is an examiner-written phrase that does not actually appear in” claim 1 (*id.* at 13)—that the Examiner’s rejection makes “a generalization of the claim language that does not even consider the actual language of the claims” (*id.* at 19). Appellants further argue claim 1 is not directed to an abstract idea because: it does “not define some fundamental economic practice *long prevalent in our system of commerce*” (*id.* at 18) or include “language directed to commercial transactions” (Reply Br. 2); it contains “significantly more than mere mental steps of comparing information and using rules to identify options” (App. Br. 16); and it is not directed to a “*certain* method[] of organizing human activity” representing an abstract idea (*id.* at 20).

Appellants argue that, even if claim 1 is directed to an abstract idea, the elements of claim 1 contain “an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Id.* at 23 (citation omitted). In particular, Appellants argue: claim 1 recites “detailed operations that[,] when considered as a whole, add more than the abstract idea” (*id.* at 25); claim 1 is directed to solving the technological program that “multiple searches are time consuming, inaccurate, and take up network bandwidth” (*id.*); the invention of claim 1 is “necessarily rooted in computer technology” (*id.* at 26); and the invention of claim 1 is new, useful, and non-obvious (*id.* at 31).

Appellants also argue the dependent claims contain “additional limitations pertaining to providing electronic listing assistance in a networked environment via an updateable user interface.” App. Br. 17.

ANALYSIS

We agree with and adopt as our own the Examiner’s findings of facts and conclusions as set forth in the Answer and in the Action from which this appeal was taken. We have considered Appellants’ arguments, but do not find them persuasive of error. We provide the following explanation for emphasis.

Claim 1 recites steps directed to using a keyword search and a list to select a category, generating statistical data using information corresponding to the selected category, and displaying the statistical data. The Specification provides an example in which a user searches for “Nintendo Wii,” selects (from a list of category tiles) tile 408 corresponding to the “Nintendo Wii” game console category, and receives statistics such as average selling price 416, minimum shipping cost 420, and pie charts 424, 426, and 428 detailing availability information. *See* Spec. ¶¶ 39–44, Figs. 4A–D.

We agree with the Examiner that the claim recitations are directed to “searching [for] and providing item information.” Final Act. 6. This characterization succinctly summarizes and identifies the claimed steps and the idea to which claim 1 is directed. We also agree with the Examiner that searching for and providing item information is an abstract idea. Merely “creating and using an index to search for and retrieve data” is “an abstract concept under *Alice* and its progeny.” *Intellectual Ventures I LLC v. Erie Indem. Co.*, 850 F.3d 1315, 1328 (Fed. Cir. 2017). And “merely presenting the results of abstract processes of collecting and analyzing information” is also abstract. *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016). Here, the use of keywords and list selection to perform a

search identifies what item information should be retrieved for purposes of generating and displaying statistical data (i.e., for purposes of being analyzed and having the results presented). We can find nothing in this particular combination of abstract ideas that renders non-abstract the underlying idea to which claim 1 is directed. *See, e.g., RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) (“Adding one abstract idea . . . to another abstract idea . . . does not render the claim non-abstract.”). Two-step search processes—in which a search request is used to retrieve a set of results that can be individually selected—have been in widespread use for decades and are insufficient to render a search and retrieval process non-abstract. *See, e.g., Ann Eagan and Laura Bender, Spiders and Worms and Crawlers, Oh My: Searching on the World Wide Web*, Procs. of the Conf, Sponsored by the Librarians Ass’n of the U. of Cal, Santa Barbara and Friends of the UCSB Libr., available at <http://misc.library.ucsb.edu/untangle/eagan.html> (Apr. 26, 1996) (“Once the search request is received, the search engine searches its own database first Results are sent back to the searcher . . . with links to the sources retrieved.”). Generating and displaying statistical information (averages, minimums, etc.) that could be generated by hand with access to the underlying dataset identified through the search process does not render the search and retrieval process non-abstract either.

We further agree with the Examiner that the additional elements of claim 1 do not add anything significantly more so as to transform the underlying abstract idea into statutory subject matter. Claim 1 is replete with limitations directed to performing the claimed steps with “hardware-implemented” elements in a network environment. But, we can find nothing

in claim 1 that requires the use of “nonconventional computer, network, or display components, or even a ‘non-conventional and non-generic arrangement of known, conventional pieces.’” *Elec. Power*, 830 F.3d at 1355 (citing *Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349–52 (Fed. Cir. 2016)). The generic nature of the additional recitations of claim 1 is particularly clear when these recitations are read in light of the Specification’s broad disclosure that claimed features such as modules encompass everything from application specific integrated circuits to general-purpose processors temporarily configured by software. *See Spec.* ¶¶ 55–57.

For these reasons, we agree with the Examiner that claim 1 is directed to non-statutory subject matter. Accordingly, we sustain the Examiner’s 35 U.S.C. § 101 rejection of claim 1, and independent claims 12 and 14, which Appellants do not argue separately. *See App. Br.* 29. Appellants further contend the Examiner’s rejection does not properly address the limitations of the dependent claims. *See id.* at 10, 13–14, 16–17. However, we are unable to discern any additional elements in the dependent claims that transform any dependent claims to be directed to statutory subject matter. Accordingly, we also sustain the Examiner’s 35 U.S.C. § 101 rejection of claims 3–9, 11, 16–20, and 22–24.

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DECISION

We affirm the Examiner's decision rejecting claims 1, 3–12, 14, 16–20, and 22–24.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED

Appeal 2017-001395
Application 13/544,598

APPENDIX

Excerpts from Ann Eagan and Laura Bender, *Spiders and Worms and Crawlers, Oh My: Searching on the World Wide Web*, Procs. of the Conf, Sponsored by the Librarians Ass'n of the U. of Cal, Santa Barbara and Friends of the UCSB Libr., available at <http://misc.library.ucsb.edu/untangle/eagan.html> (Apr. 26, 1996)

<i>Notice of References Cited</i>	Application/Control No. 13544598	Applicant(s)/Patent Under Reexamination	
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U.S. PATENT DOCUMENTS

*		Document Number	Date	Name	Classification	
		Country Code-Number-Kind Code	MM-YYYY			
1	A	US-			1	1
	B	US-				
	C	US-				
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FOREIGN PATENT DOCUMENTS

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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Ann Eagan and Laura Bender, <i>Spiders and Worms and Crawlers, Oh My: Searching on the World Wide Web</i> , Procs. of the Conf, Sponsored by the Librarians Ass'n of the U. of Cal, Santa Barbara and Friends of the UCSB Libr., available at http://misc.library.ucsb.edu/unentangle/eagan.html (Apr. 26, 1996)
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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



Untangling the Web

URLs in this document have been updated. Links enclosed in {curly brackets} have been changed. If a replacement link was located, the new URL was added and the link is active; if a new site could not be identified, the broken link was removed.

Spiders and Worms and Crawlers, Oh My: Searching on the World Wide Web

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Abstract

Searching on the world wide web can be confusing. A myriad of search engines exist, often with little or no documentation, and many of these search engines work differently from the standard commercial search engines we are used to using.

The workshop will begin with a guided search exercise. At the completion of the exercise, participants will be given a detailed information packet containing information on all the material to be covered during the session. We will then describe and demonstrate the use of several representative web search engines, explain some of the differences between web search engines, provide guided exercises for hands-on participation, and answer questions from the audience.

This workshop is aimed at librarians desiring to know how, when and why to search the Internet.

Searching on the world wide web can be confusing. A myriad of search engines exist, often with little or no documentation, and many of these search engines work differently from the standard commercial search engines we normally use. There are also many directories that attempt to organize the Internet by subject, and, today, there are many search engines that combine directory and keyword search capability. This paper will define search engines, directories, spiders and robots, cover some basics of searching, provide criteria for choosing search engines as well as a comparison of some of the search engines available.

Some caveats before we begin. There are dozens of search engines and several search engines for search engines, making it impossible to cover all of them. Also, much of what is written in this paper today is likely to

be superseded by new information by the time you read it.

What are Search Engines and Directories?

Search engines in use on the Internet use automated programs, called robots, to search the web. These automated programs are also known as spiders, crawlers, wanderers and worms. The robots crawl about the web indexing web sites. Some of them index web sites by title, some by uniform resource locators (URLs), some by words in each document in a web site, and some by combinations of these. Because the Internet is always growing and because these search engines search in different ways and search different parts of the Internet, doing the same search using different search engines will often give you wildly differing results.

Many directories on the Internet were created by humans tired of stumbling about the Internet looking for topics of interest. These personal lists grew in size and complexity, and eventually the humans started to use the available search engines to assist them in their quest to bring order to the mess. Yahoo is perhaps the best known of the directories. It was started by a couple of students at Stanford and now employs a variety of people, including librarians, who review and categorize web sites. Yahoo also now employs a search engine, as do most of the other directories. In addition, many of the search engines offer directories of topics for those who prefer to browse.

How to Search

Browsing a directory is a simple matter of following the links for the topic of interest. Searching either a directory or the portion of the web that a search engine covers works very much the same in almost all search engines. The basic format is that of a dialogue box, pane, or line where search terms can be entered followed by options to either submit or clear the search.

Once the search request is received, the search engine searches its own indexed database first, then, based on design, sends out spiders or other robots to add to the database. Results are sent back to the searcher, some annotated extensively, with links to the sources retrieved.

Full featured search engines also have options to expand or limit searches in a variety of ways. For example, in Lycos, the basic search assumes a boolean "or", which means that two or more terms will return results if any of the terms occur in documents indexed by Lycos. To obtain documents containing all the terms in a search, the Enhance Your Search option must be chosen and adjustments made to the default options.

Choosing a Search Engine

Choosing a search engine depends on the results you're looking for, though there are some criteria that may be useful. These criteria include:

- **Browsability** -- how easy is it to understand the results? Do you receive enough information from the retrieved results to make a decision about the usefulness of the results?
- **Customizability** -- can you construct a sufficiently detailed search so as to eliminate or greatly reduce irrelevant results?
- **Relevance** -- no matter how browsable or customizable, are the results returned relevant to your search?

For example, searching for some information on the Native American squash blossom design using WebCrawler will bring relevant results, but either OpenText or InfoSeek would be better first choices because they both give more information to help you determine relevancy.

Comparing Search Engines