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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GAYLE HAYES, ANDRE GULDI, DAVID WOLFMUELLER,
BRETT SHANE GOODWIN, JOHN KELLEY, SHANKAR MUTHANE,
CHARU ROY, and DEVENDRA SINGH

Appeal 2017-001966
Application 13/843,522
Technology Center 3600

Before JOHN A. JEFFERY, BRUCE R. WINSOR, and
JUSTIN BUSCH, *Administrative Patent Judges*.

WINSOR, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellants¹ appeal from the Examiner's decision to reject claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b). Claims 21–27 are withdrawn from consideration. App. Br. 5.

We affirm.

¹ Appellants identify the real party in interest as Oracle International Corporation. App. Br. 3. Oracle International Corporation is the Applicant for the instant patent application. *See* Bib. Data Sheet.

STATEMENT OF THE CASE

Appellants' disclosed invention "relates to . . . facilitating managing development and implementation of innovations, such as product concepts."

Spec. ¶ 1. Claim 1, which is illustrative, reads as follows:

1. A method for facilitating innovation management, the method comprising the following acts performed by one or more processors:

rendering a user interface for defining and displaying a hierarchical data structure for an innovation;

accepting first signals from a user input device to define a plurality of alternate solution categories for the innovation, wherein each alternate solution category is associated with an alternate solution structure, each alternate solution structure corresponding to one or more alternate solution concepts;

accepting second signals from a user input device to define a concept as an alternate solution concept belonging to an alternate solution category;

associating one or more metric attributes with an alternate solution concept;

performing a comparison operation on the hierarchical data structure to generate a visual juxtaposition of data pertaining to the alternate solution categories;

adjusting the juxtaposition of the data to illustrate and accentuate a contrast or difference between the alternate solution categories with respect to the one or more metric attributes;

aggregating the one or more metric attributes to generate an aggregated metric score; and

rendering an integrated display of the hierarchical data structure according to the visual juxtaposition of the data pertaining to the alternate solution categories, wherein the display juxtaposes the alternate solution categories relative to one another with respect to the one or more metrics and with respect to the aggregated metric score.

Claims 1–20 stand rejected under 35 U.S.C. § 101² as being directed to ineligible subject matter. *See* Final Act. 3–5.

Rather than repeat the arguments here, we refer to the Briefs (“App. Br.” filed July 12, 2016; “Reply Br.” filed Nov. 18, 2016) for the positions of Appellants; the Final Office Action (“Final Act.” mailed Feb. 29, 2016) and Examiner’s Answer (“Ans.” mailed Sept. 19, 2016) for the reasoning, findings, and conclusions of the Examiner; and the Specification (“Spec.” filed Mar. 15, 2013). Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants did not make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2015).

ISSUE

The issue presented by Appellants’ arguments is whether the Examiner errs in finding claims 1–20 are directed to a patent-ineligible abstract idea.

ANALYSIS

Patent eligibility is a question of law that is reviewable *de novo*. *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012). To be statutorily patentable, the subject matter of an invention must be a “new and useful process, machine, manufacture, or composition of matter, or [a] new and useful improvement thereof.” 35 U.S.C. § 101. The Supreme Court has held there are implicit exceptions to the categories of patentable subject

² The rejection is under the provisions of 35 U.S.C. in effect before the effective date of the Leahy-Smith America Invents Act of 2011 (AIA). *See, e.g.*, Final Act. 2.

matter identified in § 101, including (1) laws of nature, (2) natural phenomena, and (3) abstract ideas. *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014). Further, the Court has “set forth a framework for distinguishing patents that claim [1] laws of nature, [2] natural phenomena, and [3] abstract ideas from those that claim patent-eligible applications of those concepts.” *Id.* (brackets added) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012)). The evaluation follows the two-part analysis set forth in *Mayo*: 1) determine whether the claim is directed to an abstract idea; and 2) if the claim is directed to an abstract idea, determine whether any element, or combination of elements, in the claim is sufficient to ensure that the claim amounts to significantly more than the abstract idea itself. *See Alice*, 134 S. Ct. at 2355 (citing *Mayo*, 566 U.S. at 75–80).

ALICE STEP ONE

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. *Id.* (emphasis added). The Examiner finds the claims are directed to “organizing human activity or data since innovations are a specific type of activities and the claims are drawn to organizing and presenting that type of data.” Final Act. 4. Appellants argue the claims are not directed to an abstract idea of organizing human activity because “the present invention is directed to a specific improvement to the way computers operate to render a display, embodied in utilizing data hierarchies and data relationships to refine a rendered display presentation.” App. Br. 14 (citing *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016)). In particular, the claims recite “a very specific way of utilizing hierarchical

data structure analysis to effectuate a juxtaposed data presentation, not merely presenting data.” Reply Br. 8.

The dispute implicates the “directed to” inquiry. The “directed to” inquiry cannot simply ask whether the claims involve a patent-ineligible concept, because essentially every patent-eligible claim involving physical products and actions involves a law of nature and/or natural phenomenon—after all, they take place in the physical world. *See Mayo*, 566 U.S. at 71 (“For all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas”). Rather, “the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether ‘their character as a whole is directed to excluded subject matter.’” *Enfish*, 822 F.3d at 1335 (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). The court in *Enfish* put the question as being “whether the focus of the claims is on [a] 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.” *Enfish*, 822 F.3d at 1335–36. The court found that the “plain focus of the claims” there was on “an improvement to computer functionality itself, not on economic or other tasks for which a computer is used in its ordinary capacity.” *Id.* at 1336.

We find unavailing Appellants’ contention that utilizing data hierarchies in juxtaposing innovation data to refine a presentation of different innovation concepts directs claim 1 to a specific improvement to the way computers operate as explained in *Enfish*, 822 F.3d at 1336. The claims in *Enfish* were directed to an improved database configuration that permitted faster searching for data. *Id.* at 1330–33, 1336. We note that

claim 1 is silent regarding a database. Nor do Appellants describe an advance in hardware or software that, for example, causes a computer to operate faster or more efficiently. The alleged improvement to “presentation of different innovation concepts” is still merely a presentation of information, and does not parallel the improvement in *Enfish* and does not impart patent eligibility under *Mayo/Alice* step one.

Taking independent claim 1 as representative of the claims on appeal, the claimed method recites eight steps—(a) rendering a user interface to display an innovation’s hierarchical data structure; (b) accepting user signals that define alternate solution categories for an innovation that correspond to alternate solution concepts; (c) accepting user signals that define a concept as an alternate solution concept belonging to an alternate solution category; (d) associating metric attributes with an alternate solution concept; (e) generate a visual juxtaposition of data pertaining to the alternate solution categories; (f) adjusting the juxtaposition; (g) generating an aggregated metric score; and (h) rendering an integrated display of the hierarchical data structure according to the visual juxtaposition of the data. Thus, the basic character of the claimed subject matter, as a whole, is focused on presenting a comparison between alternate solution categories in a hierarchical data structure, i.e., presenting information, albeit information to “facilitat[e] innovation management,” as recited in the preamble of claim 1.

“The ‘abstract idea’ step of the inquiry calls upon us to look at the ‘focus of the claimed advance over the prior art’ to determine if the claim’s ‘character as a whole’ is directed to excluded subject matter.” *Affinity Labs of Texas, LLC v. DirectTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016) (citing *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed.

Cir. 2016)). In that regard, the Background section of the Specification discusses the problem, which is that conventional “process management software generally lacks features, methods, and interfaces for fully informing enterprise decision makers about important factors involved in developing and managing a particular innovation.” Spec. ¶ 4. According to the Specification, the inventors address this problem by providing “new innovation management capabilities that enable detailed tracking and analysis of concepts and sub-concepts included in a concept structure characterizing an overall concept.” *Id.* ¶ 19. In light of Specification’s description of the problem and solution, the advance over the prior art by the claimed invention is in facilitating innovation management by presenting an innovation’s detailed analysis (i.e., information) to enterprise decision makers.

Given the focus of claim 1 as a whole is presenting a comparison between an innovation’s hierarchical data structure and alternate solution categories, and, in light of the Specification’s description of facilitating innovation management by presenting an innovation’s hierarchical data structure to enterprise decision makers, the claims are characterized as being “directed to” presenting an innovation’s hierarchical data structure to enterprise decision makers. Innovation is a human activity. Presenting an innovation’s hierarchical data structure to enterprise decision makers is a method of organizing, i.e., managing, the human activity. Because methods of organizing human activities are abstract ideas, we agree with the Examiner that claim 1 is directed to an abstract idea. *Cf. Elec. Power*, 830 F.3d at 1354 (claims directed to a “process of gathering and analyzing

information of a specified content,” i.e., data describing operations in a power grid, and then displaying the results were directed to an abstract idea).

ALICE STEP TWO

Because we find that claim 1 is directed to an abstract idea, we next “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.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 78). The Supreme Court describes the second step 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*, 134 S. Ct. at 2355 (citing *Mayo*, 566 U.S. at 72–73).

We find unavailing Appellants’ comparison of the claims to those in a non-binding District Court decision (*Trading Techs. Int’l, Inc. v. CQG, Inc.*, No. 05-cv-4811, 2015 WL 774655, (N.D. Ill. Feb. 24, 2015)), *aff’d* 675 F. App’x 1001 (Fed. Cir. 2017) (non-precedential)) and Appellants’ argument that

“[j]ust as the claims in *Trading Technologies Int’l* were directed to solving problems relating to speed, accuracy, and usability of graphical user interfaces in the context of computerized trading . . . , the present claims are directed to solving problems relating to speed, accuracy, and usability of data hierarchies in the context of managing and presenting innovations and related alternative solutions.

Reply Br. 9–10.

Although the Federal Circuit’s affirmance of the district court’s decision is not precedential, we look to it for its instructive value in this

case. However, the Federal Circuit’s discussion of the claims at issue in *Trading Technologies* does not lead us to a finding of patent eligibility in this case. In *Trading Technologies*, the Federal Circuit affirmed the District Court’s holding that the patented claims (which recited a method and system for displaying market information on a graphical user interface) did not solely claim displaying information on a graphical user interface and were not directed to an abstract idea, but rather required “a specific, structured graphical user interface paired with a prescribed functionality directly related to the graphical user interface’s structure that is addressed to and resolves a specifically identified problem in the prior state of the art.” *Id.* at 1004. In particular, the prescribed functionality directly related to the graphical user interface’s structure reducing the time it takes traders to place a trade on an electronic exchange. *Id.* at 1003. Appellants’ user interface offers no such equivalent functionality. That is, Appellants “simply claim displaying information on a graphical user interface.” *Id.* at 1004.

We also find unavailing Appellants’ comparison of the claims to those of *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014) and Appellants’ argument that the claimed solution is necessarily rooted in computer technology, namely, “to overcome various problems specifically arising in the realm of innovation and to overcome technical difficulties in obtaining a data presentation that accentuates or contrasts the differences between alternative solutions to an innovation in order for a user to make a more informed choice among the alternative solutions.” Reply Br. 8. In *DDR Holdings*, the Federal Circuit determined that the claims addressed the problem of 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 further determined that the claims “specify how interactions with the Internet are manipulated to yield a desired result—a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink.” *Id.* at 1258. The Federal Circuit, thus, held that the claims may pass the second step because they claim a solution “necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.” *Id.* at 1257. New ways of presenting/displaying information related to innovation is not a challenge particular to the Internet, or any other branch of computer technology, as in *DDR Holdings*.

Appellants’ preemption argument that claim 1 does “not tie up an abstract idea as the claims are directed to a specific implementation of a solution to a problem in the software arts” (App. Br. 14) is unpersuasive because it does not alter our § 101 analysis. Preemption concerns are fully addressed and made moot where a claim is deemed to disclose patent ineligible subject matter under the two-part framework described in *Alice*. *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015). “While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Id.*

Thus, “the claims at issue amount to ‘nothing significantly more’ than an instruction to apply the abstract idea . . . using some unspecified, generic computer.” *Alice*, 134 S. Ct. at 2360 (citing *Mayo*, 566 U.S. at 79).

SUMMARY

Appellants do not persuade us of error in the rejection of claim 1. Accordingly, we sustain the rejection of (1) independent claim 1; (2) independent claims 19 and 20, which are argued relying on the arguments made for claim 1 (*see* App. Br. 13–15); (3) claims 2–18, which depend, directly or indirectly, from claims 1, 19, and 20, respectively, and were not separately argued with particularity (*see id.* at 15).

DECISION

The Examiner’s decision to reject claims 1–20 under 35 U.S.C. § 101 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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED