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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOSHUA DAVID,
FRUNKLIN TANG, and THOMAS PAINTER

Appeal 2017-002130
Application 11/971,668¹
Technology Center 3600

Before: BRADLEY W. BAUMEISTER, JASON V. MORGAN, and
NABEEL U. KHAN, *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, 4, 7, 9, 10, 13, 15, 16, and 19–22. Claims 2, 5, 6, 8, 11, 12, 14, 17, and 18 are canceled. App. Br. 10–14. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Appellants identify Dell Products L.P. as the real party in interest. App. Br. 1.

Invention

Appellants disclose a “system for presenting a visual dashboard [that] presents real time information regarding [the] health of business processes through the health of the underlying [information technology] systems.”

Abstract.

Representative Claim (key limitations emphasized)

1. A method for providing information regarding health of business processes comprising:

associating, via a computer system, a plurality of business processes with a plurality of information technology systems, at least some of the plurality of business processes comprising sub processes of information technology systems;

monitoring, via a processor of the computer system, health of the plurality of information technology systems;

providing information, via the computer system, regarding the health of the plurality of business processes based upon the health of the plurality of information technology systems;

associating each of the plurality of information technology systems with respective information technology system elements;

presenting, via a business service management dashboard presented on a display device, the information technology system elements such that the presenting the information technology system elements provides information regarding the health of the plurality of business processes and the health of the sub processes;

associating each of the sub processes of information technology systems with respective information technology system sub elements;
and,

enabling adjusting of how the respective information technology system sub elements affect the health of the respective information technology system elements via the business service management dashboard, the adjusting the respective information technology subsystem including modifying how certain information technology

sub elements operate from within the business service management dashboard.

Rejections²

The Examiner rejects claims 1, 3, 4, 7, 9, 10, 13, 15, 16, and 19–22 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Act. 2–4.

The Examiner rejects claims 1, 3, 4, 7, 9, 10, 13, 15, 16 and 19–21 under 35 U.S.C. § 112, second paragraph, as being indefinite. Final Act. 9–10.

The Examiner rejects claims 1, 3, 4, 7, 9, 10, 13, 15, 16, and 19–22 under 35 U.S.C. § 103(a) as being unpatentable over Trinon et al. (US 2004/0024571 A1; published Feb. 5, 2004) (“Trinon”) and Anzelde et al. (US 2008/0155325 A1; published June 26, 2008) (“Anzelde”).³ Final Act. 10–18.

35 U.S.C. § 112, SECOND PARAGRAPH

The Examiner rejects claim 1 under 35 U.S.C. § 112, second paragraph, because “[i]t is vague and unclear how certainty of an[] operation

² The Examiner withdrew the rejection of claims 1, 3, 4, 7, 9, 10, 13, 15, 16, and 19–22 under 35 U.S.C. § 112, first paragraph (*cf.* Final Act. 4–9 *with* Ans. 3).

³ The Examiner inconsistently cites to both 35 U.S.C. § 103(a) and 35 U.S.C. § 102(b) in rejecting the claims. Final Act. 10. Appellants interpret the Examiner’s rejection to be grounded in § 102(b) (based on Trinon alone) for claims 1, 3, 4, 7, 9, 10, 13, 15, and 16, but grounded in § 103(a) (based on Trinon and Anzelde) for claims 19–22. App. Br. 6. For purposes of this appeal, we interpret the Examiner’s rejection as being grounded in 103(a) for all the claims. However, the Examiner is directed to resolve any ambiguity in the event of further prosecution so as to minimize the risk of misdirected future arguments or analysis.

is measured and modified,” making the recitation “adjusting the respective information technology subsystem including modifying how certain information technology sub elements operate” unclear, thereby rendering claim 1 indefinite. Final Act. 9–10. Appellants do not raise any issues with respect to this rejection. Therefore, we summarily affirm the Examiner’s 35 U.S.C. § 112, second paragraph, rejection of claim 1, and similarly rejected claims 3, 4, 7, 9, 10, 13, 15, 16, and 19–21.

35 U.S.C. § 101

Findings and Contentions

In rejecting claim 1 under 35 U.S.C. § 101, the Examiner concludes the claimed method for providing information regarding the health of business processes represents a method that “can be performed by a [h]uman mentally . . . by pen and . . . paper . . . and/or by use of a generic computer/processor as a tool.” Final Act. 2–3. The Examiner also concludes the claimed method represents a method of organizing human activities that represents an unpatentable abstract idea. *Id.* at 3. The Examiner further concludes that the claim recitations directed to hardware or software elements “are not enough to qualify as ‘significantly more’” than the underlying abstract idea. *Id.*

Appellants contend the Examiner erred because the claimed method “overcome[s] a problem specifically arising in graphical user interfaces.” App. Br. 5. Specifically, Appellants argue “[t]he claimed invention addresses the challenge of providing information regarding [the] health of business processes.” *Id.* Appellants further argue the claim includes “meaningful limitations that add more than generally linking the use of an abstract idea on a computer system because they are necessarily rooted in

computer technology to overcome a problem specifically arising in graphical user interfaces.” *Id.* at 6; *see also* Reply Br. 1–3.

Analysis

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. There are implicit exceptions to the categories of patentable subject matter identified in § 101, including: (1) laws of nature; (2) natural phenomena; and (3) abstract ideas. *Alice Corp. v. CLS Bank Int’l*, 134 S.Ct. 2347, 2355 (2014). The Supreme Court has set forth a framework for distinguishing patents with claims directed to these implicit exceptions “from those that claim patent-eligible applications of those concepts.” *Id.* (citing *Mayo Collaborative Servs. v. Prometheus Labs, Inc.*, 566 U.S. 66 (2012)). The evaluation follows a two-part analysis: (1) determine whether the claim is directed to a patent-ineligible concept, e.g., an abstract idea; and (2) if a patent-ineligible concept is present in the claim, determine whether any element, or combination of elements, in the claim is sufficient to ensure that the claim amounts to significantly more than the patent-ineligible concept itself. *See Alice*, 134 S.Ct. at 2355.

Appellants’ arguments fail to show error in the Examiner’s analysis under 35 U.S.C. § 101 showing that the claimed method is directed to an abstract idea. In particular, the Examiner persuasively shows that the claimed method, which relates to the use of information regarding information technology systems, elements, and sub-elements in determining whether to present information regarding the health of associated business processes, represents an abstract idea. Final Act. 3. That is, the claimed

invention merely is directed to “a process of gathering and analyzing information of a specified content, then displaying the results, *and not any particular assertedly inventive technology for performing those functions.*” *Elec. Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016) (emphasis added).

Appellants argue that the claimed invention “overcome[s] a problem specifically arising in graphical user interfaces.” App. Br. 5. However, no particular graphical user interface technology is claimed. Thus, rather than improving any graphical user interface technology *per se*, the claimed invention merely uses a display device as a tool for visualizing the output from the claimed process. *See* Ans. 4.

Appellants further argue the claim limitations “add more than generally linking the use of an abstract idea on a computer system because they are necessarily rooted in computer technology to overcome a problem specifically arising in graphical user interface.” App. Br. 6. However, we can find nothing in the claimed invention that requires a “nonconventional computer, network, or display components, or even a ‘non-conventional and non-generic arrangement of known, conventional pieces.’” *Electric*, 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)).

For these reasons, we sustain the Examiner’s 35 U.S.C. § 101 rejection of claim 1, and claims 3, 4, 7, 9, 10, 13, 15, 16, and 19–22, which Appellants do not argue separately.

35 U.S.C. § 103(A)—CLAIMS 1, 3, 4, 7, 9, 10, 13, 15, AND 16

Findings and Contentions

In rejecting claim 1 under 35 U.S.C. § 103(a), the Examiner finds Trinon’s algorithm for computing severity levels among components that depend on other components—where components can be computer, computer peripherals, computer programs, networking equipment, manufacturing equipment, or business processes—teaches or suggests claim recitations directed to *associating a plurality of business processes with a plurality of information technology systems and providing information regarding the health of the plurality of business processes based upon the health of the plurality of information technology systems*. Final Act. 10–11 (citing, e.g., Trinon ¶¶ 3, 14, 15, 21–26, and Fig. 1).

Appellants contend the Examiner erred because Trinon fails to teach or suggest:

*associating a plurality of business processes with a plurality of information technology systems where each of the plurality of business processes comprises a collection of related activities that produce a specific goal much less of providing information regarding the **health** of the plurality of business processes based upon the **health** of the plurality of information technology systems.*

App. Br. 7.

Analysis

Appellants’ arguments are unpersuasive of error because, as the Examiner correctly notes, Trinon teaches that the tree structure illustrated in figure 1 “is composed of both IT resources and business processes which are associated [with] each other.” Ans. 6 (citing Trinon ¶¶ 3, 14, 15, 21–26, and Fig. 1). In particular, Trinon explicitly discloses that services provided to

customers “are often built using a large variety of components” that include “computers, computer peripherals, computer programs, networking equipment, and manufacturing equipment.” Trinon ¶ 3. “Components can also be virtual components like business processes that can be combined into a business system.” *Id.* Thus, contrary to Appellants’ arguments, Trinon’s treatment of business processes as a “virtual component” in a graph that includes information technology components teaches or suggests the claimed association of business processes and information technology systems. Moreover, Trinon directly pertains to conveying severity information regarding a component and its underlying components so as to allow a “user to know whether the element or/and its subcomponents or components depending from it are healthy.” *Id.* ¶ 23. Because components in Trinon can be either business processes or information technology components (e.g., computers), conveying such information teaches or suggests “providing information regarding the *health* of the plurality of *business processes* based upon the *health* of the *plurality of information technology systems*,” contrary to Appellants’ arguments. App. Br. 7.

For these reasons, we sustain the Examiner’s 35 U.S.C. § 103(a) rejection of claim 1, and claims 3, 4, 7, 9, 10, 13, 15, and 16, which Appellants do not argue separately. App. Br. 6–7.

35 U.S.C. § 103(A)—CLAIMS 19–22

Findings and Contentions

In rejecting claim 19 under 35 U.S.C. § 103(a), the Examiner finds Anzelde’s entity weight assignment teachings and suggestions render obvious modifying Trinon so that *adjusting of how the respective information technology system sub elements affect the health of the*

respective information technology system elements further comprises providing certain sub elements with respective amounts of weighting, a respective amount of weighting of a certain sub element causing a respective information technology system element to indicate a warning when certain criteria are met, while a respective amount of weighting of another certain sub element causing the another certain information technology system element to not indicate a warning. Final Act. 12–13 (citing, e.g., Anzelde ¶¶ 4, 29, 32–40, and Fig. 1); *see also* Ans. 8.

Appellants contend the Examiner erred because Anzelde’s “components [have] the same amount of weighting based upon the severity level.” App. Br. 8.

Analysis

The Examiner correctly finds that Anzelde teaches or suggests use of *both* an assigned “status weight [for] each of the status values” (Anzelde, Abstract, ¶ 34) *and* an assigned “entity weight [for] each of the system entities” (*id.* ¶ 35). *See* Ans. 8. That is, contrary to Appellants’ argument that Anzelde’s components have equal weighting (App. Br. 8), Anzelde teaches or suggest giving different components different *entity* weights. Therefore, Appellants’ arguments do not show error in the Examiner’s findings.

Accordingly, we sustain the Examiner’s 35 U.S.C. § 103(a) rejection of claim 19, and claims 20–22, which Appellants do not argue separately. App. Br. 8.

DECISION

We affirm the Examiner's decision rejecting claims 1, 3, 4, 7, 9, 10, 13, 15, 16, and 19–21 under 35 U.S.C. § 112, second paragraph.

We affirm the Examiner's decision rejecting claims 1, 3, 4, 7, 9, 10, 13, 15, 16, and 19–22 under 35 U.S.C. § 101.

We affirm the Examiner's decision rejecting claims 3, 4, 7, 9, 10, 13, 15, 16, and 19–22 under 35 U.S.C. § 103(a).

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