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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SANJEEVKUMAR V. DAHIWADKAR

Appeal 2017-002482
Application 14/331,834¹
Technology Center 3600

Before PHILIP J. HOFFMANN, KENNETH G. SCHOPFER, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's decision rejecting claim 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ The Appellant identifies Sanjeevkumar V. Dahiwadkar and IndiSoft LLC as the real party in interest. Appeal Br. 1.

ILLUSTRATIVE CLAIM

1. A business practice management system, comprising:
a hub-and-spoke web-based client/server architecture including a plurality of remote client terminals, one client terminal for each primary participant in a default mortgage case, and a web server in direct communication with all of said client terminals through an Internet backbone;

a URL web portal assigned to each of said participants, said web portal including links to a plurality of index-tabbed webpages each including content for guiding the respective participants through all of the default loan resolution steps of collection, loss mitigation, foreclosure, eviction, bankruptcy, claims, REO acquisition and maintenance, and REO disposition;

a modular array of web-based software resident on a computer readable storage medium at said web server for data exchange with the various participants and the various third party applications used by those participants that facilitates dialogue, guides and educates the participants, tracks activity, and provides information necessary for a resolution, said modular array including a workflow management module comprising executable instructions stored on said computer readable storage medium at said web server for defining a plurality of data objects each comprising a chronological sequence of pre-defined tasks, task-schedules and task-assignments to one or more of said participants, said workflow management module further comprising executable instructions stored on said computer readable storage medium at said web server for generating a graphical user interface for selecting any user, loan, document, or group of the foregoing and attaching any one or more of said plurality of data objects to said selected user, loan, document, or group of the foregoing.

REJECTION

Claim 1 is rejected under 35 U.S.C. § 101 as ineligible subject matter.

ANALYSIS

Applying the first step of the methodology delineated in *Alice Corp. Pty. Ltd. v. CLS Bank International*, 134 S.Ct. 2347, 2355 (2014), the rejection states that the claims at issue are directed to the abstract idea of a business practice of guiding participants through default loan resolution steps of collection, which is characterized as a fundamental economic practice, a method of organizing human activity, and “organizing or manipulating data or information.” Final Action 2, 6, 8, and 12. Under the second *Alice* step, the Examiner determines that the claimed features do not involve significantly more than the abstract idea, because the claimed elements amount to no more than instructions to implement the abstract idea with a generic computing network. Final Action 2–3, 11.

Asserting error in the rejection, the Appellant contends that claim 1 is not an abstract idea, because it relies on both a hardware foundation (hub-and-spoke web-based client/server architecture) and distributed software. Appeal Br. 5. The Appellant argues that the Specification describes a particular, non-generic computer with a distributed architecture and a web server specially programmed with particular modules that communicate in a particular way with remote client terminals. *Id.* at 5–7. This argument is not persuasive of error. The Supreme Court explained that, in regard to a subject-matter eligibility determination, “[t]he fact that a computer ‘necessarily exist[s] in the physical, rather than purely conceptual, realm,’ . . . is beside the point.” *Alice*, 134 S.Ct. at 2359. Indeed, under the first step of the *Alice* analysis, “the claims are considered in their entirety to ascertain whether their character as a whole is directed to excluded subject matter.” *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343,

1346 (Fed. Cir. 2015). Moreover, the particular hardware/software items addressed and relied upon by the Appellant are identified with reference to the Specification (*see* Appeal Br. 5–6), but are not set forth with specificity in the claim.

The Appellant also asserts that “[n]othing about claim 1 can be performed by human thought alone, or by a human using pen and paper,” such that “claim 1 is not an abstract idea.” *Id.* at 7. Regardless of the applicability of such tests of abstractness, however, the rejection identifies the abstract idea as a fundamental economic practice and a method of organizing human activities. Final Action 2, 6, 8; *see also* Answer 2–3.

Further, the Appellant also argues that the rejection is erroneous, because it “conflates” the two *Alice* steps, by “factoring out prior art or non-novel claim elements” in the step-one analysis. Appeal Br. 8. To the contrary, as discussed above — and as the Examiner points out (*see* Answer 5) — the rejection addresses each of the two *Alice* inquiries separately and does not “factor[] out prior art or non-novel claim elements” (Appeal Br. 8) in the first step. *See* Final Action 2–3.

In addition, the Appellant asserts that the Examiner’s abstract-idea determination lacks evidentiary support. Appeal Br. 9. Yet, the Examiner’s determination of abstractness (*see* Final Action 7–8; *see also* Answer 2, 4) aligns with the approach of looking to court decisions regarding fundamental economic practices and methods of organizing human activity. *See Amdocs (Israel) Limited v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016) (A “decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen — what prior cases were about, and which way they were decided.”) Fundamental

economic practices and methods of organizing human activity — such as the identified abstract idea in this case — are categories of basic tools of technological work, which courts regard as abstract ideas ineligible for patenting. *See Alice*, 134 S.Ct. at 2356–57; *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1353–55 (Fed. Cir. 2014). Additionally, the Appellant asserts that additional evidence is needed, but without providing any supporting reasoning, or any evidence, that might contradict the Examiner’s determination.

Although the Appellant (*see* Reply Br. 2–3) disputes the propriety of the Examiner’s reliance upon *buySAFE* for the determination that claim 1 is directed to a fundamental economic practice and a method of organizing human activity (*see* Answer 2), we regard the comparison as apt. Like claim 1, here, the claims at issue in *buySAFE* describe a method for guiding a user through a well-known financial transaction — a transaction performance guaranty in the claims of *buySAFE*, and a default loan resolution in claim 1 of this Appeal. *See buySAFE*, 765 F.3d at 1355.

The Appellant also argues that the claim is not an abstract idea, by relying on the machine-or-transformation test. Appeal Br. 7–8. Although regarded as an “important and useful clue” to patent eligibility, the machine-or-transformation test is not definitive. *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 89 (2012). The machine-or-transformation test does not displace the analysis required under *Alice*.

Turning to *Alice*’s second step, the Appellant argues that claim 1 amounts to significantly more than the identified abstract idea, because the claim is inextricably rooted in computer technology — based upon the recitation of a sequential data object comprising a “chronological sequence

of pre-defined tasks, task-schedules, and task-assignments,” as well as the recitation of the “attach[ment]” of such sequential data objects to other objects (e.g., a “user, loan, document, or group of the foregoing”). Appeal Br. 12. To contrary, as the Examiner explains (Answer 5), the computer technology of claim 1 implements a commercial practice in a computer environment — as opposed to addressing a problem arising specifically from the circumstances of the computer environment. *See In re TLI Commc ’ns LLC Patent Litig.*, 823 F.3d 607, 613–14 (Fed. Cir. 2016). Indeed, claim 1 does not actually recite any “particular sequential data object,” as the Appellant contends (Appeal Br. 12), but simply refers to “a plurality of data objects each comprising a chronological sequence of pre-defined tasks, task-schedules and task-assignments to one or more of said participants,” without providing any details about the sequence itself. The recitation of “attaching . . . data objects” (Appeal Br. 12) is similarly generic. Performing processes according to a sequence and attaching data objects are generic aspects of computer functionality.

Finally, the Appellant’s remark that “data mirroring” was “by no means ‘conventional’ in practice” (Appeal Br. 12) is inapposite, because claim 1 does not recite “data mirroring.”

For the foregoing reasons, the Appellant’s arguments are unpersuasive, such that we sustain the rejection of claim 1 under 35 U.S.C. § 101.

DECISION

We AFFIRM the Examiner’s decision rejecting claim 1 under 35 U.S.C. § 101.

Appeal 2017-002482
Application 14/331,834

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

AFFIRMED