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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GERALD A. MORGAN
and CHRISTOPHER M. MACHECA¹

Appeal 2017-002656
Application 13/827,913
Technology Center 3600

Before JOHNNY A. KUMAR, LARRY J. HUME, and
JOHN D. HAMANN, *Administrative Patent Judges*.

KUMAR, *Administrative Judge*.

DECISION ON APPEAL

¹ Appellant is the applicant, Gordon*Howard Associates, Inc., which is identified as the real party in interest. App. Br. 3.

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from a rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

Appellant's Invention

The claimed invention generally relates to automated collection technology. Abstract.

Representative Claims

Representative claims 1, 8, and 14 read as follows:

1. A method comprising:
 - receiving, at a computer system of an operations center, information regarding a payment schedule for an asset loan;
 - setting, by a computer system of the operations center, a first disablement date for the asset, the setting based on the payment schedule, and the disablement date set without human involvement;
 - tracking the first disablement date by a computer system of the operations center, the operations center remotely located from the asset;
 - recording information related to a payment made for the asset loan; and then
 - setting, by a computer system of the operations center, a second disablement date in response to the payment, the second disablement date set without human involvement, and the second disablement date based on the information related to the payment made.

8. A method comprising:
 - receiving, at a computer system of an operations center, information regarding a payment schedule for an asset loan;
 - setting, by a computer system of the operations center, a first disablement date for the asset, the setting based on the payment schedule, and the disablement date set without human involvement;

tracking the first disablement date by a computer system of the operations center, the operations center remotely located from the asset; and after the first disablement date;

disabling the asset by a computer system of the operations center, the disabling occurring without human involvement.

14. A system comprising:
 - a processor;
 - a wireless interface coupled to the processor;
 - a memory coupled to the processor, the memory storing a program that, when executed by the processor, causes the processor to:
 - receive information regarding a payment schedule for an asset loan;
 - set an action date for the asset, the setting based on the payment schedule, and the action date set without human involvement;
 - record information related to a payment made for the asset loan;
 - track a current date in relation to the action date;
 - take an action when the current date meets or exceeds the action date, the action undertaken without human involvement.

Rejection

The Examiner rejected claims 1–20 under 35 U.S.C. § 101 “because the claimed invention is directed to a judicial exception (i.e. a law of nature, a natural phenomenon or an abstract idea) without ‘significantly more’” (Final Act. 6), i.e., for being patent-ineligible subject matter.²

² Based on Appellant’s arguments (App. Br. 6–13), we select claim 8 as representative. Separate patentability, in compliance with 37 C.F.R. § 41.37(c)(1)(iv), is not argued for claims 1–7 and 9–14. Except for our ultimate decision, this rejection of claims 1–7 and 9–14 is not discussed further herein.

Issue on Appeal

Did the Examiner err in rejecting claim 8 for being directed to patent-ineligible subject matter?

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellant's arguments (Appeal Brief and Reply Brief) that the Examiner has erred. We disagree with Appellant's conclusions and concur with the conclusions reached by the Examiner. Except as noted below, we adopt as our own the reasoning set forth by the Examiner in the Examiner's Answer. We highlight the following points.

A. Section 101

Under 35 U.S.C. § 101, a patent may be obtained for "any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof." The Supreme Court has "long held that this provision contains an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable." *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014) (quoting *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)). The Supreme Court in *Alice* reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012), "for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts." *Alice*, 134 S. Ct. at 2355. The first step in that analysis is to "determine whether the claims at issue are directed to one of those patent-ineligible concepts," such as an abstract idea. *Id.* (citing

Mayo, 566 U.S. at 77–78). For example, a fundamental economic practice is an abstract idea.

[In *Bilski v. Kappos*], the Court grounded its conclusion that all of the claims at issue were abstract ideas in the understanding that risk hedging was a “fundamental economic practice.” 561 U.S. [593,] 611 [(2010)].

Alice, 134 S. Ct. at 2357.

The Court acknowledged in *Mayo* that “all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Mayo*, 566 U.S. at 71. We, therefore, look to whether the claims focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016). If the claims are not directed to an abstract idea, the inquiry ends. Otherwise, the inquiry proceeds to the second step where the elements of the claims are considered “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 78–79).

B. *Alice/Mayo* — Step 1

The Examiner concludes claims 1, 8, and 14 are directed to the abstract idea of *enforcement of the terms of a loan via a payment schedule* which is a fundamental economic practice of making a payment. Final Act. 3.

Appellant contends:

[C]laim 8 is not directed merely to an abstract idea, but rather to a concrete and unique method for automatically establishing

and instituting payment schedules for an asset loan that results in “disabling the asset by a computer system . . . the disabling occurring without human involvement,”

App. Br. 7.

Appellants respectfully submit there is nothing foundational or basic about enforcing the terms of a loan by disabling an asset, such as a physical vehicle, without human involvement. That is, humans have enforced loan payments without disabling an asset, much less disabling an asset such as a vehicle for a long time. Thus, unlike the general concept of enforcing loan payments, which might be for the sake of argument, foundational, enforcing loan payments by disabling an asset, such as a physical vehicle, without human involvement is not fundamental or foundational.

App. Br. 9.

The Examiner responds:

The Appellants limitations in claim 8 of “receiving . . . information regarding a payment schedule for an asset loan; . . . setting . . . a first disablement date for the asset, the setting based on the payment schedule; . . . tracking the first disablement date . . . and after the first disablement date . . . disabling the asset” is directed to an abstract concept of enforcement of the terms of a loan via a payment schedule, which is considered a certain method of organizing human activities to contract a payment-being a fundamental economic practice. The phrase “certain methods of organizing human activity” is being used to describe concepts relating to interpersonal and intrapersonal activities, such as managing relationships or transactions between people, satisfying or avoiding a legal obligation (e.g., a loan); and managing mental activities. Some methods of organizing human activity and a fundamental economic practice practices or “ideas.”

Ans. 6–7.

The Examiner also finds:

Appellant’s limitation, with the claim language as a whole, maintains that the limitation of “disabling the asset” is similar to either

[1] re-possession of a vehicle after the non-payment on the loan, or

[2] the ‘shutting off’ (or termination) of an asset until the payment is current and up-to-date [similar to utility services (e.g., water bill, gas bill, electric bill, cable bill, etc.,) for non-payment wherein the company has a set date that the company would like to stop the utility of the asset- the asset here being gas, water or electricity (or good) and the service providing the utility].

Ans. 8.

Appellant’s arguments are not persuasive. Enforcement of the terms of a loan via a payment schedule is a fundamental business practice long prevalent in our system of commerce, like the risk hedging in *Bilski* (see *Bilski v. Kappos*, 561 U.S. 593 (2010)), the intermediated settlement in *Alice* (see *Alice*, 134 S. Ct. at 2356–57), verifying credit card transactions in *CyberSource* (see *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011)), collecting and analyzing information to detect and notify of misuses in *FairWarning* (see *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016)), and guaranteeing transactions (see *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1354 (Fed. Cir. 2014)). Enforcement of the terms of a loan via a payment schedule is also a building block of a market economy. Thus, enforcement of the terms of a loan via a payment schedule, like risk hedging, intermediated settlement, and verifying credit card transactions, is an “abstract idea” beyond the scope of § 101. See *Alice*, 134 S. Ct. at 2356.

Our reviewing court has further noted that fundamental economic and conventional business practices are often found to be abstract ideas, even if

performed on a computer. *See, e.g., OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015). “The abstract idea exception prevents patenting a result where ‘it matters not by what process or machinery the result is accomplished.’” *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299, 1312 (2016) (quoting *O’Reilly v. Morse*, 56 U.S. 62, 113 (1854)).

Appellant argues (Reply Br. 1–4) the claims are similar to the claims in *McRO*, because “Appellants’ claims improve the existing technological process by allowing the automation of further tasks, i.e. tracking the first disablement date, and disabling the asset after the first disablement date,” which is not persuasive. Unlike the claims in *McRO*, the claims in the present application fail to recite the technical details that describe the alleged improvement of the technical process of scheduling a remote disablement feature. Instead, the claims merely recite the abstract idea of scheduling the remote disablement feature with generic computer terminology. *See* Ans. 8.

Contrary to Appellant’s assertion, we conclude the character of claim 8 as a whole is directed to a fundamental economic practice in the form of a method for enforcement of contract terms found in a loan via a payment schedule.

C. *Alice/Mayo* - Step 2

Turning to the second part of the *Alice/Mayo* analysis, the Examiner finds that in claim 8

a computer operation center which is a computer system [is]
being used to set a disablement date, track the disablement date,
record payment information for a loan and setting a second
disablement date based upon information related to the payment
made

Final Act. 4.

Simply programming a computer to perform what would otherwise be an abstract idea is not sufficient to impart patent eligibility. *See Alice*, 134 S. Ct. at 2359. In light of Appellant’s Specification, we find the claimed computer components are generic.

Further, Appellant’s argument overlooks that, to impart eligibility under 35 U.S.C. § 101, the claimed “solution” must be a technical solution. *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1351 (Fed. Cir. 2016). Appellant’s argument does not explain how either the problem or claimed solution here are technical in nature. Unlike the claims at issue in cases such as *DDR Holdings LLC v. Hotels.com LP*, 773 F.3d 1245, 1257 (Fed. Cir. 2014) (Claims at issue are “necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.”), and *Enfish*, 822 F.3d at 1339 (Claims at issue are “directed to a specific implementation of a solution to a problem in the software arts.”), Appellant merely addresses a business issue through the use of generic, computer-related recitations that do not add meaningful limitations to steps otherwise directed to an abstract idea.

Because Appellant’s claims 1–20 are directed to a patent-ineligible abstract concept and do not recite something “significantly more” under the second prong of the *Alice* analysis, we sustain the Examiner’s rejection of these claims under 35 U.S.C. § 101 as being directed to non-statutory subject matter in light of *Alice* and its progeny.

CONCLUSION

The Examiner has not erred in rejecting claims 1–20 under 35 U.S.C. § 101, as being directed to patent-ineligible subject matter.

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DECISION

We affirm the Examiner's rejection of claims 1–20.

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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED