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Suite 2800
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SEAMUS MORAN

Appeal 2017-002739
Application 12/037,833
Technology Center 3600

Before ANTON W. FETTING, BIBHU R. MOHANTY, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.
FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE¹

Seamus Moran (Appellant)² seeks review under 35 U.S.C. § 134 of a final rejection of claims 26–35, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

¹ Our decision will make reference to the Appellant’s Appeal Brief (“App. Br.,” filed October 10, 2015) and Reply Brief (“Reply Br.,” filed December 6, 2016), and the Examiner’s Answer (“Ans.,” mailed October 6, 2016), and Final Action (“Final Act.,” mailed April 30, 2015).

² The real party in interest is Oracle International Corporation. App. Br. 3.

The Appellant invented a system of accounting, and in particular a system for tracking performance obligations. Specification para. 2.

An understanding of the invention can be derived from a reading of exemplary claim 31, which is reproduced below (bracketed matter and some paragraphing added).

31. A method of managing performance obligations, the method comprising:

[1] maintaining a performance obligation database that stores data related to performance obligations;

[2] storing, by the performance obligation database, a first table and a second table, wherein the first table comprises a first row associated with a performance obligation, the first row comprising:

a unique identifier of the performance obligation;

release criteria defining logic rules for how the performance obligation is to be released;

a valuation total indicating the original value of the performance obligation;

a valuation-satisfied total indicating an amount of the performance obligation that has been released;

and

a valuation-remaining total indicating an amount of the performance obligation that has yet to be released;

[3] maintaining a first server that manages the performance obligation database and populates and modifies entries in the performance obligation database through interactions with a plurality of legacy systems comprising an invoicing system, a delivery system, a costing system, a supply management system, an ordering system, a customer-management system, and a general-ledger system;

accessing, by the first server, the first row in the first table;

[4] extracting, by the first server, a subset of the data from the first row of the first table;

[5] generating, by the first server, a second row in the second table, the second row comprising:

the unique identifier of the performance obligation;

a debit value indicating how much of the performance obligation has been satisfied;

and

a credit value indicating how much of the performance obligation remains to be satisfied;

[6] generating, by the first server, an electronic journal entry from the second row to be posted to the general-ledger system;

and

[7] sending, by the first server, the electronic journal entry to the general-ledger system for posting.

Claims 26–35 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

ISSUES

The issues of eligible subject matter turn primarily on whether the claims recite more than abstract conceptual advice of what a computer is to provide without implementation details.

ANALYSIS

Method claim 31 recites maintaining a performance obligation database, storing two tables, maintaining a server that manages the performance obligation database, accessing a table row, extracting data from that row, generating a second row, and generating and sending a journal entry. Thus,

claim 31 recites maintaining tables in a database server, and retrieving, analyzing, modifying, and transmitting data from and to the database. None of the limitations recite implementation details for any of these steps, but instead recite functional results to be achieved by any and all possible means. Data reception, analysis and modification, and transmission are all generic, conventional data processing operations to the point they are themselves concepts awaiting implementation details. The sequence of data reception-analysis-modification-transmission is equally generic and conventional. The ordering of the steps is therefore ordinary and conventional. The remaining claims merely describe parameters used for the operations and data used for the tables and journal entries, with no implementation details.

The Supreme Court

set forth a framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts. First, [] determine whether the claims at issue are directed to one of those patent-ineligible concepts. [] If so, we then ask, “[w]hat else is there in the claims before us? [] To answer that question, [] 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. [The Court] described step two 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 Corp. Pty. Ltd. v CLS Bank Intl, 134 S. Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012)).

To perform this test, we must first determine whether the claims at issue are directed to a patent-ineligible concept. The Examiner finds the claims directed to

the abstract idea of tracking performance obligation values (as shown in the recited steps of keeping and updating debit/credit values in a table), which involves fundamental accounting principles and mathematical relationships. The invention is similar to electronic bookkeeping found to be non-statutory in *Alice*, and tracking performance obligations is a practice already known in the art of accounting

Final Act. 3.

Although the Court in *Alice* made a determination as to what the claims were directed to, we find that this case's claims themselves and the Specification provide enough information to inform one as to what they are directed to.

The preamble to claim 31 recites that it is a method of managing performance obligations. The steps in claim 31 result in generating accounting table records and accounting journal entries. The Specification at paragraph 1 recites that the invention relates to systems of accounting, and in particular to a system for tracking performance obligations. Thus, all this evidence shows that claim 31 is directed to accounting by tracking performance obligations, i.e. accounting. This is consistent with the Examiner's finding.

It follows from prior Supreme Court cases, and *Bilski* (*Bilski v. Kappos*, 561 U.S. 593 (2010)) in particular, that the claims at issue here are directed to an abstract idea. Like the risk hedging in *Bilski*, the concept of

accounting is a fundamental economic practice long prevalent in our system of commerce. The use of accounting is also a building block of ingenuity in tracking performance generally. Thus, accounting, like hedging, is an “abstract idea” beyond the scope of §101. *See Alice*, 134 S. Ct. at 2356.

As in *Alice*, we need not labor to delimit the precise contours of the “abstract ideas” category in this case. It is enough to recognize that there is no meaningful distinction in the level of abstraction between the concept of risk hedging in *Bilski* and the concept of accounting at issue here. Both are squarely within the realm of “abstract ideas” as the Court has used that term. *See Alice*, 134 S. Ct. at 2357.

Further, claims involving only data collection, analysis, and display are directed to an abstract idea. *Elec. Power Grp. v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (holding that “collecting information, analyzing it, and displaying certain results of the collection and analysis” are “a familiar class of claims ‘directed to’ a patent-ineligible concept”); *see also In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016). Claim 31, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data retrieval, analysis, and transmission and does not recite an improvement to a particular computer technology. *See, e.g., McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314–15 (Fed. Cir. 2016) (finding claims not abstract because they “focused on a specific asserted improvement in computer animation”). As such, claim 31 is directed to the abstract idea of receiving, analyzing, and transmitting data.

The remaining claims merely describe parameters used for the operations and data used for the tables and journal entries. We conclude that the claims at issue are directed to a patent-ineligible concept.

The introduction of a computer into the claims does not alter the analysis at *Mayo* step two.

the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. Stating an abstract idea “while adding the words ‘apply it’” is not enough for patent eligibility. Nor is limiting the use of an abstract idea “to a particular technological environment.” Stating an abstract idea while adding the words “apply it with a computer” simply combines those two steps, with the same deficient result. Thus, if a patent’s recitation of a computer amounts to a mere instruction to “implement[t]” an abstract idea “on . . . a computer,” that addition cannot impart patent eligibility. This conclusion accords with the preemption concern that undergirds our § 101 jurisprudence. Given the ubiquity of computers, wholly generic computer implementation is not generally the sort of “additional feature[e]” that provides any “practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.”

Alice, 134 S. Ct. at 2358 (citations omitted).

“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea [] on a generic computer.” *Alice*, 134 S. Ct. at 2359. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer to retrieve, analyze, modify, and transmit data amounts to electronic data query and retrieval—one of the most basic functions of a

computer. The limitation of maintaining a server is not an active step, but a recitation of a role, *viz.* a server custodian, which is of no import, as database servers are generic computer equipment. All of these computer functions are well-understood, routine, conventional activities previously known to the industry. *See Elec. Power Grp. v. Alstom S.A., supra.* Also see *In re Katz Interactive Call Processing Patent Litigation*, 639 F.3d 1303, 1316 (Fed. Cir. 2011) (“Absent a possible narrower construction of the terms ‘processing,’ ‘receiving,’ and ‘storing,’ . . . those functions can be achieved by any general purpose computer without special programming”). In short, each step does no more than require a generic computer to perform generic computer functions. As to the data operated upon, “even if a process of collecting and analyzing information is ‘limited to particular content’ or a particular ‘source,’ that limitation does not make the collection and analysis other than abstract.” *SAP America, Inc. v. InvestPic LLC*, 898 F.3d 1161, 1168 (Fed. Cir. 2018).

Considered as an ordered combination, the computer components of Appellant’s method add nothing that is not already present when the steps are considered separately. The sequence of data reception-analysis-modification-transmission is equally generic and conventional or otherwise held to be abstract. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction), *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (sequence of data retrieval, analysis, modification, generation, display, and transmission), *Two-Way Media Ltd. v. Comcast Cable Communications, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017)

(sequence of processing, routing, controlling, and monitoring). The ordering of the steps is therefore ordinary and conventional.

Viewed as a whole, Appellant's method claims simply recite the concept of accounting as performed by a generic computer. To be sure, the claims recite doing so by advising one to account for performance obligations by reading data from one system and update accounting tables and journal entries as the obligations change. But this is no more than abstract conceptual advice on the parameters for such accounting and the generic computer processes necessary to process those parameters, and do not recite any particular implementation.

The method claims do not, for example, purport to improve the functioning of the computer itself. Nor do they effect an improvement in any other technology or technical field. The 16+ pages of Specification do not bulge with disclosure, but only spell out different generic equipment³ and parameters that might be applied using this concept and the particular steps such conventional processing would entail based on the concept of accounting under different scenarios. They do not describe any particular improvement in the manner a computer functions. Instead, the claims at issue amount to nothing significantly more than an instruction to apply the abstract idea of accounting using some unspecified, generic computer.

³ The server "can be general purpose computers, specialized server computers (including, merely by way of example, PC servers, UNIX servers, mid-range servers, mainframe computers rack-mounted servers, etc.), server farms, server clusters, or any other appropriate arrangement and/or combination." Spec. para. 44.

Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice*, 134 S. Ct. at 2360.

As to the structural claims, they

are no different from the method claims in substance. The method claims recite the abstract idea implemented on a generic computer; the system claims recite a handful of generic computer components configured to implement the same idea. This Court has long “warn[ed] ... against” interpreting § 101 “in ways that make patent eligibility ‘depend simply on the draftsman’s art.’”

Alice., 134 S. Ct. at 2360.

We are not persuaded by Appellant’s argument that

The claims implement the abstract idea of the IASB [International Accounting Standards Board] [accounting for revenue recognition] proposal in one specific embodiment specially tailored to interface with an existing ERM financial system. The claims introduce a new data structure (the “first table”) that is stored on a new “performance obligation database” and managed by a new “first” server that is separate from the existing ERM hardware. The new server includes a process that communicates with the existing (“legacy”) systems, such as the invoicing system, the costing system, the ordering system, and so forth. The process on the new server extracts data from the first table according to logic rules stored in the release criteria field and generates an entry in a second table in a new database that translates the obligation valuations into debits and credits.

App. Br. 5. First, the claims recite automation of the clerical support operations for revenue recognition rather than the proposal itself, as an accounting standard is just that, a standard applied by the professional judgment of accountants, which by definition, cannot be implemented by others than humans. Second, there is nothing new about a table as a data

structure, or about a database server separate from the processes that make database calls. Data extraction according to query criteria is fundamental data processing operation. Translating accounting data into debits and credits is as old as bookkeeping. Thus, the claims recite nothing more than automating the known manual process of supporting the application of accounting standards to create bookkeeping records using conventional database technology.

We are not persuaded by Appellant's argument that

The claims improve the functioning of the existing ERM computer system by providing a new server/database that isolates performance obligation tracking from the existing computer systems. Forcing one of the existing systems (e.g., delivery, invoicing, supply management, general ledger, etc.) to monitor and account for performance obligations would necessarily require more memory, processing power, and bandwidth from the existing systems. In the real world, the general ledger, supply management, and invoicing systems are stretched to their limits handling their own day-to-day transactions. Tracking performance obligations requires interactions with at least eight different ERM systems and constant evaluation of release criteria logic. Appellant's FIG. 2. Not only would these interactions necessarily require scarce bandwidth and processing power from an existing system, but no single existing system is capable of communicating with all of the other existing systems.

App. Br. 6. Appellant essentially contends that distributed processing provides the benefits, but Appellant does not contend he invented distributed processing, which is at least half a century old. The alleged benefits all stem from the use of an additional computer *per se*.

The use and arrangement of conventional and generic computer components recited in the claims—such as a database, user terminal, and server—do not transform the claim, as a whole,

into “significantly more” than a claim to the abstract idea itself. “We have repeatedly held that such invocations of computers and networks that are not even arguably inventive are ‘insufficient to pass the test of an inventive concept in the application’ of an abstract idea.”

Credit Acceptance Corp. v. Westlake Services, 859 F.3d 1044, 1056 (Fed. Cir. 2017) (citations omitted).

We are not persuaded by Appellant’s argument that

the independent claims go beyond merely “receiving and storing” dollar values. The independent claims recite extracting a subset of data from the first table and translating that information into a data format that would be recognized by the existing general ledger system. As described above, this translation operation allows the existing general ledger system to be reused without requiring update patches or redesigns. This novel data transformation operation qualifies as “significantly more” under the standard set in *Research Corp.*, and thus the claims are patent-eligible.

App. Br. 7 (citing *Research Corp. Technologies, Inc. v. Microsoft Corp.*, 627 F.3d 859 (Fed. Cir. 2010)). Initially, translation of data is among the most frequent uses of data processing, and indeed, accounting systems in general. Translation as such is the epitome of abstraction.

As to *Research Corp.*,

[t]he principal precedent relied on by Bancorp in arguing for patent eligibility is *Research Corp.* In that case, the asserted patents claimed processes for enabling a computer to render a halftone image of a digital image by comparing, pixel by pixel, the digital image against a two-dimensional array called a “mask.” 627 F.3d at 863. We reversed the district court’s grant of summary judgment that the asserted claims were invalid under § 101, concluding that the processes were not “so manifestly” abstract as to override the statutory language of § 101. *Id.* at 868. In so holding, we observed that the claimed

“invention presents functional and palpable applications in the field of computer technology.” *Id.* We also noted that “inventions with specific applications or improvements to technologies in the marketplace are not likely to be so abstract” as to be ineligible for patent protection. *Id.* at 869.

Research Corp. is different from the present case in two critical respects. First, the claimed processes in *Research Corp.* plainly represented improvements to computer technologies in the marketplace. For example, as compared to the prior art, the “inventive mask produce[d] higher quality halftone images while using less processor power and memory space.” *Id.* at 865. No such technological advance is evident in the present invention. Rather, the claims merely employ computers to track, reconcile, and administer a life insurance policy with a stable value component—*i.e.*, the computer simply performs more efficiently what could otherwise be accomplished manually. *Bancorp*, 771 F.Supp.2d at 1065.

Second, the method in *Research Corp.*, which required the manipulation of computer data structures (the pixels of a digital image and the mask) and the output of a modified computer data structure (the halftoned image), was dependent upon the computer components required to perform it. *See CyberSource*, 654 F.3d at 1376 (“[T]he method [in *Research Corp.*] could not, as a practical matter, be performed entirely in a human’s mind.”). Here, in contrast, the computer merely permits one to manage a stable value protected life insurance policy more efficiently than one could mentally. Using a computer to accelerate an ineligible mental process does not make that process patent-eligible.

Bancorp Services, L.L.C. v. Sun Life Assur. Co. of Canada, 687 F.3d 1266, 1278–79 (Fed. Cir. 2012). Analogous to the claims in *Bancorp*, the instant claims merely employ computers to track, reconcile, and administer an accounting entry—*i.e.*, the computer simply performs more efficiently what could otherwise be accomplished manually, and the computer merely

permits one to manage a recording of revenue according to international standards more efficiently than one could mentally.

We are not persuaded by Appellant's argument that

the non-technical problem of how to account for performance obligations was previously solved by the IASB white paper. The non-technical solution is tracking incremental recognition of revenue. The problem solved by the claims is the technical problem of how to integrate the tracking of partial performance of obligations into an existing ERM system. As described above, instead of redesigning the entire existing ERM system, the new server/database configuration provides the advantage of being used as an add-on to integrate performance obligations into the existing journal entry data flow. While new ERM systems can integrate performance obligation management directly into the general ledger, the system of the claims represents a patch that can be used until a customer upgrades its existing ERM system. In other words, this provides a *technology improvement* such that the usable life span of legacy ERM systems can be extended without requiring a complete redesign or system upgrade.

App. Br. 8. The alleged solution is abstract conceptual advice to insert some translation process into the accounting flow. There is nothing technological about doing so, the advice is merely applied in a computer context.

To be sure, the '379 patent claims the wireless delivery of regional broadcast content only to cellphones. In that sense, the claims are not as broad as the abstract idea underlying them, which could apply to the delivery of out-of-region content to any electronic device. That restriction, however, does not alter the result. All that limitation does is to confine the abstract idea to a particular technological environment—in this case, cellular telephones. The Supreme Court and this court have repeatedly made clear that merely limiting the field of use of the abstract idea to a particular existing technological environment does not render the claims any less abstract.

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Affinity Labs of Texas, LLC v. DIRECTV, LLC, 838 F.3d 1253, 1258 (Fed. Cir. 2016). Translation is routine in both manual and automated accounting systems, as accounting itself is the translation of business operations into financial terms.

We are not persuaded by Appellant’s argument that the claims do not preempt the use of an abstract idea. App. Br. 8. “Where a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Mayo* [*Alice*] framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015).

CONCLUSIONS OF LAW

The rejection of claims 26–35 under 35 U.S.C. § 101 as directed to a judicial exception without significantly more is proper.

DECISION

The rejection of claims 26–35 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. § 1.136(a)(1)(iv) (2011).

AFFIRMED