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patents@ascendalaw.com
tarek.fahmi@ascendalaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TRACEY R. THOMAS

Appeal 2017-002949
Application 12/852,224
Technology Center 3600

Before THU A. DANG, JOHN A. EVANS, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ seeks our review under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–5 and 20–25, i.e., all pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ Appellant identifies the real party in interest as Gula Consulting Limited Liability Company. App. Br. 2.

STATEMENT OF THE CASE

The Invention

According to the Specification, the “invention relates generally to money management, and more particularly, to the hierarchical distribution of income among a user’s savings account and a user’s debts, wherein the distribution may include various forms of transferring funds.” Spec. ¶ 2.² The Specification explains that a system “provides recommendations related to the prioritization of paying certain bills and the amount to pay for each bill based upon, for example, savings goals, a community recommendation, minimizing penalties/fees associated with user’s debts, minimum amounts due, due dates and available income,” and then the system and/or the user “determine[s] a payment hierarchy.” Abstract.

Exemplary Claims

Independent claims 1 and 20 exemplify the claims at issue and read as follows:

1. A method comprising:

storing, by a computer system, financial information relating to a user, wherein the financial information includes information relating to a plurality of debt obligations of the user and user income information;

receiving, by the computer system, a charity request from a charity soliciting a donation;

² This decision uses the following abbreviations: “Spec.” for the Specification, filed August 6, 2010; “Final Act.” for the Final Office Action, mailed September 21, 2015; “Adv. Act.” for the Advisory Action, mailed November 27, 2015; “App. Br.” for the Appeal Brief, filed February 18, 2016; “Ans.” for the Examiner’s Answer, mailed October 21, 2016; and “Reply Br.” for the Reply Brief, filed December 21, 2016.

notifying, by the computer system, the user of the charity request;

receiving, by the computer system, approval for the donation from the user; and

executing, by the computer system, an engine that determines a payment hierarchy based on the stored financial information, wherein the payment hierarchy specifies a donation amount for the charity, a time period for paying the donation amount, and time periods for paying one or more of the plurality of debt obligations, wherein the engine determines the payment hierarchy via an automated learning algorithm that analyzes subjective assessments of one or more previously determined payment hierarchies.

20. A non-transitory computer readable medium having program instructions stored thereon that, in response to execution by a computer system, cause the computer system to perform operations comprising:

storing financial information relating to a user, wherein the financial information includes information relating to a plurality of debt obligations of the user and user income information;

receiving an approval from a user to make a donation in response to a charity request from a social network; and

implementing an engine that determines a payment hierarchy based on the stored financial information and the approval, wherein the payment hierarchy specifies a donation amount for the charity request, a time period for paying the donation amount, and time periods for paying one or more of the plurality of debt obligations, wherein the engines [sic] uses artificial intelligence to determine the payment hierarchy based on survey results assessing previously determined payment hierarchies.

The Rejection on Appeal

Claims 1–5 and 20–25 stand rejected under 35 U.S.C. § 101 as directed to patent-ineligible subject matter. Final Act. 3–4; Adv. Act. 2.

ANALYSIS

We have reviewed the rejection of claims 1–5 and 20–25 in light of Appellant’s arguments that the Examiner erred. Based on the record before us and for the reasons explained below, we concur with Appellant’s contention that the Examiner erred in rejecting the claims under § 101.

The § 101 Rejection of Claims 1–5 and 20–25

Appellant contends that the Examiner “failed to establish that claim 1 merely recites ‘computer functions that are well-understood, routine and conventional activities.’” App. Br. 7 (emphasis omitted); *see* Reply Br. 2, 4–5. More specifically, Appellant asserts that “the Examiner has not provided any supporting evidence for asserting that all claimed functions are ‘well-understood routine, conventional activit[ies].’” App. Br. 8; Reply Br. 2, 4. Appellant also asserts that “[s]imply because the general function of ‘analysis and storage of data’ is ‘well-understood, routine, and conventional’ does not of itself establish that claim 1’s ‘engine [that] determines [a] payment hierarchy via an automated learning algorithm that analyzes subjective assessments’ is routine or conventional.” Reply Br. 3; *see* App. Br. 8.

In response, the Examiner maintains that “[t]he entirety of this argument is rebutted by” the July 2015 Update: Subject Matter Eligibility (“2015 Update”). Ans. 4. The Examiner then quotes the 2015 Update, e.g., “Courts have not identified a situation in which evidence was required to

support a finding that the additional elements were well-understood, routine or conventional, but rather treat the issue as a matter appropriate for judicial notice.” *Id.* at 4–5 (quoting 2015 Update 6–7). According to the Examiner, “[t]he 35 USC 101 Alice Supreme Court Case is not evidence based. The Alice/Mayo 101 Supreme Court Case is law based.” Final Act. 11; Adv. Act. 3.

Based on the record before us, we agree with Appellant that the Examiner has not adequately established that claim 1’s additional elements constitute “generic computer functions that are well-understood, routine, and conventional activities previously known to the pertinent industry.” *See* Final Act. 4, 8–10; Adv. Act. 3. “Whether something is well-understood, routine, and conventional to a skilled artisan at the time of the patent is a factual determination.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1369 (Fed. Cir. 2018).

Here, the Examiner has not provided a satisfactory basis for showing that claim 1’s “engine [that] determines [a] payment hierarchy via an automated learning algorithm that analyzes subjective assessments” was well-understood, routine, and conventional to a skilled artisan. Hence, we do not sustain the § 101 rejection of claim 1.

Independent claims 20 and 25 include limitations similar to claim 1’s limitations, e.g., claim 20’s “engine[] [that] uses artificial intelligence to determine [a] payment hierarchy based on survey results assessing previously determined payment hierarchies.” The Examiner has not provided a satisfactory basis for showing that those features were well-understood, routine, and conventional to a skilled artisan. Thus, we do not sustain the § 101 rejection of claims 20 and 25.

Appeal 2017-002949
Application 12/852,224

Claims 2–5 depend from claim 1, while claims 21–24 depend from claim 20. App. Br. 14–16 (Claims App.). For the reasons discussed regarding the independent claims, we do not sustain the § 101 rejection of these dependent claims.

DECISION

We reverse the Examiner’s decision to reject claims 1–5 and 20–25 under 35 U.S.C. § 101.

REVERSED