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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOSEPH BECHTOLD, JESSICA BLEVINS, STEVEN KELCH, NEIL DOWGUN, LUIS GUTIERREZ, LEAH HAAS, KRISTEN MCCARTHY, CHRISTOPHER PAPAZIAN, TAKESHI TOYOHARA, and MICHELLE VINCOW

Appeal 2017-003023
Application 13/754,786
Technology Center 3600

Before ROBERT E. NAPPI, JOHN P. PINKERTON, and JOYCE CRAIG, *Administrative Patent Judges*.

CRAIG, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants[1] appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–25, which are all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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[1] According to Appellants, the real party in interest is athenahealth, Inc. App. Br. 2.

INVENTION

Appellants' application relates to data reconciliation from trusted sources. Abstract. Claim 1 is illustrative and reads as follows:

1. A method of processing data in a practice management system, the method comprising:

storing, by a healthcare information management component of the practice management system, patient data for a plurality of patients of a plurality of medical practices, information identifying at least one data source as a trusted source, and a plurality of trusted source rules, each of which specifies a reconciliation behavior for clinical data received from a trusted source associated with the trusted source rule, wherein the practice management system includes a billing management component configured to facilitate the submission of claims filed by the plurality of medical practices to a plurality of payers and a communications management component configured to interact with the healthcare information management component and the billing management component to facilitate interactions with the plurality of patients on behalf of the plurality of medical practices;

receiving, by the healthcare information management component, clinical data from a source external to the healthcare information management component;

determining, by at least one processor, whether the received clinical data includes trusted source data, wherein determining whether the received clinical data includes trusted source data comprises identifying based, at least in part, on information associated with the received clinical data, the source of the clinical data and determining based, at least in part, on the information identifying at least one data source as a trusted source, whether the identified source of the received clinical data is a trusted source; and

in response to determining that the received clinical data includes trusted source data, automatically reconciling the trusted source data with the patient data stored by the healthcare information management component, wherein automatically reconciling the trusted source data with the patient data comprises:

determining whether the identified trusted source is associated at least one trusted source rule of the plurality of trusted source rules stored by the healthcare information management component; and

performing a reconciliation action based on the at least one trusted source rule associated with the identified trusted source in response to determining that the trusted source is associated with the at least one trusted source rule.

REJECTIONS

Claims 1–25 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to judicial exception to patentable subject matter. Final Act. 2.

Claims 1–8, 10–17, 19–23, and 25 stand rejected under pre-AIA 35 U.S.C.§ 103(a) as unpatentable over the combination of Mathur (US 2008/0109447 A1, published May 8, 2008), Garrett et al. (US 2008/0027965 A1, published Jan. 31, 2008) ("Garrett"), and Ohlsson (US 2008/0147436 A1, published June 19, 2008). Final Act. 3–20.

Claims 9, 18, and 24 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over the combination of Mathur, Garrett, Ohlsson, and Hasan et al. (US 2010/0179836 A1, published July 15, 2010) ("Hasan"). Final Act. 20–21.

ANALYSIS

Rejection of Claims 1–25 under 35 U.S.C. § 101

We have reviewed the rejections of claims 1–25 in light of Appellants' arguments that the Examiner erred. We have considered in this decision only those arguments Appellants actually raised in the Briefs. Any other arguments Appellants could have made, but chose not to make, in the Briefs are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellants' arguments are not persuasive of error. We agree with and adopt as our own the Examiner's findings of facts and conclusions as set forth in the Answer (3–5) and in the Action (2, 22–23) from which this appeal was taken. We provide the following explanation for emphasis.

In concluding the rejected claims are directed to patent ineligible subject matter under 35 U.S.C. § 101, the Examiner concluded independent claim 1 is directed to the abstract idea of reconciling patient records by receiving data, comparing the received data to stored data, and reconciling the data using rules, which is similar to comparing new and stored information and using rules to identify options, and using categories to organize, store, and transmit information. Final Act. 2. The Examiner further concluded the additional claim elements do not provide meaningful limitations sufficient to transform the abstract idea into a patent eligible application of the abstract idea such that the claim amounts to significantly more than the abstract idea itself. *Id.*

The Supreme Court in *Alice* identifies a two-step framework for determining whether claimed subject matter is judicially-excepted from patent eligibility under § 101. *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014). The first step in the 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 Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1296-97 (2012)). If the claims are directed to a patent-ineligible concept, the second step in the analysis is to consider the elements of the claims "individually and 'as an ordered combination'" to determine whether there are additional elements that "'transform the nature of the claim' into a patent-eligible application." *Id.* (quoting *Mayo*, 132 S. Ct. at 1298, 1297). In other words, the second step is to "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.'" *Id.* (alteration in original) (quoting *Mayo*, 132 S. Ct. at 1294).

Appellants argue claims 1–25 as a group. App. Br. 8, 13. We select claim 1 as representative of the group. 37 C.F.R. § 41.50(b).

Turning to the first step of the *Alice* inquiry, we agree with the Examiner that limitations of claim 1 are directed to a series of steps related to reconciling patient records by receiving data, comparing the received data to stored data, and reconciling the data using rules. Final Act. 2. We also agree that, here, the concept of reconciling patient records by receiving data, comparing the received data to stored data, and reconciling the data using rules is similar to the concept of comparing new and stored information and using rules to identity options, which is an abstract idea. *Id.* at 2; *SmartGene Inc. v. Adv. Bio. Labs. SA*, 555 F. App'x 950 (Fed. Cir. 2014).

In *SmartGene*, the Federal Circuit concluded claims were patent ineligible because they did "no more than call on a 'computing device,' with basic functionality for comparing stored and input data and rules, to do what doctors do routinely." *SmartGene*, 555 F. App'x at 954. In the instant case, the recited "patient data" and "clinical data" are nothing more than data used in an algorithm process that employs a computer (i.e., "processor") to reconcile the data using rule-based processes. *See* Final Act 2. The claims at issue in *SmartGene* relied upon "expert rules" for "'evaluating and selecting' from a stored 'plurality of different therapeutic treatment regimens.'" *SmartGene*, 555 F. App'x at 955. The "expert rules" in *SmartGene* are analogous to the "plurality of trusted source rules, each of which specifies a reconciliation behavior for clinical data received from a trusted source associated with the trusted source rule," recited in claim 1.

We also agree with the Examiner that the concept of reconciling patient records by receiving data, comparing the received data to stored data, and reconciling the data using rules is similar to the abstract idea of using categories to organize, store, and transmit information. Final Act. 2. In *Cyberfone*, the Court held that "using categories to organize, store, and transmit information is well-established," and "the well-known concept of categorical data storage, . . . the idea of collecting information in classified form, then separating and transmitting that information according to its classification, is an abstract idea that is not patent-eligible." *Cyberfone Systems, LLC v. CNN Interactive Group, Inc.*, 558 F. App'x 988, 992 (Fed. Cir. 2014). Here, as in *Cyberfone*, information is collected and organized or manipulated, because the limitations outline obtaining patient data from more than one source, determining whether data is from a trusted source, and reconciling the data based on a trusted source rule.

Appellants contend the Examiner erred because the claims are not directed to the alleged abstract idea. App. Br. 9. Appellants argue the claims are directed to "determining whether received clinical data is from a trusted source, and automatically reconciling trusted source data in the received clinical data with stored patient data only after determining that the received clinical data is from trusted source," which is not an abstract idea. *Id.* at 10.

Appellants' arguments are not persuasive at least because they do not persuasively explain how "determining whether received clinical data is from a trusted source, and automatically reconciling trusted source data in the received clinical data with stored patient data only after determining that the received clinical data is from trusted source" substantively differs from

the abstract idea identified by the Examiner. Appellants also have not persuasively distinguished the claims from those found patent ineligible in *SmartGene* and *Cyberfone*. Here, the advance the claims purport to make is a process of gathering and analyzing information, and "not any particular assertedly inventive technology for performing those functions." *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016).

For these reasons, we are not persuaded of error in the Examiner's determination that the claims are directed to the abstract idea of reconciling patient records by receiving data, comparing the received data to stored data, and reconciling the data using rules. *See* Final Act. 2.

Turning to the second step of the *Alice* inquiry, we find nothing in claim 1 that adds anything "significantly more" to transform the abstract concept of reconciling patient records by receiving data, comparing the received data to stored data, and reconciling the data using rules into a patent-eligible application. *Alice*, 134 S. Ct. at 2357.

Appellants contend the claims are "necessarily rooted" in a computer technology and address a technological challenge confined to computer technology. App. Br. 10–11 (citing *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014)). Appellants argue the Specification describes that the problem arises within a specific computer-based context, namely, "automatic reconciliation of clinical data received electronically from a source external to the practice management system." *Id.* at 11. Appellants also argue the Specification "describes a new solution that overcomes these limitations of existing solutions with a different technological approach." *Id.*

We disagree with Appellants. None of the functions recited in Appellants' claim 1 provide, and nowhere in the Specification can we find, any description or explanation as to how these data manipulation steps are intended to provide a "solution . . . necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks," as explained by the Federal Circuit in *DDR Holdings*, 113 F.3d at 1257. To the contrary, we agree with the Examiner that Appellants' Specification explicitly describes a way of automating a manual process, which is an improvement over a manual system. *See* Ans. 4–5 (citing Spec. ¶ 25).

Appellants further argue the "determining" step recited in claim 1 improves the functioning of the computer discussed in the Specification. App. Br. 13. Appellants, however, have not persuasively explained how determining whether data is from a trusted source shows claim 1 "is rooted in computer technology, . . . addresses a problem unique to and rooted in that computer technology, and . . . includes a different technological solution than was presented in prior technological solutions and that improves the functioning of a computer as compared to those earlier technological solutions," as Appellants contend. *Id.* at 13. To the contrary, there is no indication that the implementation of the claimed steps, including the "determining" and "automatically reconciling" steps, requires something apart from the well-known, routine, and conventional computer functions of receiving, analyzing, and manipulating data. *See* Final Act. 2. Accordingly, we fail to see how the claimed invention is something other than the generic computer implementation of the abstract idea, which is insufficient to transform the nature of the claim into a patent-eligible application. As

recognized by the Supreme Court, "the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention." *See Alice*, 134 S. Ct. at 2358, 2359 (concluding claims "simply instruct[ing] the practitioner to implement the abstract idea of intermediated settlement on a generic computer" are not patent eligible).

Because Appellants' independent claim 1 is directed to a patent-ineligible abstract concept and does not recite something "significantly more," we sustain the Examiner's rejection of claim 1, and of grouped claims 2–25, under 35 U.S.C. §101.

Rejections of Claims 1–25 under 35 U.S.C. § 103(a)

Because claims 1–25 are directed to patent-ineligible subject matter, we do not reach the prior art rejections of those claims. *See In re Comiskey*, 554 F.3d 967, 973 (Fed. Cir. 2009) (declining to reach the prior art rejection when claims are barred at the threshold by § 101); *Ex parte Gutta*, 93 USPQ2d 1025, 1036 (BPAI 2009) (precedential) (same).

DECISION

We affirm the rejection of claims 1–25 as directed to patent ineligible subject matter under the judicial exception to 35 U.S.C. §101.

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).

AFFIRMED