UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte LESLIE MEYER and KATHY DUDEK

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Appeal 2017-003157[1]
Application 13/836,791
Technology Center 3600

_____

Before ELENI MANTIS MERCADER, NORMAN H. BEAMER, and
ADAM J. PYONIN, *Administrative Patent Judges*.

PYONIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the
Examiner's Final Rejection of claims 1–16; claims 17–20 have been
withdrawn. *See* Final Act. 1, App. Br. 3. We have jurisdiction under
35 U.S.C. § 6(b).

We AFFIRM.

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[1] CoreLogic Solutions, LLC is identified as the real party in interest. App.
Br. 3.

STATEMENT OF THE CASE

Appellants' disclosure relates to "efficiently mining and analyzing information associated with particular mortgage loans, borrowers and properties." Abstract. Claim 1 is independent, and reproduced below for reference (with emphasis added):

> 1. A computer-implemented process comprising:
> (a) receiving input specifying an identifier of an individual;
> (b) searching a plurality of data repositories for properties associated with the identifier, said plurality of data repositories including a data repository of credit header data and a data repository of aggregated loan data, said credit header data representing non-financial information maintained by one or more credit bureaus, said aggregated loan data representing mortgage loans offered by a plurality of lenders; and
> (c) for each property associated with the identifier identified in step (b), assessing, based at least in part on public recorder data, whether the property is currently owned by the individual;
> (d) detecting any liens associated with the properties associated with the identifier that are assessed to be currently owned by the individual;
> (e) *computing a combined loan-to-value (CLTV) score based at least in part on all detected liens associated with the properties associated with the identifier that are assessed to be currently owned by the individual*; and
> (f) generating a lien report including the CLTV score, wherein steps (a)-(f) are performed by a computerized analytics system that comprises one or more computing devices.

The Examiner's Rejections

Claims 1–16 stand rejected under 35 U.S.C. § 101 as being directed to patent ineligible subject matter. Final Act. 2.

Claims 1–7, 13, 15, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cagan (US 2007/0033126 A1; Feb. 8, 2007) and Showalter (US 2011/0270779 A1; Nov. 3, 2011). Final Act. 7.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Cagan, Showalter, and Hennessy et. al., "*Sperlonga Helps Lenders and Servicers Meet July 1ˢᵗ Fannie Mae Guide Requirement to Clear HOA Liens*," http://www.cuinsight.com/press-release/sperlonga-helps-lenders-and-servicers-meet-july-1st-fannie-mae-guide-requirement-to-clear-hoa-liens-2 (last visited May 30, 2012) (hereinafter "Sperlonga"). Final Act. 12.

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Cagan, Showalter, and Beardsell (US 2008/0010188 A1; Jan. 10, 2008). Final Act. 13.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments, considering only those arguments Appellants actually raised in the briefs. *See* 37 C.F.R. § 41.37(c)(1)(iv). We are not persuaded the Examiner errs. We adopt the Examiner's findings and conclusions in the Final Action and Examiner's Answer as our own, to the extent they are consistent with our analysis below.

A.   *Patent Eligible Subject Matter*

Alice Corp. Party. v. CLS Bank International, 134 S. Ct. 2347 (2014), identifies a two-step framework for determining whether claimed subject matter is judicially excepted from patent eligibility under 35 U.S.C. § 101.

In the first step, "[w]e must first determine whether the claims at issue are directed to a patent-ineligible concept." *Alice*, 134 S. Ct. at 2355.

Appellants argue Examiner error in the first step of the *Alice* analysis because "the Examiner characterized the claims as being directed to the abstract idea of 'a computer-implemented plurality of steps to compute a CLTV [(combined loan-to-value)] score'" but "[a]t no point has the Examiner 'identif[ied] the specific claim limitations and explain[ed] why those claim limitations set forth a judicial exception' as required in *Part I* [of the *Alice* analysis]." App. Br. 5. Appellants contend independent claim 1 "[is] . . . not 'directed to' an abstract idea such as a fundamental economic practice, a method of organizing human activities, an idea 'of itself,' and/or a mathematical relationship or formula." App. Br. 6.

We are not persuaded by Appellants' arguments and agree with the Examiner that "the claims are essentially directed to the concept of a computer-implemented plurality of steps to compute a CLTV score" which is an abstract idea. Final Act. 3–4. The claims are directed to collecting information (e.g., "receiving input," "searching a plurality of data repositories"), analyzing the information (e.g., "assessing . . . whether the property is currently owned," "detecting liens," "computing a combined loan-to-value (CLTV) score"), and displaying the information (e.g., "generating a lien report"). The claims are, thus, comparable to claims found to be directed to abstract ideas. *See, e.g., Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016) ("collecting information, analyzing it, and displaying certain results of the collection and analysis" are "abstract-idea processes"); *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1334 (Fed. Cir. 2012) (determining a loan clearinghouse process

is abstract); *Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1350 (Fed. Cir. 2014) ("organizing information through mathematical correlations"); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass'n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) ("1) collecting data, 2) recognizing certain data within the collected data set, and 3) storing that recognized data in a memory"); *LendingTree, LLC v. Zillow, Inc.*, 656 F. App. 991, 997 (Fed. Cir. 2016) (holding ineligible claims to a computerized method of speeding up a loan-application process).

In the second step of the *Alice* analysis, we "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." *Alice*, 134 S. Ct. at 2355 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 78–79 (2012)). 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*, 566 U.S. at 72–73).

The Examiner determines the additional elements in the claims amount to no more than mere instructions to implement the idea on a computer. Final Act. 6. Specifically, the Examiner finds, and we agree, the elements "are recited in the claims at a high level of generality as simply performing generic computer functions of comparing, calculating, data searching, and data storage, which are routinely used in computers, computer systems and data storage systems, and which are being used in the recited claims to simply carry out the abstract idea." Ans. 7.

Appellants argue "[t]he alleged abstract idea is therefore at zero risk of being 'tied up' [preempted] by independent claim 1" (App. Br. 7), and that "whether or not specific claim features are 'well-understood, routine and conventional,' and thus amount to 'significantly more' than the judicial exception itself, is a factual analysis that must be based on evidence" (App. Br. 8).

We are not persuaded by Appellants' arguments regarding the claims reciting "significantly more" than the abstract idea. Claim 1 recites a "plurality of data repositories," a "computerized analytics system," and "one or more computing devices." i.e., generic computer components, which do not satisfy the inventive concept. *See, e.g., DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) (internal quotation marks omitted) ("[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible."). Rather, we agree with the Examiner that "the computerized processing and storage elements of the pending claims are simply being used as *tools* to implement the described abstract idea, where these devices, as tools are not themselves being technologically improved." Ans. 8. Appellants' disclosure states that "[a]ll of the processes and process steps described above (including those of FIGS. 2 and 3) may be embodied in, and fully automated via, software code modules executed by one or more general purpose computers, servers, or other types of computing machines." Spec. ¶ 59; *see* also Spec. ¶¶ 12–17, 60–62.

We are also not persuaded by Appellants' argument regarding preemption. Preemption is not the sole test for patent eligibility, and any questions on preemption in the instant case have been resolved by the above

analysis. As our reviewing court has explained: "questions on preemption are inherent in and resolved by the § 101 analysis," and, although "preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility." *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *cf. OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) ("[T]hat the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract.").

Accordingly, we are not persuaded the Examiner errs. We sustain the Examiner's 35 U.S.C. § 101 rejection of claims 1–16.

B.   *Obviousness*

Appellants argue Examiner error, because "[t]here is simply no disclosure or suggestion in Cagan that the CLTV ratio is calculated based on lien information for <u>multiple</u> properties owned by the individual." App. Br. 12. Instead, Appellants contend that in Cagan, "the 'CLTV ratio' is 'based on primary and secondary lien information' for a single property, i.e., '<u>the subject property</u>.'" App. Br. 12.

We are not persuaded of Examiner error. The Examiner finds, and Appellants do not challenge, that Cagan "also discloses that the invention of Cagan would include determining a CLTV score for one or more properties, since it allows for determining a value of *properties* (plural) in a loan portfolio, or the value of the portfolio as a whole (which portfolio would include a *plurality of properties*)." Ans. 9, citing Cagan ¶ 16. "[O]bviousness does not require the prior art to reach expressly each

limitation exactly. Rather, obviousness may render a claimed invention invalid where the record contains a suggestion or motivation to modify the prior art teaching to obtain the claimed invention." *Beckson Marine, Inc. v. NFM, Inc.*, 292 F.3d 718, 727 (Fed. Cir. 2002). Here, Cagan suggests determining "the value of the portfolio as a whole" (Cagan ¶ 16). Thus, we agree with the Examiner that one of ordinary skill, in view of the teachings of the cited references, would determine the value of the CLTV ratio for the entire portfolio. *See* Final Act. 7–9; Cagan Fig. 3, ¶¶ 16, 45; Showalter ¶¶ 274–275.

Accordingly, we sustain the Examiner's rejection of independent claim 1, and the dependent claims which are not separately argued. *See* App. Br. 12.

DECISION

The Examiner's decision rejecting claims 1–16 under 35 U.S.C. § 101 is affirmed.

The Examiner's decision rejecting claims 1–8 and 13–16 under 35 U.S.C. § 103(a) 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)(1)(iv).

AFFIRMED