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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STEVEN F. BEST and JANICE M. GIROUARD

Appeal 2017-003578
Application 12/647,770[1]
Technology Center 3600

Before DEBRA K. STEPHENS, DANIEL J. GALLIGAN, and DAVID J. CUTITTA II, *Administrative Patent Judges*.

CUTITTA II, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–20, which are all of the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] Appellants identify International Business Machines Corporation as the real party in interest. *See* Br. 3.

STATEMENT OF THE CASE

According to Appellants, the claims are directed to the generation of a free time report for a resource. Abstract.[2] Claim 1, reproduced below, is representative of the claimed subject matter:

> 1. A method for the reporting of free time for resources of a task management system comprising:
>
> receiving, by a receiving unit, of at least one identifier of a resource registered with a task management system and a time period by a free time reporter from a graphical user interface (GUI) of the task management system, wherein the time period is defined by a start date and at least one of an end date and a total quantity of time;
>
> processing information associated with allocation of the resources to existing task activities during the time period;
>
> determining, based on processing, a plurality of time allocation data for a quantity of time the resource is allocated to existing task activities during the time period;
>
> generating, by a generation unit, a free time report based upon the queried data; and
>
> presenting, by a presentation unit, the free time report within the GUI of the task management system, wherein the receiving, querying, generating, and presenting result from at least one processor executing programming instructions that are stored on one or more transitory medium.

[2] This Decision refers to: (1) Appellants' Specification filed December 28, 2009 ("Spec."); (2) the Final Office Action ("Final Act.") mailed July 2, 2015; (3) the Appeal Brief ("Br.') filed May 2, 2016; and (4) the Examiner's Answer ("Ans.") mailed September 15, 2016.

REFERENCES AND REJECTIONS

Claims 1–20 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 2–3.

Claims 1–20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Doss (US 2008/0228547 A1; published Sept. 18, 2008) and Horvitz (US 2005/0165631 A1; published July 28, 2005). Final Act. 4–7.

Our review in this appeal is limited only to the above rejections and the issues raised by Appellants. Arguments not made are waived. *See* MPEP § 1205.02; 37 C.F.R. §§ 41.37(c)(1)(iv) and 41.39(a)(1).

ANALYSIS

We disagree with Appellants' contentions and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken; and (2) the reasons set forth by the Examiner in the Answer in response to the Appeal Brief. With respect to the claims argued by Appellants, we highlight and address specific findings and arguments for emphasis as follows.

35 U.S.C. § 101: Claims 1–20

The Examiner concluded claims 1–20 are directed to patent-ineligible subject matter. Final Act. 3. We agree with the Examiner.

In *Alice*, the Supreme Court set forth an analytical "framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts." *Alice Corp. Pty. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014)

(citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–79 (2012)). The first step in the analysis is to "determine whether the claims at issue are directed to one of those patent-ineligible concepts." *Id.* If so, the second step is to consider the elements of the claims "individually and 'as an ordered combination' to determine whether the additional elements 'transform the nature of the claim' into a patent-eligible application." *Id.* (quoting *Mayo*, 566 U.S. at 79, 78). 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.* (brackets in original) (quoting *Mayo*, 566 U.S. at 73).

As an initial matter, we observe that independent claims 1, 9, and 14 respectively recite a method, a system, and a non-transitory computer readable medium. As such, the claims are directed to statutory classes of invention within 35 U.S.C. § 101.

Turning to the first step of the *Alice* analysis, we agree with the Examiner that the present claims are directed to a patent-ineligible concept, namely, "generating and presenting a free time report of a task management system," which the Examiner analogizes to "an abstract process[] of collecting and analyzing information." Final Act. 3; Ans. 11. Our reviewing court has reiterated that "claims focused on 'collecting information, analyzing it, and displaying certain results of the collection and analysis' are directed to an abstract idea" (*SAP Am., Inc. v. Investpic, LLC*, 890 F.3d 1016, 1021 (Fed. Cir. 2018) (quoting *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016))). Here, the claims are directed to the collection, analysis, and display of information. Specifically,

the claims' method collects information, reciting "receiving . . . at least one identifier . . . and a time period." The claims' method further analyzes that data, reciting "processing information . . . determining, based on processing, a plurality of time allocation data" and "generating . . . a free time report." Finally, the claims' method display the results of the collection and analysis, reciting "presenting . . . the free time report within the GUI of the task management system." The claims are focused, therefore, on the combination of those abstract-idea processes to provide a method of analyzing task and time data. As such, the claims are directed to an abstract idea. *Elec. Power*, 830 F.3d at 1354.

Turning to the second step of the *Alice* analysis, we further agree with the Examiner that the claims fail to transform the abstract idea into a patent-eligible invention. Final Act. 11. Appellants argue that the claims recite "material limitation[s] that [are] beyond the routine and conventional technology." Br. 10. However, the "claims at issue do not require any nonconventional computer" components or functions and instead, "merely call for performance of the claimed information collection [and] analysis . . . 'on a set of generic computer components.'" *Elec. Power*, 830 F.3d at 1355 (quoting *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016)). The claim limitations, at best, define the abstract processes of collecting, analyzing, and displaying information by specifying what information is collected, what information is considered when analysis is performed, and what information is displayed. But those limitations do not use the recited computing components in a non-routine or unconventional manner; i.e., the receiver collects data, the processor analyzes information, and the unit for presenting displays processed

information. Indeed, Appellants' Specification teaches that "a general purpose computer" may "implement[] the functions/acts" of the claimed invention. Spec. ¶ 15.

Further, Appellants' argument that the "the use of a computing system is essential in order to centralize the resource allocation and allow for the evaluation as to whether new tasks can be supported" (Br. 10–11) merely describes that the abstract information collection and analysis is performed by a computer. But, "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." *Elec. Power*, 830 F.3d at 1355 (quoting *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1353, 1355 (Fed. Cir. 2014)). Accordingly, the "invention" remains in the realm of abstract ideas and is, therefore, patent-ineligible. *SAP*, 890 F.3d at 1023.

Additionally, Appellants argue that dependent claims 3 and 4 recite "additional limitations that, when combined with their respective base claim, further move the claimed invention beyond being merely an abstract idea." Br. 11. However, rather than transforming the claims into a patent-eligible invention, the limitations in those claims merely further limit the abstract idea processes recited in independent claim 1, i.e., analyzing and displaying information. Dependent claim 3 recites "adjusting . . . the total quantity of time defined by the time period" and only serves to define what information is being analyzed. Dependent claim 4 recites "the quantity of free time is expressed" as a percentage or a total, which only describes how information should be analyzed for display.

Appellants have not proffered sufficient evidence or argument to persuade us that any of the limitations in the remaining dependent claims

provide a meaningful limitation that transforms the claims into a patent-eligible application. *See* Br. 10–11. Accordingly, Appellants have not persuaded us claims 1–20 are directed to patent-eligible subject matter. Therefore, we sustain the rejection of claims 1–20 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter.

35 U.S.C. § 103: Claims 1–3, 5–7, and 9–20

"free time report"

Appellants contend the Examiner erred in finding Doss teaches "a free time report," as recited in claim 1 and similarly recited in claims 9 and 14. Br. 11–12. Specifically, Appellants argue the claims "determine the 'free time' within the task time frame of the various resources needed to complete the task. The free time is not specified blocks of time, per se, but the time available to a given resource that can be used for task activities," whereas Doss "provide[s] an indication of free blocks of time for a user, rather than indicating the free time available for a task within a given time period." Br. 12.

Appellants' arguments are not commensurate with the scope of the claims. Appellants' Specification explicitly defines the term "free time" — "the term 'free time' is defined as time that a resource 145 is not assigned to existing task activities 123 within the task management system 130." Spec. ¶ 19. We agree with the Examiner that Doss's meeting scheduler teaches reported "free time" within that definition. Final Act. 4; Ans. 16–17. In particular, Doss teaches "a search for finding available free time" (Doss ¶ 71) that outputs the free time a user is not assigned to a task (Doss Fig. 12). For example, Figure 12 of Doss shows that "John can attend [a]

meeting," because "John . . . has free time on this day between 1 p.m. and 5 p.m., after having a busy period between 10:30 a.m. and 12:30 p.m." Doss ¶¶ 144–145. As such, Doss teaches "free time" because Doss describes the time that John, i.e., a resource, does not have a busy period, i.e., is not assigned to existing task activities. Furthermore, even under Appellants' proffered definition that "free time" is "the time available to a given resource that can be used for task activities," Doss outputs the time that John has available for attending a meeting task, as described *supra*.

Accordingly, we are not persuaded the Examiner erred in finding Doss teaches "a free time report," as recited in claim 1 and similarly recited in claims 9 and 14.

"allocation of the resources to existing task activities"

Appellants contend the Examiner erred in finding Horvitz teaches "processing information associated with allocation of the resources to existing task activities during the time period" and "determining, based on processing, a plurality of time allocation data for a quantity of time the resource is allocated to existing task activities during the time period," as recited in claim 1 and similarly recited in claims 9 and 14. Br. 12. Specifically, Appellants argue "Horvitz is focused on time management of an individual, whereas the Appellant[s'] claimed invention is focused on managing a task that involves use of resources." Br. 12. Appellants further argue "in Horvitz the user is inputting time to be dedicated to a task . . . whereas the claimed limitation seeks to determine time available of a resource by looking at time already allocated to existing tasks." Br. 12.

We are not persuaded. The Examiner finds (Final Act. 4–5; Ans. 19–20), and we agree, Horvitz's "graphical display 700 of a current day's time allocation," in which "various projects are laid out over time [so] that a user can grasp the activities planned for a given day at 710" (Horvitz ¶ 51, Fig. 7), teaches "processing information associated with allocation of the resources to existing task activities during the time period" and "determining, based on processing, a plurality of time allocation data for a quantity of time the resource is allocated to existing task activities during the time period."

Appellants' argument that the "claimed invention is focused on managing a task that involves use of resources" (Br. 12) is not commensurate with the scope of the claims. The claims do not recite limitations requiring the management of a task. Rather the claims generate and present a free time report by "processing information associated with the allocation of the resources to existing task activities" and "determining . . . time allocation data for a quantity of time the resource is allocated to existing task activities." That is, the claims review already assigned tasks to determine what free time a resource has by determining a quantity of time the resource is allocated to existing task activities, but the claims do not require the management of any new task or the already assigned tasks. Horvitz processes and determines allocated resource time for existing tasks activities as required by the claims. In particular, Horvitz "depict[s] segments of time that are allocated" to a project over a time period for a user "when automatic scheduling is selected." Horvitz ¶¶ 49, 51, Figs. 4, 7. Horvitz's time allocation report includes the amount of time allocated for a

user's task "activities planned for a given day," e.g., "ICMI reviews," "Finance Hm," and "Cons Spec." Horvitz ¶ 51, Fig. 7.

Further, to the extent Appellants argue that an individual person is not a "resource" (Br. 12), Appellants' Specification describes that "a resource 145" is an individual, "[f]or example, an administrative assistant 145." Spec. ¶ 21, Fig. 3 ("Resources" include "Jane Doe" and "Ralph Smith"). As such, the user in Horvitz, for whom time allocations are determined, (Horvitz ¶¶ 49, 51) teaches a "resource."

Accordingly, we are not persuaded the Examiner erred in finding that Horvitz teaches "processing information associated with allocation of the resources to existing task activities during the time period" and "determining, based on processing, a plurality of time allocation data for a quantity of time the resource is allocated to existing task activities during the time period," as recited in claim 1 and similarly recited in claims 9 and 14.

Improper Combination

Appellants contend the Examiner improperly combined Doss and Horvitz. Br. 13. Specifically, Appellants argue

> neither of these references are drawn to the problem of task management within an organization where the task can require the use of multiple resources, nor are they sufficiently related to each other in a way that would draw them to the attention of one of ordinary skill seeking to design a task management system as claimed by Appellant[s].

Br. 13.

We are not persuaded. We agree with the Examiner's finding that Doss and Horvitz are analogous art because, like Appellants' claimed invention, "Doss and Horvitz each are concerned with scheduling

resources." Ans. 21. Indeed, Doss is directed to "improving free-time searches and scheduling" including "programmatically scheduling a meeting" (Doss ¶ 25) and Horvitz is directed to "automated time management and dynamic scheduling within selected periods of time" (Horvitz ¶ 24). As such, both Doss and Horvitz are in the same field of endeavor as the claimed invention and are properly combinable as analogous art. Moreover, the Examiner has provided a reason to combine the teachings of Doss and Horvitz, namely, to provide "a more efficient method in performing intelligent free-time searches," and Appellants fail to show why this reasoning is deficient. Final Act. 5; *see In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) ("[R]ejections on obviousness grounds [require] some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness") (cited with approval in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

Accordingly, we are not persuaded the Examiner erred in concluding claims 1, 9, and 14 would have been obvious over the combination of Doss and Horvitz. We, therefore, sustain the 35 U.S.C. § 103(a) rejection of independent claims 1, 9, and 14, as well as the 35 U.S.C. § 103(a) rejection of dependent claims 2, 3, 5–7, 10–13, and 15–20, which are not argued separately. *See* Br. 11–14.

35 U.S.C. § 103: Claim 4

Appellants contend the Examiner erred in finding Doss teaches "the quantity of free time is expressed as at least one of a percentage of the total quantity of time defined by the time period and a total quantity of hours," as recited in claim 4. Br. 13. Specifically, Appellants argue "Doss is silent

with regard to expressing the quantity of free time as at least one of a percentage of the total quantity of time defined by the time period and a total quantity of hours." Br. 13.

We are not persuaded. As an initial matter, the claim recites two alternative limitations for expressing the quantity of free time. Specifically, the claim recites "free time is expressed as *at least one of* a percentage of the total quantity of time defined by the time period *and* a total quantity of hours" (emphasis added). During examination, "claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art." *In re Bond*, 910 F.2d 831, 833 (Fed.Cir.1990). With respect to free time, Appellants' Specification discloses that "[t]he data can be presented within the free time report 128 in a variety of ways, such as a percentage or a quantity of hours." Spec. ¶ 28. Accordingly, we determine the Examiner's disjunctive interpretation of the alternative limitations in claim 4 to be reasonable and consistent with Appellants' Specification. *See* Ans. 22.

In view of the Examiner's interpretation of the claim, we agree with the Examiner's finding that Figure 12 of Doss, showing the quantity of free time via a "graphical depiction of free time [for] each resource (John, Sally, Paul, Mary)," teaches the second alternatively recited limitation, i.e., "free time is expressed as . . . a total quantity of hours." Ans. 22. In particular, Figure 12 includes open blocks which "Denote[] Free Time" amounts between the hours of 8:00 and 18:00 and further includes "Recommended meeting times" showing free time hours. Accordingly, whether or not Doss is "silent" regarding expressing free time as a percentage (Br. 13), i.e., the first alternatively recited limitation, we are not persuaded of Examiner error

because we agree with the Examiner that Doss teaches the second alternatively recited limitation.

Accordingly, we are not persuaded the Examiner erred in concluding claim 4 would have been obvious over the combination of Doss and Horvitz. We, therefore, sustain the 35 U.S.C. § 103(a) rejection of claim 4.

35 U.S.C. § 103: Claim 8

Appellants contend the Examiner erred in finding Doss teaches "the presentation of the free time report utilizes a free time report window that is an independent element of the GUI of the task management system," as recited in claim 8. Br. 14. Specifically, Appellants argue "Doss does not appear to disclose presenting a free-time report window let alone discuss presenting a separate free time report window that is an independent element of the GUI of the task management system." Br. 14.

We are not persuaded. The Examiner finds (Ans. 23), and we agree, Doss's "sample GUI showing results of a search where multiple potential meeting times and locations were found" (Doss ¶ 39, Fig. 12) teaches "a free time report window that is an independent element of the GUI." In particular, Figure 12 of Doss shows an "element 1230" of "Recommended meeting times and Locations" providing free time for scheduling a task, and Figure 12 further shows a "lower portion" schedule denoting free time and busy time. Doss ¶ 144.

Appellants' argument that Doss does not discuss "a separate free time report window that is an independent element of the GUI of the task management system" (Br. 14) is not commensurate with the scope of the claim because the claim does not recite a separate window. Furthermore, the

claim does not define an "independent element of the GUI." Nor does Appellants' Specification define, let alone use, the term "independent element" when describing its GUI. As such, both element 1230 and the lower portion of Doss, showing free time search results in their own respective windows, teach "an independent element of the GUI of the task management system."

Accordingly, we are not persuaded the Examiner erred in concluding claim 8 would have been obvious over the combination of Doss and Horvitz. We, therefore, sustain the 35 U.S.C. § 103(a) rejection of claim 8.

DECISION

For the reasons above, we affirm the Examiner's decision rejecting 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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED