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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* IDAN RUBIN, ORI KREMER,  
and  
RAJU AYYAGARI

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Appeal 2017-003613  
Application 12/549,866  
Technology Center 3600

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Before CARLA M. KRIVAK, SHARON FENICK, and  
PHILLIP A. BENNETT, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from a non-final rejection of claims 1–22. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> Appellants identify the real party in interest as Idan Rubin (App. Br. 1).

STATEMENT OF THE CASE

Appellants' invention is directed to "methods, techniques, and systems for helping users donate online to organizations using their social connectedness" (Spec. ¶ 1).

Independent claim 1, reproduced below, is exemplary of the subject matter on appeal.

1. A computer-implemented method in a social network computing system for automatically and electronically distributing funds to a plurality of non-governmental organizations on behalf of a participant donor, comprising:

receiving one or more electronic indications of a plurality of donation accounts and a plurality of non-governmental organizations;

arranging the indicated plurality of non-governmental organizations according to the indicated plurality of donation accounts, wherein each of the plurality of donation accounts includes a plurality of the non-governmental organizations;

receiving an electronic indication of a budget specified by the participant donor for each of the plurality of donation accounts, each budget of each respective donation account indicating a total amount of funds to be automatically distributed amongst the plurality of non-governmental organizations of the respective donation account at a designated donation frequency and from a participant designated payment method, wherein at least two of the donation accounts have different associated donation frequencies and/or different associated payment methods;

for each of the plurality of non-governmental organizations of the plurality of donation accounts, receiving an electronic indication of a donation specification that indicates a participant specified donation weighting relative to the participant specified budget specified for the respective donation account; and

for each of the plurality of donation accounts, at a time indicated by the designated donation frequency of the donation account, automatically and electronically causing the total amount of funds indicated by the participant specified budget specified for the donation account to be distributed using the participant designated payment method of the donation account to the non-governmental organizations of the donation account in accordance with the received donation specifications, such that a portion of the total amount of funds specified for each donation account is automatically and electronically distributed to each organization on behalf of the participant in accordance with the participant specified donation weighting for the organization.

#### REFERENCES and REJECTIONS

The Examiner rejected claims 1–22 under 35 U.S.C. § 101 as directed to non-statutory subject matter.

The Examiner rejected claims 1–22 under 35 U.S.C. § 103(a) based upon the teachings of Nair (US 2002/0099654 A1, published July 25, 2002), Fitzpatrick (US 2010/0241476 A1, published Sept. 23, 2010), Carrozzi (US 2006/0287871 A1, published Dec. 21, 2006), Fung (US 2004/0230536 A1, published Nov. 18, 2004), Costin (US 2002/0049816 A1, published Apr. 25, 2002), and Stremmler (US 2007/0021973 A1, published Jan. 25, 2007). This obviousness rejection was withdrawn in the Examiner’s Answer (Ans. 2–3).

#### ANALYSIS

##### *Analytical Framework*

The Supreme Court identifies laws of nature, physical phenomena, and abstract ideas as three exceptions of subject matter ineligible for patent protection (*Bilski v. Kappos*, 561 U.S. 593, 601 (2010)). In *Alice Corp. v.*

*CLS Bank International*, the Court provides the following framework for analysis:

First, we 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, 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. We have 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. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014) (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289 (2012)).

#### *Step 1*

Appellants argue the Examiner errs by not providing a “proper *prima facie* case for rejecting the claims under 35 U.S.C. 101” (Br. 7). That is, Appellants contend, “the Examiner has not provided any evidence supporting the allegation that the claims are directed to an abstract idea”; rather the Examiner merely states the claims are directed to a “a series of steps for electronically distributing funds (including: ...receiving ..., arranging ..., receiving..., ...receiving..., and ...causing...) which is a fundamental economic practice, as well as a method of organizing human activities, and thus an abstract idea” (Br. 8). Appellants then assert the Examiner did not properly interpret *Alice* or *Mayo* (*id.*). Appellants contend claim 1 is “directed to a method and a user interface in a computing system for automatically and electronically distributing funds to a plurality of non-governmental organizations on behalf of a participant donor by arranging [a

hierarchy of] donation accounts and NGO funds within them” (Br. 9 (alteration in original)). We disagree.

We initially note the claims do not recite “a hierarchy” and it is mentioned only once in Appellants’ Specification (Spec ¶ 36 (“donation specifications may be hierarchically organized into accounts”)). Particularly, the Examiner does provide reasoning and evidence supporting a prima facie case that Appellants’ claims are directed to a fundamental economic practice as well as organizing human activities (Non-Final Act. 3). The Examiner, for support, cites to the Federal Register and *Cyberfone (id.)*.

We do not agree with Appellants that the Examiner’s characterization of the claims constitutes reversible error for failing to set forth a prima facie case for the first step of the analysis required under *Alice*.

We also agree with the Examiner the claims are directed to an abstract idea (Ans. 4–5). Appellants assert claim 1 provides “implementation complexity and added capabilities as evidenced by the claimed hierarchical system [not claimed] of account specifications into donation accounts with a plurality of funds,” which makes the claim non-abstract (Br. 9). We do not agree. We agree with the Examiner the claimed steps “describe the concept of transferring funds based on specified donation conditions and preferences,” “concepts identified as abstract ideas by the courts,” including “managing a transaction or relationship between people” (Br. 5); *see also Versata Dev. Group v. SAP America, Inc.*, 793 F.3d 1306, 1312–13 (Fed. Cir. 2015) (a system and method for determining a price of a product offered to a purchasing organization, comprising arranging a hierarchy of organizational groups and a hierarchy of product group). The court in *Versata* stated that “[u]sing organizational and product group hierarchies to

determine a price is an abstract idea that has no particular concrete or tangible form or application. It is a building block, a basic conceptual framework for organizing information.” *Versata*, 793 F.3d at 1333–34.

We also agree the claims can be performed by a human (Ans. 9; Non-Final Act. 3 (Appellants claim is “a method of organizing human activities”)). Mental processes (thinking) that “can be performed in the human mind, or by a human using a pen and paper” are abstract ideas (*see CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011)). The Federal Circuit explained, “methods which can be performed mentally, or which are the equivalent of human mental work, are unpatentable abstract ideas--the ‘basic tools of scientific and technological work’ that are open to all.” *CyberSource* 654 F.3d at 1371 (citing *Gottschalk v. Benson*, 409 U.S. 63 (1972)). “Courts have examined claims that required the use of a computer and still found that the underlying, patent-ineligible invention could be performed via pen and paper or in a person’s mind.” *Versata*, 793 F.3d at 1335.

Therefore, as we are not convinced by Appellant of error in the Examiner’s rejection, we agree with the Examiner that Appellants’ claims are directed to an abstract idea under the *Alice/Mayo* framework (Ans. 4).

#### *Step 2*

Appellants also argue their claims add significantly more under step 2 of the *Alice/Mayo* test, such as the search engine in independent claim 20 (Br. 10). Initially, we note the search engine is only in claim 20 and not independent claims 1 and 15. Contrary to Appellants’ assertions, search engines are generic, as evidenced by Appellants’ Specification, paragraph 19, which states “The NGO Search Engine 201 is responsible for searching

for organizations that match the criteria or factors submitted by a participant,” which is what search engines do—they perform searches that match criteria submitted by a user. Appellants provide no evidence their search engine performs substantially more than the functions of a generic search engine.

Appellants’ also argue a computer cannot perform the claimed operations recited in the claims because “specialized configuration and programming” is required (Br. 11). However, neither Appellants’ Specification nor their arguments provide how anything more than routine programming of a generic computer is required. Appellants also argue the computer system in claims 1 and 15 “automatically and electronically causes the correct amount of funds” to be distributed (*id.*). However, automating a system does not “go beyond merely implementing the alleged abstract ideas” (Br. 10). Further, as noted above, the argued “significantly more” of “assigning different budgets and frequencies to different donation accounts, and a plurality of funds, weighted, to each donation account,” can all be performed using pen and paper (Br. 12). Lastly, Appellants’ argument that the claims do not monopolize (preempt) the claimed methods of and computer system, does not make the claims any less abstract (*see buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (collecting cases); *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (“While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility”); *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1360–61 (Fed. Cir. 2015)).

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As we are not convinced by Appellant of error in the Examiner's rejection, we agree with the Examiner claims 1–22 are directed to non-statutory subject matter.

#### DECISION

The Examiner's decision rejecting claims 1–22 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