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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ANTHONY M. CACHERIA III, DAVID HOOKER, WAYNE THOMAS McHUGH, KRISTOPHER GLOVER, WEBB EDWARDS, ARTHUR MARTIN HOLBROOK, and BARRETT JENKINS

Appeal 2017-004356
Application 12/684,932[1]
Technology Center 3600

Before ALLEN R. MacDONALD, BRADLEY W. BAUMEISTER, and AMBER L. HAGY, *Administrative Patent Judges*.

HAGY, *Administrative Patent Judge*.

DECISION ON APPEAL

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[1] Appellants have identified several applications as related to the present application: Application Serial No. 13/915,387; Application Serial No. 14/523,521 (*see* Appeal No. 2017-000228); Application Serial No. 13/826,537 (*see* Appeal No. 2017-003799); Application Serial No. 14/245,523 (*see* Appeal No. 2017-003828); Application Serial No. 14/309,699 (*see* Appeal No. 2017-003598); and Application Serial No. 14/278,843. (App. Br. 1–2.)

Appellants[2] appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–18, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Introduction

According to Appellants, "[t]he present invention . . . relates to a system for enabling employees to utilize accrued and unpaid earnings representing an employee's unpaid earnings prior to the end of a current pay period." (App. Br. 2.)

Exemplary Claim

Claims 1 and 11 are independent. Claim 1, reproduced below, is exemplary of the claimed subject matter:

> 1. A system for enabling employees to utilize accrued and unpaid earnings representing an employee's unpaid earnings prior to the end of a current pay period, to obtain externally provided goods and services, the employees subscribing to the system to obtain such access, comprising:
>
> at least one employee access node, the employee access node having therewith:
>
> physical resources associated with the employee access node for interfacing with a subscribing employee to transfer value on the behalf thereof based on a subscribing employee's accrued and unpaid earnings; and

[2] Appellants identify Ganart Technologies, Inc., as the real party in interest. (App. Br. 1.)

a transaction processor for facilitating transfer of value on behalf of the subscribing employee based on a subscribing employee's accrued and unpaid earnings;

a server communicating with the at least one employee access node to operate in conjunction therewith to facilitate a transfer of value on behalf of the subscribing employee based upon the employee's accrued and unpaid earnings, including:

a database including a list of subscribing employees and available accrued and unpaid earnings for at least some of the subscribing employees;

a server transaction processor operative to interface with the at least one employee access node and to access the database to determine the available accrued and unpaid earnings for a given one of the subscribing employees and to transfer value on behalf of the given one of the subscribing employees in exchange for externally provided goods or services and debit the available and unpaid earnings of the given employee on the database; and

a central processing center including one or more provider communications interfaces enabling the central processing center to communicate with third party providers of goods or services, a server communication interface enabling the central processing center to communicate with the server and operating in conjunction with the server and an employee access node to execute a predetermined sequence of actions to enable a subscribing employee to transfer value to a third party provider in exchange for a selected goods or services based upon the subscribing employee's accrued and unpaid earnings.

References

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Slater	US 2003/0055782 A1	Mar. 20, 2003
Books et al. ("Books")	US 2008/0103970 A1	May 1, 2008

Rejections[3]

Claims 1–18 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. (Final Act. 2–11, 13–15.)

Claims 1–18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Slater and Books. (Final Act. 11–13, 15–27.)

Issues

1. Whether the Examiner erred in rejecting claims 1–18 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter.

2. Whether the Examiner erred in finding the combination of Slater and Brooks teaches or suggests a system for enabling employees to utilize "accrued and unpaid earnings," as recited in independent claim 1 and commensurately recited in independent claim 11.

3. Whether the Examiner erred in finding the combination of Slater and Books teaches or suggests the "employee access node" of claim 1 comprises a "data store" for storing "configurations" pertaining to "externally provided goods and services that are available to a subscribing employee," as variously recited in dependent claims 2, 3, and 4.

4. Whether the Examiner erred in finding Books teaches or suggests the "central processing center" of claim 11 is operative to receive, store, and transmit instructions through a server to the "employee access node," to "complete a transaction including a transfer of value on behalf of a given subscribing employee, based on the employee's accrued and unpaid earnings," as recited in dependent claim 12.

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[3] All rejections are under the provisions of 35 U.S.C. in effect prior to the effective date of the Leahy-Smith America Invents Act of 2011.

ANALYSIS

A. *Rejection Under 35 U.S.C. § 101*

The Supreme Court has 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. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71–73 (2012)). In the first step of the analysis, we determine whether the claims at issue are "directed to" a judicial exception, such as an abstract idea. *Alice*, 134 S. Ct. at 2355. If not, the inquiry ends. *Thales Visionix Inc. v. U.S.*, 850 F.3d 1343, 1346 (Fed. Cir. 2017); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1339 (Fed. Cir. 2016). If the claims are determined to be directed to an abstract idea, then we consider under step two whether the claims contain an "inventive concept" sufficient to "transform the nature of the claim into a patent-eligible application." *Alice*, 134 S. Ct. at 2355 (quotations and citation omitted).

Noting that the two stages involve "overlapping scrutiny of the content of the claims," the Federal Circuit has described "the first-stage inquiry" as "looking at the 'focus' of the claims, their 'character as a whole,'" and "the second-stage inquiry (where reached)" as "looking more precisely at what the claim elements add—specifically, whether, in the Supreme Court's terms, they identify an 'inventive concept' in the application of the ineligible matter to which (by assumption at stage two) the claim is directed." *Electric Power Grp, LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). In considering whether a claim is directed to an abstract idea, we acknowledge, as did the Court in *Mayo*, that "all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas." *Mayo*, 566 U.S. at 71. We, therefore, look to: (1) whether the claims focus on a specific means or method that improves the relevant technology, or (2) are directed to a result or effect that itself is the abstract idea, in which the claims merely invoke generic processes and machinery. *See Enfish*, 822 F.3d at 1336.

Step One: Whether the Claims Are Directed to a Patent-Ineligible Concept (Abstract Idea)

The Examiner concludes the claims are directed to the abstract idea of "enabling employees to utilize accrued and unpaid earnings" to "obtain externally provided goods and services" (Ans. 15–16), which the Examiner finds is a "fundamental economic practice." (*Id.* at 17.) We agree that payday advances and shopping are fundamental economic practices.

Appellants argue that the Examiner's conclusion is in error because the Examiner mischaracterizes the claims as "implementing a loan lifecycle," and further argue "[p]roviding an employee access to funds that he or she has already earned *does not constitute a loan*." (Reply Br. 2 (emphasis added).)

Although we agree the claims do not use the term "loan," we note that the claims recite allowing an employee access to earnings prior to payday (hence "accrued and unpaid earnings"). Appellants' Specification characterizes this early access to accrued and unpaid earnings as "pay advances." (Spec. ¶ 123.) Whether this early access is deemed a "loan" is immaterial to our analysis, and would depend on factors particular to the relationship between the employee and employer or between the employee and a third-party provider of financial services on behalf of the employer. In that regard, however, we note Appellants' claims do not *exclude* application of terms (such as fees for early access to unpaid earnings) that may render the transaction akin to a loan. (*See* Spec. ¶ 125 (noting the possible imposition of a "fee associated with the advance").) Regardless of whether the claims are directed to a "loan" that would be repaid through earnings or simply a pay "advance," the distinction is immaterial—the claims are directed to the fundamental economic practice of advancing payment of earnings to employees.

Our reviewing court has explained that claims directed to "the mere formation and manipulation of economic relations" and "the performance of certain financial transactions" are properly held to be directed to abstract ideas. *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass'n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014); *see also, e.g.*, *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 716 (Fed. Cir. 2014) (finding computer-implemented system for "using advertising as a currency [on] the Internet" to be ineligible); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1352–55 (Fed. Cir. 2014) (finding computer-implemented system for guaranteeing performance of an online transaction to be ineligible); *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011) (finding computer-implemented system for "verifying the validity of a credit card transaction[] over the Internet" to be ineligible). (*See* Final Act. 2–3; Ans. 10–11.) The condition on which an employee may access the unpaid funds according to the claimed invention—that is, limited to earnings already accrued—is a business detail of the financial transaction that does not render the claims less abstract.

The Examiner further finds additional limitations in the claims are directed to the abstract ideas of "data recognition and storage" (e.g., storing and accessing earning records in an employee database) and "comparing new and stored information using rules to identify options" (e.g., determining the "available accrued and unpaid earnings" for an employee). (Ans. 16.) We agree.

In particular, in the claimed invention, the system allows access to employee earning records stored in a database, and receives and transfers data in the form of requests to transfer value on behalf of an employee to a third party provider of goods and services. Our reviewing court has repeatedly held that information collection and analysis, including when limited to particular content, is within the realm of abstract ideas. *See, e.g.*, *Elec. Power Grp.*, 830 F.3d at 1353 (holding that "collecting information, analyzing it, and displaying certain results of the collection and analysis" are "a familiar class of claims 'directed to' a patent-ineligible concept"); *Fair Warning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016) (claims directed to collecting information and analyzing it according to certain rules were directed to an abstract idea); *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011) (computer-implemented system for "verifying the validity of a credit card transaction[] over the Internet" was patent-ineligible).

Additionally, a claim need not be addressed to a single abstract idea to be patent ineligible. As our reviewing court has held, combining several abstract ideas does not render the combination any less abstract. *RecogniCorp, LLC v. Nintendo Co., Ltd.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) ("Adding one abstract idea . . . to another abstract idea . . . does not render the claim non-abstract."); *see also FairWarning IP*, 839 F.3d at

1093–94 (patent-ineligible claims were directed to a combination of abstract ideas).

Appellants also argue error in the Examiner's analysis for failing to provide "evidence" to support the Examiner's assertion that the invention is directed to an abstract idea. (App. Br. 21.) To the extent Appellants argue that the Court's decisions in *Alice* and *Bilski* (*Bilski v. Kappos*, 561 U.S. 593 (2010)) require "evidence" to support a § 101 rejection, Appellants misstate the law. Nothing in *Alice* or *Bilski* requires the Examiner to provide "evidence" as part of the Examiner's prima facie case under § 101.

Moreover, the Federal Circuit has repeatedly noted that "the prima facie case is merely a procedural device that enables an appropriate shift of the burden of production." *Hyatt v. Dudas*, 492 F.3d 1365, 1369 (Fed. Cir. 2007) (citing *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992)). The court has, thus, held that the Office carries its procedural burden of establishing a prima facie case when its rejection satisfies the requirements of 35 U.S.C. § 132 by notifying the applicant of the reasons for rejection, "together with such information and references as may be useful in judging of the propriety of continuing the prosecution of [the] application." *See In re Jung*, 637 F.3d 1356, 1362 (Fed. Cir. 2011). Put simply, all that is required of the Office is that it set forth the statutory basis of the rejection in a sufficiently articulate and informative manner as to meet the notice requirement of § 132. *Id.*; *see also Chester v. Miller*, 906 F.2d 1574, 1578 (Fed. Cir. 1990) (noting that section 132 "is violated when a rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection").

Here, in rejecting the pending claims under § 101, the Examiner analyzed the claims using the *Mayo/Alice* two-step framework, consistent with the guidance set forth in the USPTO's "2014 Interim Guidance on Patent Subject Matter Eligibility," 79 Fed. Reg. 74618 (Dec. 16, 2014), in effect at the time the Answer.[4] (Ans. 15–18.) In so doing, the Examiner notified Appellants of the reasons for the rejection "together with such information and references as may be useful in judging of the propriety of continuing the prosecution of [the] application." 35 U.S.C. § 132.

We agree with the Examiner, at step one of the *Alice* analysis, that the claims are directed to one or more abstract ideas. We turn to the second step of the *Alice* analysis, in which we determine whether the additional elements of the claims transform them into patent-eligible subject matter.

Step Two: Whether Additional Elements Transform the Idea into Patent-Eligible Subject Matter

Having concluded that the claims are directed to one or more abstract ideas, the Examiner also concludes the additional elements or combinations of elements beyond the abstract idea do not amount to "significantly more" than the abstract idea itself, finding:

> The claims require the additional limitations of a computer with a processor, a server(s), and an input device. These generic computer components are claimed to perform their basic functions of storing, retrieving, processing, and displaying that are well-understood, routine, and conventional activities which amount to no more than implementing the abstract idea with a computerized programmed system. The use of a generic computer to perform the extra solution activity does not impose

[4] The Examiner characterizes the § 101 rejection in the Answer as a "New Ground of Rejection." (Ans. 15.) Appellants do not challenge the issuance on appeal of a New Ground of Rejection *per se*, but address the rejection substantively in their Reply Brief. (Reply Br. 1–6.)

> any meaningful limitation on the computer implementation of the abstract idea(s).

(Ans. 17–18.)

Appellants argue "[t]he fact that some of the recited components might be characterized as generic computer components does not automatically render the claims ineligible." (Reply Br. 3.) In particular, Appellants argue:

> Consideration of functions that include storing, comparing, transmitting and displaying information must also include consideration of *what* is being stored, compared, transmitted and displayed, *what* is accomplishing these functions and the *nature* of the information that is stored, compared, transmitted and displayed.

(Reply Br. 4.) Appellants further argue the components recited in their claims "*perform unconventional functions* to provide a solution to employees desiring to access and use their accrued and unpaid earnings to obtain third party goods and services prior to a scheduled payday." (*Id.* at 6 (emphasis added).)

We disagree. Although the claims recite physical components—including an "access node," a "transaction processor," a "server," and a "central processing center"—Appellants concede, as noted above, that these components may be "generic computer components." (Reply Br. 4.) The Examiner finds, and we agree, the tasks recited in the claims to be performed by these components—such as accessing information from a database (e.g., records pertaining to an employee's "accrued and unpaid earnings"), comparing data (to determine an amount of available "accrued and unpaid earnings"), and transferring data (e.g., to effect a "transfer of value" on behalf of a subscribing employee to a third party provider)—are common computer functions. (Ans. 17–21.) As our reviewing court has held, merely reciting "tangible components" does not render claims non-abstract where, as here, "the components [are] conventional and [are] used in conventional ways." *Affinity Labs. of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1262 (Fed. Cir. 2016) (noting that claims that recited "simply [] the use of cellular telephones as tools in the aid of a process focused on an abstract idea" was "not enough to constitute patentable subject matter").

Appellants' claims are distinguished from conventional shopping or bill paying only in that the employees use "accrued and unpaid earnings" as their source of funds. (*See, e.g.*, Spec. ¶¶ 68–69 (describing use of accrued and unpaid earnings to pay bills online).) The particular source of the funds does not impart an "inventive concept" sufficient to transform the nature of the claims. Appellants' claimed solution remains rooted in routine use of conventional computer technology to carry out the abstract idea of providing funds (e.g., payday advances) to employees that the employees may use to pay third-party providers.

Mere application of an abstract idea on a computer system does not make a claimed invention patentable. *See Alice Corp.*, 134 S. Ct. at 2358 ("[I]f a patent's recitation of a computer amounts to a mere instruction to 'implemen [t]' an abstract idea 'on . . . a computer,' []that addition cannot impart patent eligibility.") (citations omitted). In that regard, Appellants' claims are distinguished from those claims that our reviewing court found to be patent eligible by virtue of reciting technological improvements to the computer system. *See DDR Holdings*, 773 F.3d at 1249, 1257 (holding that claims reciting computer processor for serving "composite web page" were patent eligible because "the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks"); *Enfish*, 822 F.3d at 1338 (holding that claims directed to a self-referential table for a computer database were patent eligible because the claims were directed to an improvement in the functioning of a computer); *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1259 (Fed. Cir. 2017) (holding that claims directed to "an improved computer memory system" having many benefits were patent eligible).

Appellants also assert that their use of "generic" components to carry out "unconventional functions" is patent eligible based on the Federal Circuit's decision in *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016). (Reply Br. 5–6.) According to Appellants, in *Amdocs*, "the court found that the claim provided an unconventional technological solution (enhancing data in a distributed fashion) to a technological problem (massive record flows which previously required massive databases)." (*Id.* at 5.) Appellants further assert the *Amdocs* court "noted that the solution required arguably generic computer components, e.g.[,] network devices, but found that the devices operated in an unconventional manner to achieve an improvement in computer technology." (*Id.* at 6 citing *Amdocs*, slip op. at 22).

We are not persuaded by Appellants' argument. In finding the claim in *Amdocs* patent-eligible, the court held the claim was directed to a technological problem:

> In other words, this claim entails an unconventional technological solution (enhancing data in a distributed fashion) to a technological problem (massive record flows which previously required massive databases). The solution requires arguably generic components, including network devices and "gatherers" which "gather" information. However, the claim's

> enhancing limitation necessarily requires that these generic components operate in an unconventional manner to achieve an improvement in computer functionality.

841 F.3d at 1288.

Here, in contrast, Appellants have not persuasively argued that the claims are directed to a technological problem. The claims are, instead, directed to a *business problem* of providing financial services (e.g., bill pay services) to employees who may not have bank accounts (Spec. ¶ 9), and they provide the *business solution* of allowing the employees, prior to a regularly scheduled payday, to spend (transfer to third party providers of goods or services) earnings that have been accrued by the employee.

For at least the aforementioned reasons, Appellants have not persuaded us the Examiner erred in rejecting independent claims 1 and 11 under 35 U.S.C. § 101 as directed to patent-ineligible subject matter, or in rejecting on the same basis dependent claims 2–10 and 12–18, which Appellants argue collectively with the independent claims. (App. Br. 19; Reply Br. 1.) Accordingly, we sustain the Examiner's rejection of claims 1–18.[5]

B. Rejection Under 35 U.S.C. § 103(a)

The Examiner also rejects claims 1–18 under 35 U.S.C. § 103(a) as unpatentable over the combination of Slater and Books. (Final Act. 11–13, 15–27.) Slater discloses a system in which an employer ("sponsor") may fund an employee's account associated with a "stored value card" (e.g., a

[5] To the extent Appellants have not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

debit card) "at periodic intervals corresponding to the employee's payday." (Slater ¶¶ 10, 16.) Employees may use the funds on the card "at the employee's discretion," including "automatic teller machines (ATM), point-of-service (POS) purchases, transfers to other accounts, etc." (Slater ¶ 16.) The Examiner finds the claimed limitations of, *inter alia*, "transfer[ring] value to a third party provider" using a "central processing center" and a "transaction processor" in exchange for "selected goods or services" read on Slater's disclosure. (Final Act. 15–17.)

Appellants argue the Examiner's findings are in error because:

> Nothing in the cited portions of the *Slater* reference teach[es], suggest[s] or disclose[s] a system that enables an employee *to utilize accrued and unpaid earnings representing an employee's unpaid earnings prior to the end of a current pay period*. Rather, *Slater* teaches that a stored value card may be used by a sponsor to replace payroll checks issued to a sponsor's employees.

(App. Br. 23 (emphasis added).) In other words, Appellants distinguish Slater's disclosure based on the legal nature or intangible characterization of the funds that are available for spending by the employee—whether they are "accrued *and unpaid*."

According to Appellants, their claimed invention requires the funds be both accrued *and* unpaid (even though they are accessible for spending by the employee), whereas Slater discloses the funds represent accrued earnings that are "paid" to the employee once they are loaded onto the stored value card. (*Id.*)

This distinction is premised on an immaterial abstraction. As noted above, Appellants insist the advance of funds to the employee "does not constitute a loan" (Reply Br. 2), which means the funds, once advanced, need not be repaid by the employee. But certainly the employee will not be paid those funds again. (*See* Spec. ¶ 123: "Accrued earning spent or received by employees may then be deducted from their paychecks for the pay period by the employer.") Thus, once an employee uses the system of claims 1 and 11 to access funds and cause them to be transferred to a third party, they are, in effect, deemed "paid" to the employee. By the same token, the funds loaded onto the stored value card in Slater could be deemed to be "accrued and unpaid earnings" until they are actually spent by the employee (by using the card to transfer value to a third party provider of goods or services). Accordingly, whether the funds available for spending by the employee using the claimed system are considered to be "unpaid" is an abstraction that does not impose a meaningful limitation on the claims, and does not serve as a patentable distinction over Slater.

The Examiner finds Slater does not teach certain the limitations of, *inter alia*, an "employee access node" including a "database" and a "server transaction processor" to access the database, for which the Examiner relies on Books in combination with Slater. (Final Act. 17–20.) Books discloses providing payday loans to employees through a debit card having "all of the features of a conventional debit card." (Slater ¶ 38.) Books discloses, in particular, a "linking of the employer into the debit card system such that the employer deposits the card holder's payroll payments into the debit card holder's account," which "converts the debit card system into a 'payroll debit card' system." (*Id.* ¶ 55.) Books further characterizes the account as a "Payroll Advance Account" (*id.* ¶ 67), which allows the employee to access and spend funds prior to payday. Books describes the advances as "short-term loans" that "are automatically repaid when the employer makes a payroll deposit to the financial account [that] is associated with the debit card." (*Id.* ¶ 25.) Books also discloses a database of employee records is maintained. (*Id.* ¶ 54.)

Appellants argue the Examiner's findings are in error because:

> [T]he presently claimed system does not contemplate loans, rather, the employee's accrued and unpaid earnings are funds that have been earned by the employee and enabling an employee to access these funds prior to the end of a payroll period *does not constitute a loan* in contrast to the *Books* system[,] which is directed to making loans.

(App. Br. 24 (emphasis added).) In other words, similarly to the arguments presented regarding Slater, Appellants attempt to distinguish their claimed invention over Books based on the nature of the funds available to the employee—in particular, whether the funds advanced to the employee are based on "accrued" earnings, as opposed to a "loan" that may ultimately be repaid by earnings not yet accrued.

We are not persuaded of error. As noted above in connection with the § 101 rejection, Appellants' claims may not *require* a "loan," but neither do they *exclude* transactions that may be characterized as a loan. For example, the claims do not preclude the imposition of fees or interest for an employee's pre-payday access to "accrued but unpaid earnings."

By the same token, Books' disclosure is not limited to employees taking loans that exceed the amount of earnings that an employee has already earned, but has not yet been paid. For example, using Books' system, an employee may receive a payroll advance that includes only earnings the employee has already accrued, but not yet been paid on a regularly scheduled payday. Thus, Books allows an employee to utilize accrued and unpaid earnings prior to the end of a current pay period, as recited in claims 1 and 11.

Appellants' arguments regarding the claimed "employee access node" "server transaction processor" are similarly premised on the nature of the funds accessible (whether they are "available accrued and unpaid earnings"). (App. Br. 25–27.) These arguments also are unpersuasive for the reasons noted above.

For the foregoing reasons, we are not persuaded of error in the Examiner's 35 U.S.C. § 103(a) rejection of independent claims 1 or 11, or of dependent claims 5–10 or 13–18, which are argued collectively with claim 1. We, therefore, sustain the rejection of those claims.

Appellants additionally argue the Examiner erred in rejecting dependent claims 2–4, separately arguing that Books does not "teach or disclose a data store including configurations identifying externally provided goods and services that are available to a subscribing employee." (App. Br. 27.) We disagree.

Broadly but reasonably interpreted, an "employee access node" comprising a "data store" for storing the configuration data, as recited in claims 2–4, includes a device with an Internet connection for conducting online shopping. (*See* Spec. ¶¶ 58, 60.) Slater discloses debit-type cards that an employee may use for shopping, which includes Internet shopping, and an access module for enabling the employee to check the balance of the card using an Internet connection. (*E.g.*, Slater ¶ 38: "[A] cardholder I/O module **154** may be a browser [that] connects to a transaction I/O module **152** via the internet. . . . [A] cardholder may check the balance of the stored value card account, may make purchases, such as through electronic commerce or other commerce using the stored value account, or may transfer funds from the stored value card account to another account.")

Books similarly discloses a debit-style card that may be used "in conventional ways to transact all monetary transactions which are commonly transacted using conventional debit cards." (*E.g.*, Books ¶ 28.) We sustain the Examiner's rejection of dependent claims 2–4.

Claim 12 depends from claim 11 and recites that the "central processing center is operative to receive and store instructions for a predetermined sequence of actions from third party providers . . . wherein a portion of the instructions are executed by each of the employee access node, the server and the central processing center to complete a transaction . . . ." The Examiner relies on Books as teaching or suggesting this limitation. (Final Act. 24–25.)

Appellants argue the Examiner's findings are in error because, although Books "discusses the procedure for obtaining a loan," it does not disclose executing instructions "on three different machines to complete a transaction including a transfer of value on behalf of a given subscribing employee, *based on the employee's accrued and unpaid earnings*." (App. Br. 28.) This argument appears to be premised on the nature of the funds used for the transaction, which we find unpersuasive for the reasons discussed above. We sustain the Examiner's rejection of dependent claim 12.

DECISION

The Examiner's 35 U.S.C. § 101 rejection of claims 1–18 is affirmed.

The Examiner's 35 U.S.C. § 103(a) rejection of claims 1–18 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