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 WILLIAM JOHNSON

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Appeal 2017-004862
Application 12/289,675[1]
Technology Center 3600

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Before JEAN R. HOMERE, MICHAEL M. BARRY, and
MICHAEL J. ENGLE, *Administrative Patent Judges.*

ENGLE, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from a final rejection of
claims 1, 3–8, 10, 11, 15, and 17, which are all of the claims pending in the
application. Claims App'x. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

Technology

According to Appellant, "consumers often carry several different
plastic credit cards" and the invention relates to replacing these with "a
single . . . relationship presentment card . . . that is linked to a plurality of the
customer's financial institution transaction accounts." Spec. ¶¶ 3, 5.

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[1] According to Appellant, the real party in interest is Citicorp Credit
Services, Inc. App. Br. 3.

Illustrative Claim

Claim 1 is illustrative and reproduced below with certain limitations at issue emphasized:

1. A method for managing a financial institution's customer transaction accounts, comprising:

   providing a non-programmable relationship presentment card to a customer having a plurality of financial institution transaction accounts, the relationship presentment card having a relationship identifier unique to the customer, and the relationship presentment card storing only the unique relationship identifier and storing no data for any of said customer's plurality of financial institution transaction accounts;

   linking, by a financial institution platform computer having a processor coupled to memory, the unique relationship identifier of the non-programmable relationship presentment card to said plurality of the customer's transaction accounts with the financial institution via *a determination by the customer in advance at the time the relationship presentment card is linked and without a determination at any time of customer-preferred benefits or customer-ranked preferred benefits, for all transactions with the relationship presentment card, to which one of the plurality of customer's linked accounts to post each transaction with the relationship presentment card*, wherein the financial institution and the customer are two different entities, and wherein linking the relationship presentment card to the plurality of the customer's financial institution transaction accounts via the determination by the customer further comprises linking the relationship presentment card to the plurality of the customer's financial institution transaction accounts via the determination by the customer based on at least one of a merchant category or an industry category, a geographic location of the transaction, or a type of account of each of the plurality of the customer's financial institution transaction accounts;

   receiving, by the financial institution platform computer, data for a transaction entered at a merchant's transaction terminal having a card reader through which the relationship presentment

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card is swiped in connection with a transaction, the transaction data consisting at least in part of the unique relationship identifier and being received via a merchant acquirer and a card association processing network;

identifying, by the financial institution platform computer, a particular account of the customer with the financial institution to which the unique relationship identifier is linked and to which the transaction should be posted based exclusively on said determination in advance by the customer and the transaction data without requiring a selection by the customer at the time of the transaction of the particular financial institution account to which the transaction should be posted; and

posting, by the financial institution platform computer, the transaction exclusively to the identified financial institution account of the customer and a reward in connection with the transaction exclusively to the same financial institution account of the customer to which the transaction with the customer's relationship presentment card is posted.

Rejections

Claims 1, 3–8, 10, 11, 15, and 17 stand rejected under 35 U.S.C. § 101 as being directed to ineligible subject matter. Final Act. 9.

Claims 1, 3–8, 10, 11, 15, and 17 stand rejected under 35 U.S.C. § 103(a) as obvious over the combination of Mendelovich et al. (US 2006/0208065 A1; Sept. 21, 2006), Akella et al. (US 2009/0119204 A1; May 7, 2009), Kulcsar et al. (US 2005/0097039 A1; May 5, 2005), and Franklin et al. (US 5,883,810; Mar. 16, 1999). Final Act. 11.

ISSUES

1. Did the Examiner err in determining that claim 1 is directed to an abstract idea without significantly more under § 101?

2. Did the Examiner err in finding Akella teaches or suggests "a determination by the customer in advance at the time the relationship

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presentment card is linked and without a determination at any time of customer-preferred benefits or customer-ranked preferred benefits, for all transactions with the relationship presentment card, to which one of the plurality of customer's linked accounts to post each transaction with the relationship presentment card," as recited in claim 1?

ANALYSIS

§ 101

Section 101 defines patentable subject matter, but the Supreme Court has "long held that this provision contains an important implicit exception" that "[l]aws of nature, natural phenomena, and abstract ideas are not patentable." *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 70 (2012) (quotation omitted). "Eligibility under 35 U.S.C. § 101 is a question of law, based on underlying facts." *SAP Am., Inc. v. InvestPic, LLC*, 890 F.3d 1016, 1020 (Fed. Cir. 2018). To determine patentable subject matter, the Supreme Court has set forth a two part test.

"First, we determine whether the claims at issue are directed to one of those patent-ineligible concepts" of "laws of nature, natural phenomena, and abstract ideas." *Alice Corp. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014). "The inquiry often is whether the claims are directed to 'a specific means or method' for improving technology or whether they are simply directed to an abstract end-result." *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1326 (Fed. Cir. 2017). A court must be cognizant 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), and "describing the claims at . . . a high level of abstraction and untethered from the language of the claims all but ensures that the exceptions to § 101 swallow the rule."

Enfish, LLC v. Microsoft Corp., 822 F.3d 1327, 1337 (Fed. Cir. 2016).
Instead, "the claims are considered in their entirety to ascertain whether their
character as a whole is directed to excluded subject matter." *Internet
Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015).

In the second step, 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*, 566 U.S. at 79, 78).
The Supreme Court has "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." *Id.* (quotation omitted).

Here, the Examiner determines that "[t]he claims are directed to the
abstract idea of routing and posting customer transactions performed with a
single token and relationship number for the customer to any number of pre-
designated financial institution customer accounts according to pre-defined
transaction parameters." Final Act. 9; *see also* Spec. ¶ 4. Elsewhere, the
Examiner states that "the invention is directed towards an abstract idea of
managing transaction accounts, a fundamental economic practice in which
there is a linking of multiple accounts to a single card account or other
identifier." Ans. 2. The Examiner analogizes this to several "concepts
identified as abstract ideas by courts, such as creating a contractual
relationship (*buySAFE*), automating mental tasks (*Benson*), [and] obtaining
and comparing intangible data (*Cybersource*)." *Id.* at 3.

We agree with Appellant that the Examiner failed to adequately
explain how the cited cases relate to the specific claim language in this case.

See App. Br. 11. "The Supreme Court has recognized that all inventions embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas. But not all claims are *directed to* an abstract idea." *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1241 (Fed. Cir. 2016) (quotation omitted). Here, claim 1 may indirectly relate to contractual relationships, but we cannot say that claim 1 as a whole is *directed to* contractual relationships. In the same way, claim 1 may obtain and compare intangible data, but we cannot say that claim 1 as a whole is *directed to* obtaining and comparing intangible data. Nor is claim 1 as a whole directed to a combination of, for example, contractual relationships and obtaining and comparing intangible data. *Cf. RecogniCorp*, 855 F.3d at 1327 ("Adding one abstract idea (math) to another abstract idea (encoding and decoding) does not render the claim non-abstract."); *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016) ("the combination of those abstract-idea processes . . . . are therefore directed to an abstract idea").

At a high level, "managing transaction accounts" may be an abstract idea and a fundamental economic practice (*see* Ans. 2), but "managing transaction accounts" is too high of a level of abstraction that is untethered from the specific language of the claims. *See Enfish*, 822 F.3d at 1337; *see also* Ans. 4 ("Although there is a processor and memory, the claims do no more than implement the abstract idea of transaction account management."). Yet at a lower level, there is insufficient evidence or explanation on the record before us to determine that the narrower concept of "routing and posting customer transactions performed with a single token . . . to any number of pre-designated financial . . . accounts according to pre-

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defined transaction parameters" constitutes a fundamental economic practice. *See* Final Act. 9.

The claims here do not apply to any unified account but only to "a *non-programmable* <u>relationship presentment card</u>" that stores "*only* the unique relationship identifier" (e.g., "storing no data for any of said customer's plurality of financial institution transaction accounts"). *See* claim 1 (emphasis added). That card must be "swiped" in a transaction, and the determination of which linked account to use for that transaction must be made (A) "by the customer"; (B) "in advance," specifically "at the time the relationship presentment card is linked"; (C) "without a determination at any time of customer-preferred benefits or customer-ranked preferred benefits"; (D) "for *all* transactions with the relationship presentment card"; and (E) "without requiring a selection by the customer at the time of the transaction" of which linked account to use. *Id.* (emphasis added).

These specific limitations are tied directly to the problem and solution in the Specification. For example, the problem is described as having too many physical cards and checks:

> [C]onsumers often carry several different plastic credit cards, at least one plastic debit card for electronic withdrawals from a checking account, and special checks or a plastic credit card to draw on an equity line of credit. Carrying a large number of such presentment vehicles is cumbersome and inconvenient for the consumer.

Spec. ¶ 3. The Specification describes the solution as "a single . . . relationship vehicle (e.g., a relationship presentment card) having a relationship number unique to a customer that is linked to a plurality of the customer's financial institution transaction accounts via pre-defined parameters for determining to which of the customer's accounts to post

particular transactions with the relationship presentment card." *Id.* ¶ 5; *see also id.* ¶¶ 4 (reciting what the Examiner identified as the abstract idea), 19–20 (providing specific examples). Here, we agree with the Examiner that the problem and solution are not specific to computers. *See* Ans. 2–3; App. Br. 13. The same underlying problem and solution would exist if all credit card processing was done manually without any computers. Nevertheless, given the record before us, we determine that the claims are not "simply directed to an abstract end-result" of fewer cards in one's wallet, but rather are directed to "a specific means or method" of doing so, namely a single non-programmable relationship presentment card with pre-defined parameters specifying in advance which linked account should be charged for each transaction. *See RecogniCorp*, 855 F.3d at 1326. This is more than merely a field of use and instead provides a specific method of minimizing the number of cards in consumers' wallets. Given the record before us, we are not persuaded that is an ineligible abstract idea.

Accordingly, we do not sustain the Examiner's rejection of claims 1, 3–8, 10, 11, 15, and 17 under § 101.

§ 103

Turning to the obviousness rejection under § 103, Appellant argues:

> [N]one of the references cited by the Examiner describe, teach or suggest, for example, <u>linking the unique identifier of the customer's presentment card to the customer's accounts for all transactions with a determination in advance of which one of the of customer's linked accounts to post each transaction identifying the particular linked account to which to post a transaction based exclusively on the determination in advance and posting the transaction and reward exclusively to that particular linked account.</u>

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App. Br. 17. According to Appellant, "Akella describes . . . a remote server selects a card for the purchase based on the stored purchase factors, which the user may override." *Id.* at 16.

We are not persuaded by Appellant's argument. Claim 1 recites that the determination of which linked account to use is made by the customer "in advance at the time the relationship presentment card is linked and without a determination at any time of customer-preferred benefits or customer-ranked preferred benefits." The Examiner relies on Akella for teaching or suggesting this portion of the claim. Final Act. 13 (citing Akella Abstract, ¶¶ 37–38, 41). Specifically, the Examiner relies on Akella's disclosure that when registering a card, the consumer can "rank the most important *factors* in credit, debit, phone, and discount card usage." Ans. 13 (citing Akella ¶ 37) (emphasis added). Appellant acknowledges that Akella discloses "select[ing] a card for purchase based on the stored purchase factors." App. Br. 16; *see also id.* at 17. Akella also provides numerous examples of those factors. *E.g.*, Akella ¶¶ 38–39. Although some of Akella's factors may be determined at the time of purchase, such as interest rates or available credit, Akella also discloses "[o]ther factors" may instead be tied to "the type of financial transaction." For example, "a first debit/credit card is selected at a particular retailer (e.g., AMEX card at COSTCO), and a second debit/credit card is selected at a cash disbursement machine." *Id.* ¶ 39.

Similarly, in the present application, the Specification gives an example of "pre-defined parameters, such as *where the transaction occurred*." Spec. ¶ 14 (emphasis added). For example, "transactions at a particular retail department store" should "post to the customer's account

with the particular store." *Id.* ¶ 20. This is substantially similar to Akella's disclosure of using a particular card ("AMEX") at a particular store ("COSTCO"). Thus, Akella teaches or suggests this limitation.

Accordingly, we sustain the Examiner's rejection under § 103 of claim 1, and claims 3–8, 10, 11, 15, and 17, which Appellant argues are patentable for similar reasons. *See* App. Br. 18; 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

For the reasons above, we affirm the Examiner's decision rejecting claims 1, 3–8, 10, 11, 15, and 17 under § 103, but reverse the Examiner's decision rejecting claims 1, 3–8, 10, 11, 15, and 17 under § 101.

Because we affirm at least one rejection for every appealed claim, we designate this Decision as an affirmance.

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