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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* DAVID G. HARGROVE

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Appeal 2017-004877<sup>1</sup>  
Application 13/958,360  
Technology Center 3600

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Before JEAN R. HOMERE, IRVIN E. BRANCH, 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 a final rejection of claims 1–22, which are all the pending claims. *See* App. Br. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> The real party in interest is identified as the inventor, David G. Hargrove. App. Br. 1.

## STATEMENT OF THE CASE

### *Introduction*

The Application is directed to “a system and method for easily entering, processing, and managing information related to the insurance claims adjustment process to be used in the creation of activity and narrative reports and insurance claims estimates.” Spec. ¶ 37.

Claims 1 and 12 are independent. Claim 1 is reproduced below for reference:

1. A computer-implemented method for capturing, labeling, and storing digital images of damaged property in an insurance claims adjustment process, the method comprising:
  - providing by a server for display on a client access device a first user interface comprising a first set of commands and functions, retrieved from a server database;
  - capturing a digital image of damaged property using the client access device;
  - storing the digital image as an individual image file on the client access device;
  - loading the individual image file from the client access device into the first user interface;
  - associating a label with the individual image file using the first set of commands and functions, the label comprising a description of the image file;
  - storing the label in a separate file;
  - receiving additional information related to the image file by user input from the first set of commands and functions in the first user interface and appending the additional information to the separate file as sentence fragments and tags;
  - accessing the individual image file and the separate file;
  - automatically generating at least one document comprising the information in the separate file, the document comprising a textual narrative component, the textual narrative component generated by transforming data in the separate file including the sentence fragments and tags into a textual narrative format, and the individual image file;

storing the at least one document and the separate file in the server database; and  
wherein the at least one document is generated for submission during an insurance claims adjustment process.

*The Examiner's Rejection*

Claims 1–22 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 2; Ans. 3–7.

ANALYSIS

We have reviewed the Examiner's rejection in light of Appellant's arguments. We have considered in this Decision only those arguments Appellant actually raised in the Briefs. Any other arguments Appellant could have made but chose not to make are deemed waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

An invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: laws of nature, natural phenomena, and abstract ideas are not patentable. *See, e.g., Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014); *see also Rubber-Tip Pencil Co. v. Howard*, 87 U.S. 498, 507, (1874) (“An idea of itself is not patentable.”). The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 134 S. Ct. at 2355. The first step in that analysis is to “determine whether the claims at issue are directed to one

of those patent-ineligible concepts,” e.g., to an abstract idea. *Alice*, 134 S. Ct. at 2355. If the claims are directed to a patent-ineligible concept, the inquiry proceeds to the second step, where the elements of the claims are considered “individually and ‘as an ordered combination’” to determine whether there are additional elements that “‘transform the nature of the claim’ into a patent-eligible application.” *Id.* at 2355 (quoting *Mayo*, 566 U.S. at 79, 78).

In the Answer, the Examiner issues a new grounds of rejection of the claims pursuant to 35 U.S.C. § 101, determining the claims “recite a method and system for insurance claim adjustment by capturing, labeling and storing images of damaged property,” a “fundamental commercial and technological practice long prevalent in our system of commerce, which is in the realm of abstract ideas identified by the Supreme Court.” Ans. 4, 6. The Examiner further determines the claims “do not purport to improve the functioning of the computer itself, or to improve any other technology or technical field. Use of an unspecified computer does not transform an abstract idea into a patent-eligible invention. Thus, the claim does not amount to significantly more than the abstract idea itself.” Ans. 6–7.

Appellant argues the Examiner’s rejection is in error, because “[w]hen considered as a whole and not entirely out of context, claim 1 is not an abstract idea and provides significantly more than Examiner’s alleged abstract idea.” Reply Br. 3. Particularly, Appellant argues that:

When properly considered as an ordered combination the patentable subject matter of claim 1 provides a specific way to manage and store information, receive and process input, and generate and store a document. Claim 1 provides specific rules, as with the rules for animating 3d models in *McRo*, and is provides a specific solution tied to specific technological

environment, as with the methods for improving accounting in *Amdocs*.

Reply Br. 4 (citing *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016) and *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288 (Fed. Cir. 2016)).

We are not persuaded the Examiner errs. We adopt the Examiner’s findings and conclusions as our own, and we add the following for emphasis.

*I. Independent Claim 1.*

Claim 1 is a “computer-implemented method for capturing, labeling, and storing digital images of damaged property in an insurance claims adjustment process,” and includes steps of providing a user interface, processing an image and associated labels, and creating a document for submission during an insurance claims adjustment. We agree with the Examiner that the claim is directed to the abstract concept of insurance claim adjustment using images. *See* Ans. 4–6; Final Act. 3.

We find claim 1 is comparable to concepts our reviewing courts have found to be abstract. *See* Ans. 2–3; *see also In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 613 (Fed. Cir. 2016) (“the claims, as noted, are simply directed to the abstract idea of classifying and storing digital images in an organized manner”); *Accenture Glob. Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1344 (Fed. Cir. 2013) (“the abstract idea of handling insurance-related information,” which includes “generating tasks [based on] rules . . . to be completed upon the occurrence of an event”) (internal quotations and citation omitted); *Content Extraction and Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1347

(Fed. Cir. 2014) (“The concept of data collection, recognition, and storage is undisputedly well-known”); *Elec. Power Grp. LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (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”); *In re Salwan*, 681 F. App’x 938, 941 (Fed. Cir. 2017) (affirming the rejection under § 101 of claims directed to “storing, communicating, transferring, and reporting patient health information,” noting that “while these concepts may be directed to practical concepts, they are fundamental economic and conventional business practices”).

Additionally, we are not persuaded by Appellant’s comparison of claim 1 to claims found patent eligible by our reviewing court, such as the claims in *McRO* and *Amdocs*. See Reply Br. 4. Unlike the claims in these cases, Appellant’s claim 1 does not provide improvements to the underlying or other technology. The claim, as described by Appellant, provides a specific way to manage and store information, receive and process input, and generate and store a document (see Reply Br. 4); we agree with the Examiner that, considered as a whole, the claimed process is “the employment of a computer to do what a computer is supposed to do: receive and store information, reduce error and speed things up” (Ans. 7). See Spec. ¶ 2 (“The invention automates and streamlines the claims adjustment process and provides the user with an all in one solution for documenting a claim and for creating the claims estimate and other documents needed to close the insurance claim.”); see also Spec. ¶¶ 38–41, 50; *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) (“after *Alice*, there

can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible”).

Thus, we agree with the Examiner that—in contrast to a technical benefit—the claims may improve the business process of insurance claims submission. Ans. 7; Final Act. 7; *see also* Spec. ¶¶ 6–7 (“An adjuster’s job is to take adequate pictures to support the estimate and prove the loss” to “re-tell’ the story of the damage and recommended repairs as a narrative and/or in the form of several activity reports.”); ¶ 10; *see also TLI Communications*, 823 F.3d at 612 (“[T]he claims here are not directed to a specific improvement to computer functionality. Rather, they are directed to the use of conventional or generic technology in a nascent but well-known environment, without any claim that the invention reflects an inventive solution to any problem presented by combining the two.”). Therefore, we are not persuaded the Examiner erred in determining “the claim does not amount to significantly more than the abstract idea itself.” Ans. 7.

Accordingly, we are not persuaded the Examiner erred in finding claim 1 patent ineligible.

## *II. Dependent Claims 3 and 7–11.*

Appellant further argues dependent claim limitations may be directed to statutory subject matter:

For example, in claim 3 the separate file is exported to a separate computer program, connecting the method of the claimed invention to a specific computer environment. Furthermore, claims 7-11 recite specific commands and functions, like the rules in *McRO*, that more narrowly claim the invention of the independent claim in a way that further separates claims 7-11

from the alleged abstract idea identified by the Examiner in claim 1.

Reply Br. 5.

We are not persuaded the Examiner erred. Appellant does not explain how these dependent claim limitations are meaningfully different from the independent claims for purposes of the *Alice* analysis. Rather, we conclude these claims are directed to the same abstract idea, without reciting significantly more, as their parent independent claims discussed above.

Accordingly, we are not persuaded the Examiner erred in rejecting dependent claims 3 and 7–11 under 35 U.S.C. § 101. *Cf. Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1349 (Fed. Cir. 2015) (“additional limitations of these dependent claims do not add an inventive concept, for they represent merely generic data collection steps or siting the ineligible concept in a particular technological environment”).

## CONCLUSION

We are not persuaded the Examiner erred in determining claims 1, 3, and 7–11 are unpatentable under 35 U.S.C. § 101. Final Act. 2. Appellant does not provide additional substantive arguments for the remaining claims. *See* Reply Br. 5. Therefore, we sustain the rejection of claims 2, 4–6, and 12–22 for the same reasons as discussed above.

## DECISION

The Examiner’s decision rejecting claims 1–22 is affirmed.

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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