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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MOUJAN KAZERANI, JEFFREY M. STIBEL,
AARON B. STIBEL, and ARMAN KATIRAEI

Appeal 2017-005286
Application 14/937,663
Technology Center 3600

Before ST. JOHN COURTENAY III, JAMES R. HUGHES, and
JASON CHUNG, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–18, which are all the claims pending in this application. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We affirm-in-part.

STATEMENT OF THE CASE

Introduction

Appellants' invention "pertains to systems for optimizing entity credit indirectly through graphical user interfaces (GUIs) and directly through

¹ According to Appellants, the real party in interest is Dun & Bradstreet Emerging Businesses Corp. App. Br. 1.

electronic transferring of funds between lines of credit.” (Spec. ¶ 1).

Exemplary Claim

1. A method for automatically balancing entity credit, the method comprising:

providing a front-end application to a particular entity for installation on a network enabled device of the entity;

receiving over the Internet from the front-end application at a back-end machine, access to a plurality of lines of credit that a plurality of lenders extend to said particular entity, the back-end machine comprising a microprocessor and memory, wherein the microprocessor

generates a current credit state for the entity based on current values of at least one credit variable compiled from the plurality of lines of credit, wherein said current values are used in computing a credit score of the particular entity;

optimizes the current values for the at least one credit variable across the plurality of lines of credit, wherein said optimizing comprises (i) generating a payment schedule specifying timing and amounts in optimally paying debt owed across the plurality of lines of credit and (ii) adjusting the current values for the at least one credit variable in each of the plurality of lines of credit to adjusted values according to a redistribution of debt resulting from the payment schedule, wherein said adjusted values increase the credit score of the particular entity relative to said current values;

generates an alert comprising the current credit state, the payment schedule, and the adjusted values;

transmits the alert over the Internet to the network enabled device, wherein the alert activates the front-end application to display on the network enabled device a first presentation displaying the current values of the at least one credit variable compiled from the plurality of lines of credit, a second presentation displaying the adjusted values as an optimal redistribution of the current values resulting in an increase to the credit score of the particular entity, and a link for accepting the

payment schedule; and

performs, in response to invocation of the link from the alert, a plurality of electronic funds transfers (EFTs) from a bank or deposit account of the particular entity to the plurality of lenders according to said payment schedule.

App. Br. 20–21 (Emphasis added to dispositive contested limitations).

Rejections

- A. Claims 1–18 are rejected under 35 U.S.C. § 101 as being directed to a judicial exception, without significantly more. Final Act. 3.
- B. Claims 1–12 are rejected under § 103 as being obvious over Griffin et al. (US 2011/0131131 A1; June 2, 2011) (hereinafter “Griffin”), in view of Schnall (US 2002/0116322 A1; Aug. 22, 2002). Final Act. 9.
- C. Claims 13–17 are rejected under § 103 as being obvious over Griffin, in view of Danaher et al. (US 2008/0149659 A1; Aug. 7, 2003) (hereinafter “Danaher”). Final Act. 19.
- D. Claim 18 is rejected under 35 U.S.C. § 103 as being obvious over Griffin, in view of Ceribelli et al. (US 2015/0142643 A1; May 21, 2015) (hereinafter “Ceribelli”). Final Act. 23.

Issues on Appeal

1. Did the Examiner err in rejecting claims 1–18 under 35 U.S.C. § 101, as being directed to a judicial exception, without significantly more?
2. Did the Examiner err in rejecting claims 1–18 under 35 U.S.C. § 103, as being obvious over the cited combinations of references?

ANALYSIS

We have considered all of Appellants' arguments and any evidence presented. 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). We highlight and address specific findings and arguments for emphasis in our analysis below.

Mayo/Alice Analysis under 35 U.S.C. § 101

Under 35 U.S.C. § 101, a patent may be obtained for “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” The Supreme Court has “long held that this provision contains an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014) (quoting *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)). 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, 82–84 (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, such as an *abstract idea*. Abstract ideas may include, but are not limited to, fundamental economic practices, methods of organizing human activities, an idea of itself, and mathematical formulas or relationships. *Id.* at 2355–57.

If the claims are *not directed* to a patent-ineligible concept, *the inquiry ends*. *See Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1262 (Fed.

Cir. 2017). Otherwise, the inquiry proceeds to the second step in which the elements of the claims are considered “individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, at 2355 (quoting *Mayo*, 566 U.S. at 79, 78). We consider the question of whether the claims are directed to a *specific improvement* in the capabilities of the computing devices, or, instead, “a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016).

We, therefore, decide under step two whether the claims: (a) set forth an *inventive concept* that provides a specific means or method that *improves* the relevant technology, or (b) 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.

The Examiner’s Rejection A under 35 U.S.C. § 101

Regarding the first step of the *Alice/Mayo* analysis, the Examiner concludes claims 1–18 are directed to an abstract idea of a fundamental economic principle. The Examiner recites the language of claim 1, and concludes the claim is directed to, inter alia, the result of increasing the “credit score without changing total debt owed by the particular entity to the plurality of lenders, which is a fundamental economic principle.” Final Act. 4–5.² The Examiner further concludes: “[t]he claim(s) are similar to other

² “Patent eligibility under § 101 presents an issue of law.” *Accenture Glob. Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1340 (Fed. Cir. 2013).

concepts that have been identified as abstract by the courts such as comparing new and stored information and using rules to identify options (SmartGene).”³ Final Act. 5.

Regarding the second step of the *Mayo/Alice* analysis, the Examiner again recites the language of claim 1 and concludes the claims are:

not seen to be a technical field, nor do they purport to improve the functioning of the computer itself. The claims are not seen to be "necessarily rooted in technology in order to overcome a problem specifically arising in the realm of computer networks" as in the DDR case [⁴], and do not include additional elements that are sufficient to amount to significantly more than the abstract idea as they are seen to be mere instructions to implement the abstract idea on a computer using a processor and a tangible computer readable medium storing a computer program product configured to store instructions.

In reference to [claims] 2 - 12 and 14 - 17 these dependent claims have also been reviewed with the same analysis as independent claims 1, 13 and 18. However they do not cure the deficiencies of claims 1, 13 and 18.

Final Act. 7–8.

³ The Examiner is referring to *SmartGene, Inc. v. Advanced Biological Laboratories, SA*, 555 F. App’x 950, 955 (Fed. Cir. 2014) (“Whatever the boundaries of the ‘abstract ideas’ category, the claim at issue here involves a mental process excluded from section 101: the mental steps of comparing new and stored information and using rules to identify medical options.”) In *SmartGene*, step (c) of *Advanced Biological Laboratories’* claim 1 recites: “generating in said computing device advisory information for one or more therapeutic treatment regimens in said ranked listing based on said patient information and said expert rules.” *Id.* at 952. (nonprecedential).

⁴ The Examiner distinguishes Appellants’ claims from the claims considered by the court in *DDR Holdings, LLC v Hotels.com, LP*, 773 F3d 1245 (Fed Cir 2014) (holding that claims directed to e-commerce on the computer using the Internet recite patent-eligible subject matter).

Thus, the Examiner concludes the claims do not include additional elements that are significantly more than the judicial exception. *Id.*⁵

For the aforementioned reasons, the Examiner concludes that all claims 1–18 on appeal are not patent eligible under 35 U.S.C. § 101.

Rejection A under § 101 of Claims 13–17

Mayo/Alice Analysis — Step 1

Regarding *Alice* Step 1, and claim 13, Appellants note that claim 13 comprises “‘a first presentation . . .’, ‘a set of sliders . . .’, and ‘a second presentation’” App. Br. 8. Appellants contend:

Such an *interface* or the collective set of limitations that form claim 13 *are not directed to a fundamental economic practice*. In particular, the *interface* provides a first presentation displaying a current credit score and current values for different credit variables of the credit score, *sliders with which a user can individually adjust the current values* for each of the credit variables, and a second presentation displaying an updated credit score based on the adjusted values of the credit variables. *In other words, the claim is directed to the recited interface, elements of the interface, and interactivity provided as a result of the interface, as opposed to being directed to a fundamental economic practice.*

Id. (emphasis added).

Regarding rejection A under 35 U.S.C. § 101, we agree with Appellants regarding claim 13 and associated dependent claims 14–17, but

⁵ The patent eligibility inquiry may contain underlying issues of fact. *Mortg. Grader, Inc. v. First Choice Loan Servs. Inc.*, 811 F.3d 1314, 1325 (Fed. Cir. 2016). In particular, “[t]he question of whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field is a question of fact.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018).

we disagree with Appellants' contentions regarding independent claims 1 and 18, and the claims which depend therefrom.

Claim 13 is directed to “*An interface* for optimizing entity credit,” which we conclude is distinguishable from claim 1, that is directed to “*A method* for automatically balancing entity credit,” and claim 18, that is directed to, inter alia, “*A method* comprising: “accessing accounts of a particular entity at each of a plurality of lenders” and “producing” a *non-interactive* interface (i.e., sans the interactive “sliders” recited in claim 13) that merely displays data.

Although a recited “alert” activates the device of claim 18 “to display said interface with *a link* for initiating said rebalancing of the first and second lines of credit with the first and second lenders,” we conclude method claim 18, *considered as a whole*, and similar claim 1, are each directed to *a fundamental economic principle*, as concluded by the Examiner. Final Act. 5.

In contrast, we conclude the “interface” positively recited in the preamble of claim 13, consistent with the supporting description in Appellants' Specification (e.g., ¶ 29), encompasses a graphical user *interface*, which we conclude, as claimed, improves the functioning of the standard generic computer user interface by enabling the user to easily *slidably adjust* (i.e., manipulate or change) any or all of multiple data values to any of a plurality of user-selected values, with the effects of such adjusted values on a target value (e.g., a credit score) being instantly effectuated upon

invocation of a claimed displayed “link” that is associated with the “interface.”⁶

Although the types of data inputs (credit variables) recited in claim 13 are relevant to credit scores, we conclude such *interactive interface* could similarly be used to quickly vary or adjust one or many different types of input data values, to efficiently determine the effect upon a target value result.

In determining whether claims are patent-eligible under Section 101, “the decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen—what prior cases were about, and which way they were decided.” *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016). The Federal Circuit also guides that “[E]xaminers are to continue to determine if the claim recites (i.e., sets forth or describes) a concept that is similar to concepts previously found abstract by the courts.” *Id.* at 1294 n.2.

Regarding Appellants’ independent “interface” claim 13, the court in *Core Wireless Licensing S.A.R.L. v. LG Electronics, Inc.*, 880 F.3d 1356, 1359 (Fed. Cir. 2018), considered a similar *user interface* claim:

1. A computing device comprising
a display screen, the computing
device being configured to display
on the screen a menu listing one or
more applications, and additionally

⁶ See e.g., *Spec.* ¶ 29: “In some embodiments, the alert includes interactive user interface elements that allow the user to modify values for different credit variables. The front-end application sends the modified values to the system back-end which responds by passing back to the front-end application an updated credit score that is derived from the modified credit variable values.”

being configured to display on the screen an application summary that can be reached directly from the menu, wherein the application summary displays a limited list of data offered within the one or more applications, each of the data in the list being selectable to launch the respective application and enable the selected data to be seen within the respective application, and wherein the application summary is displayed while the one or more applications are in an un-launched state.

Claim 1 of the '476 patent, *Id. at 1359*.

The Federal Circuit concluded that the similar subject claims in *Core Wireless* were not directed to an abstract idea, because:

The asserted claims in this case are directed to an improved user interface for computing devices, not to the abstract idea of an index, as argued by LG on appeal. ^[1] Although the generic idea of summarizing information certainly existed prior to the invention, these claims are directed to a particular manner of summarizing and presenting information in electronic devices.

Core Wireless at 1362 (emphasis added).

The court further explained:

These limitations disclose a specific manner of displaying a limited set of information to the user, rather than using conventional user interface methods to display a generic index on a computer. Like the improved systems claimed in *Enfish*, *Thales*, *Visual Memory*, and *Finjan*, these claims recite a specific improvement over prior systems, resulting in an *improved user interface* for electronic devices.

...

Because we hold that the asserted claims are not directed to an abstract idea, we do not proceed to the second step of the inquiry. The claims are patent eligible under § 101.

Core Wireless at 1363 (emphasis added).

Applying this guidance here, we conclude Appellants’ claim 13, and claims 14–17 which depend therefrom, are sufficiently similar to the claims considered by the *Core Wireless* court that were held *not to be directed to an abstract idea*, but instead improved “the efficiency of using the electronic device by bringing together ‘a limited list of common functions and commonly accessed stored data,’ which can be accessed directly from the main menu.” *Core Wireless* at 1363 (internal citation omitted). Thus, we conclude the similarity of the claims considered by the *Core Wireless* court to Appellants’ improved interactive user *interface* (claim 13) provides applicable controlling guidance in this appeal. Therefore, in light of the guidance of *Core Wireless*, we agree with Appellants:

In other words, the claim is directed to the recited interface, elements of the interface, and interactivity provided as a result of the interface, as opposed to being directed to a fundamental economic practice.

App. Br. 8.

Because we agree with Appellants that claims 13–17, *considered as a whole*, are directed to an interactive user interface having movable sliders, and are not directed to a patent-ineligible concept (i.e., an abstract idea), our inquiry under 35 U.S.C. § 101 ends. *See Visual Memory LLC*, 867 F.3d at 1262.

Although we need not reach *Alice* step 2 to decide the patent eligibility of claims 13–17, in the alternative, we also agree with Appellants that the claimed “interface” of independent claim 13 provides an inventive

concept, for at least the reasons argued by Appellants:

Claim 13 further recites unconventional steps for visualizing and *interacting* with an entity's credit in order to determine how changes to different credit variables can affect the entity's credit score without the entity actually implementing those changes.

App. Br. 11 (emphasis added).

Accordingly, we reverse the Examiner's rejection A under § 101 for claims 13–17.

Rejection A under § 101 of Claims 1–12 and 18

Appellants contend that claims 1–12 and 18 are not directed to a judicially recognized exception, i.e., *a fundamental economic practice*. (App. Br. 6, 8). Appellants particularly urge that the Examiner has erred by failing to consider the claims as a whole. *Id.* In support, Appellants merely recite the claim language, and urge: “Although the methodology includes certain steps that may involve a fundamental economic practice, the methodology as a whole is not directed to any fundamental economic practice or any other judicially recognized exception.” App. Br. 7.

In contrast with our discussion of claim 13 above (as being directed to an *interactive* interface, when the claim is considered as a whole), we conclude that method claims 1–12 and 18, *when considered as a whole*, are directed to steps for performing a *fundamental economic practice*, i.e., the redistribution of debt among various lines of credit to effectuate a lower credit score. We conclude Appellants' arguments for *Alice* step 1 of claims

1–12 and 18 are merely conclusory, with no Federal Circuit case law cited in support in the Appeal Brief (6–11), or in the Reply Brief (1–5).⁷

We note that our reviewing court has held that claims directed to data collection, analysis, and display are directed to an abstract idea. *Elec. Power Grp. 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”); *see also In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016).

In contrast to our review *supra* of independent *interface* claim 13, on this record, we are not persuaded the Examiner erred in concluding that claims 1–12 and 18 are directed to an abstract idea. Appellants provide no further substantive arguments regarding *Alice* Step 1. Arguments not made are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). Therefore, we proceed to *Alice* Step 2 for claims 1–12 and 18.

Mayo/Alice Analysis – Step 2

Because we conclude claims 1–12 and 18 are directed to an abstract idea for essentially the same reasons articulated by the Examiner (Final Act. 3–5), we turn to the second part of the *Alice/Mayo* analysis. We analyze the claims to determine if there are additional limitations that individually, or as

⁷ We afford such conclusory attorney argument little weight. *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997). *See also Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

an ordered combination, ensure the claims amount to “significantly more” than the abstract idea. *Alice*, at 2357.

Regarding *Alice* Step 2, Appellants address the purported *inventive concept* of claims 1–12 and 18 by merely repeating the pattern of reciting limitations in the claims (App. Br. 9–10), and asserting that “[t]hese limitations incorporate networking, computer technology, and computer automation as part of the methodology, thereby providing significant improvements and amounting to significantly more than any fundamental economic practice.” App. Br. 10.

Similar to our discussion above regarding *Alice* step 1, we conclude Appellants’ arguments for *Alice* step 2 of claims 1–12 and 18 are merely conclusory, with no Federal Circuit case law cited in support of step 2 in the Appeal Brief (9–11), or in the Reply Brief (3–5). *See* n.7, *supra*.

We find claims 1–12 and 18 on appeal are *silent* regarding specific limitations directed to an *improved* computer system, processor, memory, network, database, or Internet. We particularly note Appellants’ Specification (¶ 101) expressly describes: “[c]omputer and computer system are meant in their broadest sense, and can include any electronic device with a processor including cellular telephones, smartphones, portable digital assistants, tablet devices, laptops, desktops, and servers. Examples of computer-readable media include, but are not limited to, CDROMs, flash drives, RAM chips, hard drives, EPROMs, etc.” (Emphasis added).

Regarding the use of the recited generic “microprocessor” and “memory” (claim 1), and the generic “digital network” (claim 18), the Supreme Court held “the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.”

Alice, at 2358; see also *BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1348 (Fed. Cir. 2016) (“An abstract idea on ‘an Internet computer network’ or on a generic computer is still an abstract idea.”).

Given the supporting description in Appellants’ Specification (¶ 101), of generic computer components, we find Appellants’ method claims 1–12 and 18 do not provide a solution “necessarily rooted in *computer technology* in order to overcome a problem specifically arising in the realm of computer networks,” as considered by the court in *DDR*, 773 F.3d at 1257. (Emphasis added).

Our reviewing court has “repeatedly held that 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 Grp.*, 830 F.3d at 1355 (internal citations omitted); see also *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1341 (Fed. Cir. 2017) (“Rather, the claims recite both a generic computer element—a processor—and a series of generic computer ‘components’ that merely restate their individual functions That is to say, they merely describe the functions of the abstract idea itself, without particularity. This is simply not enough under step two.”).

Because none of Appellants’ claims 1–12 and 18 is directed to an *improvement* in a processor, database, or other computer/network component, we conclude that none of the claim limitations, viewed both individually and as an ordered combination, amounts to significantly more than the judicial exception in order to sufficiently transform the nature of the claims into patent-eligible subject matter.

Applying the aforementioned guidance from our reviewing courts to the claims before us on appeal, we conclude, in our *Mayo/Alice* analysis, that each of Appellants' claims 1–12 and 18, *considered as a whole*, is directed to (under step one), *a patent-ineligible abstract idea*, and under step two, does not recite something “*significantly more*” (*Alice*, at 2357 (internal citation and quotations omitted)) to transform the nature of the claim into a patent-eligible application. Accordingly, for at least these reasons, we sustain the Examiner's rejection A under 35 U.S.C. § 101 of claims 1–12 and 18, as being directed to patent-ineligible subject matter in light of *Alice* and its progeny.⁸

Rejection B of Independent Claim 1 under § 103

Issue: Under 35 U.S.C. § 103, did the Examiner err by finding that Griffin and Schnall would have collectively taught or suggested the contested limitations of a microprocessor that performs the recited step of optimizing:

the current values for the at least one credit variable across the plurality of lines of credit, wherein said optimizing comprises (i) generating a payment schedule specifying timing and amounts in optimally paying debt owed across the plurality of lines of credit and (ii) adjusting the current values for the at least one credit variable in each of the plurality of lines of credit to adjusted values according to a redistribution of debt resulting from the payment schedule, wherein said adjusted values increase the

⁸ 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).

credit score of the particular entity relative to said current values[.]

within the meaning of representative independent claim 1?⁹ (Emphasis added). App. Br. 20.

In the Appeal Brief, Appellants refer to paragraphs 69, 91, and 132 of Griffin, as relied upon by the Examiner, and urge: “There is also no disclosure for ‘(ii) adjusting the current values for the at least one credit variable in each of the plurality of lines of credit to adjusted values according to a redistribution of debt resulting from the payment schedule.”

App. Br. 13.

In response, the Examiner further explains the basis for the rejection:

With further emphasis at (Griffin, [0131] - The risk score logic/routine 108 may be further configured to assign customers or groups of customers to segments based on their risk score. For example, according to specific embodiments, the risk scores may be based on a scale of one to ten, where one is the lowest risk and ten is the highest risk. The risk score logic/routine 108 may be configured to assign customers having a risk score between one and three into a low risk segment/group. This low risk group's behaviors are not considered high risk, nor are they associated with any high risk companies or individuals. There is a low chance that customers in the low risk segment will behave in such a manner such that those doing business with them will lose money due to fraud, default or other type of risk.).

Ans. 15–16.

Based upon our review of the evidence cited by the Examiner (¶¶ 69, 91, 131, and 132 of Griffin), we find the Examiner paints with a broad

⁹ We give the contested claim limitations the broadest reasonable interpretation (BRI) consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

brush. We find the Examiner has not fully developed the record to show that Griffin and Schnall teach or suggest, alone or in combination, at least the contested limitation of: “(ii) adjusting the current values for the at least one credit variable in each of the plurality of lines of credit to adjusted values according to a redistribution of debt resulting from the payment schedule.” App. Br. 13.

For essentially the same reasons argued by Appellants in the Appeal Brief (12–13), and the Reply Brief (7–8), we agree with Appellants that there is no teaching or suggestion in the cited portions of Griffin (or in Schnall) for at least the contested claim limitation: “(ii) adjusting the current values for the at least one credit variable in each of the plurality of lines of credit to adjusted values according to a redistribution of debt resulting from the payment schedule.” App. Br. 13; claim 1.

Therefore, we find a preponderance of the evidence supports Appellants’ arguments regarding obviousness rejection B of independent claim 1. Accordingly, we reverse § 103 rejection B of independent claim 1, and rejection B of claims 2–12, which depend directly or indirectly from claim 1.

Rejection C of Independent Claim 13 under § 103

Issues: Under 35 U.S.C. § 103, did the Examiner err by finding that the combination of Griffin and Danaher would have taught or suggested the contested limitations of an interface that comprises:

a second presentation displaying an updated credit score for the particular entity derived from adjusted values for the plurality of credit variables specified using the set of sliders and a link, wherein invocation of said link initiates a plurality of electronic funds transfers effectuating said adjusted values for the plurality of credit variables[,]

within the meaning of representative independent claim 13?¹⁰ (Emphasis added). App. Br. 20.

In the Appeal Brief, Appellants refer to paragraphs 69, 91, and 132 of Griffin relied on by the Examiner and urge:

The FOA cites paragraphs 98, 148, and figure 3 of Danaher in rejecting this limitation. See FOA, page 20. Respectfully, *the cited paragraphs and figures relate to a presentation displaying an updated interest rate rather than an updated credit score as recited by the present limitation*. Moreover, there is no disclosure or teaching for deriving the updated credit score from "adjusted values for the plurality of credit variables specified using the set of sliders" or including a link in the presentation "wherein invocation of said link initiates a plurality of electronic funds transfers effectuating said adjusted values for the plurality of credit variables".

App. Br. 16 (emphasis added).

In response, the Examiner further explains the basis for the rejection:

(Danaher, [0098], [0148] - FIG. 3 shows, the calculator interface and interest rate analyses can include additional factors, some or all of which can be adjusted. Such adjustable values can include: 1) Credit score, 2) Debt-to-income ratio, 3) Collateral, and 4) Loan amount. As the user manipulates the sliders or other interface controls, *the interest rate table is updated* to reflect the new factor values used to *compute expected interest rates*.) With further emphasis at (Danaher, Claim 3 - The loan rate analysis system of claim 2 wherein the rate information stored by the rate information database is periodically updated with interest rate data from the rate information system.)

Ans. 22–23.

¹⁰ See *supra* n.9.

After reviewing the evidence cited by the Examiner (¶¶ 98, 148 and Fig. 3 of Danaher), we again find the Examiner paints with a broad brush. In particular, we find the evidence supports Appellants' contention that the "cited paragraphs and figures relate to a presentation displaying *an updated interest rate rather than an updated credit score* as recited by the present limitation." App. Br. 16.

In pertinent part, paragraph 147 of Danaher describes: "As FIG. 8 shows, the calculator interface includes a slider control allowing the user to adjust the credit score and *determine the effect of changes in the credit score on currently available interest rates.*"

The Examiner expressly finds: "As the user manipulates the sliders or other interface controls, the *interest rate table is updated* to reflect the new factor values used to compute *expected interest rates.*" Ans. 23. Simply put, we find an *updated* computed *interest rate* does not reasonably teach or suggest an *updated credit score*.

For essentially the same reasons argued by Appellants in the Appeal Brief (16), and the Reply Brief (7–8), we agree with Appellants that there is no teaching or suggestion in the cited portions of Griffin of at least the contested claim limitation: "(ii) adjusting the current values for the at least one credit variable in each of the plurality of lines of credit to adjusted values according to a redistribution of debt resulting from the payment schedule," within the meaning of independent claim 13.

Therefore, we find a preponderance of the evidence supports Appellants' arguments regarding obviousness rejection C of independent claim 13. Accordingly, we reverse § 103 rejection C of independent claim

13, and rejection C of claims 14–17, which depend directly or indirectly from claim 13.

Rejection D of Independent Claim 18 under § 103

Issues: Under 35 U.S.C. § 103, did the Examiner err by finding that the combination of Griffin and Ceribelli would have taught or suggested the contested limitation of:

rebalancing the debt in accordance with credit scoring algorithms of a credit reporting agency, wherein the credit reporting agency issues a credit score for the particular entity, wherein rebalancing the debt comprises (i) identifying an available debt buffer in a first line of credit extended by a first lender of the plurality of lenders[,]

within the meaning of representative independent claim 18?¹¹ (Emphasis added). App. Br. 24–25.

In the Appeal Brief, Appellants refer to paragraph 150 of Ceribelli, as relied upon by the Examiner. Appellants contend:

Ceribelli merely teaches "[a]lso taken into consideration could be, in some cases, previous payment activity, to account for the order of payments and alternate late payments among vendors; amount of any outstanding balance, to prioritize payments by amount (as a potential indication of the importance of the vendor) or by entire balance owed; and write-off of certain accounts, based on certain historical behaviors, factoring out possible future payments from customers who exhibit characteristics of non- payment." Nowhere is there any disclosure or teaching for "*an available debt buffer in a first line of credit*", let alone *identifying the debt buffer as part of the step for rebalancing debt*. The omitted teaching for "identifying an available debt buffer in a first line of credit" is a significant and critical omission in the prior art teachings. Without

¹¹ See *supra* n.9.

teaching of this element, the remainder of the claim limitations cannot be disclosed or rendered obvious by the prior art.

App. Br. 17–18 (emphasis added).

In response, the Examiner further explains the basis for the rejection:

The Examiner quotes a few sentences from paragraph 150 of Ceribelli (Ans. 25), and additionally cites to Ceribelli, paragraph 110, and Fig. 16B, and finds:

With further emphasis at (Ceribelli, [0110] - In FIG. 16B, for example, a transfer from customer 1603a(a) to vendor 1603a(n) is executed on the intra-bank host of Bank A, from account 1603a(a) to clearing entity master account 1602a as transfer 1620a and then on to vendor account 1603a(n) as transfer 1620b. However, a transfer from customer 1603a(b) (at BankA) to vendor 1603n(n) (at Bank N) is made as transfer 1621a from account 1603a(b) to master account 1602a (at BankA) and then as transfer 1621 n from master account 1602n to account 1603n(n) (at Bank N). Also shown symbolically is a transfer 1630an, symbolizing the clearing transactions between different master accounts 1602a, 1602n as needed to rebalance the system.).

Ans. 26.

After reviewing the evidence cited by the Examiner (Fig. 16B, ¶¶ 110, 150 of Ceribelli), we again find the Examiner paints with a broad brush. Notably missing from the Examiner’s response (Ans. 25–26) is any definitive mapping of the contested debt buffer (“*identifying an available debt buffer in a first line of credit extended by a first lender of the plurality of lenders*” – claim 18) to the corresponding feature found in Ceribelli.¹²

¹² See 37 C.F.R. § 1.104(c)(2) (“When a reference is complex or shows or describes inventions other than that claimed by the applicant, *the particular part relied on must be designated as nearly as practicable*. The pertinence of

For essentially the same reasons argued by Appellants in the Appeal Brief (17–18), and the Reply Brief (12–13), we agree with Appellants that there is no teaching or suggestion in the cited portions of Ceribelli for at least the contested claim 18 method step of:

rebalancing the debt in accordance with credit scoring algorithms of a credit reporting agency, wherein the credit reporting agency issues a credit score for the particular entity, wherein rebalancing the debt comprises (i) identifying an available debt buffer in a first line of credit extended by a first lender of the plurality of lenders[,]

within the meaning of representative independent claim 18.¹³

Therefore, we find a preponderance of the evidence supports Appellants’ arguments regarding obviousness rejection D of independent claim 18. Accordingly, we reverse § 103 rejection D of independent claim 18.

Conclusions

The Examiner did not err in rejecting claims 1–12 and 18 under 35 U.S.C. § 101, as being directed to a judicial exception, without significantly more.

The Examiner erred in rejecting claims 13–17 under 35 U.S.C. § 101, as being directed to a judicial exception, without significantly more.

The Examiner erred in rejecting claims 1–18 as being obvious over the cited combinations of references under 35 U.S.C. § 103.

each reference, if not apparent, *must be clearly explained* and each rejected claim specified.” (emphasis added).

¹³ See *supra* n.9.

DECISION

We affirm the Examiner's decision rejecting claims 1–12 and 18 under 35 U.S.C. § 101.

We reverse the Examiner's decision rejecting claims 13–17 under 35 U.S.C. § 101.

We reverse the Examiner's decision rejecting claims 1–18 under 35 U.S.C. § 103.

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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED-IN-PART