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Schwegman Lundberg & Woessner / LinkedIn/Microsoft
PO BOX 2938
MINNEAPOLIS, MN 55402

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TYLER BALDWIN,
CHEN CHANG,
JOSHUA RICHARD VANGEEST,
and MIKE DEREZIN

Appeal 2017-005838
Application 13/781,408
Technology Center 3600

Before HUBERT C. LORIN, ANTON W. FETTING, and AMEE A. SHAH, *Administrative Patent Judges.*

FETTING, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE[1]

Tyler Baldwin, Chen Chang, Joshua Richard VanGeest, and Mike Derezin (Appellants)[2] seek review under 35 U.S.C. § 134 of a final rejection

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[1] Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed August 8, 2016) and Reply Brief ("Reply Br.," filed February 20, 2017), and the Examiner's Answer ("Ans.," mailed December 20, 2016), and Final Action ("Final Act.," mailed March 10, 2016).

[2] Appellants identify Linkedin Corporation as the real party in interest. App. Br. 2.

of claims 1–24, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

The Appellants invented a way of analyzing a social graph of a social networking service for the purpose of deriving, for each member in a group of members, a social proximity score representing a measure of how socially connected an individual member is to a particular entity or organization. Specification para. 1.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below (bracketed matter and some paragraphing added).

> 1. A method comprising:
>
> [1] receiving, with at least one computer processor, a request to generate social proximity scores
>
> > for each member and target entity pairing for a set of members of a social networking service and a set of target entities;
>
> [2] with the at least one computer processor, for each member and target entity pairing, deriving a social proximity score
>
> > as a weighted combination of the number of first-degree and the number of second-degree connections that the member has with other members of the social networking service who have member profile information indicating current employment with the target entity and satisfying at least one of:
> >
> > > [a] having a job title matching any one of a plurality of predefined job titles;
> > >
> > > [b] having a job function matching any one of a plurality of predefined job functions;
> > >
> > > [c] having a seniority level that meets or exceeds some predefined seniority level;

> [d] being previously employed at a company with which the member and target entity pairing was also employed;
>
> [e] being previously matriculated at, or graduated from, a school at which the member of the member and target entity pairing matriculated, or from which the member of the member and target entity pairing graduated;
>
> [f] sharing in common a predefined number of skills with the member of the member and target entity pairing;
>
> [g] sharing in common with the member of the member and target entity pairing membership in a group or professional organization;
>
> [h] and sharing in common with the member of the member and target entity pairing a predefined number and selection of member profile attributes;
>
> and
>
> [3] storing, on a storage device, the social proximity scores for each member and target entity pairing.

Claims 1–24 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

ISSUES

The issues of eligible subject matter turn primarily on whether the claims recite more than abstract conceptual advice of what a computer is to provide without implementation details.

ANALYSIS

The Examiner determines that the claims are directed "to the abstract idea of calculating a proximity score in the social network field, the claims of which are directed towards collecting and comparing information, comparing new and stored information and using rules to identify options, and organizing information through mathematical relationships." Final Act. 4. The Examiner goes on to determine:

> The claims simply gather data and describe the data by reciting, very generally, steps or organizing information through mathematical relationships. The steps merely employ mathematical relationships to manipulate existing information to generate additional information. Abstract ideas are excluded from patent eligibility based on a concern that monopolization of the basic tools of scientific and technological work might impede innovation more than it would promote it. The claim(s) does/do not include additional elements that are sufficient to amount to significantly more than the judicial exception because the claims require no more than a generic computer to perform generic computer functions. The additional element(s) or combination of elements in the claim(s) other than the abstract idea per se amount(s) to no more than: mere instructions to implement the idea on a computer, and/or (ii) recitation of generic computer structure that serves to perform generic computer functions that are well-understood, routine, and conventional activities previously known to the pertinent industry. Viewed as a whole, these additional claim element(s) do not provide meaningful limitation(s) to transform the abstract idea into a patent eligible application of the abstract idea such that the claim(s) amounts to significantly more than the abstract idea itself. Having considered the claims as a whole, no element or combination of elements in the claims are sufficient to ensure that the claims amount to significantly more than the abstract idea itself. Indeed, the claims fail to recite any improvements to another technology or technical field, improvements to the functioning of the computer itself, and/or

> meaningful limitations beyond generally linking the use of an abstract idea to a particular environment. Therefore, because there are no meaningful limitations in the claim that transform the exception into a patent eligible application such that the claim amounts to significantly more than the exception itself, the claim is rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Id. at 4–5.

We adopt the Examiner's determinations and analysis from Final Action 4–6 and Answer 2–8 and reach similar legal conclusions.

In particular, we are not persuaded by Appellants' argument that "the Examiner's analysis of the claimed subject matter describes the claims at a high level of abstraction untethered from the language of the claims, and is therefore inappropriate." App. Br. 13; *see also* Reply Br. 2–3 Method claim 1 recites receiving request data, deriving scores based on various criteria, and storing the scores. Thus, claim 1 recites receiving, analyzing, and storing data. None of the limitations recite implementation details for any of these steps, but instead recite functional results to be achieved by any and all possible means.

Data reception, analysis, and storage are all generic, conventional data processing operations to the point they are themselves concepts awaiting implementation details. *See 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"); *see also In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1316 (Fed. Cir. 2011) ("Absent a possible narrower construction of the terms 'processing,' 'receiving,' and 'storing,' . . . those functions can be achieved

by any general purpose computer without special programming."). The sequence of data reception–analysis–storage is equally generic and conventional or otherwise held to be abstract. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction); *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (sequence of data retrieval, analysis, modification, generation, display, and transmission was directed to an abstract idea); *Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) (sequence of processing, routing, controlling, and monitoring was directed to an abstract idea).

As to the criteria data operated upon, "even if a process of collecting and analyzing information is 'limited to particular content' or a particular 'source,' that limitation does not make the collection and analysis other than abstract." *SAP America Inc. v. InvestPic LLC*, 898 F.3d 1161, 1168 (Fed. Cir. 2018).

Appellants' argument that "[s]imply labeling the components of the claims as 'generic' is insufficient to support a rejection" is similarly answered. App. Br. 15.

More to the point, claim 1 does no more than derive a score, and is therefore no more than a mathematical algorithm. Without more, this is a claim directed to an abstract idea. *Alice Corp. Pty. Ltd. v CLS Bank Int'l*, 573 U.S. 208, 219 (2014).

We are not persuaded by Appellants' argument that "[t]he Examiner must explain why the claimed invention as a whole is not directed to

significantly more." App. Br. 15 (emphasis omitted). The claims do not recite any technological implementation, but instead only recite functions to be performed by any and all means.

> At that level of generality, the claims do no more than describe a desired function or outcome, without providing any limiting detail that confines the claim to a particular solution to an identified problem. The purely functional nature of the claim confirms that it is directed to an abstract idea, not to a concrete embodiment of that idea.

Affinity Labs of Texas, LLC v. Amazon.com Inc., 838 F.3d 1266, 1269 (Fed. Cir. 2016).

CONCLUSIONS OF LAW

The rejection of claims 1–24 under 35 U.S.C. § 101 as directed to a judicial exception without significantly more is proper.

DECISION

The rejection of claims 1–24 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). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED