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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* DILIP DALTON

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Appeal 2017-006495  
Application 12/239,316<sup>1</sup>  
Technology Center 3600

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Before HUBERT C. LORIN, MICHAEL C. ASTORINO, and  
TARA L. HUTCHINGS, Administrative Patent Judges.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Dilip Dalton (Appellant) seeks our review under 35 U.S.C. § 134(a) of the Final Rejection of claims 1–24. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF DECISION

We AFFIRM.

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<sup>1</sup> The Appellant identifies Hewlett Packard Enterprise Development, LP, as the real party in interest. Br. 3.

### THE INVENTION

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A method executed by a computer for generating messages comprising:

retrieving information regarding a plurality of tasks from a database, each task in the plurality to be associated with an identifier that uniquely identifies the particular task and with one or more recipients, each recipient to be associated with one or more of the plurality of tasks;

for each recipient, grouping tasks that are associated with the recipient to create, based on the recipient, a task subset; and

generating, by at least one processor associated with the computer, a message to send to multiple recipients in a group of recipients having a same task subset, the message to contain information about each task in the task subset.

Br. 20 (Claims Appendix).

### THE REJECTION

The following rejection is before us for review:

Claims 1–24 are rejected under 35 U.S.C. § 101 as being directed to judicially-excepted subject matter.

### ISSUE

Did the Examiner err in rejecting claims 1–24 under 35 U.S.C. § 101 as being directed to judicially-excepted subject matter?

## ANALYSIS

*The rejection of claims 1–24 under 35 U.S.C. § 101 as being directed to judicially-excepted subject matter.*

*Alice Corp. Proprietary Ltd. v. CLS Bank International*, 134 S. Ct. 2347 (2014) identifies a two-step framework for determining whether claimed subject matter is judicially-excepted from patent-eligibility under 35 U.S.C. § 101.

According to *Alice* step one, “[w]e must first determine whether the claims at issue are directed to a patent-ineligible concept,” such as an abstract idea. *Alice*, 134 S. Ct. at 2355.

In that regard, the Examiner determined that

[t]he claims are directed to the abstract idea of “an idea ‘of itself’” similar to using categories to organize, store and transmit information, specifically in generating messages. The nature of the abstract idea is shown by the following claim language:

“retrieving information regarding a plurality of tasks ... , each task in the plurality to be associated with an identifier that uniquely identifies the particular task and with one or more recipients, each recipient to be associated with one or more of the plurality of tasks”

“for each recipient, grouping tasks that are associated with the recipient to create, based on the recipient, a task subset”

“generating ... a message to send to multiple recipients in a group of recipients having a same task subset, the message to contain information about each task in the task subset”

“wherein the tasks have a hierarchical structure”

“includes information regarding the start and end of each task and wherein generating the message includes generating the message for tasks that are late”

“before generating the message, grouping recipients having the same task subset, and storing information pertaining to the groups of recipients and task subsets”

“wherein storing information pertaining to groups of recipients and task subsets includes storing the temporary data structure as a Hash Map”

“wherein grouping tasks associated with the recipient includes grouping task identifiers to form a key in the Hash Map and grouping recipients to form a value associated with the key”

Final Act. 2–3.

Step two is “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.’” *Alice*, 134 S. Ct. at 2355 (*quoting Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 US 66, 73 (2012)).

In that regard, the Examiner determined that

[i]ndividually, the claims recite the use of a generic computer performing generic computing tasks, specifically:

“from a database ...”

“generating, by at least one processor associated with the computer ... ”

“wherein the database”

“storing ... in one of the database and a temporary data structure”.

Taken as an ordered combination, the limitations are directed to limitations referenced in *Alice Corp.* that are not enough to qualify as significantly more when recited in a claim with an abstract idea include, as a non-limiting or non-exclusive examples: (i) 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, such as data entry, collection, display, or reporting.

Additionally, the claim elements of “sending the generated message as one or more of electronic mail messages, text messages and voicemail message” is insufficient to qualify as significantly more than the judicial exception, as it is of the nature of a simple instruction to perform the task.

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.

Final Act. 4.

*Independent claims 1, 8, and 15*

Regarding the *Alice* step one determination, the Appellant argues that

[i]n the present application, claim 1 is directed to a specific way of generating, by a computer, messages to be sent to multiple recipients associated with grouped tasks. In particular, claim 1 recites “retrieving information regarding a plurality of tasks from a database, each task in the plurality to be associated with an identifier that uniquely identifies the particular task and with one or more recipients, each recipient to be associated with one or more of the plurality of tasks; for each recipient, grouping tasks that are associated with the recipient to create, based on the recipient, a task subset; and generating, by at least one processor associated with the computer, a message to send to multiple recipients in a group of recipients having a same task subset, the message to contain information about each task in the task subset.” Independent claims 8 and 15 recite related subject matter.

Br. 11. According to the Appellant, “the claims are not directed to an abstract idea, as they are **necessarily rooted in (and inextricably tied to) computer technology in order to overcome a problem specifically arising in the realm of computing performance.**” *Id.* at 12.

Specifically, in the present case, as noted in paragraph [0009] of the specification as originally filed, “when a sizeable project is being managed using such a conventional project management system, a large number of e-mails are generated, resulting in the use of a significant amount of processing power and memory on the PPM/mail server and network bandwidth.” Accordingly, as noted in paragraph [0010] of the specification as originally filed, the embodiments of the present application may, for example, be “directed to helping reduce the number of messages generated and resources used by a system.” This may, for example, achieve the technical effect of reducing network traffic in a system such as an IT network, thereby improving function of the computer systems of the network. Independent claim 8, for example, specifically recites a “system for reducing the number of generated notification messages”.

*Id.*

The difficulty with this argument is that it is not commensurate in scope with what is claimed. The claims are not focused on managing a sizeable project using a conventional project management system that is known to generate a large number of e-mails, resulting in the use of a significant amount of processing power and memory on the PPM/mail server and network bandwidth. *See also* Spec. ¶ 69 (the invention is “not limited to project management systems”). Claim 1, for example, calls for retrieving a type of information from a database, grouping tasks, and generating a message. The claim is not limited to generating an e-mail. There is no mention of a network or network traffic. Such an argument about limitations not in the claims cannot be persuasive as to error in the *Alice* step one analytical determination, which determination focuses on the claims. *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1149 (Fed. Cir. 2016) (“The § 101 inquiry must focus on the language of the Asserted Claims themselves.”); *see also Accenture Glob. Servs., GmbH v. Guidewire*

*Software, Inc.*, 728 F.3d 1336, 1345 (Fed. Cir. 2013) (“[T]he important inquiry for a § 101 analysis is to look to the claim.”).

The claims have been drafted so that as a whole they provide a result-oriented solution (“retriev[e]”, “group[ ]”, “generat[e]”), but without the computer-centric details for accomplishing it. The Appellant’s argument about “overcom[ing] a problem specifically arising in the realm of computing performance” (Br. 12) (emphasis omitted), citing to the Specification as evidence, suggests computer-centric details for achieving the claimed result-oriented solution. These details may support a position that the invention is *rooted in computer technology*. But the claims do not now reflect those details. *Cf. Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017) (explaining that “[o]ur law demands more” than claim language that “provides only a result-oriented solution, with insufficient detail for how a computer accomplishes it”) and *Elec. Power Grp.*, 830 F.3d at 1354 (explaining that claims are directed to an abstract idea where they do not recite “any particular assertedly inventive technology for performing [conventional] functions”).

With respect to the *Alice* step two determination, the Appellant argues that “[h]owever, for the sake of argument, even if the claims can be properly characterized as being directed to an abstract idea (which Applicant disputes), it is noted that the independent claims further recites additional features that are sufficient to transform the claimed subject matter into a patent-eligible application.” Br. 13. In that regard, the Appellant states that

In the present case, as noted in paragraph [0009] of the specification as originally filed, “when a sizeable project is being managed using such a conventional project management system, a

large number of e-mails are generated, resulting in the use of a significant amount of processing power and memory on the PPM/mail server and network bandwidth.” Accordingly, as noted in paragraph [0010] of the specification as originally filed, the embodiments of the present application may, for example, be “directed to helping reduce the number of messages generated and resources used by a system.” This may, for example, achieve the technical effect of reducing network traffic in a system such as an IT network, thereby improving function of the computer systems of the network. Independent claim 8, for example, specifically recites a “system for reducing the number of generated notification messages”. The remainder of the independent claims may also achieve related technical effects. Accordingly, the present claims may **improve a technology/technical field, and improve the functioning of computer systems.**

Br. 14.

As with the earlier argument, this argument is not commensurate in scope with what is claimed. Even claim 8, which, as the Appellant points out, recites “[a] system for reducing the number of generated notification messages” in its preamble, does not reflect the technical improvement being argued. The Appellant argues that reducing messages “may, for example, achieve the technical effect of reducing network traffic in a system such as an IT network, thereby improving function of the computer systems of the network.” Br. 14. But all that claim 8 calls for is a database and a server. Whatever technical improvement a *network* might experience is not one the system as claimed necessarily achieves.

*Dependent claims*

The Brief divides the dependent claims in separate groups. Br. 15–18. For each, the Appellant argues

each of these dependent claims recites additional specific technical features which further prevent any preemptive effective of the claims, improve a technology/technical field, and improve the functioning of computer systems. Therefore these claims are not directed to abstract idea, and even if they were directed to abstract ideas, they recite significantly more. The arguments provided above in support of the independent claims are further applicable to the additional subject matter recited by these dependent claims.

There is no further discussion. In effect, the Appellant relies on the arguments challenging the rejection of the independent claims. Thus, for the reasons discussed, the arguments as applied to the rejection of the dependent claims are unpersuasive as to error in their rejection.

We have considered all of the Appellant's remaining arguments and find them unpersuasive. Accordingly, because we are not persuaded as to error in the determinations that claims 1–24 are directed to an abstract idea and do not present an “inventive concept,” we sustain the Examiner's conclusion that they are directed to patent-ineligible subject matter for being judicially-excepted from 35 U.S.C. § 101. *Cf. LendingTree, LLC v. Zillow, Inc.*, 656 Fed.Appx. 991, 997 (Fed. Cir. 2016) (“We have considered all of LendingTree’s remaining arguments and have found them unpersuasive. Accordingly, because the asserted claims of the patents in suit are directed to an abstract idea and do not present an ‘inventive concept,’ we hold that they are directed to ineligible subject matter under 35 U.S.C. § 101.”); *see also*, *e.g., OIP Technologies, Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1364 (Fed. Cir. 2015) and *FairWarning IP, LLC v. Iatric Systems, Inc.*, 839 F.3d 1089, 1098 (Fed. Cir. 2016).

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DECISION

The decision of the Examiner to reject 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)(1)(iv).

AFFIRMED