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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/280,892	05/19/2014	Brian N. Harton	TR01-039-02	4512

12394 7590 11/16/2018

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ART UNIT	PAPER NUMBER
3696	

NOTIFICATION DATE	DELIVERY MODE
11/16/2018	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BRIAN N. HARTON, JARED C. KRECHKO, STEFANIE M. ZACCHERA, KEITH M. JANSON, and ADAM SOBEK

Appeal 2017-006653
Application 14/280,892[1]
Technology Center 3600

Before ERIC B. CHEN, MATTHEW R. CLEMENTS, and SCOTT E. BAIN, *Administrative Patent Judges*.

BAIN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–8, 13, 14, 21, and 22, which constitute all claims pending in the application. Claims 9–12 and 15–20 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] Appellants identify The Travelers Indemnity Company as the real party in interest. App. Br. 3.

STATEMENT OF THE CASE

The Claimed Invention

The claimed invention relates to insurance claim verification. Spec. ¶ 4. Specifically, the claimed invention compares historical, geospatial data (e.g., location data) of weather events with an insurance claim, to determine the likelihood that weather (e.g., a storm) actually caused the claimed loss.[2] *Id.*

Claims 1 and 21 are independent. Claim 1 is illustrative of the invention and the subject matter of the appeal, and reads as follows:

> 1. A system for analyzing weather-based insurance claim data, comprising:
>
> a processing device;
>
> a front-end controller in communication with the processing device;
>
> a remote sensor device in wireless communication with the front-end controller; and
>
> a memory device in communication with the processing device, the memory device storing instructions comprising a claim handling module that when executed by the processing device result in:
>
> sensing, by the remote sensor device, at least one of (i) a locational coordinate of a weather-related loss associated with an insurance claim, (ii) a date of the loss, and (iii) a type of the loss;
>
> transmitting, by the remote sensor device and to the front-end controller, claim data descriptive of the at least one of

[2] "Loss" refers to the alleged damage to an insured real estate location, i.e., damage claimed by an insured entity. Spec. ¶ 2.

(i) the locational coordinate of the weather-related loss associated with the insurance claim, (ii) the date of the loss, and (iii) the type of the loss;

receiving, by the front-end controller and from the remote sensor device, the claim data descriptive of the at least one of (i) the locational coordinate of the weather-related loss associated with the insurance claim, (ii) the date of the loss, and (iii) the type of the loss;

determining, by the processing device and based on stored georeferenced weather data descriptive of a storm impact zone for a weather event occurring on the date of loss, that the locational coordinate falls within the storm impact zone;

determining, by the processing device and after the determining that the locational coordinate falls within the storm impact zone, a likelihood of the weather event on the date of loss at the locational coordinate having caused the loss;

determining, by the processing device, that the likelihood of the weather event on the date of loss having caused the loss falls below a predetermined threshold; and

determining, based on an application of stored claim handling rules to the determined likelihood of the weather event on the date of loss at the locational coordinate having caused the loss, that the claim should not be paid.

App. Br. 32–33 (Claims App'x) (emphases added).

The Rejections on Appeal

Claims 1–8, 13, 14, 21, and 22 are rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 12–13.

Claims 1–8, 13, 14, 21, and 22 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Collins et al. (US 2009/0265193 A1; Oct. 22, 2009) ("Collins") and Mathai et al. (US 2013/0132127 A1; May 23, 2013) ("Mathai"). Final Act. 14–22.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments presented in this appeal. Arguments which Appellants could have made but did not make in the Briefs are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). On the record before us, we are not persuaded the Examiner erred. We adopt as our own the findings and reasons set forth in the rejections from which the appeal is taken and in the Examiner's Answer, and provide the following discussion for highlighting and emphasis.

Rejection Under 35 U.S.C. § 101

Appellants argue the Examiner erred in rejecting claim 1 as directed to patent-ineligible subject matter, namely, the abstract idea of insurance claim processing.[3] Final Act. 12; App. Br. 14–17; Ans. 2; Reply Br. 2–3. Appellants contend the "analyzing [of] specific geo location coordinates for both storm events and policy locations [as recited in claim 1] certainly narrows the abstract concept of insurance claim processing." App. Br. 16. Appellants further contend that even if claim 1 includes an abstract idea, it also recites "significantly more" because the "geo-location-based weather and causation analysis are . . . novel," not "token post-solution activity," and "would not be possible without computer technology." *Id.* at 18–20. Appellants' arguments, however, do not persuade us of error.

Section 101 of the Patent Act provides "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may

[3] For purposes of the § 101 rejection, Appellants argue all claims as a group. App. Br. 14–21. We choose claim 1 as representative. 37 C.F.R. § 41.37(c)(1)(iv).

obtain a patent therefor, subject to the conditions and requirements of this title." 35 U.S.C. § 101. The Supreme Court has long held that this provision contains an implicit exception: "[l]aws 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 Court has set forth a two-part inquiry to determine whether this exception applies. First, we must "determine whether the claims at issue are directed to one of those patent-ineligible concepts." *Alice*, 134 S.Ct. at 2355. Second, if the claims are directed to an ineligible concept, 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." *Id.* at 2355 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 79, 78 (2012)). Put differently, we must search the claims for an "inventive concept," that is, "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*, 566 U.S. at 72–73).

Regarding step one of the *Alice* analysis, we agree with the Examiner's determination that claim 1 is directed to detecting and processing data related to an insurance claim. Ans. 3. Claim 1 recites "sensing" data (an insurance claim's loss data); "transmitting" and "receiving" the data (to and by a controller); "determining" whether the data satisfies a condition and yields some likelihood (determining the location falls within a storm impact zone and determining a likelihood of the storm

causing the loss); and "determining" a resulting action (denying the claim because the determined likelihood is less than a threshold). Ans. 3. Such data manipulation encompasses an abstract idea. *See, e.g.*, *Elec. Power Grp. LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) ("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"); *id.* ("analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, [are] essentially mental processes within the abstract-idea category"); Ans. 3 (citing *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass'n*, 776 F.3d 1343 (Fed. Cir. 2014) (data gathering and analysis is abstract); *Gottschalk v. Benson*, 409 U.S. 63 (1972) (automating mental tasks is abstract)); Final Act. 7, 9, 11.

Appellants argue, nevertheless, that the claim limitations "go far beyond" processing insurance claims, particularly by reciting geographic polygon zones and geo-location coordinates for both storm events and policy locations. App. Br. 15–17. Defining particular types of data to be processed, however, does not render the claim patent-eligible. *See Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1311 (Fed. Cir. 2016) ("The Pythagorean Theorem cannot be made eligible by confining its use to existing surveying techniques . . . nor the goal of 'gathering and combining data' by confining its use to particular types of photographic information, *Digitech Image Technologies, LLC v. Electronics for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014)."). Information collection and analysis, even if limited to particular content, is within the realm of abstract ideas. *See, e.g.*, *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343,

1349 (Fed. Cir. 2015); *Digitech*, 758 F.3d at 1351; *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011).

Similarly, we are unpersuaded by Appellants' argument that claim 1 is analogous to the claims held patent-eligible in *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016). App. Br 20; Reply Br. 3–4. The claims in *McRO* recited "specific . . . improvement in computer animation" for "achieving automated lip-synchronization," using "unconventional rules that relate[d] sub-sequences of phonemes, timings, and morph weight sets." *McRO*, 837 F.3d at 1302–03, 1307–08, 1314–15. Appellants' claim 1, in contrast, does not recite any operation that improves a technological process of insurance claim analysis, much less unconventional rules that do so.

Accordingly, we are not persuaded the Examiner erred in step one of the *Alice* analysis, and we proceed to step two.

In the second step of our analysis under *Alice*,

> we must examine the elements of the claim to determine whether it contains an "'inventive concept'" sufficient to "transform" the claimed abstract idea into a patent-eligible application. A claim that recites an abstract idea must include "additional features" to ensure "that the [claim] is more than a drafting effort designed to monopolize the [abstract idea]."

Alice, 134 S. Ct. at 2357. Appellants' arguments under step two significantly overlap with and are redundant to the arguments under step one. Appellants argue each recited limitation is part of a "novel" system for analyzing weather-based insurance claim data by utilizing "geographic storm and policy location matching and storm-specific causation analysis." App. Br. 18–19; Reply Br. 3. "Eligibility and novelty," however, "are separate inquiries." *Two-Way Media Ltd. v. Comcast Cable Commc'ns,*

LLC, 874 F.3d 1329, 1340 (Fed. Cir. 2017). The purported novelty of a claim limitation does not "avoid the problem of abstractness." *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1263 (Fed. Cir. 2016).

Appellants also argue claim 1 is similar to the claim held patent-eligible in *DDR*, because Appellants' claimed system would "not be possible without computer technology." App. Br. 20 (citing *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014)). In *DDR*, "the claimed solution [was] necessarily rooted in computer technology in order to overcome a problem *specifically arising in the realm of computer networks*." *DDR*, 773 F.3d at 1257 (emphasis added). Appellants' claim 1, in contrast, does not recite any technology beyond a generic computing system (processor, sensor, and memory) performing the abstract idea of weather-based claim data processing. *See also* Spec. ¶¶ 5–13 (describing a conventional arrangement of generic computing elements). Furthermore, the record before us does not reveal any problem rooted in computer technology, as in *DDR*.

Accordingly, we are not persuaded the Examiner erred in step two of the *Alice* analysis. Rather, we (like the Examiner) determine the claim limitations, viewed "both individually and as an ordered combination," do not amount to significantly more than the judicial exception to patent-eligible subject matter. *Alice*, 134 S. Ct. at 2355.

We, therefore, sustain the rejection of claims 1–8, 13, 14, 21, and 22 as directed to ineligible subject matter.

Rejection Under Pre-AIA 35 U.S.C. § 103(a)

Appellants argue the Examiner erred in finding the prior art teaches or suggests "determining, . . . after the determining that the locational

coordinate falls within the storm impact zone, a likelihood of the weather event on the date of loss at the locational coordinate having caused the loss; [and] determining . . . that the likelihood of the weather event on the date of loss having caused the loss falls below a predetermined threshold," as recited in claim 1.[4] App. Br. 23–25; Reply Br. 5–7. Specifically, Appellants contend the claimed invention determines that the alleged loss lies within the storm impact zone and *then separately determines* a likelihood that the weather event caused the loss. App. Br. 25. Appellants argue Mathai, in contrast, "do[es] not describe what happens after the . . . locations are geo-referenced with respect to a storm event" (i.e., after determining an alleged loss lies within a storm impact zone). *Id.* We, however, are not persuaded the Examiner erred.

As the Examiner finds, Mathai teaches *first* determining a loss falls within "boundary data" (i.e., boundary) of a weather event. Final Act. 15; Ans. 14–16; Mathai ¶ 41 ("analyzing given insurer portfolio data points located within polygons representative of weather or man-made events"). As the Examiner further finds, Mathai teaches *subsequently* determining a likelihood that the weather event caused the loss, by setting additional thresholds to determine if the loss lies in or out of the "path of the storm." Final Act. 15; Ans. 14–16; Mathai ¶ 63 (disclosing boundary data as being separated into an above-threshold "path of the storm" zone and below-threshold zone).

[4] For purposes of the § 103(a) rejection, Appellants argue all claims as a group, App. Br. 22–30, and we choose claim 1 as representative, 37 C.F.R. § 41.37(c)(1)(iv).

Specifically, Mathai teaches an impact analysis tool 70 and reporting engine 95 to execute the foregoing sequence of determinations. Mathai ¶¶ 41–42, 61–63. Using information from a weather service, the impact analysis tool 70 first determines a boundary of the weather event and, in turn, generates "affected site data." *Id.* ¶¶ 41–42. The reporting engine 95 then utilizes the affected site data and additional threshold values to subsequently determine the in-boundary sites that were (and were not) subjected to "path of the storm" impacts likely to cause the loss, e.g., subjected to wind gusts greater than 55 mph. *Id.* ¶¶ 43, 61–63.

Accordingly, we are not persuaded of error. We, therefore, sustain the obviousness rejection of claims 1–8, 13, 14, 21, and 22.

DECISION

We affirm the Examiner's decision rejecting claims 1–8, 13, 14, 21, and 22.

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