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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte VOLKER NEUWIRTH

Appeal 2017-006897
Application 14/080,292¹
Technology Center 3600

Before MARC S. HOFF, JENNIFER S. BISK, and CARL L. SILVERMAN,
Administrative Patent Judges.

HOFF, *Administrative Patent Judge.*

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from a final rejection of claims 21–40.² We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellant’s invention is a method for enabling a merchant computing system to obtain payment information from a remote user having a client computing device. A merchant sends a request for payment information and authorization to the remote user. A user interface having overlaid fields can be used to receive the payment information in a secure manner; the payment

¹ The real party in interest is Zukunftware, LLC.

² Claims 1–20 have been cancelled.

information is not stored on the client computing device. When the user inputs a signature (or other authorization information) into an input area within the browser on the user's device, the signature can be routed over a network to the merchant to provide transaction authorization. *See Abstract.*

Claim 21 is reproduced below:

21. In a server computing environment, a method for enabling a merchant computing system to obtain payment information from a user, the method comprising:

providing an interface to the merchant computing system, the interface configured to receive communications from an application executing on the merchant computing system, the server computing system comprising memory that stores computer executable instructions defining the interface and a processor that executes the computer executable instructions to provide the interface;

receiving, via the interface, one or more first communications sent over the internet by the application executing on the merchant computing system, the one or more first communications including:

(5) a request to obtain payment information from the user to be used to make a payment,

(6) a request to obtain user input to serve as authorization to make the payment,

(7) an amount for which payment is requested, and

(8) contact information for the user;

extracting the contact information and the amount for which payment is requested from the one or more first communications;

generating a first webpage that specifies the amount for which payment is requested; formatting the first webpage to include one or more

secure overlay fields for receiving the payment information in a secure manner;

generating a second webpage that includes an input area for receiving the user input to serve as authorization to make the payment;

transmitting a second communication over a network to a client computing device associated with the user based on the contact information that was provided in the one or more first communications, the second communication including a link which the user can select to cause the first and second webpages to be displayed;

in response to the user selecting the link included in the second communication, transmitting the first and second webpages to the client computing device;

in response to the user providing the payment information into the one or more secure overlay fields, receiving one or more third communications that include the payment information, the one or more secure overlay fields causing the one or more third communications to be received in a secure manner;

in response to the user providing the user input to serve as authorization to make the payment into the input area of the second webpage, receiving one or more fourth communications that includes the user input; and

sending the user input to the merchant computing system to enable the merchant computing system to associate the user input with the payment.

Claims 21–40 stand rejected under 35 U.S.C. § 101 as being drawn to patent-ineligible subject matter.

Throughout this Decision, we make reference to the Appeal Brief (“App. Br.,” filed Apr. 7, 2016), the Reply Brief (“Reply Br.,” filed Mar. 27, 2017), and the Examiner’s Answer (“Ans.,” mailed Feb. 13, 2017) for their respective details.

ISSUE

Do the elements of Appellant’s claimed invention, considered individually and as an ordered combination, recite significantly more than an abstract idea so as to transform the nature of the claim into a patent-eligible application?

PRINCIPLES OF LAW

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*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 79, 78).

ANALYSIS

ALICE STEP 2A - ABSTRACT IDEA

Appellant argues that the Examiner erred in finding that the claims are directed to the abstract idea of “enabling a merchant computing system to obtain payment information from a user.” App. Br. 9. According to Appellant, the claims are directed to “a particular way to allow a computing device to be employed to receive input of sensitive information without having to customize the computing device to comply with applicable security standards.” App. Br. 10.

We are not persuaded by Appellant’s argument that the Examiner erred. First, the preamble explicitly states, as the Examiner found, that the claim concerns “a method for enabling a merchant computing system to obtain payment information from a user.” Second, we have considered the claim as a whole, and we agree with the Examiner that claim 21 is drawn to “concepts involving [organizing] human activity relating to commercial practices.” Ans. 8. Claim 21 is directed to processing a payment from a user by a merchant. The claim further includes limitations directed to displaying certain interfaces to a user and receiving certain information from said user, as well as transmitting information from said user back to the merchant once the user gives his or her authorization.

ALICE STEP 2B - SIGNIFICANTLY MORE

Having determined that the claimed invention is directed to a judicial exception, i.e. an abstract idea, we next inquire whether the elements of the claims, considered individually and as an ordered combination, recite significantly more such that the additional elements transform the nature of the claim into a patent-eligible application. *Alice*, 134 S. Ct. at 2355.

The Examiner finds that independent claims 21 and 32 recite “one or more secure overlay fields,” but that he is unable to identify how these overlay fields “add a meaningful limitation to the abstract idea.” Ans. 9. Looking to the disclosure, the Examiner finds that “[i]t is clear that the secure overlay field includes any possible way of gathering secure data from a website. Applicant does not have any specific details as to how these overlay fields actually function.” *Id.*

We do not agree with the Examiner’s conclusion that the claims fail to recite “significantly more” under Step 2B of the *Alice* analysis. We find that, considering the elements of the claim both individually and as an ordered combination, independent claims 21 and 32 contain additional elements that transform the nature of the claim into a patent-eligible application.

The Examiner overlooks Appellant’s disclosure that the overlay fields of the invention are part of a web page which is displayed overtop of the typical content of an application program. Spec. ¶ 58. The disclosed advantage of the invention is the combination of the application program and web page elements, such that the sensitive data entered by the user will be secured via the well-known HTTPS standard employed by the web page. Spec. ¶ 58, 59. This means that the application program need not be customized to comply with the Payment Application Data Security Standard

(PA DSS), which saves the application developer substantial computing resources as well as program development costs. *See* App. Br. 2; Spec. ¶ 5, 6, 11.

The Federal Circuit recently found that an invention directed to retaining website visitors who would conventionally be transported away from a host’s website after clicking on an advertisement and activating a hyperlink, constituted patent-eligible subject matter. *DDR Holdings, LLC v. Hotels.com, LP*, 773 F.3d 1245, 1257 (Fed. Cir. 2014). The court held that “the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.” *Id.*

Similarly, the invention under appeal is rooted in computer technology. An application program is used to conduct a purchasing transaction, in combination with a web page that displays fields overlaid on top of the application program interface. The invention under appeal further seeks to overcome a problem specifically arising in the realm of computer-based transaction processing. As explained in the Specification, the web page’s HTTPS security is used to secure sensitive payment information. Sensitive data is thus never stored on the client computing device, and the application program itself does not store, process, or transmit secure data. The application program does not need to comply with PA DSS, but still provides a secure interface for receiving sensitive data. Spec. ¶¶ 11, 58.

We find that the Examiner erred in rejecting the claims as patent-ineligible under § 101, because we find that the claims recite an inventive

concept constituting significantly more than an abstract idea.³ We do not sustain the Examiner's rejection of claims 21–40.

CONCLUSION

The elements of Appellant's claimed invention, considered individually and as an ordered combination, recite significantly more than an abstract idea so as to transform the nature of the claim into a patent-eligible application.

ORDER

The Examiner's decision to reject claims 21–40 is reversed.

REVERSED

³ We need not reach Appellant's further arguments that the USPTO failed to properly analyze the claims, or that the practices of the art unit to which the application was assigned violate due process. App. Br. 13–21.