



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
13/443,519 04/10/2012 Tonya Andersen 90945-837535 (005330US) 3981

20350 7590 09/12/2018
KILPATRICK TOWNSEND & STOCKTON LLP
Mailstop: IP Docketing - 22
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309
UNITED STATES OF AMERICA

EXAMINER

ADE, OGER GARCIA

ART UNIT PAPER NUMBER

3627

NOTIFICATION DATE DELIVERY MODE

09/12/2018

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipefiling@kilpatricktownsend.com
KTSDocketing2@kilpatrick.foundationip.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* TONYA ANDERSEN, KAREN KAUKOL, DEBORAH REX,  
and GARY JEFFORDS<sup>1</sup>

---

Appeal 2017-007187  
Application 13/443,519  
Technology Center 3600

---

Before ROBERT E. NAPPI, JENNIFER L. McKEOWN, and  
JASON M. REPKO, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 2 through 23. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

---

<sup>1</sup> According to Appellants, the real party in interest is Western Union Company. Br. 2.

## INVENTION

Appellants' disclosed invention is directed to a method for validating and activating a purchase card, the method involves using a purchase card that is removably attached to a card carrier. *See* Abstract. Claim 2 is representative of the invention and reproduced below.

2. A method of using a stored value card, comprising:

providing the stored value card removably attached to a card carrier, wherein:

the stored value card has encoded thereon an account identifier in a machine-readable format;

the account identifier is inaccessible while the stored value card is attached to the card carrier; and

the card carrier has encoded thereon a carrier identifier;

populating, by a host computer system, a database linking the carrier identifier to the account identifier;

receiving, by the host computer system, from a point-of-sale device at a merchant location, the carrier identifier and an indication of a purchaser-provided amount; and

associating, by the host computer system, using the carrier identifier, the purchaser-provided amount with the account identifier; and

activating, by the host computer system, the account identifier of the stored value card such that the account identifier is eligible to be used for a purchase transaction.

## REJECTION AT ISSUE<sup>2</sup>

The Examiner rejected claims 2 through 23 under 35 U.S.C. § 101 for being directed to patent-ineligible subject matter. Final Act. 2–6; Answer 2–6.

## PRINCIPLES OF LAW

Patent-eligible subject matter is defined in 35 U.S.C. § 101 of the Patent Act, which recites:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

There are, however, three judicially created exceptions to the broad categories of patent-eligible subject matter in 35 U.S.C. § 101: “[I]aws of nature, natural phenomena, and abstract ideas.” *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014); *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 70 (2012). The Supreme Court sets forth a two-part “framework 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.

First, we determine whether the claims at issue are directed to one of those patent-ineligible concepts. . . . [*Mayo*, 566 U.S. at 76–77]. If so, we then ask, “[w]hat else is there in the claims before us?” *Id.*, at [77–78]. To answer that question, we consider the elements of each claim both individually and “as an ordered combination” to determine whether the additional elements

---

<sup>2</sup> Throughout this Decision, we refer to the Appeal Brief filed August 22, 2016, Final Office Action mailed January 20, 2016, and the Examiner’s Answer mailed January 12, 2017.

“transform the nature of the claim” into a patent-eligible application. *Id.*, at [78–79]. We have described step two of this analysis as 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.” *Id.*, at [71–73].

*Id.*

Although an abstract idea itself is patent ineligible, an application of the abstract idea may be patent eligible. *Alice*, 134 S. Ct. at 2355. Thus, we must 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.* (quoting *Mayo*, 566 U.S. at 79, 78). The claim must contain elements or a combination of elements that are “sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [abstract idea] itself.” *Id.* (quoting *Mayo*, 566 U.S. at 72–73). The Federal Circuit has explained that, 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 noted in that decision that “examiners 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.

## ANALYSIS

We have reviewed Appellants' arguments in the Briefs, the Examiner's rejections, and the Examiner's response to Appellants' arguments. Appellants' arguments have not persuaded us of error in the Examiner's conclusion that the claims are directed to patent-ineligible subject matter.

Appellants argue, on page 4 of the Appeal Brief, that the Examiner's rejection under § 101 is in error as claim 1 is not directed to an abstract idea. Appellants argue that the Examiner has failed to support the finding that the abstract idea is a long-prevalent or longstanding fundamental economic practice. Br. 4. With respect to the second part of the *Alice* analysis Appellants argue that the office merely concludes the claims do not add anything more than the abstract idea without an adequate explanation. Br. 5. Further, Appellants argue that the claims recite one of many ways of implementing the abstract idea. Br. 5.

The Examiner finds that the claims recite a fundamental economic practice of validating and activating a purchase card. Answer 2. The Examiner finds that the economic practice recited in the claims are similar to those found abstract by the courts. Answer 3 (citing *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014), *Bilski v. Kappos*, 130 S. Ct. 3218 (2010), and *Alice*). Further, the Examiner finds that the claimed use of a computer in the implementation of the abstract idea is using a computer to perform well-understood, routine, and conventional functions. Answer 4–5 (citing *Parker v. Flook*, 437 U.S. 584 (1978), *Bancorp Servs., L.L.C. v. Sun Life Assurance Co. of Can.*, 687 F.3d 1266, 1278 (Fed. Cir. 2012), *Alice, Content Extraction and Transmission LLC. v. Wells Fargo Bank, Nat'l*

*Ass'n*, 776 F.3d 1343 (Fed. Cir. 2014), *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709 (Fed. Cir. 2014), *buySAFE*, and *Cyberfone Sys., LLC v. CNN Interactive Grp.*, 558 F. App'x 988 (Fed. Cir. 2014)).

We have reviewed the Examiner's rejection and response to Appellants' arguments and we concur with the Examiner's conclusion that the claims recite an abstract idea and do not recite significantly more.

Claim 2 recites limitations directed to "populating . . . a database linking the carrier identifier to the account identifier," receiving "carrier identifier and an indication of a purchaser-provided amount," "associating . . . using the carrier identifier, the purchaser-provided amount with the account identifier," and "activating . . . the account identifier." These limitations are merely directed to reading data and associating it together. Thus, the claim recites collecting data, and correlating the data.

As identified by the Examiner these limitations are reciting an abstract process similar to that addressed by the court in *Content Extraction*, 776 F.3d at 1347 (holding that the claims were "drawn to the abstract idea of 1) collecting data, 2) recognizing certain data within the collected data set, and 3) storing that recognized data in a memory."). These limitations are similar to those considered to be abstract by the court in *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016) (holding that claims directed to a process of gathering and analyzing information of a specific content are directed to an abstract idea); and *Smart Sys. Innovations LLC v. Chi Transit Authority*, 873 F.3d 1364, 1372 (Fed. Cir. 2017) (holding that claims directed to data collection and a financial transaction in a particular file, are directed to an abstract idea) and thus, we find that representative

claim 2 is directed to concepts that our reviewing court has considered to be abstract and we conclude that the claims are directed to an abstract idea.

Turning to the second part of the *Alice* test, we concur with the Examiner's conclusion that the claims do not recite significantly more than the abstract idea. As discussed above, claim 2 discusses an abstract concept of gathering data and correlating it for a financial transaction. Claim 2 recites that the data is from a stored value card, packaging of the card (card carrier) and the gathering of the data is via a host computer. As discussed above is similar to those at issue in *Electric Power Group*, although the type of information is different, the claims are directed to collecting information for analysis. The recitation of the information being obtained from the stored value card and its packaging is merely use of a conventional means of providing the information (e.g., the use of account numbers on credit cards and bar codes on packaging are well known methods of conveying information).

Further, we concur with the Examiner that the recitation of using a host computer to correlate the data is merely reciting a generic component to implement the abstract idea. Neither the claim nor Appellants' Specification, identify that the host computer system is anything other than a generic computer. *See* Specification para. 50 (which identifies numerous generic computer components to implement the method). As such, we do not find that the recitation of a host computer system is directed to significantly more than the abstract idea. Our reviewing court has said "[w]e have 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." *Electric Power*

Appeal 2017-007187  
Application 13/443,519

*Group*, 830 F.3d at 1355 (citing *buySAFE*, 765 F.3d at 1353, 1355). Thus, we do not find that the claims recite, or the Specification identifies the invention is directed to an improvement to the operation of the computers, but rather recite using the computer as a tool (to solve an economic problem of improving the validation and activation of stored value cards, *see* Spec. para. 5). Accordingly, we are not persuaded that claim 2 recites significantly more and conclude the claims are directed to patent-ineligible subject matter and we sustain the Examiner's rejection of claim 2 and claims 3 through 23 grouped with claim 2.

#### DECISION

We affirm the Examiner's rejections of claims 2 through 23 under 35 U.S.C. § 101.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED