



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.
14/268,145 05/02/2014 Rohan Angrish 60365-0014 4645

29989 7590 05/17/2018
HICKMAN PALERMO BECKER BINGHAM LLP
1 ALMADEN BOULEVARD
FLOOR 12
SAN JOSE, CA 95113

EXAMINER

BORISSOV, IGOR N

ART UNIT PAPER NUMBER

3649

NOTIFICATION DATE DELIVERY MODE

05/17/2018

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):

usdoCKET@h35g.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* ROHAN ANGRISH, RISHI DESHPANDE,  
KASHYAP DEORAH, TAPAN PANDITA, ULHAS  
MANDRAWADKAR, KESHAV KRITY, SANJAY DALSANIA,  
ABHAY KUMAR, and DAVE ARTHURS

---

Appeal 2017-007566  
Application 14/268,145  
Technology Center 3600

---

Before ANTON W. FETTING, CYNTHIA L. MURPHY, and  
MATTHEW S. MEYERS, *Administrative Patent Judges*.

MURPHY, *Administrative Patent Judge*.

DECISION ON APPEAL

The Appellants<sup>1</sup> appeal under 35 U.S.C. § 134 from the Examiner's rejections of claims 1–18. We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

We REVERSE.

---

<sup>1</sup> “Open Table, Inc., a unit of The Priceline Group (NASDAQ: PCLN), and a Delaware corporation having headquarters in San Francisco, California, is the real party in interest.” (Appeal Br. 1.)

## STATEMENT OF THE CASE

The Appellants' claimed concept relates to "computer-implemented techniques for managing payments for experiences, such as restaurant dining, in coordination with a booking system." (Spec. ¶ 2.)

### *Illustrative Claim*

1. In a service provider computer system, a method comprising:
  - the service provider computer system receiving, from a computing device of a customer and via the Internet, a reservation request for a restaurant of a merchant;
  - the service provider computer system generating, in response to the reservation request, a reservation record for the customer;
  - the service provider computer system sending the reservation record to a booking computer of the merchant via the Internet;
  - the service provider computer system receiving, from the booking computer of the merchant via the Internet, a location identifier assigned by the merchant to the customer at a time of service, the location identifier identifying a table at the restaurant of the merchant where the customer is served by the merchant;
  - the service provider computer system matching ticket data for an open ticket obtained from a merchant point-of-sale computer to the reservation record for the customer;
  - the service provider computer system identifying the open ticket at the point-of-sale computer of the merchant, based, at least in part, on the location identifier;
  - the service provider computer system sending a notification of the open ticket to the computing device of the customer;
  - the service provider computer system receiving a request from the computing device of the customer to pay the open ticket at the merchant point-of-sale computer;
  - the service provider computer system obtaining a current total ticket amount for the open ticket from the merchant point-of-sale computer;

- the service provider computer system determining an estimated total ticket amount based at least in part on the current total ticket amount;
- the service provider computer system communicating with a payment network gateway computer to cause payment of the estimated total ticket amount from a payment account of the customer to be authorized but not captured;
- the service provider computer system sending an indication to the computing device of the customer that payment of the open ticket is successfully authorized;
- the service provider computer system publishing, to a HyperText Transfer Protocol (HTTP) long polling channel subscribed to by the point-of-sale computer of the merchant, a mobile payment indication associated with the open ticket;
- after the open ticket is closed at the merchant point-of-sale computer in response to the mobile payment indication, the service provider computer system obtaining a final total ticket amount for the closed ticket from the merchant point-of-sale computer; and
- the service provider computer system communicating with the payment network gateway computer to cause payment of the final total ticket amount to be captured for the merchant from the payment account of the customer.

*References<sup>2</sup>*

Mortimore	US 2008/0147450 A1	June 19, 2008
Lin	US 2010/0082481 A1	Apr. 1, 2010
Groetzinger	US 2012/0173310 A1	July 5, 2012
Klein	US 2012/0185561 A1	July 19, 2012
Sussman	US 2012/0215573 A1	Aug. 23, 2012
White	US 2013/0138518 A1	May 30, 2013
Laracey	US 2013/0238455 A1	Sept. 12, 2013

---

<sup>2</sup> Our quotations from these references will omit, where applicable, bolding and/or italicization of reference numerals.

*Rejections*

I. The Examiner rejects claims 1–18 under 35 U.S.C. § 101 as reciting only ineligible subject matter. (Final Action 2.)

II. The Examiner rejects claims 1, 2, 4–7, 9, 11–13, 17, and 18 under 35 U.S.C. § 103 as unpatentable over Laracey, Groetzinger, White, Mortimore, and Klein. (Final Action 14.)

III. The Examiner rejects claims 3, 10, and 14–16 under 35 U.S.C. § 103 as unpatentable over Laracey, Groetzinger, White, Mortimore, Klein, and Lin. (Final Action 27, 30, 33, 34.)<sup>3</sup>

IV. The Examiner rejects claim 8 under 35 U.S.C. § 103 as unpatentable over Laracey, Groetzinger, White, Mortimore, Klein, and Sussman. (Final Action 35.)

ANALYSIS

Claims 1, 14, 17, and 18 are the independent claims on appeal, with the rest of the claims on appeal (i.e., claims 2–13, 15, and 16) depending therefrom. (*See* Appeal Br., Claims App.)

Independent claims 1, 14, 17, and 18 each recite steps involving a “payment network gateway computer,” a merchant’s “point-of-sale computer,” and information relating to payment of a customer’s “ticket” at the merchant’s restaurant. (Appeal Br., Claims App.) In these steps, the payment network gateway computer does not obtain ticket information from the merchant’s point-of-sale computer and the merchant’s point-of-sale

---

<sup>3</sup> We consider the Examiner’s failure to mention claims 14–16 in the heading of this rejection (*see* Final Action 27) as an inadvertent omission, as these claims are discussed in detail in the body of the rejection (*see id.* 30–35).

computer does not communicate with the payment network gateway computer to cause payment of this ticket amount. Instead, a separate computer system (i.e., not the merchant's point of sale computer and not the payment network gateway computer) "obtain[s]" ticket-amount information from the merchant's point-of-sale computer and "communicat[es]" with the payment network gateway computer "to cause payment" of the ticket amount. (*Id.*)

In other words, in the method recited in the claims on appeal, the customer's ticket information is transmitted through, and managed by, an intermediary computer system serving as a go-between for the payment network gateway computer and the merchant's point of sale computer.

Independent claims 1, 14, 17, and 18 also recite steps involving the customer's "computing device," the merchant's "booking computer," and information relating to the customer's "reservation" at the restaurant. (Appeal Br., Claims App.) In these steps, the merchant's booking computer does not receive a reservation request from the customer's computing device. Instead, a separate computer system (i.e., not the customer's computing device and not the merchant's booking computer) "receiv[es]" a "reservation request" from the customer's computing device, "generat[es]" a "reservation record," and "send[s]" the reservation record to the merchant's booking computer. (*Id.*)

In other words, in the method recited in the claims on appeal, the customer's reservation information is transmitted through, and managed by, an intermediary computer system serving as a go-between for the customer's computing device and the merchant's booking computer.

Independent claims 1, 14, 17, and 18 additionally recite steps involving the customer's seating information (i.e., a "location identifier") and the correlation of this seating information to the customer's ticket information. (Appeal Br., Claims App.) This correlation is not accomplished by the merchant's point-of-sale computer receiving seating information from the merchant's booking computer; nor by the merchant's booking computer receiving ticket information from the merchant's point-of-sale computer. Instead, a separate computer (i.e., not the merchant's point-of-sale computer and not the merchant's booking computer) "receiv[es]" the customer's seating information (i.e., the "location identifier") from the merchant's booking computer, and "identifi[es]" the ticket at the merchant's point-of-sale computer "based, at least in part, on the location identifier." (*Id.*)

In other words, in the method recited in the claims on appeal, the customer's seating information and ticket information is transmitted through, and managed by, an intermediary computer system serving as a go-between for the merchant's booking computer and the merchant's point-of-sale computer.

Significantly, in the method recited in the independent claims on appeal, the same computer system (i.e., a "service provider" computer system) performs as 1) the intermediary between the merchant's point of sale computer and the payment network gateway computer; 2) the intermediary between the customer's computing device and the merchant's booking computer; and 3) the intermediary between merchant's booking

computer and the merchant’s point-of-sale computer.<sup>4</sup> According to the Appellants, this thrice-intermediary arrangement of the “service provider” computer system, allows “multiple different kinds of computers” (i.e., the payment network gateway computer, the merchant’s point-of-sale computer, the merchant’s booking computer, and the customer’s computing device) “to cooperate to facilitate reservations, bookings, table seatings and payment.” (Reply Br. 6.)

### *Rejection I*

The Examiner determines that independent claims 1, 14, 17 and 18 are directed an “abstract idea,” and do not contain any “additional elements” that amount to “significantly more” than this abstract idea. (Final Action 3.) More succinctly, the Examiner concludes that the independent claims on appeal do not survive the two-part *Alice* test.<sup>5</sup>

---

<sup>4</sup> Specifically, independent claims 1 and 14 recites a “service provider” computer system that performs all of the above-discussed “obtaining,” “communicating,” “receiving,” “generating,” and “sending” steps. (Appeal Br., Claims App.) Independent claim 17 recites “one or more processors” of a “service provider” computer system that are “caused” to perform all these obtaining,” “communicating,” “receiving,” “generating,” and “sending” steps, and independent claim 18 recites “one or more service provider computer devices” that are caused to perform these steps. (*Id.*)

<sup>5</sup> The *Alice* test entails two steps for distinguishing between an “abstract idea[]” and a “patent-eligible application[]” of an abstract idea. *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014). The first step of the *Alice* test is to determine whether the claims at issue are “directed to” an abstract idea. *Id.* If so, the inquiry proceeds to the second step of the *Alice* test where the elements of the claims are considered “individually and ‘as an ordered combination’” to determine whether there are additional elements that “‘transform the nature of the claim’ into a patent-eligible application.” *Id.*

As for the first step of the *Alice* test, the Examiner interprets independent claims 1, 14, 17, and 18 as being directed to a concept that falls within the information-based category of abstract ideas. (See Final Action 3.) As discussed above, the independent claims do indeed focus upon the transmission and management of information (i.e., the customer’s ticket information, the customer’s reservation information, and the customer’s seating information). And a determination that such an information-focused concept is an abstract idea is aligned with controlling case law.<sup>6</sup>

As for the second step of the *Alice* test, the Examiner appears to consider the “additional elements” to include the five recited computer components, namely, the service provider computer system, the payment network gateway computer, the merchant’s point-of-sale computer, the merchant’s booking computer, and the customer’s mobile computing device. (See Final Action 4–5.) And according to the Examiner, these computer components constitute “generic computing elements” that merely have the ability to “receive/compute/send data.” (Answer 6.) A determination that these computer components, individually, constitute generic computer components, is plausibly supported by the record. (See *e.g.*, Spec. ¶¶ 41, 44, 46, 50.)

However, as pointed out by the Appellants (*see e.g.*, Appeal Br. 13), an inventive concept can reside in the non-conventional and non-generic arrangement of known, conventional pieces, even if these pieces constitute

---

<sup>6</sup> See *e.g.*, *Electric Power Group, LLC v. Alstom S.A.*, 830 F. 3d 1350 (Fed. Cir. 2016).

generic computer components.<sup>7</sup> In this regard, the Examiner states, more than once, that the “computer limitations as an ordered combination” do not amount to significantly more than the aforementioned abstract idea. (Final Action 10; *see also id.* 12, 40, Answer 12, 13, 14.) But we see no discussion by the Examiner regarding the thrice-intermediary arrangement of the service provider computer system relative to the other four computer components. As talked about above, this ordered combination is strategic to the Appellants’ method, in that it facilitates the cooperation of “multiple different kinds of computers.” (Reply Br. 6.)

Accordingly, on the record before us, the Examiner does not adequately establish that the additional elements recited in independent claims 1, 14, 17, and 18, when considered as an ordered combination, are insufficient to transform the nature of the claims into a patent-eligible application under the second step of the *Alice* test. The Examiner’s further findings and determinations with respect to the dependent claims likewise provide no insight as to the conventionality of the ordered combination of the recited computer components. (*See* Final Action 12–13.)

Thus, we do not sustain the Examiner’s rejection of claims 1–18 under 35 U.S.C. § 101

#### *Rejections II–IV*

The Examiner finds that the computer components recited in independent claims 1, 14, 17, and 18 are “old elements” and that the claimed arrangement of these “old elements” is “merely a combination of old

---

<sup>7</sup> *See e.g., Bascom Global Internet v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016).

elements, and in the combination each element merely would have performed the same function as it separately.” (Final Action 18.)<sup>8</sup> More succinctly, the Examiner concludes that the Appellants’ claimed combination of computer components would have been obvious over the prior art.

As discussed above, in the method recited in independent claims 1, 14, 17, and 18, the customer’s ticket information is transmitted through, and managed by, an intermediary computer system which serves as a go-between for the payment network gateway computer and the merchant’s point of sale computer. The Examiner finds that Laracey discloses such an intermediary computer system (*see* Final Action 14–16); and this finding is plausibly supported by the record (*see e.g.*, Laracey ¶¶ 207, 212, 213).

As also discussed above, in the method recited in independent claims 1, 14, 17, and 18, the customer’s reservation information is transmitted through, and managed by, an intermediary computer system which serves as a go-between for the customer’s computing device and the merchant’s booking computer. The Examiner finds that Mortimore discloses such an intermediary computer system (*see* Final Action 19–20); and this finding is plausibly supported by the record (*see e.g.*, Mortimore ¶¶ 12, 47).

As further discussed above, in the method recited in independent claims 1, 14, 17, and 18, the customer’s seating information is transmitted through, and managed by, an intermediary computer system that receives this information from the merchant’s booking computer. The Examiner

---

<sup>8</sup> *See KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007).

finds that Groetzinger teaches that an intermediary computer system can receive seating information from a merchant's booking computer (*see* Final Action 17); and this finding is plausibly supported by the record (*see e.g.*, Groetzinger ¶ 30).

As indicated earlier, the Examiner's rejection is premised upon "a combination" of these three prior art intermediary computer systems in which each prior art intermediary computer system performs "the same function as it did separately." (Final Action 18, 19, 20.) The Examiner specifically says that, in this combination, there would be "no change" in the "respective functions" of the three prior art intermediary computer systems. (*Id.*)

Thus, in the Examiner's proposed combination of the prior art, three intermediary computer systems would be provided to perform three respective intermediary functions. However, in the method recited in the independent claims on appeal, the same computer system (i.e., the "service provider" computer system) performs all three of these intermediary functions. Put another way, "it is the relationship and arrangement" of the respective computing devices recited in the claims "that allows the claims to overcome prior art." (Reply Br. 8.) We note that the Examiner offers us no insight as to why one of ordinary skill in the art would infer that the three prior art intermediary computer systems could be incorporated into a single computer system, and/or how this incorporation could be accomplished without any change to their respective functions.

Accordingly, on the record before us, the Examiner does not adequately establish that the proposed combination of the prior art would produce the method recited in independent claims 1, 14, 17, and 18. The

Appeal 2017-007566  
Application 14/268,145

Examiner's further findings and determinations with respect to the additional prior art references and the dependent claims do not compensate for this shortcoming. (*See* Final Action 21–37.)

Thus, we do not sustain the Examiner's rejections of claims 1–18 under 35 U.S.C. § 103.

DECISION

We REVERSE the Examiner's rejections of claims 1–18.

REVERSED