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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NICHOLAS CERISE, MICHAEL W. ROGERS,
and WILLIAM R. GRANT

Appeal 2017-008121
Application 13/849,846
Technology Center 3600

Before MAHSHID D. SAADAT, JOHNNY A. KUMAR, and
JASON M. REPKO, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 2–21, which are all the claims pending in this application. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify Western Union Company of Englewood, Colorado, as the real party in interest. Br. 2.

STATEMENT OF THE CASE

Introduction

Appellants' invention relates to "methods for actively optimizing a credit score and reducing debt." *See* Spec. ¶ 5. Claim 2 is illustrative of the invention and reads as follows.

2. A system comprising:

a payment center system in communication with a first party, a second party, and a third party, wherein the payment center system is configured to:

receive a bill from the first party for a customer;

receive an account statement from the second party for the customer;

receive income information from the third party regarding the customer;

determine an amount of available unassigned income based at least in part on the bill, the account statement, and the income information; and

allocate at least a portion of the amount to reduce debt owed to the second party.

The Examiner's Rejections

Claims 2–21 stand rejected under 35 U.S.C. § 101 for being directed to patent-ineligible subject matter. *See* Final Act. 2–4.

Claims 2–21 stand rejected under 35 U.S.C. § 103(a) for being unpatentable over Libman (US 6,076,072; iss. June 13, 2000) and Galperin (US 6,185,543 B1; iss. Feb. 6, 2001). *See* Final Act. 5–13.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments (Appeal Brief) that the Examiner has erred. With regard to the

Examiner's rejection under 35 U.S.C. § 101, we disagree with Appellants' arguments, and agree with and adopt the Examiner's findings and conclusions in (i) the Final Office Action from which this appeal is taken (Final Act. 2–4) and (ii) the Examiner's Answer (Ans. 2–14) to the extent they are consistent with our analysis below. However, we reach the opposite conclusion with respect to the Examiner's rejection under 35 U.S.C. § 103.

Rejection Under 35 U.S.C. § 101

The Examiner rejects the claims under 35 U.S.C. § 101 because they are directed to patent-ineligible subject matter. *See* Final Act. 2–4. In particular, the Examiner determines the claims are directed to a judicial exception without significantly more and specifically, to the abstract idea of steps “to determine an amount of available unassigned income based at least in part on the bill, the account statement, and the income information; and allocate at least a portion of the amount to reduce debt owed to the second party.” Final Act. 2. The Examiner further determines the claims do not include any additional elements for performing the abstract idea of “determine [sic] an amount of available unassigned income based at least in part on the bill, the account statement, and the income information; and allocate at least a portion of the amount to reduce debt owed to the second party, a method of a fundamental economic practice.” Final Act. 4, *see also* Ans. 4–5. The Examiner finds the claims use generic computer components to perform generic computer functions that are well-understood and routine/known in the finance industry. Final Act. 4. Specifically, the Examiner finds Appellants' Specification describes “no more than a generic computing device (server), a client (generic computer) interface, and a

network (connected generic computers) to perform the [above-mentioned] generic functions.” Ans. 6.

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 held that 35 U.S.C. § 101 contains important implicit exceptions including laws of nature, natural phenomena, and abstract ideas. *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014). 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, 83–84 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of these 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. Otherwise, the inquiry proceeds to the second step where 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). We, therefore, look to whether the claims focus on a specific means or method that improves the relevant technology or instead are directed to a result or effect that itself is the abstract idea and merely invoke generic

processes and machinery. *See Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016); *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015).

Appellants have not persuaded us of error. Regarding *Alice* step one, the Examiner explains that the claims recite “a series of steps of determining an amount of available unassigned income based at least in part on the bill, the account statement, and the income information; and allocating at least a portion of the amount to reduce debt, which is a fundamental economic principle.” Ans. 4. The Examiner also finds Appellants’ claims relate to comparing new and stored information, similar to those in *SmartGene, Inc. v. Advanced Biological Labs., SA*, 555 F. App’x 950, 951–52, 954–55 (Fed. Cir. 2014), and result in organizing information similar to the claims in *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 714–15 (Fed. Cir. 2014). *Id.*

We agree and further note that the Federal Circuit has “treated *collecting information*, including when limited to particular content (which does not change its character as information), as within the realm of abstract ideas.” *Elec. Power*, 830 F.3d at 1353 (emphasis added). The rejected claims “fall into a familiar class of claims ‘directed to’ a patent-ineligible concept.” *Elec. Power*, 830 F.3d at 1353. The claims are similar to the claims of *Electric Power*, and are focused on the combination of abstract-idea processes or functions. *See Elec. Power*, 830 F.3d at 1354. For example, claim 2 is directed to collecting information (“receive a bill,” “receive an account statement,” and “receive income information”), analyzing (including determining) information (“determine an amount of available unassigned income”), and processing/presenting information

(“allocate at least a portion of the amount”). Similarly, independent claims 12 and 18 are directed to collecting information, analyzing (including generating) information, and presenting information. *See Elec. Power*, 830 F.3d at 1353. The dependent claims are directed to similar functions or processes, and Appellants have not shown such claims are directed to other non-abstract functions or processes. *See* claims 2–21. As a result, we agree with the Examiner that the claims are directed to abstract functions or processes for performing financial transactions.

We conclude the Examiner has adequately explained the rejection under 35 U.S.C. § 101. As discussed *supra*, the Examiner determined claims 2–21 are directed to the abstract idea of problem remediation in supply chain management (Final Act. 2–3). Also as discussed *supra*, the Examiner explained that each of the limitations of claim 2 is directed to a “fundamental economic practice” that is an abstract idea. Ans. 2–12. The Examiner also identified several cases wherein subject matter similar to that found in claim 2 was determined to constitute an abstract idea and why additional claim limitations do not transform the abstract idea into a patent-eligible application of the abstract idea. *Id.*

Regarding *Alice* step two, contrary to Appellants’ assertion (Br. 4–5), Appellants have not shown the claims in this case require an arguably inventive set of components or methods, or invoke any assertedly inventive programming. *See Elec. Power*, 830 F.3d at 1355. In fact, the Examiner has correctly cited paragraphs 45, 47, 54, and 58 of Appellants’ Specification to show that the claims are similar to the claims of *Electric Power*. Ans. 6–10. As such, the claims do not require any nonconventional computer components, or even a “non-conventional and non-generic arrangement of

known, conventional pieces,” but merely call for performance of the claimed information collection and analysis functions on generic computer components. *See Elec. Power*, 830 F.3d at 1355; *see also* claim 12 (reciting similar elements as claim 2) and claim 18 (reciting “a processor” and “a non-transitory machine readable medium”). The dependent claims call for similar generic components and devices, and Appellants have not shown such claims require any non-conventional components or devices. *See* claims 3–11, 13–17, and 19–21. In short, Appellants have not shown the claims, read in light of the Specification, require anything other than conventional computer technology for collecting, analyzing, and presenting the desired information. *See Elec. Power*, 830 F.3d at 1354. Such invocations of computer devices are “insufficient to pass the test of an inventive concept in the application” of an abstract idea. *See Elec. Power*, 830 F.3d at 1355 (internal citation and quotation marks omitted).

Lastly, contrary to Appellants’ assertion that the pending claims are patent eligible because there are no obviousness or novelty rejections of the claims (*see* Br. 5), Appellants improperly conflate the requirements for eligible subject matter (§ 101) with the independent requirements of novelty (§ 102) and non-obviousness (§ 103). “The ‘novelty’ of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter.” *Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981); *see also Genetic Techs. Ltd. v. Merial L.L.C.*, 818 F.3d 1369, 1376 (Fed. Cir. 2016) (stating that, “under the *Mayo/Alice* framework, a claim directed to a newly discovered law of nature (or natural

phenomenon or abstract idea) cannot rely on the novelty of that discovery for the inventive concept necessary for patent eligibility”).

Because Appellants have not persuaded us the Examiner erred, we sustain the Examiner’s rejection of claims 2–21 under 35 U.S.C. § 101.

Rejection Under 35 U.S.C. § 103

Claim 2 recites steps to “determine an amount of available unassigned income based at least in part on the bill, the account statement, and the income information” and “allocate at least a portion of the amount to reduce debt owed to the second party,” for which the Examiner relied on Galperin. Final Act. 6–7. Appellants argue the cited portions of Galperin do not teach or suggest the determining and allocating steps of claim 2. Br. 5–8.

We are persuaded of Examiner error. The cited portions of Galperin, according to the Examiner (*see* Ans. 14–15), relate to a system that offers loan products to consumers having favorable prepayment characteristics and how pools of mortgage or other debt instruments are purchased by investment banks. Ans. 14–15 (citing Galperin 4:60–5:17; 5:18–49; 3:50–55). The Examiner, however, has not explained how those findings and analysis regarding Galperin relate to the disputed limitations of determining an amount of available unassigned income and allocating at least a portion of the amount to reduce debt, as recited in claim 2.

Appellants’ arguments have persuaded us of error in the Examiner’s position with respect to the rejection of independent claim 2 and independent claims 12 and 18, which recite similar limitations. The Examiner has not identified any teachings in the other applied prior art that would make up for the above-mentioned deficiency. We, therefore, do not sustain the rejection

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of claims 2, 12, and 18, as well as claims 3–11, 13–17, and 19–21 dependent therefrom.

CONCLUSION

The Examiner did not err in rejecting claims 2–21 under 35 U.S.C. § 101.

The Examiner erred in rejecting claims 2–21 under 35 U.S.C. § 103.

DECISION

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, the Examiner's decision to reject claims 2–21 is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

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