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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JONATHAN VAUX, BRIAN TRIPLET, MICHAEL DREYER,
LORAIN MARTIN YEAKLE, ALISTAIR DUNCAN, and
PAULO FERNANDES

Appeal 2017-008370
Application 12/881,831
Technology Center 3600

Before JOHN A. JEFFERY, JENNIFER L. McKEOWN, and
JAMES W. DEJMEK, *Administrative Patent Judges*.

McKEOWN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ appeal under 35 U.S.C. § 134(a) from the Examiner's decision to reject claims 26–38 and 46–48. Claims 1–25 have been cancelled. We have jurisdiction over the remaining pending claims under 35 U.S.C. § 6(b).

We affirm.

¹ According to Appellants, the real party in interest is Visa International Service Association. App. Br. 3.

STATEMENT OF THE CASE

Appellants' disclosed and claimed invention "generally relates to commercial transactions, and more specifically, to a method and system for conducting a commercial transaction between a buyer and a seller." Spec.

¶ 1.

Claim 26 is illustrative of the claimed invention and reads as follows:

26. A system for processing payment transactions between sellers and buyers, comprising:

an invoice processor configured to receive and process invoices received from the sellers and generate an output invoice file;

a payment manager configured to maintain buyer accounts and seller accounts for the buyers and the sellers respectively, the payment manager further configured to receive the output invoice file and generate one or more payment instructions, each payment instruction corresponding to a payment transaction;

an issuer pricing engine configured to store a plurality of terms and conditions relating to the buyers, the sellers, issuers and acquirers, the issuer pricing engine further configured to calculate one or more fees and a net amount for each payment transaction based on relevant portions of the plurality of terms and conditions, wherein the issuer pricing engine further calculates one or more transaction fees based on a set of pre-negotiated terms and conditions agreed to by at least an issuer and an acquirer;

an authorization and settlement interface configured to communicate with issuer computers to obtain payment authorizations for the payment transactions respectively; and

a payment results processor configured to report results relating to the payment authorizations for the payment transactions and provide the payment manager with the results so as to allow the payment manager to update the buyer accounts and the seller accounts.

THE REJECTION

The Examiner rejected claims 26–38 and 46–48 under 35 U.S.C. § 101 as directed to patent-ineligible subject matter. Ans. 2–5.²

ANALYSIS

THE REJECTION UNDER 35 U.S.C. § 101

Claims 26–38 and 46–48

Based on the record before us, we are not persuaded that the Examiner erred in rejecting claims 26–38 and 46–48 as directed to patent-ineligible subject matter.

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 132 S. Ct. 1289, 1300 (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 Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014). The first step in that analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts” (*id.*), for example, to an abstract idea. If the claims are directed to one of the patent-ineligible concepts, the inquiry proceeds to the second step 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

² Because the Examiner withdrew the § 101 rejection in the Final Office Action, and entered a new ground of rejection under § 101 in the Answer (*see* Ans. 2–5), only the latter rejection is before us.

patent-eligible application.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 132 S. Ct. at 1297).

Under the first step of the eligibility analysis, the Examiner determines that the claims are directed to the abstract idea of processing a payment transactions between sellers and buyers. The Examiner concludes that this is a fundamental economic practice. *See, e.g.*, Ans. 2–3. For example, the Examiner explains that

In particular the system includes a transaction processing system for facilitating payment for a transaction between the buyer and the seller whereby the issuer manages an account for the buyer and the acquirer manages an account for the seller [see, ¶ 09]. The claims relate to financial or fundamental economic practices, wherein the language of automating a loan activity by conducting transactions between buyers and sellers and maintaining and processing terms and conditions relating the buyer seller issuer and acquirer, relates to creating a contract (or binding agreement) between people. . . .

Ans. 3. As the Examiner indicates, courts have identified similar “concepts relating to economy and commerce such as agreements between people in the form or contracts, legal obligations and business relations” as abstract ideas. Ans. 3 (citing *buySAFE, Inc., v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014) and *Alice*).

The Examiner also finds that the claims are directed to managing certain methods of organizing human activity and an idea of itself. Ans. 3–4. For example, the Examiner points out that the claims relate to managing aspects of a transaction between the buyer and the seller, and are similar to other cases managing financial transactions between users. Ans. 3 (citing *information-Dealertrack Inc., v. Huber*, 674 f.3d 1315 (Fed. Cir. 2012); *buySAFE*; and *Alice*).

Appellants contend that there is no “evidentiary basis whatsoever” to support the Examiner’s determination that the claims are directed to a fundamental economic practice and that “[a]lthough multiple cases are cited by the Examiner, none of them has an abstract idea that is even remotely similar to any of the alleged abstract ideas” of the claimed invention. Reply Br. 6. Appellants also contend the claims are not directed to an abstract idea because they are necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer technology and that the claims are directed to an improvement in computer-related technology. Reply Br. 6–9. For example, Appellants contend that

The relevant technology here is about a specialized system and corresponding methods for conducting a commercial transaction between a buyer and a seller. Similar to the problem in *McRO* (the prior art relies on manual input of animators and its automation would produce inaccurate results), the prior art in the current application would provide a manual accounting of commercial transactions. The prior art may also include a manual examination of the terms and conditions of sales agreements by a human being on an individual basis for each transaction, which was tedious, time-consuming, and prone to errors.

Reply Br. 9.

We find these arguments unpersuasive. The claims here are directed to processing or managing a payment transaction between the buyer and the seller, which is a fundamental economic practice and also is a method of organizing human activity. We agree with the Examiner that the claims here are analogous to the claims of *Alice*. See Ans. 4. Specifically, in *Alice* the claims were directed to a transaction between parties to mitigate settlement risk, which was a fundamental economic practice being applied to a computer. See *Alice*, 134 S. Ct. at 2347. Similarly, the claims here are for

processing and managing information related to a financial transaction between parties. As Appellants acknowledge, this was a known economic practice in business to business transactions that was performed manually (*see, e.g.*, Spec. ¶¶ 2–4, Reply Br. 6–7), and the claims merely apply this practice to a computer. Thus, we are not persuaded that the Examiner erred in finding that the claims are directed to a fundamental economic practice. *See also Credit Acceptance Corp. v. Westlake Services*, 859 F.3d 1044, 1054-55 (Fed. Cir. 2017) (finding ineligible claims directed to the abstract idea of “processing an application for financing a purchase” and analogizing the abstract idea to those of *Alice* and *Bilski*); *buySAFE, Inc.*, 765 F.3d 1350 (finding ineligible claims directed to the economic practice of creating a contractual relationship); *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359 (2015) (finding abstract a method for pricing a product for sale).

We also agree with the Examiner that the claims are directed to a method of organizing human activity. *See* Ans. 3–4; *see also, e.g., Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Can.*, 687 F.3d 1266 (Fed. Cir. 2012) (finding claims directed to the abstract idea of managing a life insurance policy ineligible); *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336 (Fed. Cir. 2013) (finding ineligible claims directed to generating rule-based tasks for processing an insurance claim).

Although the claimed steps are performed by a processing system, Appellants fail to identify persuasively how the claims overcome a problem *necessarily rooted in computer technology*. Rather, as discussed above, the claims are directed to a technological solution to *manual data entry*. *See, e.g.*, Reply Br. 7. Merely automating a previously manual process does not render an abstract idea patentable. For example, court decisions indicate

“merely adding computer functionality to increase the speed or efficiency of the process does not confer patent eligibility on an otherwise abstract idea.” *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015); *see also Credit Acceptance Corp. v. Westlake Services*, 859 F.3d 1044, 1057 (Fed. Cir. 1057) (quoting *Capital One Bank*, 792 F.3d at 1370); *Alice*, 134 S. Ct. at 2359 (“use of a computer to create electronic records, track multiple transactions, and issue simultaneous instructions” is not an inventive concept); *Bancorp Servs., L.L.C.*, 687 F.3d at 1278 (Fed. Cir. 2012) (“[t]he fact that the required calculations could be performed more efficiently via a computer does not materially alter the patent eligibility of the claimed subject matter”).

Appellants’ contention that a lack of pre-emption renders the claims patent eligible is equally unpersuasive to identify error. *See* App. Br. 20–21; Ans. 9. Although “preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015). We are instructed that “[w]here a patent’s claims are deemed only to disclose patent ineligible subject matter under the [*Alice*] framework . . . , preemption concerns are fully addressed and made moot.” *Id.*

Under step two of the eligibility analysis, the Examiner determines that the claims do not include significantly more than the abstract idea.

Ans. 4. For example, the Examiner explains

The elements describe, under the broadest reasonable interpretation, generic computer functions (receiving payment data (invoices), storing, and managing transactions which is similar to the abstract idea of collecting information, analyzing it (managing, calculating, etc.) and displaying certain results of collection. . . . Thus the elements of the claim analyzed

individually as an ordered combination does not provide meaningful limitations to transform the abstract idea of processing a payment transaction between buyers and a sellers into a patent eligible application and does not provide significantly more than the abstract idea itself.

Ans. 4.

Appellants assert that the claims amount to significantly more than the judicial exception. *See* Reply Br. 10–12. Specifically, Appellants maintain that the limitations of “an invoice processor,” “a payment manager,” “an issuer pricing engine,” “an authorization and settlement interface,” and “a payment results processor” are not generic computer functions. Reply Br. 10; App. Br. 10. According to Appellants, “the features in the Appellants’ claims cannot be characterized as mere instructions to apply the abstract idea itself.” Reply Br. 11.

We disagree. Notably, the “transforming” components identified by Appellants are merely generic computer components, such as processors, a manager, and an interface. Under *Alice*, these generic components, individually or as an ordered combination, do not transform the abstract idea of the claims into patent eligible subject matter. *See Alice*, 134 S. Ct. at 2358. Namely, we agree with the Examiner that the computer system is recited merely as a tool to implement the abstract idea. Ans. 4, 7–8; *see also Electric Power Group, LLC v. Alstom*, 830 F.3d 1350 (Fed. Cir. 2016) (finding that conventional computer, network, and display technology for gathering, sending and presenting information does not transform the abstract idea to eligible subject matter). As such, we are not persuaded that the Examiner erred in determining the claims do not add significantly more to the claimed abstract idea.

Appellants' arguments with respect to *BASCOM Global Internet Servs., Inc. v. AT&T Mobility, LLC*, 827 F.3d 1341 (Fed. Cir. 2016) is similarly unavailing. See Reply Br. 9–10. Namely, as Appellants point out, *BASCOM* was found to be significantly more than the abstract idea because it was found to be a “technology-based solution.” See Reply Br. 30 (discussing *BASCOM*). Appellants do not identify any similar technology based solution here. As such, we are not persuaded of error in the Examiner determination.

Accordingly, we affirm the Examiner's rejection of claims 26–38 and 46–48 as directed to patent-ineligible subject matter.

DECISION

We affirm the Examiner's decision to reject claims 26–38 and 46–48.

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