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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RAJESH G. SHAKKARWAR¹

Appeal 2017-009018
Application 13/011,536
Technology Center 3600

Before JAMES R. HUGHES, BETH Z. SHAW and
SCOTT E. BAIN, *Administrative Patent Judges*.

SHAW, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant seeks our review under 35 U.S.C. § 134(a) of the Examiner's Final Office Action rejecting claims 1–7, 10–16, 18–26, 29–35, 37–41, and 43, all of which are pending on appeal. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.²

¹ Appellant identifies the real party in interest as Verient, Inc. App. Br. 3.

² Our Decision refers to the Appeal Brief filed January 3, 2017 (“App. Br.”); Reply Brief filed June 5, 2017 (“Reply. Br.”); Examiner’s Answer mailed April 3, 2017 (“Ans.”); and Final Office Action mailed June 30, 2016 (“Final Act.”).

STATEMENT OF THE CASE

Appellant's invention relates to a method for generating an accounts payable financial product, i.e., a virtual card, used for payment transactions. Spec., Abstract, ¶ 32.

Claim 1 is illustrative of Appellant's invention, as reproduced below:

1. A computer-implemented method for generating a first accounts payable financial product that is configured to be used for one or more payment transactions, the method comprising:
 - receiving, via a network, a device profile from a security agent executing on a user device;
 - authenticating the user device by comparing the device profile with data stored on an authentication database;
 - receiving, from the user device via the network, a selection of one or more core accounts for providing financial backing for the first accounts payable financial product, the first accounts payable financial product being a virtual card available to the user device via a web browser;
 - receiving a selection of a first recipient payee to which the first accounts payable financial product is to be distributed as a form of payment;
 - receiving, from the user device via the network, a selection of one or more control parameters that define use restrictions for the first accounts payable financial product;
 - generating, via one or more computer processors of a payment processing platform distinct from one or more financial institutions with which the one or more core accounts are held, the first accounts payable financial product based on the received selection of one or more control parameters and the received selection of one or more core accounts;
 - transmitting the first accounts payable financial product electronically to the first recipient payee; and
 - in response to the first recipient payee initiating a transaction to redeem the first accounts payable financial product, causing funds to be transferred from one or more core accounts that provide financial backing for the first accounts

payable financial product to an account held by the first recipient payee if the one or more control parameters are satisfied.

REJECTIONS

Claims 1–7, 10–16, 18–26, 29–35, 37–41, and 43 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to ineligible subject matter. Final Act. 2–5.

Claims 1–5, 7, 11–16, 20–24, 26, 30–35, 39, and 40 stand rejected under 35 U.S.C. § 103 as unpatentable over Hutchison (US 2005/0102188 A1; published May 12, 2005) and Kim (Korean Patent Unexamined Publication No. 1020020081631; published Oct. 30, 2002). Final Act. 5.

Claims 6 and 25 stand rejected under 35 U.S.C. § 103 as unpatentable over Hutchison, Kim and Cohen (US 2004/0139004 A1, published July 15, 2004). Final Act. 10.

Claims 10, 18, 19, 29, 37, 38, 41, and 43 stand rejected under 35 U.S.C. § 103 as unpatentable over Hutchison, Kim, Official Notice and Hamilton (US 7,653,598 B1, issued Jan. 26, 2010). Final Act. 11.

ANALYSIS

Section 101 Rejection

The Examiner finds claims 1–7, 10–16, 18–26, 29–35, 37–41, and 43 are directed to abstract ideas. Final Act. 2–5; Ans. 2–7. In particular, the Examiner finds that the abstract idea underlying these claims is funds transfer. Final Act. 3. The Examiner also finds additional elements recited in the claims do not amount to significantly more than the abstract idea itself. Final Act. 4; Ans. 3–5.

Appellant presents several arguments against the 35 U.S.C. § 101 rejection. App. Br. 14–20; Reply Br. 3–4. Appellant contends the claims are not directed to an abstract idea because the claims enable a specific improvement in the way computer systems generate and process electronic payments securely. App. Br. 14–15. Appellant also contends the claims recite significantly more than an abstract idea because the claims add at least one unconventional step. *Id.* at 19.

We do not find Appellant’s arguments persuasive. Instead, we find the Examiner has provided a comprehensive response to Appellant’s arguments supported by a preponderance of evidence. Ans. 2–8. As such, we adopt the Examiner’s findings and explanations provided therein. *Id.*

At the outset, we note the Supreme Court has long held that “[l]aws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. Pty. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014) (quoting *Assoc. for Molecular Pathology v. Myriad Genetics, Inc.*, 133 S. Ct. 2107, 2116 (2013)). “The ‘abstract ideas’ category embodies ‘the longstanding rule that ‘[a]n idea of itself is not patentable.’” *Id.* at 2355 (quoting *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)).

In *Alice*, the Supreme Court set forth an analytical “framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Id.* at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012)). The first step in the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts,” such as an abstract idea. *Id.* (citing *Mayo*, 566 U.S. at 77–78). If the claims are directed to a patent-ineligible concept, the second

step in the analysis is to consider the elements of the claims “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.* (quoting *Mayo*, 566 U.S. at 79, 78). In other words, the second step is to “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.* (alteration in original) (quoting *Mayo*, 566 U.S. at 72–73). The prohibition against patenting an abstract idea “cannot be circumvented by attempting to limit the use of the formula to a particular technological environment’ or adding ‘insignificant postsolution activity.’” *Bilski v. Kappos*, 561 U.S. 593, 610–11 (2010) (citation omitted).

Turning to the first step of the *Alice* inquiry, we agree with the Examiner that Appellant’s claims are directed to an abstract idea of funds transfer. Ans. 3. All the steps recited in Appellant’s claims, including, for example: receiving a device profile; receiving a selection of one or more core accounts; receiving a selection of a first recipient payee; generating the first accounts payable financial product; transmitting the first accounts payable financial product; and causing funds to be transferred; are abstract processes of receiving, generating, and outputting data.

The Supreme Court has found similar arrangements involving contractual relations to be abstract. *Bilski* involved a method of entering into contracts to hedge risk in commodity prices, and *Alice* involved methods and systems for “exchanging financial obligations between two parties using a third-party intermediary to mitigate settlement risk,” *Alice*, 134 S. Ct. at 2356. The Court in both cases found the contractual relations at issue

constituted “a fundamental economic practice long prevalent in our system of commerce.” *Bilski*, 561 U.S. at 611; *see Alice*, 134 S. Ct. at 2356, 2357. Similarly, in *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014), the Federal Circuit found “[t]he claims are squarely about creating a contractual relationship—a ‘transaction performance guaranty’—that is beyond question of ancient lineage.” We agree with the Examiner’s determination that the claims in this case recite contractual relations analogous to those in the foregoing cases. Ans. 3–4.

Moreover, as the Examiner determined, Appellant’s claimed funds transfer is a fundamental economic practice that would fall under the umbrella of managing transactions or sales activities. Ans. 4. *See Alice*, 134 S. Ct. at 2356; *see, e.g., Intellectual Ventures I LLC v. Capital One Bank*, 792 F.3d 1363 (Fed. Cir. 2015) (an advertisement taking into account the time of day and tailoring the information presented to the user based on that information is another “fundamental . . . practice long prevalent in our system”); *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044 (Fed. Cir. 2017) (patent claims directed to a system and method for providing financing to allow a customer to purchase a product selected from an inventory of products maintained by a dealer patent-ineligible as directed to the abstract idea of processing an application for financing a purchase, an economic practice long prevalent in commerce). Funds transfer is a fundamental economic practice. Accordingly, we are not persuaded the Examiner erred under the first step of the *Alice* inquiry.

Turning to the second step of *Alice*, we also find nothing in Appellant’s claims that adds anything “significantly more” to transform them into a patent-eligible application of the abstract idea. *Alice*, 134 S. Ct.

at 2357. The claimed steps are ordinary steps in data processing and are recited in an ordinary order. We are not persuaded by Appellant’s unsupported attorney argument that the claims recite an “unconventional step.” App. Br. 19. Nothing recited by the claims “offers a meaningful limitation beyond generally linking ‘the use of the [method] to a particular technological environment,’ that is, implementation via computers.” *Alice*, 134 S. Ct. at 2360 (quoting *Bilski*, 561 U.S. at 610–11).

Limiting an abstract concept of a funds transfer to a general purpose computer having generic components, such as the “computer processor” recited in Appellant’s claims, does not make the abstract concept patent-eligible under 35 U.S.C. § 101. As recognized by the Supreme Court, “the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Alice*, 134 S. Ct. at 2358; *see id.* at 2359 (concluding claims “simply instruct[ing] the practitioner to implement the abstract idea of intermediated settlement on a generic computer” are not patent eligible); *see also Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715–16 (Fed. Cir. 2014) (claims merely reciting an abstract idea of using advertising as currency as applied to particular technological environment of the Internet are not patent eligible); *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1344–45 (Fed. Cir. 2013) (claims reciting “generalized software components arranged to implement an abstract concept [of generating insurance-policy-related tasks based on rules to be completed upon the occurrence of an event] on a computer” are not patent eligible); *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333–34 (Fed. Cir. 2012) (“[s]imply adding a ‘computer aided’ limitation to a claim covering an abstract concept, without more, is

insufficient to render [a] claim patent eligible”); *Credit Acceptance Corp.*, 859 F.3d at 1056 (generic computer elements did not represent improvement in computer technology but rather were invoked merely as tools, and did not transform the claims into significantly more than claims to an abstract idea itself); *Elec. Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1351 (Fed. Cir. 2016) (rejection affirmed for a method of performing real-time performance monitoring of an electric power grid because “the claims do not go beyond requiring the collection, analysis, and display of available information in a particular field . . . over conventional computer and network technology”).

Contrary to Appellant’s arguments (*see* App. Br. 7–9; Reply Br. 2), the claims are neither rooted in computer technology as outlined in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014), nor do they seek to improve any type of *computer* capabilities, such as a “self-referential table for a computer database” outlined in *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016). The “user device” recited in Appellant’s claims is described in the Specification as “any type of individual computing device.” Spec. ¶ 23. The claimed “computer processors” are not described or drawn with any specificity in the Specification. “[M]erely ‘configur[ing]’ [a] generic computer[] in order to ‘supplant and enhance’ an otherwise abstract manual process is precisely the sort of invention that the *Alice* Court deemed ineligible for patenting.” *Credit Acceptance Corp.*, 859 F.3d at 1056.

We are also not persuaded by Appellant’s argument that the claims “focus[] on a specific means or method that improves the relevant technology,” similar to the patent-eligible claims in

Namco Games America Inc., 837 F.3d 1299 (Fed. Cir. 2016). App. Br. 15–16. In *McRO*, the Federal Circuit found that “the claims themselves set out meaningful requirements for the first set of rules: they ‘define[] a morph weight set stream as a function of phoneme sequence and times associated with said phoneme sequence.’” 837 F.3d at 1313 (citation omitted). The Federal Circuit further explained that “[t]he specific, claimed features of these rules allow for the improvement realized by the invention.” *Id.* Appellant’s claims, in contrast, do not define meaningful requirements for any “specific rules” as in *McRO*. Claims App’x. Rather, the claims are directed to automation of conventional funds transfer. *Cf. McRO*, 837 F.3d at 1314 (“This [conventional] activity, even if automated by rules, would not be within the scope of the claims because it does not evaluate sub-sequences, generate transition parameters or apply transition parameters to create a final morph weight set. It is the incorporation of the claimed rules, not the use of the computer, that ‘improved [the] existing technological process’ by allowing the automation of further tasks.”) (citing *Alice*, 134 S. Ct. at 2358).

Because Appellant’s claims are directed to a patent-ineligible abstract concept and do not recite something “significantly more” under the second prong of the *Alice* analysis, we sustain the Examiner’s rejection of these claims under 35 U.S.C. § 101 as being directed to non-statutory subject matter in light of *Alice* and its progeny.

Section 103 Rejection

Appellant argues Kim fails to teach or suggest transmitting the first accounts payable financial product electronically to the first recipient payee, where the first accounts payable financial product comprises a virtual card

available to the user device via a web browser, as recited in claim 1. App. Br. 21. We are not persuaded of error.

The Examiner relies on the combination of Hutchinson and Kim, not Kim alone, as teaching the foregoing disputed limitation. As the Examiner finds, Kim teaches transmitting the first accounts payable financial product electronically to the first recipient payee. Ans. 8, 9; Final Act. 8 (citing Kim, p. 3, p. 4). The Examiner only relies on Kim, however, to show transmitting a first accounts payable financial product electronically to the payee. Final Act. 7, 8. The “virtual card,” as the Examiner finds, is taught by Hutchinson. Final Act. 6 (citing Hutchinson, ¶¶ 10, 11, 69–72 (“[T]he virtual payment system of the present invention is a closed system that provides buyers a secure method for purchasing products over the Internet.”)). Appellant does not identify any specific deficiencies in Hutchinson’s teachings, and further does not identify error in the Examiner’s findings regarding the combination of Kim and Hutchinson.

Therefore, we sustain the § 103 rejection of claim 1. For the same reasons, we sustain the § 103 rejections of the remaining pending claims, for which Appellant presents no new arguments. *See* App. Br. 21–22.

For these reasons, and for the additional reasons stated in the Final Office Action and Answer, we sustain the §103 rejections of claims 1–7, 10–16, 18–26, 29–35, 37–41, and 43.

CONCLUSION

Appellant has not demonstrated the Examiner erred in rejecting claims 1–7, 10–16, 18–26, 29–35, 37–41, and 43 under 35 U.S.C. § 101.

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Appellant has not demonstrated the Examiner erred in rejecting claims 1–7, 10–16, 18–26, 29–35, 37–41, and 43 under 35 U.S.C. § 103.

DECISION

We affirm the Examiner’s rejection of claims 1–7, 10–16, 18–26, 29–35, 37–41, and 43.

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