UNITED STATES PATENT AND TRADEMARK OFFICE

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Go Daddy Operating Company, LLC
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EXAMINER
NGUYEN, THUONG

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte DAYMION T. REYNOLDS

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Appeal 2017-009182
Application 14/255,867
Technology Center 2400

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Before JEAN R. HOMERE, BETH Z. SHAW, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from a Final Rejection of
claims 1–22, which constitute all claims pending in this application.[1]
Claims App'x. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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[1] Appellant identifies the real party in interest as Go Daddy Operating
Company, LLC. App. Br. 2.

Introduction

According to Appellant, the claimed subject matter relates to a reverse proxy server (110) that acts as an intermediary between a client (100), and a plurality of hosting server websites (150, 160, 170). Fig. 1. In particular, upon identifying a domain name (151, 152, 161, 162, 163, 171) within an incoming request received from the client (100), the reverse proxy server (110) uses domain name routing rules (140) rather than the domain name system (DNS) to fulfill the request by locating a resource stored on a plurality of hosting servers (150, 160, 170) based on the identified domain name. Spec. ¶¶ 2–10, 48, Fig. 1.

Representative Claim

Independent claim 1 is representative, and reads as follows:

1. A system, comprising:
    (a) a plurality of hosting servers hosting a plurality of websites; and
    (b) a reverse proxy server comprising one or more hardware servers and software,
        (i) wherein the software comprises domain name routing rules,
        (ii) wherein the domain name routing rules are configured to receive a domain name, in an incoming request to the reverse proxy server, and locate a resource stored on the plurality of hosing servers based on the doemain name without using a domain name system (DNS), and
        (iii) wherin the reverse proxy server acts as an intermediary for the plurality of hosign servers and a client and the reverse proxy server returns resources provied by the plurality of hosing servers to the client.

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Prior Art Relied Upon

Ashley et al.	US 2006/0031442 A1	Feb. 9, 2006
Bhat et al.	US 2007/0150563 a1	Jun. 28, 2007
Gilroy et al.	US 2007/0283028 A1	Dec. 6, 2007
Erb	US 2015/0271132 A1	Sep. 24, 2015

Rejections on Appeal

Claims 1–22 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Act. 2–4.

Claims 1–9, 11, 12, 14, 16–18, 20, and 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over the combination of Erb and Ashley. Final Act. 4–12.

Claim 10 stands rejected under 35 U.S.C. § 103 as being unpatentable over the combination of Erb, Ashley, and Bhat. Final Act. 12–13.

Claims 13, 15, 19, and 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over the combination of Erb, Ashley, and Gilroy. Final Act. 13–14.

ANALYSIS

We consider Appellant's arguments *seriatim*, as they are presented in the Appeal Brief, pages 7–15.[2]

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[2] Rather than reiterate Appellant's arguments, and the Examiner's findings in their entirety, we refer to the Appeal Brief (filed August 19, 2016), and the Answer (mailed November 2, 2016) ("Ans.") for the respective details. We have considered in this Decision only those arguments Appellant actually raised in the Briefs. Any other arguments Appellant could have made but chose not to make in the Briefs are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Patent Ineligibility Rejection

Appellant argues the Examiner erred in concluding that claims 1–22 are directed to an abstract idea because the rejection is removed from the actual claim limitations. App. Br. 7. Further, Appellant argues because the claimed reverse proxy server is a novel computer configuration comprising domain routing rules to act as an intermediary between the client computers and hosting servers, it is directed to significantly more than the abstract idea. *Id.* at 8. According to Appellant, because the claims are directed to technological improvements, they are patent eligible under section 101. *Id.* at 9–11 (citing *Enfish*).[3] Furthermore, Appellant alleges that the claimed subject matter is instead directed to a technological solution only made possible when implemented in a computer network based context, and it is thereby necessarily rooted in computer technology to overcome a problem specifically arising in the realm of computer networks. *Id.* at 11 (citing *DDR Holdings*).[4]

These arguments are persuasive. The U.S. Supreme Court provides a two-step test for determining whether a claim is directed to patent-eligible subject matter under 35 U.S.C. § 101.[5] In the first step, we determine whether the claims are directed to one or more judicial exceptions (i.e., law of nature, natural phenomenon, and abstract ideas) to the four statutory categories of invention (i.e., process, machine, manufacture, and composition of matter). *Id.* (citations omitted) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1296–97 (2012))

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[3] *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (2016).
[4] *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014)
[5] *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014).

("*Mayo*"). In the second step, we "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.* (citing *Mayo*, 132 S. Ct. at 1297–98). 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.* (citing *Mayo*, 132 S. Ct. at 1294).

At the outset, we note our disagreement with the Examiner's conclusion that the claims are directed merely to the abstract idea of using categories to organize, store, and transmit information (e.g., accessing and combining hierarchically organized information in response to a request). Final Act. 3 (citing Cyberfone Systems).[6] Although we agree with the Examiner that the claimed reverse proxy server comprising domain routing rules is not novel, we do not agree with the Examiner's overgeneralized characterization of the claimed subject matter as being directed to an abstract idea such as organizing human activity or a fundamental economic practice. Ans. 4. The Federal Circuit, applying the Supreme Court's *Alice* framework, cautions that "describing the claims at such a high level of abstraction and untethered from the language of the claims all but ensures that the exceptions to § 101 swallow the rule." *Enfish*, 822 F.3d at 1337. As persuasively argued by Appellant, the claims require particularly configuring the reverse proxy server to fulfill a request by using the domain routing rules, rather than the DNS. Spec. ¶ 48. Because the claimed reverse proxy

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[6] *Cyberfone Systems, LLC v. CNN Interactive, Inc., 558 Fed.Appx. 988* (Fed. Cir., 2014).

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server is directed to a technological solution only made possible when implemented in a computer network based context, we agree with Appellant that the claimed reverse proxy server is necessarily rooted in computer technology to overcome a problem specifically arising in the realm of computer networks. Further, although the claimed methods and systems are perhaps simple and straightforward, the Examiner does not provide evidence that the claimed process is merely the automation of the same process previously performed by a human. *See McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016) ("While the rules are embodied in computer software that is processed by general-purpose computers, Defendants provided no evidence that the process previously used by animators is the same as the process required by the claims.)

Accordingly, we are persuaded of error in the Examiner's conclusion that claims 1–22 are directed to patent ineligible subject matter.

Obviousness Rejections

Appellant argues the Examiner erred in finding the combination of Erb and Ashley teaches or suggests a reverse proxy server comprising domain name routing rules. App. Br. 12. In particular, Appellant argues that neither Erb's servers nor Erb's policy database teach or suggest the reverse proxy server including the domain routing names. *Id*. at 12–13. Further, Appellant argues the proposed combination of Erb with Ashley does not have a reasonable expectation of success as Erb's policy server is configured to ALLOW/DENY a connection to one or more hostnames, whereas Ashley's reverse proxy server is used to maintain various session states. *Id*. at 13–14.

These arguments are not persuasive. At the outset, we note claim 1 recites in relevant-part a reverse proxy server comprising domain name routing rules to facilitate locating a resource stored in a plurality of hosting servers. Erb discloses a policy server (10) including a policy database (12) containing domain names (16) of various host servers along with associated categories (18) as well as established policies or rules (20) for granting or denying access to requested domain names. Erb ¶¶ 24–27, 32, Fig. 1. Further, Erb discloses a plurality of hosting servers (102–106), and clients (112–114) coupled with the policy server (10) such that the servers store and retrieve data from one another. Erb ¶ 63. Because Erb's policy server includes a plurality of rules or policies regarding providing access to requested hostnames, we agree with the Examiner that Erb's policy server teaches the claimed reverse proxy server including the domain name routing rules under the broadest reasonable interpretation. Ans. 6. Furthermore, Ashley discloses a reverse proxy server that provides centralized session identifier management for application servers to thereby determine which of a plurality of applications servers are subject to a client request so as to retrieve requested resources on behalf of the client. Ashley ¶¶ 54–57. We agree with the Examiner that Ashley's reverse proxy server complements Erb's policy server by allowing the latter server to perform intermediary functions between the application/hosting servers and the clients. Ans. 7–8. Additionally, we find the Examiner's proposed combination of the cited teachings of Erb and Ashley is no more than a simple arrangement of old elements, with each performing the same function it had been known to perform, yielding no more than one would expect from such an arrangement. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). The ordinarily-

skilled artisan, being "a person of ordinary creativity, not an automaton," would be able to fit the teachings of the cited references together like pieces of a puzzle to predictably result in a reverse proxy server including domain name routing rules such that the reverse proxy server can act as an intermediary to retrieve from hosting servers a domain requested by a client. *Id.* at 420–21. Because Appellant has not demonstrated that the Examiner's proffered combination would have been "uniquely challenging or difficult for one of ordinary skill in the art," we agree with the Examiner that the proposed modification would have been within the purview of the ordinarily skilled artisan. *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418).

For at least the aforementioned reasons, we are not persuaded or error in the Examiner's rejection of claim 1.

Regarding the rejection of claims 2–22, because Appellant has either not presented separate patentability arguments or has reiterated substantially the same arguments as those previously discussed for patentability of claim 1 above, those claims fall therewith. *See* 37 C.F.R. § 41.37(c)(1)(vii).

DECISION

For the above reasons, we affirm the Examiner's obviousness rejections of claims 1–22, as set forth above. However, we reverse the Examiner's subject matter ineligibility rejection of claims 1–22.

Because we affirm at least one ground of rejection with respect to each claim on appeal, we affirm the Examiner's decision to reject all of the pending claims.

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).

<u>AFFIRMED</u>