



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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/057,381	10/18/2013	Timothy P.J. Perry	52493.000669	9334
21967	7590	12/27/2018	EXAMINER	
Hunton Andrews Kurth LLP Intellectual Property Department 2200 Pennsylvania Avenue, N.W. Washington, DC 20037 UNITED STATES OF AMERICA			NIQUETTE, ROBERT R	
			ART UNIT	PAPER NUMBER
			3696	
			MAIL DATE	DELIVERY MODE
			12/27/2018	PAPER

**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.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* TIMOTHY P.J. PERRY, MICHAEL DAVID METZGER,  
DIANE MARIE RUSSELL, MARY KATHRYN BRYANT and  
DAVID JOHN HELT

---

Appeal 2017-009459  
Application 14/057,381  
Technology Center 3600

---

Before CARL W. WHITEHEAD JR., JEFFREY S. SMITH and  
JEREMY J. CURCURI, *Administrative Patent Judges*.

WHITEHEAD JR., *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants are appealing the final rejection of claims 39 and 44-57 under 35 U.S.C. § 134(a). Appeal Brief 1. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

*Introduction*

The invention provide a workflow system for processing a financial application in an automated manner. *See* Abstract.

*Illustrative Claim*

39. A workflow system that processes an insurance application in an automated manner, the workflow system in the form of a non-transitory tangibly embodied processing machine, the workflow system comprising:

an interface portion tangibly disposed in the processing machine, the interface portion inputting application information into the workflow system for processing by the workflow system;

a workflow looping portion tangibly disposed in the processing machine, the workflow looping portion performing processing, the processing including, in sequence:

performing underwriting processing to effect underwriting of the insurance application based on the application information, the performing underwriting processing including:

monitoring the underwriting processing to determine whether the underwriting processing is completed, and

forwarding the insurance application to perform issue processing subsequent to the determining that the underwriting processing is completed;

performing issue processing to effect issue of the insurance application, the performing issue processing including:

monitoring the issue processing to determine whether the issue processing is completed; and

forwarding the insurance application to perform settlement processing subsequent to the determining that the issue processing is completed; and

performing settlement processing to effect settlement of the insurance application, the performing settlement processing including:

monitoring the settlement processing to determine whether the issue processing is completed; and

a rules logic portion tangibly disposed in the processing machine, the rules logic portion controlling the implementation of rules applied to the processing of the insurance application as the insurance application passes through the automated processing; and

the performing underwriting processing, performing issue processing and performing settlement processing are each performed in an automated manner to constitute automated processing of the insurance application, such that the automated processing includes the performing underwriting processing, performing issue processing and performing settlement processing; and

further including a wait state portion, the wait state portion imposing wait states on the automated processing such that the automated processing is suspended until the wait state imposed by the wait state portion is ended;

wherein the wait state portion imposes the wait state because the wait state portion identifies that there is insufficient information available to underwrite the insurance application, the wait state being imposed in the underwriting processing;

wherein the wait state portion ends the wait state once information is received to cure the insufficient information, and subsequently, the workflow looping portion re-starts the underwriting processing; and

wherein the received information is a document, and such that the re-starting of the underwriting processing includes multiple documents being

received such that each document results in a restart of the underwriting processing at a beginning of the underwriting processing.

*Rejection on Appeal*

Claims 39 and 44-57 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to a judicial exception without significantly more. Final Action 2-6.

ANALYSIS

Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed March 30, 2017), the Reply Brief (filed June 28, 2017), the Answer (mailed April 28, 2017) and the Final Action (mailed October 28, 2016) for the respective details.

35 U.S.C. § 101 Rejection

The Supreme Court has 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.” *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71-73 (2012)). In the first step of the analysis, we determine whether the claims at issue are “directed to” a judicial exception, such as an abstract idea. *Alice*, 134 S. Ct. at 2355. If not, the inquiry ends. *Thales Visionix Inc. v. U.S.*, 850 F.3d 1343, 1346 (Fed. Cir. 2017); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1339 (Fed. Cir. 2016). If the claims are

determined to be directed to an abstract idea, then we consider under step two whether the claims contain an “inventive concept” sufficient to “transform the nature of the claim’ into a patent-eligible application.” *Alice*, 134 S. Ct. at 2355 (quotations and citation omitted).

Noting that the two stages involve “overlapping scrutiny of the content of the claims,” the Federal Circuit has described “the first-stage inquiry” as “looking at the ‘focus’ of the claims, their ‘character as a whole,’” and “the second-stage inquiry (where reached)” as “looking more precisely at what the claim elements add--specifically, whether, in the Supreme Court’s terms, they identify an ‘inventive concept’ in the application of the ineligible matter to which (by assumption at stage two) the claim is directed.” *Electric Power Grp, LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). In considering whether a claim is directed to an abstract idea, we acknowledge, as did the Court in *Mayo*, that “all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Mayo*, 566 U.S. at 71. We, therefore, look to: (1) whether the claims focus on a specific means or method that improves the relevant technology, or (2) are directed to a result or effect that itself is the abstract idea, in which the claims merely invoke generic processes and machinery. *See Enfish*, 822 F.3d at 1336.

*Step One: Whether the Claims Are Directed to a Patent-Ineligible Concept (Abstract Idea)*

Appellants contend:

The claimed inventions differ from other claims found by the courts to recite abstract ideas in that they do not “merely recite the performance of some business practice known from the pre-

Internet world along with the requirement to perform it on the Internet. Instead, the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.” *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014).

Appeal Brief 5.

Despite characterizing the claimed invention as using computer technology to overcome a problem specific to the operation of a computer or a computer network per se, Appellants do not present sufficient persuasive evidence or argument that the claims are directed to an improvement specific to a computer network or the Internet *itself*. See *Elec. Power*, 830 F.3d at 1354 (“[T]he focus of the claims is not on such an improvement in computers as tools, but on certain independently abstract ideas that use computers as tools.”) We find Appellants’ claims are distinguished from those claims that our reviewing court has found to be patent eligible by virtue of reciting technological improvements to a computer system. See, e.g., *DDR Holdings*, 773 F.3d at 1249, 1257 (holding that claims reciting computer processor for serving “composite web page” were patent eligible because “the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks”); *Enfish*, 822 F.3d at 1338 (holding that claims directed to a self-referential table for a computer database were patent eligible because the claims were directed to an improvement in the functioning of a computer); *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1259 (Fed. Cir. 2017) (holding that claims directed to “an improved computer memory system” having many benefits were patent eligible).

Appellants further contend:

The claims here, however, are *admittedly novel and nonobvious* -- the Office Action has not applied a prior art rejection and therefore it is understood that the claims would be allowable upon overcoming the rejection under 35 U.S.C. § 101 rejection. The Office has not applied any prior art that supports the position that the concepts are long-standing or well-known.

Appeal Brief 8.

As the Federal Circuit has explained, a “claim for a *new* abstract idea is still an abstract idea.” *SAP Am., Inc. v. Investpic, LLC*, No. 2017-2081, 2018 WL 2207254, at \*1 (Fed. Cir. May 15, 2018) (quoting *Synopsis, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1151 (Fed. Cir. 2016)). Even assuming the technique claimed was “innovative, or even brilliant,” that would not be enough for the claimed abstract idea to be patent eligible. See *SAP America*, 2018 WL 2207254 at \*1.

It follows from prior Supreme Court cases, and *Bilski* (*Bilski v Kappos*, 561 U.S. 593 (2010)) in particular, that the claims at issue here are directed to an abstract idea. Like the risk hedging in *Bilski*, the concept of insurance is a fundamental economic practice long prevalent in our system of commerce. The use of insurance is also a building block of ingenuity in risk management. Thus, insurance, like hedging, is an “abstract idea” beyond the scope of §101. See *Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2356.

As in *Alice Corp. Pty. Ltd.*, we need not labor to delimit the precise contours of the “abstract ideas” category in this case. It is enough to recognize that there is no meaningful distinction in the level of abstraction between the concept of risk hedging in *Bilski* and the concept of insurance at issue here. Both are squarely within the realm of “abstract ideas” as the Court has used that term. See *Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2357.

Further, claims reciting nothing more than data collection, analysis, and display are directed to an abstract idea. *Elec. Power Grp. v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (holding that “collecting information, analyzing it, and displaying certain results of the collection and analysis” are “a familiar class of claims ‘directed to’ a patent ineligible concept”); *see also In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093-94 (Fed. Cir. 2016). Claim 39, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data retrieval, analysis, and generation and does not recite an improvement to a particular computer technology. *See, e.g., McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314-15 (Fed. Cir. 2016) (finding claims not abstract because they “focused on a specific asserted improvement in computer animation”). As such, claim 39 is directed to the abstract idea of receiving, analyzing, and generating data, and in general, automates processing an insurance application by using the computer as a tool rather than improving a process rooted in computer technology.

We agree with the Examiner’s finding that at step one of the *Alice* analysis, the claims are directed to one or more abstract ideas, we turn to the second step of the *Alice* analysis, in which we must determine whether the additional elements of the claims transform them into patent-eligible subject matter.

*Step Two: Whether Additional Elements Transform the Idea into Patent-Eligible Subject Matter*

The Examiner determines that “All of the [claimed] steps consist of human and mental steps aided by a computer. This is nonstatutory.” Final Action 5 (footnote omitted). The Examiner concludes, “All of the claimed computer components and functions - an interface, looping, underwriting processing, monitoring, forwarding information and employment of rules in an algorithm are ‘well understood, routine, conventional activities’ previously known to the industry.” Final Action 5. In the Answer, the Examiner maintains the determination that the claims do not amount to significantly more than a judicial exception, “Although a computer acts as the intermediary in the claimed method, the claims do no more than implement the abstract ideas recited *supra*. All of these computer functions are ‘well understood, routine, conventional activities’ previously known to the industry.” Answer 6.

Appellants contend, “Contrary to the Examiner's assertion, the claims *do* include additional elements that are sufficient to amount to significantly more than the judicial exception. Specifically, in maintaining the 101 rejection, the Examiner focuses on computer functions that are ‘well understood, routine, conventional activities’ previously known to the industry.” Reply Brief 2. Appellants, “respectfully submit that the ***ordered combination*** of the claim elements results in ***significantly more*** than an abstract idea.” Reply Brief 3. Appellants argue, “The Office Action is devoid of any evidence that *the combination of claim elements* are well-known, routine or conventional in the field.” Reply Brief 3 (emphasis added).

“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea [] on a generic computer.” *Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2359. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer to receive, analyze, modify, and generate data amounts to electronic data query and retrieval--one of the most basic functions of a computer. All of these computer functions are well-understood, routine, conventional activities previously known to the industry. *See Elec. Power Grp. v. Alstom S.A.*, *supra*. *See also In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1316 (Fed. Cir. 2011) (“Absent a possible narrower construction of the terms ‘processing,’ ‘receiving,’ and ‘storing,’ . . . those functions can be achieved by any general purpose computer without special programming”). In short, each step does no more than require a generic computer to perform generic computer functions. As to the data operated upon, “even if a process of collecting and analyzing information is ‘limited to particular content’ or a particular ‘source,’ that limitation does not make the collection and analysis other than abstract.” *SAP Am. Inc. v. InvestPic LLC*, 898 F.3d 1161, 1168 (Fed. Cir. 2018) (citation omitted).

Considered as an ordered combination, the computer components of Appellants’ system add nothing that is not already present when the steps are considered separately. The sequence of data reception-analysis-display is equally generic and conventional or otherwise held to be abstract. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction), *Inventor Holdings*,

Appeal 2017-009459  
Application 14/057,381

*LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (sequence of data retrieval, analysis, modification, generation, display, and transmission), *Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) (sequence of processing, routing, controlling, and monitoring). The ordering of the steps is therefore ordinary and conventional.

Accordingly, we are not persuaded the Examiner erred and sustain the Examiner's 35 U.S.C. §101 rejection of claims 39 and 44-57.

#### DECISION

The Examiner's 35 U.S.C. § 101 rejection of claims 39 and 44-57 is affirmed.

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). *See* 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED