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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* SRIKANTH MANDAVA<sup>1</sup>

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Appeal 2017-009642  
Application 12/476,854  
Technology Center 3600

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Before ANTON W. FETTING, BIBHU R. MOHANTY, and  
TARA L. HUTCHINGS, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellant seeks our review under 35 U.S.C. § 134(a) of the final rejection of claims 1, 4, 7, 8, 10–14 and 17–30 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.

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<sup>1</sup> The real party in interest is CA, Inc. (App. Br. 3)

## THE INVENTION

The Appellant's claimed invention is directed to a task assignment and alert system using a device capable of providing location information (Spec., para. 1). Claim 1, reproduced below with the italics added, is representative of the subject matter on appeal.

1. A computerized process comprising:  
*determining a series of locations* of a device based, at least in part, on data periodically received from the device, wherein the device is *associated with a first person*;  
*determining whether the device is moving away from a particular location* based, at least in part, on the determined series of locations;  
*automatically assigning a task* in an issue tracking system or a work flow management system *from the first person to a second person in response to determining that the device is moving away from the particular location* based, at least in part, on the determined series of locations; and  
*transmitting an alert to the second person based on automatically assigning the task to the second person* from the first person.

## THE REJECTIONS

The Examiner relies upon the following as evidence in support of the rejections:

Thompson et al.	US 2002/0029160 A1	Mar. 7, 2002
Olesen	US 6,366,216 B1	Apr. 2, 2002
Akhteruzzaman et al.	US 6,580,787 B1	June 17, 2003
Ingman	US 2003/0204431 A1	Oct. 30 2003
Krumm	US 2008/0032703 A1	Feb. 7, 2008
Kaji	US 2009/0201149 A1	Aug. 13, 2009
Ellis et al.	US 2010/0100464 A1	Apr. 22, 2010

The following rejections are before us for review:

1. Claims 1, 4, 7, 8, 10–14 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite.
2. Claims 1, 4, 7, 8, 11–14, 18–19 and 21–30 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.
3. Claims 1, 4, 11, 12, 18, 21, 22, and 26 are rejected under 35 U.S.C. § 103(a) as unpatentable over Krumm, Ingman, and Olesen.
4. Claims 7, 13, and 19 are rejected under 35 U.S.C. § 103(a) as unpatentable over Krumm, Ingman, Olesen, and Thompson.
5. Claims 8, 14, 23, 24, 27, and 29 are rejected under 35 U.S.C. § 103(a) as unpatentable over Krumm, Ingman, Olesen, and Kaji.
6. Claims 10, 17, and 20 are rejected under 35 U.S.C. § 103(a) as unpatentable over Krumm, Ingman, Olesen, and Akhteruzzaman.
7. Claims 25, 28, and 30 are rejected under 35 U.S.C. § 103(a) as unpatentable over Krumm, Ingman, Olesen, and Ellis.

#### FINDINGS OF FACT

We have determined that the findings of fact in the Analysis section below are supported at least by a preponderance of the evidence<sup>2</sup>.

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<sup>2</sup> See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

## ANALYSIS

### *Rejection under 35 U.S.C. § 112, second paragraph*

The Examiner has determined that in claims 1–10, 21, 24, and 25 that the phrase “computerized process” is indefinite for failing to set the metes and bounds of the particular manner in which the computer is used to implement the claimed method (Ans. 3, Final Act. 3).

The Appellant argues that this rejection is improper (App. Br. 6).

We agree with the Appellant. Here, the term “computerized process” does not render the claim indefinite as it is understood what is being claimed and breadth does not mean indefiniteness. For these reasons, this rejection is not sustained.

### *Rejection under 35 U.S.C. § 101*

The Appellant argues that the rejection of claim 1 is improper because the claim is not directed to an abstract idea (App. Br. 6–9). The Appellant argues that in contrast the claim recites a “series of defined, ordered operations to an identified improvement in the capabilities of an issue tracking system or workflow management” (App. Br. 9).

In contrast, the Examiner has determined that the rejection of record is proper (Final Act. 3–6; Ans. 4–9).

We agree with the Examiner. An invention is patent eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g., Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 219 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk.”); *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk . . .”).

Concepts determined to be abstract ideas, and thus patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 192 (1981)); “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1854))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber

products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract. . . is not accorded the protection of our patent laws, and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (internal citation omitted) (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

The PTO recently published revised guidance on the application of § 101. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Guidance”). Under the Guidance, we first look to whether the claim recites:

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)).

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look to whether the claim:

- (3) adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or
- (4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

*See* Guidance.

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ““inventive

concept” sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (citation omitted). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (alterations in original) (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation [] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

Here, the Examiner has determined that the claim is directed to the concept of using location-based rules to process a task assignment, which is a method of organizing human activities and, therefore, an abstract idea (Final Act. 4). We substantially agree with the Examiner in this regard as claim 1 is directed to the steps italicized in the claim above. Here, for example, the claimed limitations for “determining a series of locations . . . associated with a first person”; “determining whether . . . moving away from a particular location”; “automatically assigning a task . . . from the first person to a second person in response to determining that the device is moving away from the particular location”; and “transmitting an alert to the second person based on automatically assigning the task to the second person” are steps directed to tracking locations of persons and using that data to assign tasks. Here, these claimed limitations are drawn to a method of organizing human activities, which is an abstract idea and judicial exception. Here, the claim is directed to the same concept of a manager assigning a task to a second person after determining that the first person has left the work location, which is a method of organizing human activities and an abstract concept. *See Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016) (collecting information, analyzing it, and displaying

results from certain results of the collection and analysis was held to be an abstract idea). Thus, we consider the claim to be directed to an abstract idea as identified above.

Turning to the next step of the *Alice* and *Mayo* framework, we determine that the claim does not contain an inventive concept sufficient to “transform” the abstract nature of the claim into a patent-eligible application. The claims do not improve computer functionality, improve another field or technology, utilize a particular machine, or effect a physical transformation. Rather, we determine that nothing in the claims imposes a meaningful limit on the judicial exception, such that the claims are more than a drafting effort to monopolize the judicial exception.

For example, in claim 1 the steps of [1] “determining a series of locations of a device”; [2] “determining whether the device is moving away from a particular location”; [3] “automatically assigning a task”; and [4] “transmitting an alert” are merely conventional steps performed by a generic computer that do not improve computer functionality. That is, these recited steps [1]–[4] “do not purport to improve the functioning of the computer itself,” but are merely generic functions performed by a conventional processor. Likewise, these same steps [1]–[4] listed above do not improve the technology of the technical field and merely use generic computer components and functions to perform the steps. Also, the recited method steps [1]–[4] above do not require a “particular machine” and can be utilized with a general purpose computer, and the steps performed are purely conventional. In this case the general purpose computer is merely an object on which the method operates in a conventional manner and does not provide “significantly more” to the claim beyond a nominal or insignificant

execution of the method. Further, the claim as a whole fails to effect any particular transformation of an article to a different state in a manner that would render the claim “significantly more” than the abstract idea. The recited steps [1]–[4] fail to provide meaningful limitations to limit the judicial exception and rather are mere instructions to apply the method to a generic computer. Considering the elements of the claim both individually and as “an ordered combination” the functions performed by the computer system at each step of the process are purely conventional. Each step of the claimed method does no more than require a generic computer to perform a generic computer function.

Further the claim fails to add a specific limitation beyond the judicial exception that is not well-understood, routine, and conventional in the field. Rather the claim uses well-understood, routine, and conventional activities previously known in the art at a high level of generality to the judicial exception. The Specification at paragraph 8 for example describes using conventional computer components such machine readable medium such as ROM, RAM, magnetic disks, optical storage media, and flash memory which are all conventional computer components. The claim specifically includes a recitations for a “computerized process” to implement the method in the preamble but the claimed functions are all used in a manner that is well-understood, routine, and conventional in the field. The Appellant has not shown these claimed generic computer functions which are used to implement the claimed method are not well understood, routine, or conventional in the field. The Appellant has not demonstrated that the components and functions described in the Specification or the claim for instance are not a general purpose computer components beyond those

known to be routine and conventional known to perform similar functions in a well-understood manner. Thus, the claimed elements fail to “transform” the abstract nature of the claim.

The Appellant at page 7 of the Appeal Brief has also cited to *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016) to show that the claim is not abstract, but the claims in that case were not similar in scope to those here, and were in contrast directed to a self-referential data table.

The Appellant at page 9 of the Appeal Brief has also cited to *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016), but the claims in that case are distinguished from this case in being directed to rules for lip sync and facial expression animation.

For these above reasons the rejection of claim 1 is sustained. Similar arguments have been presented for the remaining claims, which are drawn to similar subject matter, and the rejection of these claims is sustained as well.

*Rejection under 35 U.S.C. § 103(a)*

The Appellant argues that the rejection of claim 1 is improper because the cited prior art fails to disclose the claim limitation requiring:

determining whether the device is moving away from a particular location based, at least in part, on the determined series of locations;

automatically assigning a task in an issue tracking system or a work flow management system from the first person to a second person in response to determining that the device is moving away from the particular location

(App. Br. 10).

In contrast, the Examiner has determined that cited claim limitations are shown by the combination of Krumm at paras. 31–33 and 59–61; Olesen

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at the Abstract, col. 1, lines 19–21, lines 45–49, col. 2 , lines 19–21, 24–38, col. 3, lines 8, 64–65; and Ingman at paras. 7, 28, 52, and 71, and Figures 2, and 6–10 (Ans. 10–12).

We agree with the Examiner. Krumm at para. 31 for instance discloses using a device to track user location. Ingman at paras. 7 and 28 discloses assigning a task to a worker based on matching algorithms. Ingram at para. 75 also discloses task assignment location being considered in making assignments. Olesen in the abstract discloses detection of the direction of each transponder. Thus, the cited claim limitations have been shown by the cited prior art. For these reasons, the rejection of claim 1 under this grounds is sustained. The Appellant has presented the same arguments for the remaining claims and these rejections are sustained as well.

#### CONCLUSIONS OF LAW

We conclude that Appellant has shown that the Examiner erred in rejecting claims 1, 4, 7, 8, 10–14 under 35 U.S.C. § 112, second paragraph as being indefinite.

We conclude that Appellant has not shown that the Examiner erred in rejecting claims 1, 4, 7, 8, 11–14, 18–19 and 21–30 under 35 U.S.C. § 101 as being directed to non-statutory subject matter

We conclude that Appellant has not shown that the Examiner erred in rejecting claims under 35 U.S.C. § 103(a) as listed in the Rejections section above.

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DECISION

The Examiner's rejection of claims 1, 4, 7, 8, 10–14 and 17–30 is sustained.

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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED