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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KAREN LOUISE CERVENKA,
MARY THERESA TAYLOR, and GWEN DIANE MA¹

Appeal 2017-009926
Application 14/577,261
Technology Center 3600

Before: CHARLES N. GREENHUT, BENJAMIN D. M. WOOD, and
JEREMY M. PLENZLER, *Administrative Patent Judges*.

WOOD, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ Appellants state that the real party in interest is Visa USA, Inc. App. Br. 2.

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a rejection of claims 1–31. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

THE INVENTION

The claims are directed to methods and systems for processing coupons over a computer network. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method, comprising:

providing a computing device including a transaction handler configured in an electronic payment processing network that connects separate computers in the network, including:

point of service terminals configured to initiate transactions of payments in the electronic payment network using account identification information, the transaction handler configured to process the transactions of payments communicated in the electronic payment processing network, computers controlling first accounts out of which the payments are made in the electronic payment processing network, computers controlling second accounts hosting benefits of offers, and computers controlling third accounts in which the payments are received via the electronic payment processing network;

receiving, by the transaction handler in the electronic payment processing network from a point of service terminal of a merchant, a first request message identifying a consumer account of a consumer and requesting authorization of a payment transaction between the consumer and the merchant for a purchase from the merchant;

sending, from the transaction handler via the electronic payment processing network to a computer of an issuer of the consumer account, a second request message requesting authorization of the payment transaction by the issuer of the consumer account;

sending, from the transaction handler via the electronic payment processing network to a computer of an issuer of a sponsor account of a benefit of an offer, a third request message requesting authorization of the benefit of the offer to be used with the purchase from the merchant;

receiving, in the transaction handler via the electronic payment processing network from the computer of the issuer of the sponsor account as a response to the third request message to the issuer of the sponsor account, a first response message authorizing the benefit of the offer to be used with the purchase from the merchant;

receiving, in the transaction handler via the electronic payment processing network from the computer of the issuer of the consumer account as a response to the second request message to the issuer of the consumer account, a second response message authorizing the payment transaction in the consumer account for the purchase with which the benefit of the offer is to be used; and

communicating, from the transaction handler via the electronic payment processing network, authorization data to the point of service terminal of the merchant for the purchase, in accordance with the first response message authorizing the benefit of the offer to be used with the purchase from the merchant and the second response message authorizing the payment transaction in the consumer account for the purchase with which the benefit of the offer is to be used.

REJECTION

Claims 1–31 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

ANALYSIS

Based on Appellants’ arguments (App. Br. 4–17), we will decide the appeal on the basis of representative claim 1. 37 C.F.R. § 41.37(c)(1)(iv).

Having considered all of Appellants’ arguments and any evidence presented, we are not persuaded that the Examiner erred in rejecting claims 1–31 as directed to patent-ineligible subject matter. We address specific arguments for emphasis in our analysis below.

To determine whether a claim falls within a judicially recognized exception to patent eligibility under 35 U.S.C. § 101, we apply the two-step framework set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012), and reaffirmed in *Alice Corporation Proprietary LTD. v. CLS Bank International*, 134 S. Ct. 2347, 2355 (2014). For the first step, we determine whether the claims at issue are directed to a patent-ineligible concept such as an abstract idea, law of nature, or natural phenomenon. *Alice*, 134 S. Ct. at 2355 (citing *Mayo*, 566 U.S. at 78–79). If so, we advance to the second step where “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” of the otherwise patent-ineligible concept. *Id.* (quoting *Mayo*, 566 U.S. 78–79). The Court has described this second step “as a 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*, 566 U.S. at 72–73 (internal quotation marks and alterations omitted)).

Alice—Step One

The Examiner finds that the steps of claim 1 “are concepts relating to interpersonal and intrapersonal activities, such as managing relationships or transactions between people, social activities, and human behavior; satisfying or avoiding a legal obligation; advertising, marketing, and sales activities or behaviors; and managing human activity which fall under the abstract idea of organizing human activity.” Final Act. 6. The Examiner concludes that claim 1 “is directed to an abstract idea because it combines the concepts of organizing human activity, fundamental economic practice and an idea of itself which individually and in combination are held to be an abstract idea.” *Id.* at 7. The Examiner also finds that the method of claim 1 “has similarities to [*buySAFE, Inc., v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014)] since there are transmitted request-messages and based on transmitted response-messages directed to said transmitted request-messages, wherein said response-messages authorizes ‘a benefit of an offer’ with said sales transaction, said benefit of said offer is applied to said sales transaction at the point of service terminal.” Ans. 3–4.

Appellants dispute that claim is directed to an abstract idea. Appellants assert that the Examiner considered an oversimplified version of claim 1 from which “the sources, destinations, and/or communication paths of the messages are removed.” App. Br. 6–7. Appellants contend that removing “the identifications of the sources, destinations and /or paths of the respective messages . . . significantly alters the nature of the subject matter.” *Id.* at 8.

We agree with the Examiner that claim 1 is directed to an abstract idea. First, we agree that claim 1 is similar to the claims at issue in *buySAFE*, which the Federal Circuit held were directed to abstract ideas. Here, claim 1 is directed to facilitating a commercial transaction by processing “a benefit of an offer” (i.e., a coupon) and “a payment transaction between [a] consumer and [a] merchant” over a computer network. App. Br. 18–19 (Claims App.); *see* Spec. ¶ 2 (describing the invention as related to a “discount” on “a transaction between a merchant and a consumer, and particularly to a “coupon” presented by the consumer to the merchant to obtain the discount). As Appellants characterize claim 1, “the coupons are configured to be processed in the electronic payment processing network to reimburse a merchant in a way similar . . . to the processing of payments made using payment cards.” App. Br. 2 (citing Spec. ¶ 39, Fig. 3). This is similar to claim 1 in *buySAFE*, which also recited sending and receiving communications over a computer network to facilitate online commercial transactions. *buySAFE*, 765 F.3d at 1351–52. The court determined that “[t]he claims are squarely about creating a contractual relationship,” and because contractual relations are “intangible entities” and “a fundamental economic practice,” the claims were directed to an abstract idea. *Id.* at 1354-55. Claim 1 is also not unlike the claims at issue in *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372 (2017), which were directed to “local processing of payments for remotely purchased goods,” which were also held to be directed to an abstract idea. *Id.* at 1374 (internal quotation marks and citation omitted). Claim 1 thus recites “the type of fundamental business practice that, when implemented using generic computer

technology, is not patent-eligible under *Alice*.” *Id.* at 1378 (citing *Alice*, 134 S. Ct. at 2355).

We are also not persuaded that the Examiner considered an oversimplified version of claim 1. The limitations that Appellants allege the Examiner “removed” from the claim identify the senders and recipients of messages and responses sent over the computer network. App. Br. 8. Appellants allege that “[r]emoving the identifications of the sources, destinations and/or paths of messages involved in the operations receiving sending and communicating significantly alters the nature of the subject matter.” *Id.* But Appellants do not explain how the precise senders and recipients of online communications makes a process using online communications any less abstract. More importantly, the Examiner did recognize that the claims were “directed to ‘a transaction between a merchant and a consumer’” (Ans. 4 (quoting Spec. ¶ 2)), and “represent[] a contractual relationship” (*id.*), which, as discussed above, are recognized as abstract ideas.

In sum, we are not persuaded that the Examiner erred in determining that claim 1 is directed to an abstract idea.

Alice—Step Two

The Examiner finds that the “additional elements” of claim 1—a “computing device,” “transaction handler,” “electronic payment processing network,” “point of service terminals,” etc.—are insufficient to amount to significantly more than the abstract idea “because the additional elements are well-understood, routine and conventional activities previously known to the industry.” Final Act. 8. Appellants respond that the claimed “improved coupon processing system” is “deeply rooted in computer-related

technology” because it “authorizes the reimbursement of the coupon discounts to the merchants using a process that is entirely different from the traditional process for coupon processing.” App. Br. 9.

“For the role of a computer in a computer-implemented invention to be deemed meaningful in the context of this analysis, it must involve more than performance of ‘well-understood, routine, [and] conventional activities previously known to the industry.’” *Content Extraction and Transmission LLC v. Wells Argo Bank, N.A.*, 776 F.3d 1343, 1347–48 (Fed. Cir. 2014) (quoting *Alice*, 134 S. Ct. at 2359). The Federal Circuit recently held that “[w]hether something is well-understood, routine, and conventional to a skilled artisan at the time of the patent is a factual determination.”

Berkheimer v. HP Inc., 881 F.3d 1360, 1369 (Fed. Cir. 2018). Similar to the claims at issue in *buySAFE*, discussed above in connection with our analysis of step 1, claim 1 involves nothing more than generic computer functionality related to sending information between the parties involved and authorizing a transaction. See *buySAFE*, 765 F.3d at 1355. Appellants’ contention that the claimed process is “entirely different” than the traditional process, even if true, does not address the Examiner’s finding that the claimed process uses computer technology in a conventional and well-understood manner. Thus, we are not persuaded that the Examiner erred in finding that the claim elements, considered alone or in combination, do not add “significantly more” to the abstract idea to which claim 1 is directed.

DECISION

For the above reasons, the Examiner’s rejection of claims 1–31 is affirmed.

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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