



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.
14/012,410	08/28/2013	Nir PLATEK	Q206263	1046

23373 7590 12/25/2018
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

GARG, YOGESH C

ART UNIT	PAPER NUMBER
----------	--------------

3625

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

12/25/2018

ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PPROCESSING@SUGHRUE.COM
sughrue@sughrue.com
USPTO@sughrue.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NIR PLATEK

Appeal 2017-010089¹
Application 14/012,410
Technology Center 3600

Before TERRENCE W. McMILLIN, KARA L. SZPONDOWSKI, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

McMILLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the final rejection of claims 32–42. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

THE CLAIMED INVENTION

The present invention relates generally to “improved computerized systems and methodologies for sales of products.” Spec. ¶ 4. Independent claim 32 is directed to a computerized system for sale of non pre-catalogued products having non pre-catalogued parameters. Br. 13.

Claim 32, reproduced below, is representative of the claimed subject matter:

¹ According to Appellant, the real party in interest is Elady Ltd. Br. 2.

32. A computerized system for sale of non pre-catalogued products having non pre-catalogued parameters, the system comprising:

a non pre-catalogued product database including:

a product parameter table including selectable parameters; and

a product parameter value table including selectable values corresponding to said parameters;

at least one server computer connected to said non pre-catalogued product database, said at least one server computer including:

a non pre-catalogued product listing engine configured to prompt a listing seller to select in a structured manner at least one of said parameters relating to a product to be listed and to select at least one of said values corresponding to said selected parameters and to store selected ones of said parameters and selected ones of said values corresponding to said selected parameters in said non pre-catalogued-product database to create a listed product; and

a non pre-catalogued product description engine configured to provide for each said listed product, human-readable descriptions of said selected non pre-catalogued parameters and corresponding selected non pre-catalogued values, said human readable descriptions corresponding to selections of said non pre-catalogued parameters and values made by said listing seller; and

a display providing to a customer, different from the listing seller, said human readable descriptions of said listed product in response to a customer query.

REJECTIONS ON APPEAL

Claims 32–42 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to a judicial exception without significantly more. Final Act. 6.

Claims 32–42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Amazon.com, Inc. (WO 03/038560 A2; published May 8, 2003) (“Amazon”). Final Act. 9.

ANALYSIS

35 U.S.C. § 101 Rejection

Alice Corp. Pty. Ltd. v. CLS Bank Int’l, 134 S. Ct. 2347 (2014) identifies a two-step framework for determining whether claimed subject matter is judicially-excepted from patent eligibility under 35 U.S.C. § 101. In the first step, “[w]e must first determine whether the claims at issue are directed to a patent-ineligible concept.” *Alice*, 134 S. Ct. at 2355. In the second step of *Alice*, 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.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 79, 78 (2012)). 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.* (quoting *Mayo*, 566 U.S. at 72–73).

The Examiner concludes the claims are directed to an abstract idea of managing seller listings for items for sale by prompting them to select one or more parameters and to enter

values against the selected parameters and other relevant description related to the items listed for sale and presenting them to buyer which is “an idea itself” involving mental/human activity related to commercial practices and solutions which have been recognized as abstract idea by the courts.

Final Act. 7; *see* Final Act. 8; *see* Ans. 3–4. Appellant does not rebut the Examiner’s determination that the claims are directed to an abstract idea.

Appellant contends the claim elements amount to significantly more than the abstract idea. *See* Br. 11. Specifically, Appellant argues the claimed invention recites “a system that assists a user in generating a product listing for a non pre-catalogued product,” and is drawn to “technological solutions to technical problems arising from the use of computer,” similar to *Amdocs (Israel) Limited v. Openet Telecom, Inc.*, 841 F.3d 1288 (Fed. Cir. 2016). Br. 11. According to Appellant, the claimed invention is “specifically designed to solve a specific problem – of how to describe a non pre-catalogued product – that arises from the use of interconnected computers in communicating information from one user to another user.” Br. 11.

We are not persuaded by Appellant’s arguments of Examiner error. We agree with the Examiner’s finding and conclusion that the claimed invention does not “recite any specific and particular computing device limited to improvement in a computer or computer network,” or any other “technical solutions in a computer-related technology by allowing computer performance of a function not previously performable by a computer.” Ans. 5.

In *Amdocs*, our reviewing court found an ineligible abstract idea under step one of the *Alice* analysis can still be eligible under step two because it contains “a sufficient ‘inventive concept’” because the claim entailed “an

unconventional technological solution (enhancing data in a distributed fashion) to a technological problem (massive record flows which previously required massive databases)” and the requirement of generic components was such that “these generic components operate in an unconventional manner to achieve an improvement in computer functionality.” *Amdocs*, 841 F.3d at 1300–01. We agree with the Examiner that the present claims, unlike those in *Amdocs*, are

not directed to any improvement/solution in a technical field but instead directed to an abstract idea of providing business solution related to helping a seller listing for items for sale in a catalog format and using generic computers as merely tools for implementing an abstract idea without reciting “significantly more.”

Ans. 5.

Appellant has not responded to the Examiner’s determination that the present claimed invention uses generic computers (i.e., the claimed computerized system comprising a product database, a server with engines to prompt user input of product descriptions, and a display) to provide a *business* solution to help a seller list items for sale in a catalog rather than a technological solution to a technological problem.

Accordingly, we sustain the Examiner’s 35 U.S.C. § 101 rejection of independent claim 32, as well as dependent claims 33–42, not separately argued.

35 U.S.C. § 102(b) Rejection

Claim 32 recites “a non pre-catalogued product listing engine” and “a non pre-catalogued product description engine.”

Appellant contends Amazon's "computerized system for sale of **pre-catalogued products**" does not teach or suggest "a computerized system for sale of **non pre-catalogued products** or a non pre-catalogued product database." Br. 8. According to Appellant, Amazon's description of a browsable detail page for a product, and the seller fully identifying the product to be listed by browsing the detail page, as well as the lack of need for the seller to supply a detailed product description, does "not show or suggest either a non pre-catalogued product database, a non pre-catalogued product listing engine or a non pre-catalogued product description engine." Br. 9.

We are not persuaded of Examiner error. Specifically, we agree with the Examiner's finding that Amazon's listing seller being prompted to select parameters with a corresponding value such as "[U]sed---Like New" and the value being stored for displaying to a customer describes the claimed "non pre-catalogued product listing engine," and Amazon's prompting a seller to enter a human readable description corresponding to selecting parameters and values such as "got this gift 3 months ago" or "Dust cover missing" describes the claimed "non pre-catalogued product description engine." Final Act. 10 (citing Amazon Fig. 3C, 3D).

The claims do not provide any limiting definition for "non pre-catalogued products having non pre-catalogued parameters," "a non pre-catalogued product listing engine," or "a non pre-catalogued product description engine." Appellant's Specification provides examples describing "the non pre-catalogued parameters, which are not available in existing catalogs, including, inter alia, the non-inherent parameters relating, for example to the current condition of the product, for how many years it

has been in use and the presence of scratches, dents or other defects.” Spec. ¶ 37. The claimed “non pre-catalogued products” and “non pre-catalogued parameters,” and associated “non pre-catalogued product listing engine” and “non pre-catalogued product description engine,” in light of the Specification, encompasses products with parameters including current condition of the product.

Amazon describes the “condition page 330 restates the product to be listed for sale, and prompts the seller to select from a list 345 of predefined product condition descriptors,” and the “comment 352 may be used to further specify the item’s condition.” Amazon 21, ll. 10–12, 22–23. In other words, as found by the Examiner, Amazon’s parameters including “the current condition of the product, for how many years it has been in use and the presence of scratches, dents or other defects” describes non pre-catalogued parameters as defined in Appellant’s Specification. Ans. 6–7 (emphasis omitted).

Appellant has not provided persuasive evidence or argument that the claimed non pre-catalogued products and parameters, encompassing products with parameters including the current condition of the product, is not described by Amazon’s products with parameters including the current condition of the product.

Accordingly, we sustain the 35 U.S.C. § 102(b) rejection of independent claim 32, as well as dependent claims 33–42, not separately argued.

Appeal 2017-010089
Application 14/012,410

DECISION

The Examiner's rejection of claims 32–42 under 35 U.S.C. § 101 is affirmed.

The Examiner's rejection of claims 32–42 under 35 U.S.C. § 102(b) 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)(iv).

AFFIRMED