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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* RONALDO BITTENCOURT CIRIHAL

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Appeal 2017-010856  
Application 14/062,126  
Technology Center 3600

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Before ALLEN R. MacDONALD, JASON V. MORGAN, and  
MICHAEL M. BARRY, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from a final rejection of claims 1–20, which are all of the pending claims. Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b). We REVERSE.

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<sup>1</sup> Appellant indicates the real party in interest is American Axle & Manufacturing, Inc. App. Br. 2.

*Illustrative Claim*

Illustrative claim 1 under appeal read as follows (emphasis, formatting, and bracketed materials added):

1. A computer-implemented purchased part order data management system, comprising:

- [A.] a database management computer hosting a purchased part order database;
- [B.] an automated data collection and review computer having a purchased part order data (PPOD) repository and having a computer-implemented messaging system including a message routing data structure;
- [C.] the automated data collection and review computer being coupled to said database management computer to support data transfer from the automated data collection and review computer to the database management computer through an iterative validating interface that ***automatically tests data*** transferred to the database management computer ***for conformance*** and that uses the messaging system to issue prompts ***requesting correction when data*** transferred to the database management computer ***is nonconforming*** based on the automatic testing by the iterative validating interface;
- [D.] the automated data collection and review computer having an interface supporting interaction with the data repository and with the messaging system by a PPOD creating user and by a plurality of different PPOD reviewing users;
- [E.] the messaging system having populated in said message routing data structure the identity of different PPOD reviewing users according to a predefined reviewing sequence;

- [F.] the messaging system automatically monitoring interaction by said PPOD creating user and by said PPOD reviewing users and issuing prompts to PPOD reviewing users based on the predefined reviewing sequence, the prompts to PPOD reviewing users including referential link to a record in the PPOD repository;
- [G.] the messaging system automatically issuing a prompt to said database management computer to *ingest information based on the PPOD data subject to having been found conforming* by the iterative validating interface when, based on the predefined reviewing sequence, all pending reviews have been completed with approval.

*References<sup>2</sup>*

Gil et al.	US 2002/0188486 A1	Dec. 12, 2002
Ren	US 2011/0258083 A1	Oct. 20, 2011

*Rejections<sup>3</sup>*

A.

The Examiner rejects claims 1–20 under 35 U.S.C. § 101 because “the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without amounting to significantly more than the abstract idea itself,” that is, because the subject matter of the claimed invention is patent-ineligible. Final Act. 6–13.

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<sup>2</sup> All citations herein to these references are by reference to the first named inventor only.

<sup>3</sup> All citations herein to the “Final Act.” are to a Final Office Action mailed on October 21, 2016.

As to this rejection, our decision as to the § 101 rejection of claim 1 is determinative as to the § 101 rejection of all the claims. Therefore, except for our ultimate decision, we do not discuss further herein the § 101 rejection of claims 2–20.

B.

The Examiner rejects claims 1–20 under 35 U.S.C. § 103 as being unpatentable over the combination of Ren and Gil. Final Act. 13–37.

As to this rejection, our decision as to the § 103 rejection of claim 1 is determinative as to the § 103 rejection of all the claims. Therefore, except for our ultimate decision, we do not discuss further herein the § 103 rejection of claims 2–20.

*Issues on Appeal*

Has the Examiner erred in rejecting claim 1 as being directed to patent-ineligible subject matter?

Has the Examiner erred in rejecting claim 1 as being obvious?

ANALYSIS<sup>4</sup>

*A. Section 101*

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

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<sup>4</sup> Any Manual of Patent Examining Procedure (MPEP) citations herein are to MPEP Rev. 08.2017, January 2018.

ideas” are not patentable. *E.g.*, *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014) (internal quotation marks and citation omitted).

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, 191 (1981)); “tanning, dyeing, making water-proof 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.* (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.”).

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 (internal 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.*

#### B. *USPTO Section 101 Guidance*

The United States Patent and Trademark Office (USPTO) recently published revised guidance on the application of § 101. USPTO’s January 7, 2019 Memorandum, *2019 Revised Patent Subject Matter Eligibility*

*Guidance*, 84 Fed. Reg. 50 (“Memorandum”). Under that guidance, we first look to whether the claim recites:

- (1) (*see* Memorandum Step 2A – Prong One) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human interactions such as a fundamental economic practice, or mental processes); and
- (2) (*see* Memorandum Step 2A – Prong Two) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)).<sup>5</sup>

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 (*see* Memorandum Step 2B):

- (3) adds a specific limitation beyond the judicial exception that are 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* Memorandum.

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<sup>5</sup> We acknowledge that some of these considerations may be properly evaluated under Step 2 of *Alice* (Step 2B of Office guidance). Solely for purposes of maintaining consistent treatment within the Office, we evaluate it under Step 1 of *Alice* (Step 2A of Office guidance). *See* USPTO’s January 7, 2019 Memorandum, “2019 Revised Patent Subject Matter Eligibility Guidance.”

*C. Requirement to Provide Sufficient Articulated Reasoning*

The requirement that the Examiner must provide a proper notice of rejection is set forth by 35 U.S.C. § 132:

Whenever, on examination, any claim for a patent is rejected, . . . the Director shall notify the applicant thereof, stating the reasons for such rejection . . . together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application.

The Federal Circuit has held that the Office carries its procedural burden when its rejection satisfies the requirements of 35 U.S.C. § 132 by notifying the applicant of the reasons for rejection, “together with such information and references as may be useful in judging of the propriety of continuing the prosecution of [the] application.” *See In re Jung*, 637 F.3d 1356, 1362 (Fed. Cir. 2011) (brackets in original (quoting 35 U.S.C. § 132)).

Put simply, the Office is required to set forth the statutory basis of the rejection in a sufficiently articulate and informative manner as to meet the notice requirement of § 132. *See Jung*, 637 F.3d at 1362; *Chester v. Miller*, 906 F.2d 1574, 1578 (Fed. Cir. 1990) (noting that § 132 “is violated when a rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection”).

*D. Examiner’s § 101 Rejection - Alice/Mayo - Step 1  
Memorandum Step 2A – Prong One*

Applying step 1 of the *Alice/Mayo* analysis, the Examiner concludes claim 1 is directed to an abstract idea.

When considered by themselves, Examiner characterizes the independent claims as ***a process and machine for processing and storing purchased part order data governed by established rules and structured message dictation for a plurality of users.*** Reduced to its core concept, Examiner characterizes the

invention as a process and machine for selectively forwarding data via a centralized server.

Final Act. 8 (emphasis added). The Examiner cites *Bilski* and *Dealertrack*<sup>6</sup> to establish Appellant’s invention is “akin” to the “methods of organizing human activity,” i.e., inventions the courts have found to be an abstract idea. Final Act. 8–10.

Examiner finds Applicant’s invention incurs the rationale employed by the Federal Circuit Court in *Dealertrack*, wherein the “basic concept of processing information through a clearinghouse was found to be an abstract idea, similar to *Bilski*’s basic concept of hedging” [*Id.*].

Final Act. 9.

E. *Appellant’s § 101 Arguments*<sup>7</sup>

Appellant contends “the Examiner has improperly applied the first stage of the Mayo/Alice framework by improperly assessing what the claims are *directed to*.” App. Br. 17. Appellant particularly contends:

Instead of giving proper consideration to the claim language as a whole, the Examiner has simply jumped to the unsupported conclusion that the claims are directed to “organizing human activity”—without providing any claim-focused rationale.

App. Br. 17–18.

Appellant’s claimed invention provides an improved computer data management system, not a method of organizing human activity using a generic computing environment.

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<sup>6</sup> *Dealertrack, Inc. v. Huber*, 674 F.3d 1315 (Fed. Cir. 2012).

<sup>7</sup> The contentions we discuss herein are determinative as to the § 101 rejection on appeal. Therefore, we do not discuss Appellant’s other § 101 contentions herein.

When Appellant’s claims are properly assessed, . . . those claims are clearly *directed to* improvements in which a computer data management system that interfaces the automated data collection and review computer with the database management computer using an iterative validating interface and a messaging system that causes the database management computer to ingest data when it has been determined to be conforming by the iterative validating interface. ***This is not an abstract idea.***

App. Br. 20 (emphasis modified).

F. *Panel’s § 101 Analysis*

We agree with Appellant’s argument. We conclude that when evaluated under the Memorandum, the claim limitations of claim 1 do not recite a method of organizing human activity. Therefore, we conclude claim 1 is does not recite a judicial exception in the form of one of the three abstract ideas enumerated in the Memorandum. We do not sustain the rejection under 35 U.S.C. § 101 of claim 1.

G. *Appellant’s § 103 Arguments*<sup>8</sup>

Appellant contends the Examiner erred in rejecting claim 1 because Ren and Gil do not support a prima facie case of obviousness under 35 U.S.C. § 103. App. Br. 24. Appellant particularly contends:

Gil lacks at least [] the following element[] of Appellant’s claims needed for a *prima facie* case:

- “an iterative validating interface that ***automatically tests data*** transferred to the database management computer ***for conformance*** and that uses the messaging system to issue prompts ***requesting correction when data*** transferred to the database management computer ***is nonconforming*** based on the automatic testing by the iterative validating interface.”

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<sup>8</sup> The contentions we discuss are determinative as to the § 103 rejection on appeal, so we do not discuss Appellant’s other § 103 contentions herein.

App. Br. 25 (emphasis added).

H. *Panel's § 103 Analysis*

In rejecting claim 1 under § 103, the Examiner determined:

Ren teaches . . . requesting correction when data transferred to the database management computer is nonconforming based on the automatic testing.

Final Act. 13–15 (emphasis omitted).

We conclude, after reviewing the Examiner's rejection (including reviewing the Examiner cited (Final Act. 15–17) portions of Ren related to the disputed limitation (Abstract, paragraphs 109 and 114, and Figs. 2, 4M, 4Q, 5CL, 5L, 22, and 24)) and consistent with Appellant's above argument as to claim 1, there is insufficient articulated reasoning to support the Examiner's findings that Ren discloses the argued limitations. We do not find in the Examiner cited portion of Ren the conformance testing and correction required by Appellant's claim 1. Therefore, we conclude that there is insufficient articulated reasoning to support the Examiner's conclusion that claim 1 is rendered obvious by Ren and Gil based on the Examiner's articulated reasoning.

CONCLUSIONS

(1) Appellant has established that the Examiner erred in rejecting claims 1–20 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter.

(2) Appellant has established that the Examiner erred in rejecting claims 1–20 as being unpatentable under 35 U.S.C. § 103.

(3) Claims 1–20 have not been shown to be unpatentable.

Appeal 2017-010856  
Application 14/062,126

DECISION

The Examiner's rejection of claims 1–20 under 35 U.S.C. § 101, as being directed to patent-ineligible subject matter is **reversed**.

The Examiner's rejection of claims 1–20 as being unpatentable under 35 U.S.C. § 103 is **reversed**.

REVERSED