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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex Parte* STEPHEN NICHOLAS LEKAS

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Appeal 2017-011099  
Application 14/331,097  
Technology Center 3600

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Before JAMES R. HUGHES, CATHERINE SHIANG, and  
BETH Z. SHAW, *Administrative Patent Judges*.

SHAW, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

Appellant<sup>2</sup> seeks our review under 35 U.S.C. § 134(a) of the Examiner’s final rejection of claims 1–7, 9, 14–22, and 24, which represent all the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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<sup>1</sup> Throughout this Decision we have considered the Appeal Brief filed May 4, 2017 (“App. Br.”), Reply Brief filed August 25, 2017 (“Reply Br.”), the Examiner’s Answer mailed June 28, 2017 (“Ans.”), and the Final Rejection mailed July 6, 2016 (“Final Act.”).

<sup>2</sup> Appellant identifies Esurance Property and Casualty Insurance Co. as the real parties in interest. App. Br. 2.

## INVENTION

Appellant's invention is directed to a method for remotely inspecting an insurable area, over a network, using a camera on a mobile device and having a server analyze the video image items captured by the camera to provide an insurance decision. Spec. ¶ 4.

Claim 1 is illustrative of the claims at issue and is reproduced below:

1. A method for facilitating a virtual inspection of an insurable area, the method comprising:
  - receiving, at a remote server, an indication of a request selected via a first graphical user interface presented at a user mobile device including a downloaded application, the indication received from a user at the user mobile device including the downloaded application configured to
    - perform the virtual inspection of the insurable area;
    - determining, at the remote server, one or more information items needed for making an insurance decision with respect to the insurable area, the one or more information items comprising information for at least two rooms associated with the insurable area;
    - when a live agent is available, then providing, by the remote server, a live communication session via a first wireless channel between the live agent coupled to the remote server and the user via the user mobile device, the live communication session comprising communicated instructions from the live agent to the user for capturing, by a camera at the user mobile device, one or more video image items for the at least two rooms based on the determined one or more information items;
    - when a live agent is not available, then providing, by the remote server, a set of visual instructions to the user mobile device via a second wireless channel, the set of visual instructions triggering, at the user mobile device including the downloaded application, display for the user a second graphical user interface presenting the set of visual instructions for capturing, by the camera at the user mobile device, the one or more video image items for the at least two rooms based on the determined one or more information items, the set of visual instructions comprising an identification of the at least two rooms for

which the one or more video image items for the at least two rooms are to be captured;

receiving, by the remote server, the one or more video image items from the user mobile device in response to the instructions;

determining, by the remote server, a location associated with the user mobile device and/or associated with a geotag associated with the one or more video image items;

validating, by the remote server, that the virtual inspection is associated with the insurable area by comparing the location with location information associated with the insurable area; and

providing, by the remote server, the insurance decision for the insurable area based on the received one or more video image items, wherein a set of existing information provided regarding the insurable area is validated automatically based on information extracted from the set of video image items.

#### REJECTIONS

The Examiner rejected claims 1–7, 9, 14–22, and 24 under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. Final Act. 3–4.

#### CONTENTIONS AND ANALYSIS

Appellant argues the Examiner erred in rejecting claims 1–7, 9, 14–22, and 24 under 35 U.S.C. § 101 as directed to non-statutory subject matter. App. Br. 6–31; Reply Br. 2–7. The Examiner finds:

The claims are directed to the abstract idea of computerized insurance inspection (certain human activities). The additional elements or combination of elements in the claims other than the abstract idea per se amount to no more than mere instructions to implement the idea on a computer.

Final Act. 2–3. The Examiner further finds that the claims do not include additional elements sufficient to amount to significantly more than the judicial exception because the additional elements when considered both

individually and as an ordered combination do not amount to significantly more than the abstract idea. *Id.* at 3.

Appellant contends “[t]he claims include a mobile device with a camera that obtains video image items and a server that receives those video image items over a network to extract information from the video image items.” App. Br. 13. “The server further validates a location of the mobile device in order to provide an insurance decision.” *Id.* For example, claim 1 requires, among other steps, interaction between a user and an agent or a user and a remote server, and validating a location by comparing the location of the images with location information associated with the insurable area:

when a live agent is available, then providing, by the remote server, a live communication session via a first wireless channel between the live agent coupled to the remote server and the user via the user mobile device, the live communication session comprising communicated instructions from the live agent to the user for capturing, by a camera at the user mobile device, one or more video image items for the at least two rooms based on the determined one or more information items;

when a live agent is not available, then providing, by the remote server, a set of visual instructions to the user mobile device via a second wireless channel, the set of visual instructions triggering, at the user mobile device including the downloaded application, display for the user a second graphical user interface presenting the set of visual instructions for capturing, by the camera at the user mobile device, the one or more video image items for the at least two rooms based on the determined one or more information items, the set of visual instructions comprising an identification of the at least two rooms for which the one or more video image items for the at least two rooms are to be captured;

. . .

determining, by the remote server, a location associated with the user mobile device and/or associated with a geotag associated with the one or more video image items;

validating, by the remote server, that the virtual inspection is associated with the insurable area by comparing the location with location information associated with the insurable area. . . .

App. Br. 23–24 (Claim Appendix, Claim 1). Appellant argues that this is a “clear improvement in computer technology and substantially more than the [Examiner’s] alleged abstract idea of ‘computerized insurance inspection.’” App. Br. 13. We agree with Appellant.

The Federal Circuit recently explained that claimed subject matter is patent eligible where the claim limitations have “the specificity required to transform a claim from one claiming only a result to one claiming a way of achieving it.” *SAP America, Inc. v. InvestPIC, LLC*, 898 F.3d 1161, 1167 (Fed. Cir. 2018) (citations omitted). Similarly, in *McRO*, the court held patent eligible claims that are limited to rules with specific characteristics for producing accurate and realistic lip synchronization and facial expression in animated characters. *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016). In the recent *Finjan* decision, the court held claims are patent eligible because they recited specific steps for generating a security profile that identifies suspicious code and linking the profile to a downloadable (downloadable executable application program), which accomplished the desired result. *See Finjan, Inc. v. Blue Coat Sys., Inc.*, 879 F.3d 1299, 1305–06 (Fed. Cir. 2018).

We conclude that Appellant’s claims are patent eligible as directed to a specific improvement (validating a location of a mobile device based on video images obtained by a user, in turn obtained based on instructions

during a live communication with a live agent or a via remote server on a second channel) with specific steps for accomplishing a desired result—enabling a mobile device including a camera and a server to capture video image data of a remote location and analyze the video image data to verify the location of the remote location and enable an insurance decision. Our reviewing court has approved claims of this general character. *See, e.g., Finjan*, 879 F.3d at 1305–06; *McRO*, 837 F.3d at 1316 (finding eligible claims that use “limited rules” in a computerized “process specifically designed to achieve an improved technological result in conventional industry practice”); *Trading Techs. Int’l, Inc. v. CQG, Inc.*, 675 F. App’x 1001, 1005 (Fed. Cir. 2017) (“Abstraction is avoided or overcome when a proposed new application or computer-implemented function is not simply the generalized use of a computer as a tool to conduct a known or obvious process, but instead is an improvement to the capability of the system as a whole.”).

For these reasons, we do not sustain the rejection of claims 1–7, 9, 14–22, and 24 under 35 U.S.C. § 101.

#### DECISION

The decision of the Examiner to reject claims 1–7, 9, 14–22, and 24 is reversed.

REVERSED