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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DOUGLAS PECKOVER

Appeal 2017-011518
Application 13/706,039[1]
Technology Center 3600

Before HUNG H. BUI, MELISSA A. HAAPALA, and JOHN R. KENNY, *Administrative Patent Judges*.

BUI, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant seeks our review under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 2, 4–6, 8–12, and 17–19, which are all the claims pending in the application. App. Br. 19–22 (Claims App.). Claims 3, 7, 13–16, and 20–62 are cancelled. Final Act. 2. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.[2]

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[1] We use the word "Appellant" to refer to "applicant(s)" as defined in 37 C.F.R. § 1.42. The real party in interest is DT Labs, LLC. App. Br. 3.

[2] Our Decision refers to Appellant's Appeal Brief ("App. Br.") filed May 1, 2017; Reply Brief ("Reply Br.") filed September 14, 2017; Examiner's Answer ("Ans.") mailed July 14, 2017; Final Office Action ("Final Act.") mailed December 1, 2016; and original Specification ("Spec.") filed December 5, 2012.

STATEMENT OF THE CASE

Appellant's invention relates to a server-client system "for electronically storing globally unique serial numbers in a way that protects individual products and services so that they can be protected, monitored, controlled, paid for, or even destroyed, as determined by the primary manufacturer or owner." Spec. ¶¶ 12, 17. According to Appellant, sensitive data (e.g., personal data, financial data, legal data, security data, etc.) extracted from client 102 can be protected as shown, for example, in Figure 1A, by way of sending extracted data to web secure server 104 for secure storage and replacing thereto with random pointers indicating where the extracted data has been stored. Appellant's Figure 1A is reproduced below:

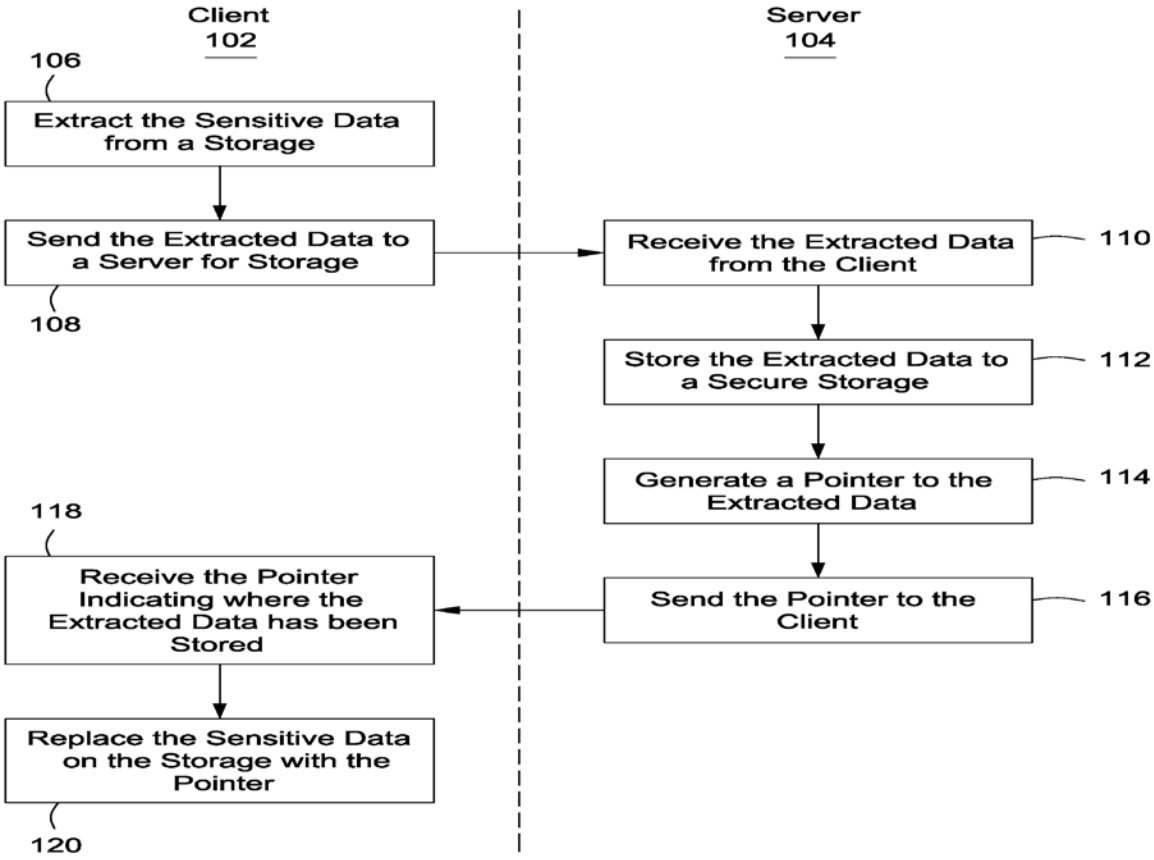


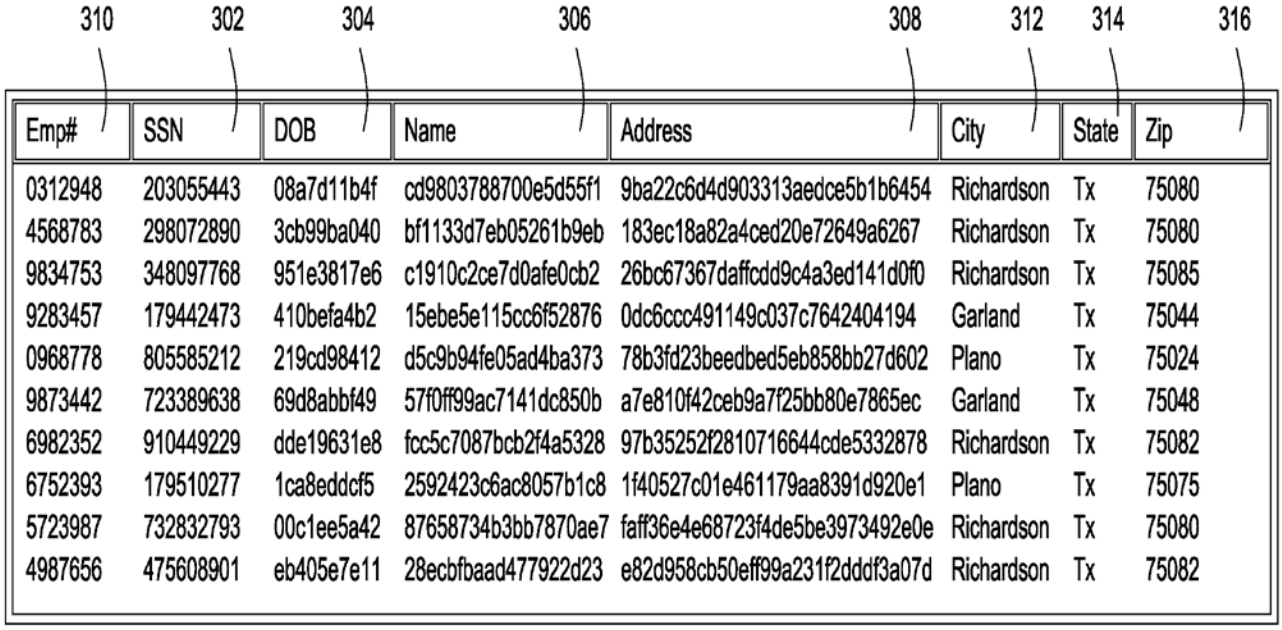
Figure 1A shows Appellant's method for protecting sensitive data between client 102 and secure server 104, via a network.

As shown in Figure 1A, server 104 receives extracted [sensitive] data from client 102 at step 110, stores the extracted data to secure storage at step 112, generates one or more pointers corresponding to extracted sensitive data at step 114, and sends the one or more pointers back to client 102, where client 102 replaces the original sensitive data with the random pointer(s). Spec. ¶ 18. "[T]his pointer is random data, generated by a plug-in, with the same type as the sensitive data that it is replacing . . . [and] is later used by the content manager [] to get sensitive data from or put sensitive data back into the secure server [104]." Spec. ¶¶ 25, 29, 32.

Figures 3 and 5 show an example of how sensitive data is extracted from client 102 for transfer to secure server 104 and is replaced by one or more random pointers indicating where sensitive data has been stored at secure server 104, as reproduced below:

310	302	304	306	308	312	314	316
Emp#	SSN	DOB	Name	Address	City	State	Zip
0312948	756982766	1975/09/13	Julie J. Holmes-Bridges	2532 Victory Ln.	Richardson	Tx	75080
4568783	456112763	1972/10/24	Daniel P. Bridges	2532 Victory Ln.	Richardson	Tx	75080
9834753	923847567	1960/04/02	Phillip M. Jones	8735 Brown Way	Richardson	Tx	75085
9283457	928347566	1980/02/06	Candace R. Miles	8772 Crown Dr. #431	Garland	Tx	75044
0968778	892346557	1974/07/16	Stephen D. Buoy	9847 Parker Rd.	Plano	Tx	75024
9873442	879455239	1985/11/30	Michael M. Bushey	4676 Montford Pl. #7	Garland	Tx	75048
6982352	473490838	1940/05/25	Bobby K. Torez	3578 Merlin Ave.	Richardson	Tx	75082
6752393	328788759	1901/07/26	Robert B. Niles	8480 Northgate Rd.	Plano	Tx	75075
5723987	897589760	1972/03/11	Martha P. Gonzalez	7456 Custer Pkwy.	Richardson	Tx	75080
4987656	984987454	1972/01/27	Hope R. Jackson	4678 Masters Ln. #575	Richardson	Tx	75082

Figure 3 shows an example of sensitive data at client 102, including: SSN 302, DOB 304, Name 306, and Address 308 that need protection, whereas Employee Number 310, City 312, State 314 and Zip Code 316 that do not need protection.



310 Emp#	302 SSN	304 DOB	306 Name	308 Address	312 City	314 State	316 Zip
0312948	203055443	08a7d11b4f	cd9803788700e5d55f1	9ba22c6d4d903313aedce5b1b6454	Richardson	Tx	75080
4568783	298072890	3cb99ba040	bf1133d7eb05261b9eb	183ec18a82a4ced20e72649a6267	Richardson	Tx	75080
9834753	348097768	951e3817e6	c1910c2ce7d0afe0cb2	26bc67367daffcdd9c4a3ed141d0f0	Richardson	Tx	75085
9283457	179442473	410befa4b2	15ebe5e115cc6f52876	0dc6ccc491149c037c7642404194	Garland	Tx	75044
0968778	805585212	219cd98412	d5c9b94fe05ad4ba373	78b3fd23beedbed5eb858bb27d602	Plano	Tx	75024
9873442	723389638	69d8abbf49	57f0ff99ac7141dc850b	a7e810f42ceb9a7f25bb80e7865ec	Garland	Tx	75048
6982352	910449229	dde19631e8	fcc5c7087bcb2f4a5328	97b35252f2810716644cde5332878	Richardson	Tx	75082
6752393	179510277	1ca8eddcf5	2592423c6ac8057b1c8	1f40527c01e461179aa8391d920e1	Plano	Tx	75075
5723987	732832793	00c1ee5a42	87658734b3bb7870ae7	faff36e4e68723f4de5be3973492e0e	Richardson	Tx	75080
4987656	475608901	eb405e7e11	28ecbfbaad477922d23	e82d958cb50eff99a231f2dddf3a07d	Richardson	Tx	75082

Figure 5 shows how sensitive data at client 102, including: SSN 302, DOB 304, Name 306, and Address 308 that has been replaced by one or more random pointers received from secure server 104.

As shown in Figure 3, sensitive data at client 102 is protected and "is never at risk" because (1) "it has been previously transferred to secure server [104, as shown in Figure 5]" and (2) only random data with pointers to sensitive data is released, instead of the sensitive data itself. Spec. ¶¶ 119, 160. With proper authentication, the random pointers are then used to retrieve the original sensitive data from secure server 102. Spec. ¶ 147.

According to Appellant, "the present invention can [also] be used to imprint a globally-unique random serial number or code on label or item in such a way that the contract manufacturer or third party does not have any control over the globally-unique random serial number or code." Spec. ¶ 171. For example, "the primary manufacturer or owner generates the unique random serial number or code and sends it to the secure server [104] as 'sensitive data,' which is then accessed by a media device [client 102]

using the pointer to imprint the unique random serial number or code on the item." Spec. ¶ 172. "The media device may include a printer, a plotter, a label maker, a copier, an inscribing device, a stamping machine, an etching machine or a combination thereof." Spec. ¶ 175.

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

> 1. An apparatus for authentication of one or more tangible item(s) or one or more tangible label(s) comprising:
>
> one or more media devices communicably coupled to one or more processors, the one or more processors also being communicably coupled to one or more memory devices, wherein at least one of the memory devices stores non-transitory computer readable instructions, which instructions, when executed by at least one of the processors, causes the processor(s) during or prior to a production run of the tangible item(s) or tangible label(s) to perform the steps of:
>
> obtaining a pointer to each of one or more unique random serial numbers or codes that are used to authenticate the tangible item(s) or tangible label(s) from the one or more media devices,
>
> obtaining the unique random serial number(s) or code(s) from a server device communicably coupled to the processor(s) via a communications interface using the pointer(s),
>
> transmitting the obtained unique random serial number(s) or code(s) to the one or more media devices, and
>
> instructing the one or more media devices communicably coupled to the one or more processors to imprint the received unique random serial number(s) or code(s) on the tangible item(s) or the tangible label(s);

> wherein the unique random serial number(s) or code(s) are imprinted with a security mechanism comprising one of a special ink, a special thread, a special code, a holographic symbol, or a combination thereof; and the one or more media devices comprise printers, plotters, labelers, inscribing devices, stamping machines, etching machines, or a combination thereof.

App. Br. 19–20 (Claims App.).

EXAMINER'S REJECTIONS & REFERENCES

(1) Claims 1, 2, 4–6, 8–12, and 17–19 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to an abstract idea without significantly more. Final Act. 7–10.

(2) Claims 1, 2, 5, 6, 8–10, and 19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Leon et al. (US 7,194,957 B1; issued Mar. 27, 2007; "Leon"). Final Act. 11–13.

(3) Claims 4, 11, 12, 17, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Leon. Final Act. 14–15.

DISCUSSION

35 U.S.C. § 101

In rejecting claims 1, 2, 4–6, 8–12, and 17–19 under 35 U.S.C. § 101, the Examiner determines the claims are directed to "an abstract idea involving obtaining a pointer to each of one or more unique random serial numbers or codes, obtaining the unique random serial number(s) or code(s), transmitting the obtained unique random serial number(s) or code(s) and instructing the imprinting of the unique random serial number(s) or code(s)," which the Examiner considers is "nothing more than an idea of itself [i.e., mental processes]" similar to claims discussed by the Supreme Court in

Benson and *Flook*. Final Act. 8–9 (citing *Gottschalk v. Benson*, 409 U.S. 63, 64 (1972) and *Parker v. Flook*, 437 U.S. 584 (1978)). According to the Examiner, "all operations [recited] have previously been done by human beings [] and the operations could simply be performed by a human being using paper files and communications that do not require the use of a computer or at most tangential use of a computer." Ans. 5–6.

The Examiner also determines additional elements in the claims, whether taken separately or in an ordered combination, do not amount to significantly more than an abstract idea, because (1) "no technological improvement is recited within the claims"; (2) "[t]he improvement [] claimed by authentication of tangible items or labels lies outside of the technological arena"; and (3) "[t]he claims [] are not designed to solve a technological problem" but "merely provide a generic, technological environment (i.e., computers and the Internet)." Final Act. 9–10.

Legal Framework

To determine whether claims are patent eligible under § 101, we apply the Supreme Court's two-step framework articulated in *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208 (2014). First, we determine whether the claims are directed to a patent-ineligible concept: laws of nature, natural phenomena, and abstract ideas. *Id.* at 217. If so, we then proceed to the second step to consider the elements of the claims "individually and 'as an ordered combination'" to determine whether there are additional elements that "'transform the nature of the claim' into a patent-eligible application." *Id.* 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.* at 217–18 (alteration in original) (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72–73 (2012)).

The Federal Circuit has described the *Alice* step-one inquiry as looking at the "focus" of the claims, their "character as a whole," and the *Alice* step-two inquiry as looking more precisely at what the claim elements add—whether they identify an "inventive concept" in the application of the ineligible matter to which the claim is directed. *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016); *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015).

In an effort to achieve clarity and consistency in how the U.S. Patent and Trademark Office (the "Office") applies the Supreme Court's two-step framework, the Office recently published revised guidance interpreting governing case law and establishing a prosecution framework for all patent-eligibility analysis under *Alice* and § 101 effective as of January 7, 2019. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50–57 (Jan. 7, 2019) ("2019 Revised Guidance").

2019 Revised Guidance

Under the 2019 Revised Guidance, we first look under *Alice* step 1 or 2019 Revised Guidance "Step 2A" to whether the claim recites:

> (1) Prong One: any judicial exceptions, including certain groupings of abstract ideas (i.e., [i] mathematical concepts, [ii] mental processes, or [iii] certain methods of organizing human activity such as a fundamental economic practice or managing personal behavior or relationships or interactions between people); and

> (2) Prong Two: additional elements that integrate the judicial exception into a practical application (*see* Manual of Patent Examining Procedure ("MPEP") § 2106.05(a)–(c), (e)–(h)).[3]

See 2019 Revised Guidance, 84 Fed. Reg. at 51–52, 55, Revised Step 2A, Prong One (Abstract Idea) and Prong Two (Integration into A Practical Application). Only if a claim: (1) recites a judicial exception, and (2) does not integrate that exception into a practical application, do we then evaluate whether the claim provides an "inventive concept" under *Alice* step 2 or "Step 2B." *See* 2019 Revised Guidance at 56; *Alice*, 573 U.S. at 217–18. For example, we look to whether the claim:

> 1) adds a specific limitation beyond the judicial exception that is not "well-understood, routine, conventional" in the field (*see* MPEP § 2106.05(d)); or
>
> 2) simply appends well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See 2019 Revised Guidance, 84 Fed. Reg. at 56.

In the briefing, Appellant refers to prior USPTO guidance regarding § 101, including, for example: *July 2015 Update on Subject Matter Eligibility*, 80 Fed. Reg. 45,429 (July 30, 2015) ("the 2015 Update"). However, the 2015 Update and other prior guidance, including: (1) *2014 Interim Guidance on Patent Subject Matter Eligibility*, 79 Fed. Reg. 74,618 (December 16, 2014); (2) *May 2016 Subject Matter Eligibility Update*, 81 Fed. Reg. 27,381 (May 6, 2016); and (3) *Memorandum on Subject Matter Eligibility Decisions* dated Nov. 2, 2016 have been superseded by the 2019 Revised Guidance. *See* 2019 Revised Guidance, 84 Fed. Reg. at 52. As

[3] All references to the MPEP are to the Ninth Edition, Revision 08.2017 (rev. Jan. 2018).

such, our analysis will not address the sufficiency of the Examiner's rejection against the cited prior guidance. Rather, our analysis will comport with the 2019 Revised Guidance as discussed below.

Alice/Mayo—Step 1 (Abstract Idea)
Step 2A–Prongs 1 and 2 identified in the 2019 Revised Guidance

Appellant argues the claims are not directed to an abstract idea because: (1) the Examiner's characterization of the claims "is a gross generalization in an attempt to find an abstract concept," i.e., "an oversimplification of the features of the claims"; (2) "[t]here is nothing 'abstract' about the creation of a unique random serial number or code for to be imprinted on a tangible item or label where the unique random serial number is obtained by a pointer to each unique random serial number or code"; and (3) "the use of pointers to obtain a unique random serial number or code through a server . . . [is] 'rooted in computer technology' . . . that improves the ability to combat counterfeiting and diversion of products." App. Br. 8–10.

In response, the Examiner takes the position that (1) "obtaining the pointer can be viewed as a data gathering operation as can the operation of obtaining the unique random serial number(s) or code(s) from a server by using the pointer"; (2) "the claim does not actually claim an operation of printing . . . [but] simply issuing an instruction to [imprint]"; and, as such, (3) "from the standpoint of a programmed computer the only requirements of the claimed invention are getting data, using that data to get additional data, transmitting the additional data and providing instructions as to how that additional data is to be used," which is considered "nothing more than an idea of itself [i.e., mental processes] as recited in *Benson* [], *Flook* [] and

Alice." Ans. 3–4. According to the Examiner, "all operations [recited] have previously been done by human beings [] and the operations could simply be performed by a human being using paper files and communications that do not require the use of a computer or at most tangential use of a computer." Ans. 5–6.

We do not agree with the Examiner's positions. At the outset, we note the Federal Circuit has interpreted *Alice* step 1 as asking "whether the claims are directed to an improvement to computer functionality versus being directed to an abstract idea." *Enfish*, 822 F.3d at 1335. The Federal Circuit has also "emphasized that the key question is 'whether the focus of the claims is on the specific asserted improvement in computer capabilities (i.e., the self-referential table for a computer database [in *Enfish*])." *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1259–60 (Fed. Cir. 2017) (citing *Enfish*, 822 F.3d at 1335–36) (holding that claims reciting to "[a] computer memory system connectable to a processor and having one or more programmable operational characteristics" are patent-eligible under § 101 because Visual Memory's claims "are directed to a technological improvement: an enhanced computer memory system" with "programmable operational characteristics . . . configurable based on the type of processor," and "the specification discusses the advantages offered by the technological improvement").

Contrary to the Examiner's characterization, Appellant's claims do not simply recite "data gathering and providing instructions," as recognized by Appellant. Reply Br. 2. Instead, Appellant's claims seek to improve the authentication of an item (i.e., product or service) and combat counterfeit and diversion problems for all products and services by way of imprinting "a

[globally] unique random serial number or code on label or item in such a way that the contract manufacturer or third party does not have any control over the globally-unique random serial number or code." Spec. ¶¶ 10, 11, 171–175. For example, Appellant's claim 1 recites an apparatus for authentication of one or more tangible item(s) or one or more tangible label(s) including one or more media devices in communication with a [remote] server device, comprising:

> [1] obtaining a pointer to each of one or more unique random serial numbers or codes that are used to authenticate the tangible item(s) or tangible label(s) from the one or more media devices,
>
> [2] obtaining the unique random serial number(s) or code(s) from a server device communicably coupled to the processor(s) via a communications interface using the pointer(s),
>
> [3] transmitting the obtained unique random serial number(s) or code(s) to the one or more media devices, and
>
> [4] instructing the one or more media devices communicably coupled to the one or more processors to imprint the received unique random serial number(s) or code(s) on the tangible item(s) or the tangible label(s); wherein the unique random serial number(s) or code(s) <u>are imprinted</u> with a security mechanism . . . .

App. Br. 19–20 (Claims App.) (bracketing and emphasis added).

As recited, Appellant's claim 1 requires a set of client media devices and remote server devices engaging in a series of specific client-server interactions, including: [1] "obtaining a pointer . . . from the one or more media devices," [2] "obtaining the unique random serial number(s) or code(s) from a server device . . . via a communication interface <u>using the pointer(s)</u>," [3] "transmitting the obtained unique random serial number(s) or

code(s) to the one or more media devices," and [4] "instructing the one or more media devices . . . to imprint the received unique random serial number(s) or code(s) on the tangible item(s) or the tangible label(s), wherein the unique random serial number(s) or code(s) are imprinted with a security mechanism."

As recognized by Appellant, the claimed

> use of pointers to obtain a unique random serial number or code through a server, and the subsequent issue of instructions to effect imprinting of these numbers or codes (items included in the claimed solutions) are necessarily "rooted in computer technology." It is through the use of such pointers in combination with the unique random serial number that the ability to combat counterfeiting and diversion of products as described in the specification and recited in the claims is achieved.

Reply Br. 2–3 (emphasis added); *see DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014) (holding the claimed e-commerce syndication system for "generating a composite web page that combines certain visual elements of a 'host' website with content of a third-party merchant" is patent-eligible under § 101 because *DDR's* claims provide a technical solution to a technical problem unique to the Internet, *i.e.*, a "solution [] necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.").

We also disagree with the Examiner's characterization that "all operations [recited] . . . could simply be performed by a human being using paper files and communications that do not require the use of a computer or at most tangential use of a computer." Ans. 5–6. Under the "mental

processes" doctrine, a patent claim that can be performed solely in a person's mind is considered an "abstract idea" and, as such, is patent-ineligible under § 101. For example, in *Benson*, the Supreme Court held a number-conversion method using a mathematical algorithm is patent-ineligible under § 101 because the conversion "can be done mentally" and "without a computer." *See Benson*, 409 U.S. at 67. These "mental processes—or processes of human thinking—standing alone are not patentable even if they have practical application." *In re Comiskey*, 554 F.3d 967, 979 (Fed. Cir. 2009). Similarly, in *CyberSource*, the Federal Circuit held *CyberSource's* method claim for detecting fraud in credit card transactions conducted over the Internet between consumer and merchant is drawn to an unpatentable "mental process" because "[a]ll of [its] method steps can be performed in the human mind, or by a human using a pen and paper" and do not require a computer. *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011). However, the Federal Circuit also held that method claims "for calculating an absolute position of a GPS receiver and an absolute time of reception of satellite signals" are patent-eligible under § 101 because "the methods [] could not be performed without the use of a GPS receiver." *SiRF Tech., Inc. v. Int'l Trade Comm'n*, 601 F.3d 1319, 1331–32 (Fed. Cir. 2010).

Contrary to the Examiner's characterization, we do not discern how specific steps of Appellant's advancement in data authentication technology recited in Appellant's claim 1 can be performed solely in a person's mind. For example, the use of pointers to obtain unique random serial numbers, via a [remote] server device, and then imprint these unique random serial numbers on an item or label cannot be performed in the human mind, or by a

human using a pen and paper. Moreover, like the claims in *SiRF Technology*, the steps recited in Appellant's claim 1 require the use of a specific set of client media devices and remote server devices to process data (i.e., pointers and unique random serial numbers) in the claimed manner.

Based on the current record, we are persuaded that the Examiner has failed to identify an ineligible abstract idea under the Office's 2019 Revised Guidance, i.e., subject matter that recites (1) a mathematical concept, (2) a method of organizing human activity, or (3) a mental process. *See* Revised Guidance (84 Fed. Reg. at 52); *see also id.* at 53 ("Claims that do not recite matter that falls within these enumerated groupings of abstract ideas should not be treated as reciting abstract ideas, except" in rare circumstances.).

Even if Appellant's claim 1 were considered to recite an abstract idea, we are persuaded that additional limitations (or combination of elements) recited in Appellant's claim 1 *integrate* the judicial exception *into a practical application*. *See* 2019 Revised Guidance, 84 Fed. Reg. at 54–55. For example, Appellant's claimed additional elements (e.g., "one or more [client] media devices" and "server device" and several client-server interactions) as recited in claim 1 use the "pointer(s)" to obtain a unique random serial number or code through a server device to combat counterfeiting and diversion of products and to improve the functioning of a client-server system and related technology. *See* MPEP § 2106.05(a)–(c), (e)–(h).

For these reasons, we agree with Appellant that claim 1 is not directed to an abstract idea. Because *Alice* step 1 is dispositive, we need not reach *Alice* step 2 (inventive concept). As such, we do not sustain the Examiner's

rejection of claim 1 and its dependent claims 2, 4–6, 8–12, and 17–19 as directed to non-statutory subject matter under 35 U.S.C. § 101.

35 U.S.C. §§ 102(e) and 103(a): Claims 1, 2, 4–6, 8–12, 17, and 18

In support of the anticipation rejection of claim 1, the Examiner finds Leon discloses the disputed limitations: (1) "obtaining a pointer to each of one or more unique random serial numbers or codes that are used to authenticate the tangible item(s) or tangible label(s) from the one or more media devices," and (2) "obtaining the unique random serial number(s) or code(s) from a server device communicably coupled to the processor(s) via a communications interface using the pointer(s)." Final Act. 11–12 (citing Leon 12:62–13:6; 13:22–30; 13:36–48; 18:56–19:25; 23:61–24:3; 24:24–39; 30:45–55).

Appellant acknowledges "Leon is directed to techniques for dispensing postage in a distributed environment" where "a user opens an account prior to being able to buy postage and, as part of this process, the user provides identifying and payment information" which is "then used to bill for postage purchased by the user and assign [sic] an identifier to the user that uniquely identifies the user." App. Br. 13 (citing Leon 2:20–23; 12:62–13:6). Appellant also acknowledges Leon also teaches the use of "serial numbers associated with each postage label and/or a 'lot' of postage labels." *Id.* at 14 (citing Leon 14:14–32).

However, Appellant argues

> Leon does not disclose [1] obtaining a pointer to each of one or more unique random serial numbers or codes that are used to authenticate the [tangible] item(s) or [tangible] label(s) from the one or more media devices or [2] obtaining the unique random

> serial number(s) or code(s) from a server device via the communications interface using the pointer(s) as recited in claim 1.

Id. at 13. According to Appellant, "serial numbers described in *Leon* are merely used as a security feature to prevent fraud," but that "serial numbers" are not the same as Appellant's claimed "pointers" or "obtaining the unique random serial number(s) or code(s) from a server device . . . using the pointer(s) as recited in claim 1." *Id.* at 15.

The Examiner responds that: (1) the term "pointer(s)" is not defined in the claims or Appellant's Specification, and, (2) in the absence of a controlling definition from the Specification, such a term can be broadly interpreted to encompass Leon's "use of a URL" because (i) the term "URL" ("Uniform Resource Locator") is also a pointer, as commonly understood by those skilled in the art, and Leon's "URL is used to access the indicium generated by the server" and (ii) "Appellant has not provided any evidence to the contrary that the term URL is not synonymous with the word pointer." Ans. 7–9, 11 (citing website definitions of "URL" from various sources, including (1) https://stats.oecd.org/glossary/detail.asp?ID=2799; (2) https://docs.oracle.com/javase/8/docs/1pi/java/net/package-use.html; (3) http://www.biology.wustl.edu/class/www.html; and (4) Microsoft Computer Dictionary, Fifth Edition, March 15, 2002).

We do not agree with the Examiner. At the outset, we note Appellant's claim 1 requires "a pointer to each of one or more unique random serial numbers or codes that are used to authenticate the tangible items from the one or more media devices." In contrast, Leon's URL, as commonly understood by those skilled in the art, is at best "a pointer to a referenced document or object and its associated access service on the

Internet or an intranet," also known as "an address for a resource on the Internet." Ans. 8–9 (citing to proffered definition of "URL" from the Glossy of Statistical Terms at https://stats.oecd.org/glossary/detail.asp?ID=2799).

Based on the context of Appellant's claim 1, the claimed "pointer(s)" cannot be broadly interpreted to encompass Leon's "URL" because Leon's "URL" is pointing to "a referenced document or object and its associated access service on the Internet or an intranet" or "a resource on the Internet," whereas Appellant's claimed "pointer(s)" is obtained "from the one or more media devices" and is used to "point" to "the unique random serial number(s) or code(s) that are used to authenticate the tangible item(s) or tangible label(s)" so that "the unique random serial number(s) or code(s)" can be obtained "from a server device . . . using the pointer(s)" as recited in claim 1.

For these reasons, we are persuaded that the Examiner erred. Accordingly, we do not sustain the Examiner's anticipation rejection of claim 1 and its dependent claims 2, 5, 6, 8–10, and 19 under 35 U.S.C. § 102(e) as being anticipated by Leon. For the same reasons discussed, we also do not sustain the Examiner's obviousness rejection of dependent claims 4, 11, 12, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Leon.

CONCLUSION

On the record before us, we conclude Appellant has demonstrated the Examiner erred in rejecting claims 1, 2, 4–6, 8–12, and 17–19 under 35 U.S.C. §§ 101, 102(e) and 103(a).

DECISION

As such, we reverse the Examiner's rejection of claims 1, 2, 4–6, 8–12, and 17–19 under 35 U.S.C. §§ 101, 102(e) and 103(a).

DECISION SUMMARY

Claims Rejected	**Basis**	**Affirmed**	**Reversed**
1, 2, 4–6, 8–12, and 17–19	35 U.S.C. § 101		1, 2, 4–6, 8–12, and 17–19
1, 2, 5, 6, 8–10, and 19	35 U.S.C. § 102(e)		1, 2, 5, 6, 8–10, and 19
4, 11, 12, 17, and 18	35 U.S.C. § 103(a)		4, 11, 12, 17, and 18
Overall Outcome			1, 2, 4–6, 8–12, and 17–19

REVERSED