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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* BOJAN DUSEVIC, ANDREW GACHECHILADZE,  
NIKITA URALTSEV, ALEXANDER PROKOFIEV,  
and LEONID ANTONENKOV

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Appeal 2018-000002  
Application 14/271,846  
Technology Center 2100

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Before JEAN R. HOMERE, MICHAEL M. BARRY, and  
AARON W. MOORE, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–20, which are all the pending claims. App. Br. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

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<sup>1</sup> Appellants identify Intermedia.net, Inc. as the real party in interest. App. Br. 2. Appellants also identify Application 14/271,918 (Appeal No. 2018-000157) as a related application, also under appeal. *Id.* at 3.

*Introduction*

Appellants' invention relates to "internal file sharing in a cloud-based file storage." Spec. ¶ 2.

Claims 1 and 2 are representative of the claims on appeal, shown here with disputed limitations highlighted in *italics*:

1. A method of sharing a folder in a file system between an owner and a grantee, the method comprising:

receiving an indication of a folder to share with a grantee from the owner, the folder to share being a subfolder within a parent folder, the parent folder not shared with the grantee;

*storing, with the subfolder itself, sharing permissions indicating a level of access the grantee has to the subfolder;*  
and

creating a virtual folder corresponding to the subfolder on a device of the grantee, the virtual folder mapping to all objects within the subfolder and being stored at a level equal to parent folders of a file hierarchy on [the] device of the grantee.

2. The method of claim 1, further comprising:

altering permissions of the parent folder to share the parent folder with the grantee; and

*creating a virtual folder corresponding to the parent folder on the device of the grantee, the virtual folder corresponding to the parent folder mapping to all objects within the parent folder being stored at a level equal to subfolder<sup>2</sup> on the device of the grantee, without deleting the subfolder on the device of the grantee.*

App. Br. 31 (Claims App'x).

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<sup>2</sup> In the event of further prosecution, the Examiner and Applicant should consider whether there is an antecedent basis issue that should be clarified with respect "subfolder" in "at a level equal to subfolder," as recited.

*Rejections and References*

Claims 1–20 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception (i.e., an abstract idea) without reciting significantly more. Final Act. 2–3.

Claims 1–3, 8, 9, and 14–16 stand rejected under 35 U.S.C. § 103 as unpatentable over Hesselink et al. (US 2005/0144195 A1; June 30, 2005) and Zhang et al. (US 2007/0130143 A1; June 7, 2007). Final Act. 5–10.

Claims 4, 6, 7, 10, 12, 13, 17, 19, and 20 stand rejected under § 103 as unpatentable over Hesselink, Zhang, and Goldberg et al. (US 2013/0013560 A1; Jan. 10, 2013). Final Act. 10–13.

Claims 5, 11, and 18 stand rejected under § 103 as unpatentable over Hesselink, Zhang, Goldberg, and Roberts (US 2009/0077262 A1; Mar. 19, 2009). Final Act. 13–14.

ANALYSIS

*The 35 U.S.C. § 101 Rejection*

Under 35 U.S.C. § 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. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: “[l]aws of nature, natural phenomena, and abstract ideas” are not patent-eligible. *See, e.g., Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014).

In *Alice*, the Supreme Court reiterated a framework previously set forth in *Mayo Collaborative Services v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1300 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 134 S. Ct. at 2355. In *Mayo*, the

Court acknowledged that “all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Mayo*, 132 S. Ct. at 1293. Accordingly, the Federal Circuit has instructed that claims are to be considered in their entirety to determine “whether their character as a whole is directed to excluded subject matter.” *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)).

The first step in the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts,” e.g., to an abstract idea. *Alice*, 134 S. Ct. at 2355. We look to whether the claims focus on a specific means that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea. *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016). If the claims are not directed to a patent-ineligible concept, the inquiry ends. Otherwise, the inquiry proceeds to the second step, in which the elements of the claims are considered “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.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 132 S. Ct. at 1297).

#### *Alice/Mayo Step One*

The Examiner rejects claims 1–20 under 35 U.S.C. § 101 as unpatentably “directed to sharing a folder in a file system between an owner and a grantee, which is an abstract idea because it is a fundamental technological practice for users to share a file(s)/folder(s).” Final Act 3; Ans. 4. The Examiner finds that the claim elements, individually or as a

combination, simply recite a “long-prevalent practice.” Ans. 5. Appellants argue the Examiner errs by improperly identifying the abstract idea to which the claims are directed, contending “[t]he claims are not directed to sharing a folder, but rather are directed to specific computer operations that allow permissions to be stored in a manner that sharing of a folder in a particular way is possible.” App. Br. 17 (explaining that the claims do not recite a long-prevalent practice).

We agree with Appellants. It is necessary to consider claims “*in their entirety* to ascertain whether their character *as a whole* is directed to excluded subject matter.” *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015) (emphases added). Appellants’ claims, which are directed to file-sharing and user-interface issues unique to computer file systems, are analogous to those in *DDR Holdings v. Hotels.com L.P.*, which the Federal Circuit held not to be directed to an abstract idea because they were “necessarily rooted in computer technology” and overcame a problem that did not arise in an analogous human activity. 773 F.3d 1245, 1257 (Fed. Cir. 2014).

Although “the proper focus is not preemption *per se*, for some measure of preemption is intrinsic in the statutory right granted with every patent,” *CLS Bank Int’l v. Alice Corp. Pty. Ltd.*, 717 F.3d 1269, 1281 (Fed. Cir. 2013) (citing 35 U.S.C. § 154), we note that here there is no concern with preemption of the underlying idea of sharing folders in a directory or hierarchy of files. *McRO*, 837 F.3d at 1315 (identifying “[t]he concern underlying the exceptions to § 101 is not tangibility, but preemption” (citing *Mayo*, 132 S.Ct. at 1301)). This is not a case in which “with the exception of generic computer-implemented steps, there is nothing in the claims

themselves that foreclose them from being performed by a human.”

*Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016).

Thus, we agree with Appellants that the claims, taken as a whole, are not unpatentably directed to an abstract idea. Accordingly, we do not sustain the 35 U.S.C. § 101 rejection of claims 1–20.

*The 35 U.S.C. § 103 Rejection of Claim 1*

Appellants argue the Examiner errs in finding Hesselink teaches or suggests claim 1’s disputed limitation of “storing, with the folder, sharing permissions indicating a level of access the grantee has to the folder.” App. Br. 22–28. In particular, Appellants contend that while Hesselink stores permissions in a database and, temporarily, in the local cache of a user device, these permissions “are not, however, stored with the folder to which they pertain. In [Hesselink], the folders are stored in the ‘C’ drive or the ‘V’ drive,” but “[t]here is nothing in [Hesselink] suggesting that the permissions are stored in either the ‘C’ or the ‘V’ drive, let alone ‘with the folder’ on such drives.” App. Br. 26.

This argument is unpersuasive. A claim under examination is given its broadest reasonable interpretation consistent with the underlying specification. *In re American Acad. of Science Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). In the absence of an express definition of a claim term in the specification or a clear disclaimer of scope, the claim term is interpreted as broadly as the ordinary usage of the term by one of ordinary skill in the art would permit. *In re ICON Health & Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007).

Appellants' Specification does not limit any term in the disputed limitation, and ordinarily skilled artisans would have understood those terms to encompass their broadest reasonable meanings. For example, the claim term "with" encompasses its basic, broad usage "as a function word to indicate a participant in an action, transaction, or arrangement" and "as a function word to indicate combination, accompaniment, presence, or addition." *E.g.*, [www.merriam-webster.com/dictionary/with](http://www.merriam-webster.com/dictionary/with) (last accessed July 18, 2018).

Therefore, the disputed limitation of claim 1 requires storing the subfolder sharing permissions "with the subfolder itself." The Examiner's rejection essentially determines this limitation encompasses Hesselink's teaching of storing folder/subfolder data and folder/subfolder permission information on a single storage device. *See* Final Act. 6; Ans. 14–16. Appellants do not persuade us the Examiner errs in finding that the disputed limitation reads on this teaching of Hesselink.

Appellants acknowledge that Hesselink teaches that folder/subfolder permissions may be stored in the local cache of a user's computer. *See* Reply Br. 4 (discussing Hesselink ¶¶ 131, 201). Appellants nevertheless contend "it would not make logical sense for the permission to access the folder and the folder itself to both be stored on the same user device, as that would render such permission useless." *Id.* Appellants' contention, which appears to assume that a computer user always has unlimited access to any folder stored on the user's storage device(s), is unsupported. Consistent with the Examiner's rejection and contrary to Appellants' contention, artisans of ordinary skill would have understood that user devices routinely include a single storage system on which is stored both the information for multiple

users, including folder and subfolder information, and the permission information for the multiple users.

Accordingly, we sustain the 35 U.S.C. § 103 rejection of claim 1. We also, therefore, sustain the rejections of claims 3–8, 10–14, and 16–20, for which Appellants offer no arguments substantively separate from claim 1.

*The 35 U.S.C. § 103 Rejection of Claim 2*

Appellants argue the Examiner errs in finding Hesselink teaches or suggests claim 2’s disputed limitation—

creating a virtual folder corresponding to the parent folder on the device of the grantee, the virtual folder corresponding to the parent folder mapping to all objects within the parent folder being stored at a level equal to subfolder on the device of the grantee, without deleting the subfolder on the device of the grantee—

contending Hesselink is silent as to the recited functionality. App. Br. 29.

This argument is persuasive. The disputed limitation of claim 2 creates a virtual folder that that “maps all objects within the parent folder.” Thus, this “parent virtual folder” includes the subfolder for which a separate “subfolder virtual folder” is created in claim 1. In other words, the “parent virtual folder” of claim 2 contains (“maps”) the subfolder corresponding to the “subfolder virtual folder” of claim 1. Appellants contend that because known prior art deletes “subfolder virtual folders” when access is granted to such a “parent virtual folder,” Hesselink’s silence on this issue fairly cannot teach this requirement. App. Br. 29.

Given there is no finding on this issue by the Examiner in the rejection or the Answer, *see* Final Act. 7–8; 13–16, Appellants persuade us the Examiner erred. Accordingly we do not sustain the rejection of claim 2.

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We also, therefore, do not sustain the rejection of claims 9 and 15, which recite similar limitations and which Appellants argue together with claim 2.

#### DECISION

For the above reasons, we—  
reverse the rejection of claims 1–20 under 35 U.S.C. § 101;  
affirm the rejections of claims 1, 3–8, 10–14, and 16–20 under  
35 U.S.C. § 103; and  
reverse the § 103 rejection of claims 2, 9, and 15.

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-IN-PART