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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARK M. FLEMING and KATHRYN DOBBYN

Appeal 2018-000006
Application 14/341,160
Technology Center 3600

Before CARL W. WHITEHEAD JR., JON M. JURGOVAN, and ADAM J. PYONIN, *Administrative Patent Judges*.

WHITEHEAD JR., *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants[1] are appealing the final rejection of claims 1–20 under 35 U.S.C. § 134(a). Appeal Brief 6. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Introduction

The invention is directed to "computer processes for detecting and assessing multiple types of risks, and more specifically to natural hazard risks in financial transactions." Specification ¶ 2.

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[1] Appellants identify CoreLogic Solutions, LLC. as the real party in interest. Appeal Brief 3.

Illustrative Claim

1. A system for detecting and assessing lending risks, the system comprising:

a computer system comprising one or more computing devices, the computer system programmed, via executable code modules stored on a non-transitory computer-readable storage medium, to implement:

a combined risk detection model for detecting and assessing data indicative of a plurality of risks in loan data, the combined risk detection model adapted to receive as input a plurality of input features extracted from two or more of a plurality of risk detection models, the plurality of risk detection models comprising:

a default risk model that detects the presence of data indicative of a risk of early payment default in the loan data, and

a natural hazard risk model that detects the presence of data indicative of a risk of a natural hazard in the loan data and determines, based on the data indicative of a risk of the natural hazard, a likelihood of default due to the impact of the natural hazard,

wherein the plurality of input features are extracted from the two or more risk detection models by mathematically combining scores from the plurality of risk detection models for input into the combined risk detection model, the plurality of input features being selected as based at least in part on a selection of a modeling method used to construct the combined risk detection model; and

a score reporting module that reports a composite risk score generated by the combined risk detection model.

Rejection on Appeal[2]

Claims 1–20 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Final Action 3–6.

ANALYSIS

Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed March 27, 2017), the Reply Brief (filed September 28, 2017), the Final Action (mailed November 17, 2016) and the Answer (mailed August 1, 2017), for the respective details.

35 U.S.C. § 101 rejection

The Examiner determines the claims are patent ineligible under 35 U.S.C. § 101 because the claims are directed to an abstract idea comprising a fundamental economic practice or organizing human activity, and do not include additional elements that are sufficient to amount to significantly more than the abstract idea. Final Action 5; *see Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208, 217 (2014) (describing the two-step framework "for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts").

After the mailing of the Answer and the filing of the Briefs in this case, the USPTO published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (hereinafter "Memorandum"). Under the Memorandum, the Office first looks to whether the claim recites:

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[2] The 35 USC § 112, second paragraph and the 35 USC § 103(a) rejections were withdrawn by the Examiner. Answer 3–8.

> (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes); and
> (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h) (9th ed. 2018).

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, does the Office then look to whether the claim:

> (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.

We are not persuaded the Examiner's rejection is in error. We adopt the Examiner's findings and conclusions as our own, and we add the following primarily for emphasis and clarification with respect to the Memorandum.

Appellants argue the pending claims are not directed to an abstract idea under "Part I of the two-part analysis set forth in *Alice*" (Appeal Brief 6) because "the present application is directed to an improvement in computer functionality itself, thereby facilitating an improvement in system-wide delivery of media content." Appeal Brief 7.

We agree with the Examiner's determination that the claims are directed to an abstract idea. *See* Final Action 3–6. Appellants' Abstract discloses that the invention is "systems and methods of detecting and assessing multiple types of risks related to mortgage lending."

The Specification discloses:

> Embodiments disclosed herein provide systems and methods for detecting and assessing various types of risks associated with financial transactions, such as transactions involved in mortgage lending. Embodiments of the risk detection and assessment system combine default risk and natural hazard risk models that are configured to detect and assess particular types of risks into a single combined model that is better suited for detecting risks in the overall transactions. Various embodiments disclosed herein combine discrete data models, each of which may be utilized on its own to provide a specific risk score.

Specification ¶ 17.

Claim 1 recites "a combined risk detection model for detecting and assessing data indicative of a plurality of risks in loan data," "a default risk model that detects the presence of data indicative of a risk of early payment default in the loan data," and wherein "a natural hazard risk model that detects the presence of data indicative of a risk of a natural hazard in the loan data and determines, based on the data indicative of a risk of the natural hazard, a likelihood of default due to the impact of the natural hazard." These steps comprise fundamental economic principles or practices and/or commercial or legal interactions; thus, the claim recites the abstract idea of "certain methods of organizing human activity." Memorandum, Section I (Groupings of Abstract Ideas); *see* Specification ¶¶ 17–21. Our reviewing court has found claims to be directed to abstract ideas when they recited similar subject matter. *See 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 . . . ."); *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012) (claims directed to abstract idea of processing loan information through a clearinghouse); *Accenture Glob.*

Servs., GmbH v. Guidewire Software, Inc., 728 F.3d 1336, 1345 (Fed. Cir. 2013) (claims reciting "generalized software components arranged to implement an abstract concept [of generating insurance-policy-related tasks based on rules to be completed upon the occurrence of an event] on a computer" not patent eligible). Therefore, we conclude the claims recite an abstract idea pursuant to Step 2A, Prong One of the guidance. *See* Memorandum, Section III(A)(1) (Prong One: Evaluate Whether the Claim Recites a Judicial Exception).

Appellants argue, "[T]he claims of the present application are directed to an improvement in the functionality of a particular device, and are therefore part of the 'substantial class of claims that are *not* directed to a patent-ineligible concept' (*Enfish* at 10)." Appeal Brief 7.

We do not find Appellants' arguments persuasive because the claims utilize a computer system as merely a tool to evaluate the financial risk associated with investment properties. *See* Specification ¶¶ 21–22; s*ee also Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016) ("[W]e find it relevant to ask whether the claims are directed to an improvement to computer functionality versus being directed to an abstract idea . . . the focus of the claims is on the specific asserted improvement in computer capabilities (i.e., the self-referential table for a computer database) or, instead, on a process that qualifies as an 'abstract idea' for which computers are invoked merely as a tool."). The claims do not recite an additional element or elements that reflect an improvement in the functioning of a computer, or an improvement to other technology or technical field. *See* Final Action 4 ("[T]he additional computer elements, which are recited at a high level of generality, provide conventional computer functions that do not add meaningful limitations to practicing the

abstract idea."); Appellants' Figure 1; *see also Alice*, 573 U.S. at 222 ("In holding that the process was patent ineligible, we rejected the argument that 'implement[ing] a principle in some specific fashion' will 'automatically fal[l] within the patentable subject matter of § 101.'" (alterations in original) (quoting *Parker v. Flook*, 437 U.S. 584, 593 (1978))).

Accordingly, we determine the claim does not integrate the judicial exception into a practical application. *See* Memorandum, Section III(A)(2) (Prong Two: If the Claim Recites a Judicial Exception, Evaluate Whether the Judicial Exception Is Integrated Into a Practical Application). Nor do we find the claim includes a specific limitation or a combination of elements that amounts to significantly more than the judicial exception itself. *See* Memorandum, Section III(B) (Step 2B: If the Claim Is Directed to a Judicial Exception, Evaluate Whether the Claim Provides an Inventive Concept); *see also Aatrix Software, Inc. v. Green Shades Software, Inc.*, 890 F.3d 1354, 1359 (Fed. Cir. 2018) (Moore, J., concurring) ("the 'inventive concept' cannot be the abstract idea itself"); *see* Answer 5–7; *see* also Specification ¶¶ 5, 13 and 49.

Other than the abstract idea itself, the remaining claim elements only recite generic computer components that are well-understood, routine, and conventional. *See* Final Action 5–6; Specification ¶¶ 22-33; Figure 1; *Alice*, 573 U.S. at 226.

Accordingly, we conclude that claims 1-20 recites a fundamental economic practice, which is one of certain methods of organizing human activity identified in the Memorandum and thus an abstract idea. *See* Final Action 3–6.

DECISION

The Examiner's non-statutory subject matter rejection of claims 1–20 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). *See* 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED