



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/808,680	07/24/2015	Andre GAUTHIER	P1444US01	5309
39500	7590	04/03/2018	EXAMINER	
Anglehart et al. 1939 de Maisonneuve Ouest Montreal, QC H3H 1K3 CANADA			GUILIANO, CHARLES A	
			ART UNIT	PAPER NUMBER
			3623	
			NOTIFICATION DATE	DELIVERY MODE
			04/03/2018	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

james.anglehart@anglehart.et-al.ca  
martine@anglehart.et-al.ca

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* ANDRE GAUTHIER

---

Appeal 2018-000230  
Application 14/808,680<sup>1</sup>  
Technology Center 3600

---

Before BIBHU R. MOHANTY, TARA L. HUTCHINGS, and  
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellant appeals under 35 U.S.C. § 134(a) from the Examiner’s decision rejecting claims 1–7, 9–13, and 15–25. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

---

<sup>1</sup> The Appellant identifies “9131-7198 QUÉBEC INC.” as the real party in interest and assignee. Appeal Br. 2. We further note that “Agendrix” is the assignee of record, recorded on April 24, 2017, at Reel 042123, Frame 0591.

### ILLUSTRATIVE CLAIM

1. A computer calendar system comprising:

an account manager module implemented in software and stored in memory for executing by a processor configured to create and modify user accounts and organization accounts;

one or more data stores for storing user data and for storing organization data;

a connection manager module implemented in software and stored in memory for executing by a processor configured to join and to sever user accounts from organization accounts;

an availability manager module implemented in software and stored in memory for executing by a processor configured to accept user input to define a state of availability data of a user to participate in an event differently for different organizations; and

a scheduling manager module implemented in software and stored in memory for executing by a processor configured to control access to availability information by presenting to an organization data representing the availabilities of users specifically for that organization, and to accept input from an organization to book available users in accordance with schedules.

### CITED REFERENCES

The Examiner relies upon the following references:

Conmy et al. (hereinafter "Conmy")	US 7,082,402 B2	July 25, 2006
Doss et al. (hereinafter "Doss")	US 2008/0021760 A1	Jan. 24, 2008
Schwarz	US 2012/0316911 A1	Dec. 13, 2012
Putterman et al. (hereinafter "Putterman")	US 2014/0200940 A1	July 17, 2014

## REJECTIONS<sup>2</sup>

- I. Claims 1–7, 9–13, and 15–25<sup>3</sup> are rejected under 35 U.S.C. § 101 as ineligible subject matter.<sup>4</sup>
- II. Claims 1, 4–7, 10–13, 15, 17–21, 24, and 25 are rejected under 35 U.S.C. § 103 as unpatentable over Conmy and Schwarz.<sup>5</sup>
- III. Claims 9 and 16 are rejected under 35 U.S.C. § 103 as unpatentable over Conmy, Schwarz, and Doss.
- IV. Claims 2, 3, 22, and 23 are rejected under 35 U.S.C. § 103 as unpatentable over Conmy, Schwarz, and Putterman.

## FINDINGS OF FACT

The findings of fact relied upon, which are supported by a preponderance of the evidence, appear in the following Analysis.

---

<sup>2</sup> In addition to the identified rejections, the Final Action (page 5) rejected claim 16 under 35 U.S.C. § 112(b) as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. This rejection is withdrawn. *See* Answer 6.

<sup>3</sup> The rejection of claim 25 under 35 U.S.C. § 101 is introduced as a new ground of rejection in the Answer (pages 3–4).

<sup>4</sup> We regard as inadvertent the inclusion of canceled claim 8, in the paragraph introducing Rejection I (Final Action 6). *See* Appeal Br. 32.

<sup>5</sup> The paragraph introducing Rejection II in the Final Action (page 8) includes canceled claim 8 (*see* Appeal Br. 32), claims 9 and 16 (which are addressed, instead, in Rejection III), and omits claim 25 — all of which we regard as inadvertent. In addition, the Answer (page 5) introduces a new ground of rejection for claim 25, based upon § 103.

## ANALYSIS

### *Subject-Matter Eligibility*

Applying the first step of the methodology delineated in *Alice Corp. Pty. Ltd. v. CLS Bank International*, 134 S. Ct. 2347, 2355 (2014), the rejection states that the claims at issue are directed to the abstract idea of “scheduling based on conditions,” which is characterized as a method of organizing human activities. Final Action 6. Under the second *Alice* step, the Examiner determines that the additional elements or combination of elements in the claims other than the abstract idea amount to no more than a mere instruction to implement the idea on a computer. *Id.*

Alleging error in the rejection, the Appellant — as to the first step of the *Alice* analysis — argues that calendar “systems and other improved electronic scheduling systems,[ ]though related to the abstract idea of scheduling, are technological tools that perform real-world function,” and identifies several granted U.S. patents, in support of this proposition. Appeal Br. 9–10. Yet, the Appellant’s broad, hypothetical statement and reference to issued patents — without any discussion or analysis of their claims, in regard to the first *Alice* step — is not persuasive of error in the rejection of the claims in the present Appeal. Moreover, the Appellant acknowledges that certain issued patents in the field of computerized calendars involve organizing human activities — the same species of abstract idea that the rejection applies to the claims at issue here. Appeal Br. 12.

Further, although the Appellant contends that “the present claims define a tool which, through novel organization and management of data, provides new capabilities to its users” (*id.* at 10) and disputes the rejection’s

comparison of the claims to those in *Dealertrack, Inc. v. Huber*, 674 F.3d 1315 (Fed. Cir. 2012) (*id.* at 11), the Appellant does not argue that the identified abstract idea of “scheduling based on conditions,” (Final Action 6) fails to embrace the recited subject matter. Moreover, in the realm of subject-matter eligibility jurisprudence, courts employ the expression “method of organizing human activities” in a specialized manner, which comports with the rejection in this Appeal. In particular, courts use “the phrase ‘methods of organizing human activity’ to describe concepts relating to interpersonal and intrapersonal activities, such as managing relationships or transactions between people, social activities, and human behavior; satisfying or avoiding a legal obligation; advertising, marketing, and sales activities or behaviors; and managing human mental activity.” MPEP § 2106.04(a)(2)(II) (9th ed., Rev. 8, Jan. 2018) (collecting cases).

As to the second *Alice* step, the Appellant argues that independent claims 1 and 24 contain features amounting to significantly more than the identified abstract idea:

- the availability manager module is configured to accept user input to define a state of availability data of a user to participate in an event differently for different organizations; [and]
- a scheduling manager module is configured to control access to availability information by presenting to an organization data representing the availabilities of users specifically for that organization, and to accept input from an organization to book available users in accordance with schedules.

Appeal Br. 13. However, we agree with the Examiner’s determination (Answer 9–10, 11–14) that such features — as well as features addressed by the Appellant with respect to dependent claims 19 and 20 (*see* Appeal Br. at

14–15) — are no more than conventional and routine features applied in a generic computing environment.

Therefore, we are unpersuaded of error in the rejection of the claims addressed by the Appellant, such that we sustain the rejection of 1–7, 9–13, and 15–25 are rejected under 35 U.S.C. § 101.

### *Obviousness*

The Appellant argues that independent claim 1 was rejected erroneously, because the cited prior art does not teach or suggest the recited “connection manager module . . . configured to join and to sever user accounts from organization accounts.” Appeal Br. 20–22; Reply Br. 9–10.

According to the rejection, Conmy teaches this feature. Final Action 9 (citing Conmy, col. 4, Figs. 1–2); Answer 19 (citing Conmy, col. 4, ll. 1–20, 40–45, col. 5, ll. 55–60, col. 6, ll. 12–15, col. 8, ll. 20–21, Fig. 3).

As the Appellant points out, the identified claim language of “join[ing],” in consonance with the Specification, involves affiliating “user accounts” with “organization accounts” in a manner that may involve sharing availability information, whereas “sever[ing]” refers to ending such an affiliation. *See* Reply Br. 10 (citing Spec. ¶ 26). *See also* Spec. ¶ 35 (referring to “disaffiliation” as a situation in which “a User Account 100 holder's affiliation with the organization is severed.”)

By contrast, as the Appellant explains (Reply Br. 10), the portions of Conmy cited in the rejection concern scheduling a user for an event — i.e., “book[ing] available users,” in the language of claim 1 — rather than “join[ing] and . . . sever[ing] user accounts from organization accounts,” as claim 1 requires.

Accordingly, we are persuaded of error in the rejection of independent claim 1 — and, for similar reasons, independent claim 24 and dependent claims 2–7, 9–13, 15–23, and 25 — such that we do not sustain the rejection of claims 1–7, 9–13, and 15–25 are rejected under 35 U.S.C. § 103.

#### DECISION

We AFFIRM the Examiner’s decision rejecting claims 1–7, 9–13, and 15–25 are rejected under 35 U.S.C. § 101.

We REVERSE the Examiner’s decision rejecting claims 1–7, 9–13, and 15–25 are rejected under 35 U.S.C. § 103.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED