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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PETER REGINALD LEWIS

Appeal 2018-000987
Application 10/500,770
Technology Center 3600

Before CARL W. WHITEHEAD JR., IRVIN E. BRANCH and
NABEEL U. KHAN, *Administrative Patent Judges*.

WHITEHEAD JR., *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant is appealing the final rejection of claims 45–50 and 56–63 under 35 U.S.C. § 134(a). Appeal Brief 1. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Introduction

The invention is directed to “a method for managing unit reservation of an account by a credit management system in a multi service telecommunications system, wherein services are provided in exchange for units and wherein a predetermined amount of units is available for the account and which units are reserved before provisioning of a service.”

Specification 1. The Specification further discloses:

[I]n the case of multiple credit reservations, a situation may occur where the credit management system shows a small amount of unreserved credits available and a service capability server requests to reserve or deduct a number of credits exceeding that left over. In this case the service is denied while the user is informed of the fact that there are insufficient credits available for that service. In fact, however, there are sufficient credits available, but these are all reserved for usage by other services.

Specification 2.

Illustrative Claim

45. A method for managing credit of an account in a multi-service telecommunications system that comprises a credit management system and service capability servers providing services to a plurality of communications means in the multi-service telecommunications system in exchange for credits, the method comprising:

receiving, via a network interface of the credit management system, a first reservation request from a first one of the service capability servers, the first reservation request requesting reservation of a plurality of credits against the account to provide service to a first one of the communications means;

determining, by the credit management system, that the account has sufficient unreserved credits to satisfy the first reservation request;

responding to the first reservation request via the network interface with a notification that the first reservation request is accepted;

receiving, via the network interface, a second reservation request from a second one of the service capability servers, the second reservation request requesting reservation of a plurality of credits against the account to provide service to a second one of the communications means and the second reservation request being received after one or more but before all of the credits reserved by the first reservation request are consumed by the first service capability server and before the one or more credits consumed by the first service capability server have been booked in the account as being consumed;

determining, by the credit management system, that the account has insufficient unreserved credits;

communicating with the first service capability server, via the network interface, to carry out a forced booking operation in which the first service capability server is forced to book the one or more consumed credits in the account before the first service capability server would otherwise book the one or more consumed credits and releasing credit reservations held in the account by the first service capability server to update a balance of the account in response to the determination that the account has insufficient unreserved credits;

determining, by the credit management system, that the account with the updated balance has sufficient unreserved credits to satisfy the second reservation request; and

responding, via the network interface, to the second reservation request with a notification that the second reservation request is accepted.

Rejections on Appeal

Claims 45–50 and 56–63 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.
Final Action 2–5.

Claims 45–49 and 56–63 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Pennington (US Patent 5,453,982; issued September 26, 1995) and Bekkevold (US Patent 6,741,686 B2; issued May 25, 2004). Final Action 5–15.

Claim 50 stands rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Pennington, Bekkevold and Servi (US Patent 5,381,546; issued January 10, 1995). Final Action 15–16.

ANALYSIS

Rather than reiterate the arguments of Appellant and the Examiner, we refer to the Appeal Brief (filed July 26, 2017), the Reply Brief (filed November 7, 2017), the Final Action (mailed January 11, 2017) and the Answer (mailed September 8, 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 “determining . . . that the account has sufficient unreserved credits to satisfy the first reservation request,” “determining . . . that the account has insufficient unreserved credits,” and “determining . . . that the account with the updated balance has sufficient unreserved credits to satisfy the second reservation request” steps broadly describe a method for comparing new and stored information and using rules to identify options. The courts have previously described such methods as being directed to an abstract idea. *See also* Interim Guidance on Patent Subject Matter Eligibility, 79 Fed. Reg. 74619, 74622 (Dec. 16, 2014) (to be codified at 37 C.F.R. pt. 1) [*hereinafter* Interim Guidance] (citing *SmartGene, Inc. v. Advanced Biological Labs., SA*, 555 Fed. Appx. 950 (Fed. Cir. 2014) (nonprecedential)).

Final Action 2–3 (alterations in original); *see Alice Corp. 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. USPTO, *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:

- (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.

Appellant argues the pending claims are not directed to an abstract idea because:

[T]he Examiner found that certain determination steps in claim 45 broadly describe “a method for comparing new and stored information and using rules to identify options.” *See Final Office Action* at 2-3. However, this characterization of the claimed invention ignores certain features of the claim, e.g., the particular ordered combination of determination steps, which are interrelated with various other receiving and responding steps.
Appeal Brief 6.

The Abstract discloses, “[t]his invention describes a method for carrying out forced booking of reserved credits for the credit management of prepaid accounts within a multi service telecommunications environment.”

The Specification discloses:

It is an object of the present invention to provide a system for and a method of handling credit reservations that reduce the amount of erroneous denials of service by service provisioning means to the user, whilst maintaining the benefits of the existing architectural design, i.e. performance due to credit reservation and multiple service capability servers.

....

These and other objects and advantages of the present invention are provided by a method for credit management of an account in a multi service telecommunications system, wherein services are provided in exchange for units, wherein a predetermined amount of units is available for the account and which units are reserved before provisioning of a service, characterized in that a forced booking of actually consumed units can be carried out.

Specification 3.

Claim 45 recites financial components and steps involving an account, and the availability of resources/credits within the account. Claim 1 specifically recites, “[a] method for managing credit of an account” where the account receives a “a first reservation request reservation” wherein “the first reservation request requesting reservation of a plurality of credits against the account to provide service to a first one of the communications means.” This is equivalent to a financial account, such as a credit card, savings account and/or checking account wherein the balance in the account fluctuates based upon requests made by the account holder via checks, credit cards and/or direct withdrawals. Claim 45 further recites determining “that the account has sufficient unreserved credits to satisfy the first reservation request” receiving a “second reservation request requesting reservation of a plurality of credits against the account.” This is equivalent to a determining the amount of resources/credits within an account after previous requests have been requested. Claim 45 further recites “a forced booking operation in which the first service capability server is forced to book the one or more consumed credits” before the first service would otherwise do so. This is equivalent to giving a creditor access to the resources/credits of the account based upon priority of the transaction. Claim 45 also recites wherein “the second reservation request with a notification that the second reservation request is accepted” after determining “that the account with the updated balance has sufficient unreserved credits to satisfy the second reservation request.” This is equivalent to dispersing the resources/credits to satisfy additional requests based upon the availability of the resources. 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 4 (“During the accreditation procedure the credit management system will be enabled to [optimize] distribution of available credits by using accreditation rules to evaluate the requests.”). 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.”); *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.) ; *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012) (Claims directed to abstract idea of processing loan information through a clearinghouse.). 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).

Appellant argues:

Enfish instructs that it is important to compare the claim to claims already found to be directed to an abstract idea as opposed to “describing a claim at a high level of abstraction untethered from the language of the claim when determining the focus of the claimed invention.” In this case, the Examiner found that certain determination steps in claim 45 broadly describe “a method for comparing new and stored information and using rules to identify options.” *See Final Office Action* at 2-3. However, this characterization of the claimed invention ignores certain features of the claim, e.g., the particular ordered

combination of determination steps, which are interrelated with various other receiving and responding steps.

Appeal Brief 6.

We do not find Appellant’s arguments persuasive because the claims utilize a computer system as merely a tool to distribute a financial account resources/credits based upon availability of resources. *See 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 3¹; *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))).).

¹ “The remaining ‘receiving . . . a first reservation request . . .,’ ‘responding to the first reservation request via the network interface with a notification . . .,’ ‘receiving . . . a second reservation request . . .,’ ‘communicating with the first service capability server, via the network interface to carry out a forced booking operation . . .,’ and ‘responding . . . to the second reservation request with a notification . . .’ limitations are conventional computer functions of receiving or transmitting data over a network.” Final Action 3.

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) (“[T]he ‘inventive concept’ cannot be the abstract idea itself.”); *see* Answer 5–7; *see also* Specification 3, 4.

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 4–5; Specification 3²; *Alice*, 573 U.S. at 226.

Accordingly, we conclude that claim 45 recites a fundamental economic practice, which is one of certain methods of organizing human activity identified in the Memorandum and thus an abstract idea.

35 U.S.C. § 103 rejections

Appellant contends:

² “It is an object of the present invention to provide a system for and a method of handling credit reservations that reduce the amount of erroneous denials of service by service provisioning means to the user, whilst maintaining the benefits of the existing architectural design, i.e. performance due to credit reservation and multiple service capability servers.”
Specification 3.

Claim 45 recites a method for managing credit of an account in a multi-service telecommunications system in which a service capability server is forced to book one or more “consumed credits” in its account before the service capability server would otherwise book them in response to a determination that the account has insufficient unreserved credits.

Appeal Brief 9.

Appellant argues:

Pennington’s source always books actually consumed credits, not “in response to the determination that the account has insufficient unreserved credits” and not according to “a forced booking operation in which the [source] is forced to book . . . one or more consumed credits in the account before the [source] would otherwise book the one or more consumed credits,” as claimed.

Appeal Brief 9 (alterations in original).

The Examiner finds:

[A]ppellant’s [S]pecification fails to explicitly define what constitutes a consumed credit or explain the perceived distinction between a consumed credit and a reserved but unneeded credit. Absent such evidence, the [E]xaminer maintains that consumed credits may be defined to include credits that merely have been reserved as well as those that have been reserved and spent.

Answer 9–10.

We do not find Appellant’s arguments persuasive. The Examiner finds, “[r]egardless of how the term is interpreted, however, Pennington clearly discloses the capability to accurately track credits in a memory device ‘as they are either used or received from [another] entity.’ Column 4, Lines 36-52.” Answer 10 (alterations in original). “As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in

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the art would employ.” *KSR Int’l v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Accordingly, we agree with the Examiner’s finding. We sustain the Examiner’s obviousness rejections of independent claim 45, as well as, claims 46–50 and 56–63 not separately argued. *See* Appeal Brief 9–11.

DECISION

The Examiner’s non-statutory subject matter rejection of claims 45–50 and 56–63 is sustained.

The Examiner’s obviousness rejections of claims 45–50 and 56–63 are sustained.

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