



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

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
13/857,234 04/05/2013 Robert H. Lorsch MMR - P014 1026

133690 7590 10/18/2018
Goodhue, Coleman & Owens, P.C.
12951 University Ave
Suite 201
Clive, IA 50325

Table with 1 column: EXAMINER

LUBIN, VALERIE

Table with 2 columns: ART UNIT, PAPER NUMBER

3626

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

10/18/2018

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):

docketing@goodhue.com
officeaction@apcoll.com
USPTO@dockettrak.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* ROBERT H. LORSCH<sup>1</sup>

---

Appeal 2018-001079  
Application 13/857,234  
Technology Center 3600

---

Before BIBHU R. MOHANTY, KENNETH G. SCHOPFER, and  
MATTHEW S. MEYERS, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellant seeks our review under 35 U.S.C. § 134 of the final rejection of claims 1–5, 8–13, and 15–20 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.

---

<sup>1</sup> Appellant identifies the real party in interest as MyMedicalRecords, Inc., a subsidiary of MMRGlobal, Inc. App. Br. 4.

## THE INVENTION

The Appellant's claimed invention is directed to a method for consumers to store and request their medical records with healthcare providers (Spec., page 1, lines 17–20). Claim 1, reproduced below with the numbering in brackets added, is representative of the subject matter on appeal.

1. A method for providing a patient with the ability to collect and manage personal health records, the method comprising:

[1] dedicating a phone number to a user account of a patient, the phone number serving as a unique identifier for the user account of the patient in a health record system;

[2] electronically receiving a personal health record and the phone number into the health record system at a server;

[3] identifying the personal health record as belonging to the user account of the patient using the phone number so as to associate the patient with the personal health record within the health record system;

[4] providing electronic access to the personal health record to the patient through a user account after the patient logs in to the user account using the phone number;

[5] providing electronic access to messages for the patient through an interactive voice response system which the patient accesses through dialing the phone number associated with the user account of the patient.

## THE REJECTIONS

The following rejections are before us for review:

1. Claims 1–5, 8–13, and 15–20 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

2. Claims 1–5, 8–13, and 15–20 are rejected under 35 U.S.C. § 112, first paragraph, for failure to show possession of the invention.

3. Claims 1–4, 8–13, 15, and 17–20 are rejected under 35 U.S.C. § 103(a) as unpatentable over Essin (US 7,802,183 B1, issued Sept. 21, 2010), Segal (US 2001/0041991 A1, issued Nov. 15, 2001), and James (US 2005/0119941 A1, published June 2, 2005).

4. Claims 5 and 16 are rejected under 35 U.S.C. § 103(a) as unpatentable over Essin, Segal, James, and Morgan (US 2001/0041567 A1, published Nov. 15, 2001).

### FINDINGS OF FACT

We have determined that the findings of fact in the Analysis section below are supported at least by a preponderance of the evidence.<sup>2</sup>

### ANALYSIS

#### *Rejection under 35 U.S.C. § 101*

The Appellant argues that the rejection of claim 1 is improper because the claim is not directed to an abstract idea and additionally provides “significantly more” than any alleged abstract idea (App. Br. 12–15, Reply Br. 12–15).

In contrast, the Examiner has determined that rejection of record is proper (Final Act. 2, 3, Ans. 3, 4).

We agree with the Examiner. 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,

---

<sup>2</sup> See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

has long interpreted § 101 to include an implicit exception: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *See, e.g., Alice Corp. Pty. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014).

In judging whether claim 1 falls within the excluded category of abstract ideas, we are guided in our analysis by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1296–97 (2012)). In accordance with that framework, we first determine whether the claim is “directed to” a patent-ineligible abstract idea. If so, we then consider the elements of the claim both individually and as “an ordered combination” to determine whether the additional elements “transform the nature of the claim” into a patent-eligible application of the abstract idea. *Id.* This is a search for an “inventive concept” an element or combination of elements sufficient to ensure that the claim amounts to “significantly more” than the abstract idea itself. *Id.* The Court also stated that “the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Id.* at 2358.

Here, we determine that the claim is directed to the concept of collecting and managing personal health records for a user. This is a method of organizing human activities, and is an abstract idea beyond the scope of § 101. *See Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016) where collecting information, analyzing it, and displaying results from certain results of the collection and analysis was held to be an abstract idea.

We next consider whether additional elements of the claim, both individually and as an ordered combination, transform the nature of the

claim into a patent-eligible application of the abstract idea, e.g., whether the claim does more than simply instruct the practitioner to implement the abstract idea using generic computer components. We conclude that it does not. For example, the Specification at page 14 describes the use of generic servers and network components in a conventional manner for their known functions.

Considering each of the claim elements in turn, the function performed by the computer system at each step of the process is purely conventional. Each step of the claimed method does no more than require a generic computer to perform a generic computer function.

For these above reasons the rejection of claim 1 is sustained. The Appellant has provided the same or similar arguments for the remaining claims which are drawn to similar subject matter and the rejection of these claims is sustained as well.

*Rejection under 35 U.S.C. § 112 (first paragraph)*

The Examiner has determined independent claims 1, 12, and 20 recite “a server uniquely identifying a user account with a phone number” and that the Specification fails to provide support for this (Final Act. 4).

In contrast, the Appellant argues that the Specification provides support at Figure 4 and page 17, lines 21–26 (App. Br. 19–21).

We agree with the Appellant. Here the citation to the Specification at page 17, lines 21–26, provides support for the cited claim limitation, and this rejection is not sustained.

*Rejections under 35 U.S.C. § 103(a)*

The Appellant argues that the rejection of claim 1 is improper because the cited prior art of record does not disclose claim limitations requiring:

[4] providing electronic access to the personal health record to the patient through a user account after the patient logs in to the user account using the phone number;

[5] providing electronic access to messages for the patient through an interactive voice response system which the patient accesses through dialing the phone number associated with the user account of the patient.

(App. Br. 22–25, Reply Br. 22–25).

In contrast, the Examiner has determined that the cited claim limitation is disclosed by Essin at col. 4:31–35 and col. 5, lines 31–15; James at paras. 64, 79, 80; Segal at paras. 106, 140 (Ans. 5–8).

We agree with the Appellant. James at para. 80 for example does disclose using a user’s telephone number as a “user identifier.” However, even if the user’s phone number is used as a valid identifier it is not specifically disclosed that it is used in the specific manner that claim limitation [5], identified above, requires. For these reasons the rejections of claim 1 and its dependent claims are not sustained. The remaining claims include a similar limitation and the rejections of these claims are not sustained as well.

CONCLUSIONS OF LAW

We conclude that Appellant has not shown that the Examiner erred in rejecting claims 1–5, 8–13, and 15–20 under 35 U.S.C. § 101.

Appeal 2018-001079  
Application 13/857,234

We conclude that Appellant has shown that the Examiner erred in rejecting claims 1–5, 8–13, and 15–20 under 35 U.S.C. § 112, first paragraph, and 35 U.S.C. § 103, as listed in the Rejections section above.

#### DECISION

The Examiner’s rejection of claims 1–5, 8–13, and 15–20 is 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).

AFFIRMED