



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.
13/590,588	08/21/2012	David Preciado	L2059-700019	5310
37462	7590	05/14/2019	EXAMINER	
LANDO & ANASTASI, LLP ONE MAIN STREET, SUITE 1100 CAMBRIDGE, MA 02142			KOLOSOWSKI-GAGER, KATHERINE	
			ART UNIT	PAPER NUMBER
			3622	
			NOTIFICATION DATE	DELIVERY MODE
			05/14/2019	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@LALaw.com
CKent@LALaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAVID PRECIADO and DANIEL LOREDO

Appeal 2018-001553
Application 13/590,588¹
Technology Center 3600

Before KEVIN F. TURNER, ELENI MANTIS MERCADER, and
SCOTT E. BAIN *Administrative Patent Judges*.

TURNER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Office action dated September 22, 2016 (“Final Act.”), rejecting claims 13–15, 17, 21–24, 26, 27, and 30–36, which constitute all the claims pending in this application. Claims 1–12, and 16 have been canceled; and claims 18–20, 25, 28, and 29 have been withdrawn. Br. 14–18 (Claims Appendix). We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ According to Appellants, the real party in interest is LatinCarz LLC, the assignee of this application. Appeal Brief 3) (hereinafter “Br.”).

THE CLAIMED SUBJECT MATTER

The claims are directed to a method and a system for organizing and presenting commodity information in an easy to understand user interface. Specification (hereinafter “Spec.”) 1:28–29, 10:1–5. Claim 13 is independent. Claim 13, reproduced below, is illustrative of the claimed subject matter

1. A user interface displayed on a computer system, wherein the user interface is rendered on a display of the computer system in response to execution of instructions on at least one processor of the computer system, the user interface comprising:

a plurality of branded display elements;

at least one non-branded display element, wherein each of the *branded and non-branded display elements* include a first and second action element responsive to selection in the user interface, wherein the first action element is configured to automatically transition the computer system to a commodity purchase screen responsive to selection in the user interface, and wherein the second action element is configured to automatically transition a respective display element from a non-expanded view of the respective display element to an expanded view of the respective display element on a first selection of the second action element by *re-rendering the respective display element with at least one piece of additional information regarding the commodity*, the at least one piece of additional information including at least one of a rate, number of passengers, transmission type, and number of doors, and wherein the second action element is configured to automatically transition the respective display element from the expanded view of the respective display element to the non-expanded view of the respective display element on a second selection of the second action element by *re-rendering the respective display element without the at least one piece of additional information regarding the commodity*; and

a matrix display for displaying the plurality of *branded* and the *at least one non branded display element*, wherein the matrix display is further configured to organize the plurality of branded and the at least one non branded display element into a plurality of commodity

groups, wherein each commodity group is displayed as a row within the matrix display with positions of at least one branded display element and at least one non-branded display element sorted on price.

Br. 14 (Claims Appendix) (emphases added).

REJECTIONS

Claims 13–15, 17, 21–24, 26, 27, and 30–36 are rejected under 35 U.S.C. § 101 as directed to patent-ineligible subject matter. Final Act. 2–5.

Claims 13–15, 17, 21–24, 26, 27, and 30–36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaehn et al. (US 2003/0125994 A1, pub. July 3, 2003) (“Jaehn”) and Lin-Hendel et al. (US 2012/0042277 A1, pub. Feb. 16, 2012) (“Lin-Hendel”). Final Act. 5–9.

ANALYSIS

The § 101 rejection

Appellants argue claims 13–15, 17, 21–24, 26, 27, and 30–36 together as a group. We select claim 13 as representative. Thus, claims 14, 15, 17, 21–24, 26, 27, and 30–36 will stand or fall with claim 13. *See* C.F.R. § 41.37(c)(1)(iv).

Patent eligibility is assessed under 35 U.S.C. § 101, which states that 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 U.S. Supreme Court has held that this statutory provision contains an implicit exception: laws of nature, natural phenomena, and abstract ideas are not patentable. *E.g.*, *Alice Corp. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014). But claiming the practical application of these concepts may be deserving of patent protection. *Mayo Collaborative Servs.*

v. Prometheus Labs., Inc., 132 S. Ct. 1289, 1293–94 (2012). In *Alice*, the Supreme Court reaffirmed the framework set forth previously in *Mayo* “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.

The first step in the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* If the claims are directed to a patent-ineligible concept, the second step in the analysis is to consider the elements of the claims “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.” *Id.* (quoting *Mayo*, 132 S. Ct. at 1298, 1297). In other words, the second step is to “‘search for an inventive concept’—i.e., an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Id.* (alteration in original) (quoting *Mayo*, 132 S. Ct. at 1294).

The USPTO recently published revised guidance on the application of § 101. USPTO’s January 7, 2019 Memorandum, *2019 Revised Patent Subject Matter Eligibility Guidance* (“Memorandum”). Under that guidance, we first look 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)).

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

(3) adds a specific limitation beyond the judicial exception that is not “well-understood, routine conventional” in the field (*see* MPEP § 210605(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.

Under *Alice/Mayo* step 1, the Examiner determines that claim 13 is abstract because “an interface, a plurality of branded and non-branded elements, and a matrix for displaying the plurality of branded and non-branded elements,” embody the abstract idea of a method of organizing human activities. Final Act. 4–5.

Under *Alice/Mayo* step 2, the Examiner determines that claim 13 does not recite elements sufficient to amount to significantly more than the abstract idea because the additional limitations, i.e., a processor, “merely instruct the practitioner to implement the abstract idea with high-level, generic technology executing routine functions.” Final Act. 5.

Appellants argue that the claims are directed to patent-eligible subject matter. Br. 5–11. Specifically, Appellants challenge the Examiner’s determination at *Alice/Mayo* step 1 because the Examiner fails to establish a *prima facie* case that the claims are directed to an abstract idea:

[n]o analogy is made to an abstract concept previously found ineligible in a precedential opinion. To the contrary, the claims “are directed to a specific improvement to the way computers operate,” namely, the operation of a particular user interface that automatically transitions between expanded and non-expanded views of information to most efficiently present information to users.

Br. 8.

Appellants also challenge the Examiner’s determination at *Alice/Mayo* step 2 because, according to Appellants, (1) the claims are similar to *DDR Holdings*,

[*LLC v. Hotels.com, LLC*, 773 F.3d 1245, 1257 (Fed. Cir. 2014)]; and (2) there is no non-computer analogy to the claimed interface. Specifically, Appellants argue:

[j]ust as in *DDR Holdings*, therefore the claims here are “necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks”—namely, the efficient rendering of graphical user interface elements (typically performed over a computer network) to selectively display different amounts of information . . . there is no real-world . . . analogy to the claimed user interface operations.

Br. 8–9.

Under step 2A, prong 1, the Memorandum’s guidance identifies three judicially-expected groupings: (1) mathematical concepts, (2) certain methods of organizing human activity, and (3) mental processes. 84 Fed. Reg. at 52. Claim 13 recites the following limitations

(1) “a user interface displayed on a computer system;” (2) “a plurality of branded display elements;” (3) “at least one non-branded display element;” (4) “first and second action element;” (5) “first action element . . . automatically transition the computer system to a commodity purchase screen;” (6) “second action element . . . automatically transition . . . display element from a non-expanded view . . . to an expanded view . . . by re-rendering the respective display element with at least one piece of additional information . . . including at least one of a rate, number of passengers, transmission type, and number of doors . . . automatically transition the respective display element from the expanded view . . . to the non-expanded view of the respective display element on a second selection . . . by re-rendering the respective display element without the at least one piece of additional information;” (7) “matrix display for displaying the plurality of branded and the at least one non branded display element.”

Br. 14 (Claims Appendix). These limitations, under their broadest reasonable

interpretation, recite commercial or legal interactions because the limitations all recite the operations that would ordinarily take place in a contract negotiation between an offeror and offeree. Thus, the claim falls under the abstract idea of certain methods of organizing human activity.

For example, displaying branded and non-branded display elements—offers—on a user interface, as recited in limitations 1–3, are activities that would ordinarily occur during a commercial interaction. Further, organizing the offers in an easily understood format, and re-rendering the display elements to incorporate additional details about the offers, as recited in limitations 6 and 7, are also activities that an offeror would use to incentivize an offeree to make a purchase. And providing a purchase screen, as recited in limitation 5, is an activity that is necessary to complete the transaction. Thus, we conclude that claim 13 recites a judicial exception of commercial or legal interactions that is grouped under the abstract idea of certain methods of organizing human activity.

Having determined that the claims recite a judicial exception, our analysis under the Memorandum turns now to step 2A, prong 2, which is determining whether there are “additional elements that integrate the judicial exception into a practical application.” *See* MPEP §2106.05(a)–(c), (e)–(h).

Claim 13 recites limitations that address problems that consumers encounter when trying to find the best deals among the plethora of deals available through the Internet, specifically in the context of rental car agreements. Spec. 1 (explaining that “[a]s the availability and volume of internet services and products grows exponentially, the ability of consumers to appreciate and take advantage of the best deals can be overwhelmed by the sheer volume of information the consumer needs to process.”). Specifically, these limitations include (emphasis added)

(1) a user interface displayed on a computer system;” (2) “second

action element responsive to selection in the user interface . . . wherein the second action element is configured to automatically transition a respective display element from a non-expanded view of the respective display element to an expanded view of the respective display element on a first selection of the second action element by *re-rendering the respective display element with at least one piece of additional information regarding the commodity*, the at least one piece of additional information including at least one of rate, number of passengers, transmission type, and number of doors, and wherein the second action element is configured to automatically transition the respective display element from the expanded view of the respective display element to the non-expanded view of the respective display element on a second selection of the second action element by *re-rendering the respective display element without the at least one piece of additional information regarding the commodity.*”

Br. 14 (Claims Appendix).

Because these limitations are directed to an improvement in the user interface, specifically “re-rendering the respective display element” to include (or remove) the additional commodity information, we conclude that these limitations integrate the recited judicial exception of commercial or legal interactions into a practical application.

The improvement in the user interface allows commodity information to be presented in an easily understood format. This is an improvement for two reasons: (1) it allows rental car providers to display in a minimalistic view many offers without overwhelming consumers with information; and (2) it allows consumers to easily search for the best deal, and only when they find that deal and select that deal, will the user interface display additional commodity information—transition from a non-expanded view to an expanded view. Further, these limitations are specific to displaying commodity information particular to the rental car industry. And the additional commodity information that is incorporated into the display

element is limited to “at least one of rate, number of passenger, transmission type, and number of doors.” Thus, similar to the claims in *DDR Holdings*

claims . . . [that] do not attempt to preempt every application of the idea of increasing sales by making two web pages look the same . . . [r]ather, they recite a specific way to automate the creation of a composite web page by an “outsource provider” that incorporates elements from multiple sources in order to solve a problem faced by websites on the Internet. As a result . . . the claims include “additional features” that ensure the claims are “more than a drafting effort designed to monopolize the [abstract idea].” (cite omitted). In short, the claimed solution amounts to an inventive concept for resolving this particular Internet-centric problem, rendering the claims patent-eligible.

DDR Holdings, 773 F.3d at 1259.

Because we determine that claim 13 is eligible under step 2A, prong 2, we do not proceed to step 2B to evaluate whether the claim provides an inventive concept.

In view of the above, we are persuaded that the Examiner erred in rejecting claim 13. For the above reasons, we do not sustain the rejection of claim 13 under 35 U.S.C. § 101, as well as the rejections of claims 14, 15, 17, 21–24, 26, 27, and 30–36.

The § 103(a) rejection

Appellants argue claims 13–15, 17, 21–24, 26, 27, and 30–36 together as a group. *See generally* Br. We select claim 13 again as representative. Thus, claims 14, 15, 17, 21–24, 26, 27, and 30–36 will stand or fall with claim 13. *See* C.F.R. § 41.37(c)(1)(iv).

The Examiner finds that Jaehn discloses all the limitations of claim 13 except for: (1) the automatic transition to either the commodity purchase screen or between the non-expanded view and expanded view of the display element; (2) re-rendering the display element to either include or remove the additional commodity information; and (3) where a second selection of the second action element returns the display to its original size. Final Act. 7. The Examiner finds that Lin-Hendel discloses: (1) the automatic transition limitation; (2) the re-rendering limitation; and (3) the limitation that returns the display element to its original size. *Id.* The Examiner argues that it would have been obvious to a person of ordinary skill in the art to combine the teachings of Jaehn and Lin-Hendel to meet the limitations of claim 13 because Lin-Hendel discloses that it is “highly desirable” to modify a user interface when comparing multiple purchase options. *Id.*

Appellants argue that the Examiner’s obviousness rejection is improper because the claims are patentable over Jaehn and Lin-Hendel. Br. 11–13. Specifically, Appellants argue that Jaehn does not specifically teach that the commodity information is “displayed as a row within the matrix display.” Br. 12; *see also* Jaehn Figure 2 (illustrating that the commodity information is displayed as *columns* within the matrix display). Appellants also argue that Jaehn does not specifically teach the “non-branded display elements” of claim 13. Appellants note that non-branded display elements are not associated with a brand, which is not disclosed by the Examiner’s “additional flight characteristics such as duration.” Br. 12 (citing Final Act. 11). Further, Appellants argue that Lin-Hendel fails to cure Jaehn’s deficiencies. We agree with Appellants.

Specifically, we agree that Jaehn does not teach “non-branded display elements” and Lin-Hendel fails to correct his deficiency. In particular, the

Examiner does not identify sufficient evidence to show that Jaehn teaches or suggests offers other than branded offers. Final Act. 7; *see also* Jaehn ¶ 24 (“the column headings may be provided in the form of graphical icons such as trademarks or other brand identifies”), Figure 1 (showing that the headings include such brands as “America West,” “Delta Air Lines,” “Northwest Airlines,” “Continental Airlines,” “American Airlines,” and “United Airlines”).² As Appellants argue, the Specification provides sufficient support that non-branded display elements are offers without brand affiliation.³ Spec. 10–11 (explaining that “non-branded interface elements displaying pricing and commodity information while concealing any brand affiliation”), (explaining that commodity information includes “sales, offer price, location, commodity detail, offer criteria, rental price, rental period”).

Further, the Examiner finds that there is no difference between branded and non-branded display elements because these are “merely descriptive, non-functional language that in *no way* affects the functioning or display of the matrix,” which is organized based on price. Ans. 7. We do not agree. Claim 13 provides, in part, that the user interface employs “a matrix display for displaying the plurality of branded and the at least one non branded display element.” As such, the way the user interface utilizes the branded and non-branded display elements demonstrates the different functionalities of those elements and indicates that the

² Figure 1 also includes a “multiple carriers” category. *See also* Jaehn ¶ 5–6. The Examiner argues that this category meets the “non-branded” limitation. Ans. 8–9. We do not agree. We believe the “multiple carriers” category is more similar to “multiple brands,” which is grouped for display purposes and does not represent “non-branded offers.”

³ The brand associated with a non-branded offer will be subsequently displayed in response to confirmation of the transaction. Spec. 15.

use of “branded” and “non-branded” are not merely descriptive. *See also* Spec. 12–13 (explaining that non-branded display elements refer to a specific class of inventory “white list or non-branded display elements . . . [t]he white list pricing enables providers to move distressed inventory without sacrificing their normal pricing options. Such distressed inventory can include, for example, over-allocated inventory, under-performing inventory, and/or inventory the supplier wants to move”). Because claim 13 recites both branded and non-branded display elements, and the prior art only discloses branded offers, the combination of Jaehn and Lin-Hendel fails to meet the limitations of claim 13.

For the foregoing reasons, we are persuaded that the Examiner erred in rejecting claim 13 over the cited prior art. Accordingly, we do not sustain the rejection of claim 13 under 35 U.S.C. § 103(a), as well as the rejections of claims 14, 15, 17, 21–24, 26, 27, and 30–36.

DECISION

The Examiner’s rejection of claims 13–15, 17, 21–24, 26, 27, and 30–36 under both 35 U.S.C. § 101 and 35 U.S.C. § 103(a) is reversed.

REVERSED