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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TINA MARSEILLE, HOLGER DEIST,
CARSTEN SCHMITT, and MARCEL SCHREIER

Appeal 2018-002012
Application 13/458,619
Technology Center 2100

Before JOSEPH L. DIXON, JUSTIN BUSCH, and
JOHN D. HAMANN, *Administrative Patent Judges*.

Opinion for the Board filed by *Administrative Patent Judge*
JOSEPH L. DIXON.

Opinion Dissenting filed by *Administrative Patent Judge* JUSTIN BUSCH.
DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants¹ appeal under 35 U.S.C. § 134(a) from a rejection of claims 1–3, 6–10, 13–17, and 20–22. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

The claims are directed to an in place creation of objects. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method implemented by a computing system in response to execution of program code by a processor of the computing system, the method comprising:

receiving, via a graphical user interface layout containing a listing of at least one data element, a request to create an instance of a data element included in the listing of at least one data element, the data element to be created being an instance of a business object metadata model data structure having at least one attribute field described by metadata, wherein the business object metadata model data structure defines the relationship between physical database tables, and the instance represents specific data and provides a mapping to the underlying database table storing the specific data; and

presenting, in response to receiving the request, an expanded user interface element that is expanded in the act of creating an instance of the data element in a separate frame within the same graphical user interface layout containing the listing of the at least one data element, and wherein upon submission of the instance of the data element to the database table, the expanded user interface element is closed,

¹ Appellants indicated that SAP SE is the real party in interest. (App. Br. 1).

wherein the expanded user interface element is in a fixed relationship with other user interface elements in the graphical user interface layout without obscuring the other user interface elements in the graphical user interface layout, the expanded user interface element including user interface input fields to receive values to specify the at least one attribute field of the business object, and

wherein the at least one attribute of the business object is described by the metadata and the user interface input fields of the expanded user interface element are limited to a minimum number of attribute fields corresponding to a minimum number of attributes of the business object required to create an instance of the business object.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Kraft (hereinafter “Kraft”)	US 6,084,585	July 4, 2000
Kramer (hereinafter “Kramer”)	US 2010/0064252 A1	Mar. 11, 2010
Sako (hereinafter “Sako”)	US 2010/0299622 A1	Nov. 25, 2010
Tanaka (hereinafter “Tanaka”)	US 2011/0214067 A1	Sept. 1, 2011

REJECTIONS

The Examiner made the following rejections:

Claims 1–3, 6–10, 13–17, and 20–22 stand rejected under 35 U.S.C. § 101, as being directed to non-statutory subject matter. (Final Act. 3–5).

Claims 1, 2, 6–9, 13–16, and 20–22 stand rejected under 35 U.S.C. § 103(a) as obvious over Kramer in view of Tanaka and in further view of Sako. (Final Act. 5–16).

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Claims 3, 10, and 17 stand rejected under 35 U.S.C. § 103(a) as being obvious over Kramer in view of Tanaka and in further view of Sako and Kraft. (Final Act. 16–18).

ANALYSIS

35 U.S.C. § 101 Rejection

With respect to claims 1–3, 6–10, 13–17, and 20–22, Appellants rely on the same arguments for patentability for each of the independent claims and do not set forth separate arguments for patentability. (App. Br. 6–11). Therefore, we select independent claim 1 as the representative claim for the group and address Appellants’ arguments thereto.

The Examiner found that claim 1, when considered as a whole, is not meaningfully different than those concepts found by the courts to be abstract, specifically to the idea of collecting information, analyzing it, and displaying certain results of the collection and analysis. (Final Act. 3 (citing *Elec. Power Grp., v Alston S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016))). Further, the Examiner found the elements of claim 1 to be directed to other concepts that our reviewing court has also found to be abstract, including retaining information in navigation of online forms. (Final Act. 4 (citing *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1348 (Fed. Cir. 2015))). Further, the Examiner concludes the claimed solution is not necessarily rooted in computer technology in order to overcome a problem arising in the realm of graphical user interfaces (“GUIs”). (Final Act. 4). Finally, the Examiner concludes when considering the claims as a whole the combination does not amount to significantly more than the abstract idea because the limitations are mere instructions to implement the abstract idea on a generic computer. (Final Act. 4).

The Examiner concludes, under *Alice*'s² step 2A, that the claims are directed to an abstract idea and refer to collecting information, analyzing it, and displaying certain results of the collection and analysis without limiting the claim to a technical means for performing the function. (Ans. 3–4). The Examiner finds that the result focused, functional character of claim 1's claim language has been a frequent feature of claims held ineligible by the courts. (Ans. 3–4). Moreover, the Examiner finds the abstract idea in the claims is similar to a “pen and paper” and “head in hand” abstract ideas such as those mentioned in *CyberSource*³ and *Gottschalk*.⁴ (Ans. 4). Finally, the Examiner concludes that the claim does not amount to significantly more nor does the claim recite a non-conventional arrangement of conventional parts (Ans. 5) to overcome the identified problem.

Appellants contend claim 1 is not directed to a judicial exception and the claims are subject matter eligible under 35 U.S.C. § 101. (App. Br. 6–11). Appellants argue the Examiner has described the claim at a high level of abstraction that is untethered from the specific and extensive claim language. (App. Br. 8). Further, Appellants argue that no allegation has been presented as to how the specific language of the present claim “matches” the claims of *Electric Power*. (App. Br. 8). Moreover, Appellants contend the claims are not directed to an abstract idea because the claims are clearly focused on a specific technological improvement (e.g. “creating an expanded user interface element in place, without a user being directed, re-directed, otherwise navigated to a different floorplan or context;

² *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014)

³ *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366 (Fed. Cir. 2011).

⁴ *Gottschalk v. Benson*, 409 U.S. 63 (1972).

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expanding the user interface without obscuring or otherwise covering or hiding any of the other user interface elements of the floorplan”), and not only populating a generic database. (App. Br. 9–10). Finally, Appellants contend that the Office has failed to meet its burden of proving the claims are directed to an abstract idea and “[r]eferring to the extensive language of at least the three independent claims herein, the Final Action falls far short of the required explanation of why the elements taken individually and in combination do not amount to a claim as a whole that is significantly more than an abstract idea.” (Emphasis omitted) (App. Br. 10).

A patent may be obtained for “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” 35 U.S.C. § 101. The Supreme Court has consistently held that this provision contains an important implicit exception: laws of nature, natural phenomena, and abstract ideas are not patentable. *See Alice*, 134 S. Ct. at 2354; *Gottschalk*, 409 U.S. at 67 (“Phenomena of nature, though just discovered, mental processes, and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work.”). Notwithstanding that a law of nature or an abstract idea, by itself, is not patentable, an application of these concepts may be deserving of patent protection. *See Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1294, 1296–97 (2012). In *Mayo*, the Court stated that “to transform an unpatentable law of nature into a patent-eligible *application* of such a law, one must do more than simply state the law of nature while adding the words ‘apply it.’” *Mayo*, 566 at 72 (citation omitted).

In *Alice*, the 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

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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, then 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*, 566 U.S. at 78, 79).

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 on the [ineligible concept] itself.’” *Id.* (brackets in original) (quoting *Mayo*, 566 U.S. at 72–73). “A claim that recites an abstract idea must include ‘additional features’ to ensure that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].” *Id.* at 2357 (brackets in original) (quoting *Mayo*, 566 U.S. at 77–78).

Under the *Mayo* framework, and considering each of the steps in claim 1, we agree with Appellants that claim 1 is not directed to a judicial exception and the claim is subject matter eligible under 35 U.S.C. § 101. (App. Br. 6–11). The Examiner finds that claim 1 is directed to an abstract idea — the idea of collecting information, analyzing it, and displaying certain results of the collection and analysis under the first prong of the *Alice* test. (Ans. 3). However, the Examiner’s finding merely refers to a gist of the invention. The Supreme Court “has made it clear . . . that there is no legally recognizable or protected ‘essential’ element, ‘gist’ or ‘heart’ of the invention in a combination patent.” *Aro Mfg. Co. v. Convertible Top*

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Replacement Co., 365 U.S. 336, 344–45 (1961). Claim 1 does more than collecting information, analyzing it, and displaying a result. Rather, claim 1 recites additional limitations of a system in response to executing program code by a processor of the computing system of presenting a user interface element that is expanded in the action of creating a data element in a frame within the same user interface and wherein the expanded user interface element is in a fixed relationship with other user interface elements in the graphical user interface layout without obscuring the other interface elements, among other limitations. It is noted, that none of these additional elements are discussed in either the Final Action or Examiner’s Answer.

Thus, we agree with Appellants that the Examiner failed to meet its burden of proving the claims are directed to an abstract idea and the Office Action falls short of a required explanation of why the elements either individually or in combination with the additional elements of the claim, such as those mentioned above, does not amount to significantly more. (App. Br. 10). Here, the Examiner did not satisfy the initial burden of establishing a prima facie case of ineligibility under § 101 by providing an explanation as to how the claimed subject matter as a whole compares to subject matter identified as an exception in the prior precedent. Consequently, the burden never shifted to Appellants to rebut that case. *See* MANUAL OF PATENT EXAMINING PROCEDURE (MPEP) § 2106.07 (9th ed. Rev. 08.2017, Jan. 2018) (noting that the initial burden of establishing a prima facie case of ineligibility under § 101 is *on the Examiner* to explain clearly and specifically why claims are ineligible, so that the applicant has sufficient notice and can respond effectively); *see also Alice Corp.*, 134 S. Ct. at 2355 (quoting *Diamond v. Diehr*, 450 U.S. 175, 188, (1981) (“[I]t is consistent with the general rule that patent claims ‘must

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be considered as a whole.”)); *Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1051 (Fed. Cir. 2016). Therefore if, as here, the answer to the step 1 question is no, “the inquiry is over: the claim fall within the ambit of § 101.” *CellzDirect*, 827 F.3d at 1047.

Accordingly, for the reasons discussed above, we reverse the Examiner’s patent eligibility rejection of claim 1 under § 101. Independent claims 8 and 15 recite limitations commensurate with those in claim 1. Thus, we reverse the Examiner’s decision to reject independent claims 8 and 15 and dependent claims 2, 3, 6–7, 9, 10, 13, 14, 16, 17, and 20–22.

35 U.S.C. § 103 Rejection

Claims 1, 8, and 15

With respect to independent claims 1, 8, and 15, Appellants rely on the same arguments for patentability for each of the independent claims, and we find the claims have commensurate limitations. (App. Br. 14–17). Therefore, we select independent claim 1 as the representative claim and address Appellants’ arguments thereto. 37 C.F.R. § 41.37(c)(1)(iv).

With respect to representative independent claim 1, Appellants contend:

The art of record is not seen to disclose or to suggest presenting, in response to receiving the request, an expanded user interface element that is expanded in the act of creating an instance of the data element in a separate frame within the same graphical user interface layout containing the listing of the at least one data element, and wherein upon submission of the instance of the data element to the database table, the expanded user interface element is closed. . . . Appellants respectfully submit that simply confirming input information and moving the input information from one part of a UI to another, as in Sako, cannot be seen to disclose or to suggest wherein upon submission of the instance

of the data element to the database table, the expanded user interface element is closed, as claimed. As best understood by Appellants, Sako describes moving one section of the UI to another section of the UI, and keeping the section visible on the screen as it moves, via the animation, which cannot be seen to disclose or to suggest wherein upon submission of the instance of the data element to the database table, the expanded user interface element is closed, as claimed. Further, Sako appears to teach against closing a section on the screen, as movement “is performed using a sequence of animation. The user is thereby able to recognize which information is in what position more easily than the case where information is displayed instantaneously.” *See, e.g.* para. [0040] of Sako. (Emphasis added).

(App. Br. 13, 15).

The Examiner finds that Kramer discloses “an expanded user interface element that is expanded in the act of creating an instance of a data element” and “wherein the expanded user interface element is in a fixed relationship with other user interface elements in the [GUI] layout without obscuring the other user interface elements.” (Final Act. 7).

The Examiner finds that while Kramer teaches multiple data elements, Kramer does not teach the limitation of “creating an instance of the data element in a separate frame within the same graphical interface layout” and “wherein upon submission of the instance of the data element to the database table, the expandable user interface element is closed.” (Final Act. 8). The Examiner relies on Sako as teaching the missing limitations. Specifically, the Examiner maintains Sako discloses that “upon pressing of a ‘set’ button, the particular window is no longer displayed and the patient information that is being ‘set’ is moved to a separate screen.” (Ans. 6). The Examiner concludes “the panels . . . are no longer displayed, the patient window has been closed, and the information has been moved, which is what Examiner

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has combined with the database population and expandable/collapsible interface in Kramer.” (Ans. 6) (citations omitted).

Appellants contend that “Sako does not disclose closing of the patient information window but instead discloses moving the information window to a different section of the screen.” Further, Appellants contend Sako shows the window is displayed during the transition and not closed, rather the window moves across the screen (Animations 1–3) until scaled down and displayed in region 43. (Reply Br. 2–3).

We are persuaded by Appellants’ argument that Sako does not teach “upon submission of the instance of the data element to the database table, the expanded interface element is closed.” More specifically, the claim requires “wherein upon submission of the instance of the data element” that, the same data element instance created in a separate frame in an expanded user interface element, be closed. The Examiner found that Kramer did not teach “creating an instance of the data element in a separate frame” or “wherein upon submission of the instance of the data element to the database table, the expandable user interface element is closed” and relied on Sako to show both features. (Final Act. 8). Sako at least appears to show moving a larger expanded element 41, located in region 31, upon selection of set button 42, into another region 43, which could be considered a framed area 43. However, element 41 is not closed, per the claim limitation. The claim requires the same expanded region containing the data instance be closed, upon submission. Sako does not show element 41 as closed, but rather scaled and reduced in size. We also disagree with the Examiner’s finding that Sako’s panels are closed. (Ans. 6). In contrast, Sako discloses in the cited portion (¶ 35) that “[t]he input region 31 is a region in which the display content is switched following screen transition, and is constituted to

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include one or more information input regions.” The animation of region 44 into region 31 is a transition, as disclosed, not a closure of the window. As shown in Fig. 3 and 4A, Sako discloses a left to right movement, upon selection of the set button 42, of input region 41 which switches via animation to area 32 and is scaled down into region 43 (¶¶ 36, 40) and 44 into region 31, without closing the element. Therefore, Kramer in view Sako are not seen as teaching or suggesting the required claimed elements for all these reasons mentioned herein. Thus, we do not sustain the Examiner’s decision to reject independent claim 1 under 35 U.S.C. § 103(a).

The rejections of independent claims 8 and 15 and dependent claims 2, 6, 7, 9, 13, 14, 16, and 20–22 rely on the same erroneous conclusion by the Examiner that Sako teaches “wherein upon submission of the instance of the data element to the database table, the expandable user interface element is closed,” as recited in claim 1. (App. Br. 18). Accordingly, we also do not sustain the Examiner’s rejection of claims 2, 6–9, 13–16, and 20–22 under 35 U.S.C. § 103(a) for the same reasons.

Claims 3, 10, and 17

Appellants contend the rejection of claims 3, 10, and 17 fails to teach the features of the base claim for the same reasons. (App. Br. 18). The Examiner finds Kramer, Tanaka, Sako, and Kraft teach the replacement feature of claims 3, 10, and 17 (Final Act. 16) and maintains the rejection should be sustained, for the same reasons as claim 1. (Ans. 7). The rejections of claims 3, 10, and 17 depend from claims 1, 8, and 15, and rely on the same erroneous conclusion by the Examiner that Sako teaches “wherein upon submission of the instance of the data element to the database table, the expandable user interface element is closed,” as recited in claim 1

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and the Examiner does not identify how the additional prior art reference remedies the noted deficiency. (App. Br. 18). Accordingly, we also do not sustain the Examiner's rejection of claims 3, 10, and 17 under 35 U.S.C. § 103(a).

DECISION

For the above reasons, we reverse the Examiner's decision rejecting claims 1–3, 6–10, 13–17, and 20–22 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. We also reverse the Examiner's decision rejecting claims 1, 2, 6–9, 13–16, and 20–22 under 35 U.S.C. § 103(a) as obvious over Kramer, Tanaka, and Sako and claims 3, 10, and 17 under 35 U.S.C. § 103(a) as obvious over Kramer, Tanaka, Sako, and Kraft.

REVERSED

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TINA MARSEILLE, HOLGER DEIST,
CARSTEN SCHMITT, and MARCEL SCHREIER

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Before JOSEPH L. DIXON, JUSTIN BUSCH, and
JOHN D. HAMANN, *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*, dissenting.

I write separately because I respectfully disagree with the majority's conclusions of eligibility and non-obviousness in the case. As discussed in more detail below, I believe the Examiner met the initial burden of demonstrating ineligibility, properly rejected the claims as ineligible, and properly rejected the claims as obvious.

THE § 101 REJECTION

The Examiner concludes claims 1–3, 6–10, 13–17, and 20–22 recite ineligible subject matter. Final Act. 3–5; Ans. 3–5. Appellants argue the Examiner has not presented a *prima facie* case that the claims recite ineligible subject matter, the claims' are not directed to an abstract idea, and

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the claims' limitations recite significantly more than the abstract idea. App. Br. 8–11. Appellants argue the § 101 rejection of all claims as a group. *See* App. Br. 6–11. Accordingly, my analysis of the § 101 rejection focuses on claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Alice/Mayo Framework

In *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 70 (2012) and *Alice Corp. Pty. Ltd. v. CLS Bank International*, 134 S. Ct. 2347, 2354 (2014), the Supreme Court explained that § 101 “contains an important implicit exception” for laws of nature, natural phenomena, and abstract ideas. *See Diamond v. Diehr*, 450 U.S. 175, 185 (1981). In *Mayo* and *Alice*, the Court set forth a two-step analytical framework for evaluating patent-eligible subject matter: (1) “determine whether the claims at issue are directed to” a patent-ineligible concept, such as an abstract idea; and, if so, (2) “consider the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements” add enough to transform the “nature of the claim” into “significantly more” than a patent-ineligible concept. *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 79); *see Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016).

Step one in the *Mayo/Alice* framework involves looking at the “focus” of the claims at issue and their “character as a whole.” *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). Instead of using a definition of an abstract idea, “the decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen—what prior cases were about, and which way they were decided.” *Amdocs (Isr.) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016) (citing *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d

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1350, 1353–54 (Fed. Cir. 2016)); *accord* United States Patent and Trademark Office, *July 2015 Update: Subject Matter Eligibility* (July 30, 2015), <https://www.uspto.gov/sites/default/files/documents/ieg-july-2015-update.pdf> (instructing Examiners that “a claimed concept is not identified as an abstract idea unless it is similar to at least one concept that the courts have identified as an abstract idea.”).

Step two involves the search for an “inventive concept.” *Alice*, 134 S. Ct. at 2355; *Elec. Power*, 830 F.3d at 1353. For an inventive concept, “more is required than ‘well-understood, routine, conventional activity already engaged in’” by the relevant community. *Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1047 (Fed. Cir. 2016) (quoting *Mayo*, 566 U.S. at 79–80).

Prima Facie Case

Appellants argue the Examiner has not established a prima facie case of ineligibility. App. Br. 8. Appellants cite various case law and generally assert the Examiner overgeneralized and oversimplified their claims and identified an abstract idea “at a high level of abstraction untethered from the specific and extensive language” in the claims. App. Br. 8 (emphasis omitted). Appellants also argue the claims in the cases the Examiner identified do not “uniquely match” their claims and, therefore, the Examiner should not have relied on those cases. App. Br. 8.

The Federal Circuit has repeatedly noted that “the prima facie case is merely a procedural device that enables an appropriate shift of the burden of production.” *Hyatt v. Dudas*, 492 F.3d 1365, 1369 (Fed. Cir. 2007) (citing *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992)). The court has, thus, held that the U.S. Patent and Trademark Office (USPTO) carries its procedural burden of establishing a prima facie case when its rejection

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satisfies the requirements of 35 U.S.C. § 132 by notifying the applicant of the reasons for rejection, “together with such information and references as may be useful in judging of the propriety of continuing the prosecution of [the] application.” *See In re Jung*, 637 F.3d 1356, 1362 (Fed. Cir. 2011); *see also Chester v. Miller*, 906 F.2d 1574, 1578 (Fed. Cir. 1990) (Section 132 “is violated when a rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection.”).

The Examiner’s rejection, as discussed further below, satisfies the initial burden of production by identifying that Appellants’ claims are directed to “a method that enters form data into a list from a separate input window from the list,” which has particular underlying concepts (e.g., “analyzes raw data, organizes said data, and displays the organized data”) that the Examiner determines are similar to other abstract ideas found abstract by the Federal Circuit (e.g., “collecting information, analyzing it, and displaying certain results of the collection and analysis”), and further explaining why the additional elements (i.e., “the computing system, the graphical user interface, and the database tables”) do not amount to significantly more than the abstract idea. *See* Final Act. 3–5; Ans. 3–5. Accordingly, the Examiner identified 35 U.S.C. § 101 as the statutory basis for the rejection and, contrary to Appellants’ contentions, explained and analyzed the rejection in sufficient detail to permit Appellants to respond meaningfully. *See Jung*, 637 F.3d at 1362.

Furthermore, as discussed above, and contrary to Appellants’ argument that the facts must “uniquely match,” App. Br. 8, our reviewing court instructs us that the proper analysis involves comparing the claims at issue to similar concepts previously reviewed and attempting to identify the

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closest matches, not only cases having uniquely matching facts. *See Amdocs*, 841 F.3d at 1294.

Step One of Alice Framework

The Examiner determines the focus of the claims is on the concept of analyzing raw data, organizing the data, and displaying the organized data, which the Examiner concludes is an abstract idea because it is similar to the concept of collecting information, analyzing the information, and displaying results of the analysis, which the Federal Circuit found to be an abstract idea. Final Act. 3–4 (citing *Elec. Power*, 830 F.3d. at 1351, 1356); Ans. 3–4. The Examiner also concludes the claims are directed to other concepts courts have found abstract. Final Act. 4 (citing *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343 (Fed. Cir. 2015); *Intellectual Ventures I LLC v. Capital One Bank*, 792 F.3d 1363 (Fed. Cir. 2015)).

Appellants contend the claims focus on a specific technological improvement. App. Br. 8. Specifically, Appellants assert the claims improve a technology because the claims create “an expanded user interface element in place, without a user being directed, re-directed, or otherwise navigated to a different floorplan or context; expanding the user interface without obscuring or otherwise covering or hiding any of the other user interface elements of the floorplan.” App. Br. 9–10.

Claim 1 is a method claim that effectively recites three method steps. In particular, claim 1 essentially recites the steps of: (1) receiving via a graphical user interface (GUI) a request to create an instance of a data element; (2) in response to receiving the request, presenting an “expanded user interface element”; and (3) closing the expanded user interface (UI)

element “upon submission of the instance of the data element.”⁵ Claim 1 recites that the method is “implemented by a computing system.”

Claim 1 also recites various arrangements and relationships of the GUI elements. More specifically, claim 1 recites the system receives the request via a GUI layout that lists the data element the user selects (hereinafter “the GUI layout”) and the data element is a business object metadata model data structure that: (1) has at least one attribute field described by metadata; (2) represents specific data; (3) defines a relationship between database tables; (4) and provides a mapping to the underlying table storing the specific data. Claim 1 further recites the expanded UI element is: (1) “expanded in the act of creating an instance of the data element”; (2) expanded in a separate frame within the GUI layout while in a fixed relationship with, and not obscuring, other UI elements in the GUI layout; and (3) includes at least some minimum number (the number corresponding to a minimum number of attributes of the object of which an instance is created) of UI “input fields to receive values to specify the at least one attribute field of the business object.”

I agree with the Examiner’s characterization of claim 1. Claim 1 is directed to a method with three steps of receiving a request to create an instance of a data element through a GUI, presenting an expanded UI element in response to receiving the request, and closing the expanded UI element in response to submission of the created instance of the data element. Claim 1 further describes certain required content in the expanded

⁵ For purposes of this Dissent, I treat claim 1’s recitation of “wherein upon submission of the instance of the data element to the database table, the expanded user interface element is closed” to affirmatively require closing the expanded user interface element in response to submitting user-entered data to create an instance of the recited data element.

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UI element and the arrangement and relationship of various UI elements in the claimed GUI. Claim 1 also recites certain relationships between the data element and both user input fields in the expanded UI element and tables storing values affiliated with data fields of the instance(s) of the data element. For purposes of this Dissent, I do not treat the database object and its variously recited relationships and content as merely non-functional descriptive material. Nevertheless, even considering every aspect of the claim as limiting, that does not change the *focus* of the claims or their *character as a whole*, which is collecting information (the creation and submission of an instance of a data element) and organizing and displaying information (the GUI, its layout, and its content) or, alternatively, presenting information in a particular layout of a graphical user interface. *See* Ans. 3 (“the claim language is directed to presenting an interface with a form and a list, where the form can be populated and then inserted into the list”).

In *Electric Power*, the Federal Circuit concluded claims that essentially recited “collecting information, analyzing it, and displaying certain results of the collection and analysis” were directed to an abstract idea. *See* Final Act. 3–4 (citing *Elec. Power*, 830 F.3d at 1353–54); *see also* Final Act. 4 (citing *Internet Patents*, 790 F.3d at 1348 (retaining information in navigation of online forms is an abstract idea); *see also Digitech Image Techs., LLC v. Elecs. For Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014) (concluding “taking existing information . . . and organizing this information into a new form” is an abstract idea); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1345, 1347 (Fed. Cir. 2014) (collecting, recognizing, and storing information is an abstract idea).

I disagree with Appellants' assertion that the claims are directed to a technological improvement. *See* App. Br. 9–10. Appellants summarize the alleged improvement as creating a UI element without changing the “floorplan” or context and generally conclude that Appellants' claims, therefore, improve a technology, but Appellants provide insufficient evidence or explanation *how* or *why* claim 1 is a *technological* improvement.

On the contrary, Appellants' alleged benefits appear to just claim a particular arrangement of UI elements and navigation of a GUI. Claim 1 is not directed to “an improvement in computers as tools,” like those claims found patent-eligible. *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016). Rather, claim 1 invokes computers merely as a tool to implement an abstract idea for presenting information in a particular way. *See BSG Tech LLC v. BuySeasons, Inc.*, No. 2017-1980, 2018 WL 3862646, at *5 (Fed. Cir. Aug. 15, 2018) (disagreeing with BSG “that its claims focus on a non-abstract improvement in database functionality” by improving the quality and organization of information in the database because the recited benefits “are not improvements to database functionality” but instead are “benefits that flow from performing an abstract idea in conjunction with a well-known database structure”). Analogous to the claims in *BSG*, claim 1 does not relate to how GUIs function, but how conventional GUIs are used to organize and present information in a way that allegedly improves process of creating instances of data elements. *See BSG*, 2018 WL 3862646, at *5.

In fact, Appellants' claims are very similar to the claims found abstract in *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229 (Fed. Cir. 2016). In *Apple*, the Federal Circuit found claims directed to a GUI that allowed a user to select items from a first set of menus and facilitated generating a second menu (i.e., claims focused on particular relationships between UI elements

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and stored data and creating new UI elements from existing UI elements) were abstract ideas because “[t]hey do not claim a *particular way of programming or designing the software* to create menus that have these features, but *instead merely claim the resulting systems.*” *Apple*, 842 F.3d at 1241 (emphases added). The Court further stated that, “[e]ssentially, the claims are directed to certain functionality—here, the ability to generate menus with certain features,” not “to a specific improvement in the way computers operate.” *Apple*, 842 F.3d at 1241.

I recognize the Federal Circuit more recently determined claims relating to particular operations that improve upon existing interface systems were not directed to an abstract idea. *Core Wireless Licensing S.A.R.L. v. LG Electronics, Inc.*, 880 F.3d 1356 (Fed. Cir. 2018). In that case, the Court focused on the fact that the claims recited “an application summary window that can be *reached directly* from the main menu . . . while the application is in an *un-launched state.*” *Core Wireless*, 880 F.3d at 1360 (reproducing the claim to demonstrate emphasis on what the Court presumably found important for purposes of further discussion). The Court determined the claims were “directed to an improved user interface for computing devices,” reiterating the emphasized portions of the claims and stating that the “limitations disclose a *specific manner* of displaying a limited set of information to the user, *rather than using conventional user interface methods* to display a generic index on a computer.” *Core Wireless*, 880 F.3d at 1362–63 (emphases added). Unlike the claims in *Core Wireless*, there is no evidence or argument suggesting that expanding and closing the expanded UI element is anything other than implementing conventional user interface methods while reciting a particular arrangement of UI elements and executing the expansion and closing in response to particular user input.

Although claim 1 has certain similarities to claims in both *Apple* and *Core Wireless*, I believe claim 1 is more similar to the claims in *Apple*. Accordingly, I agree with the Examiner that claim 1 is directed to an abstract idea and turn to step 2 of the *Alice* analysis.

Step Two of Alice Framework

Next, I consider whether the *additional* limitations, when considered both “individually and ‘as an ordered combination’” contain an “inventive concept” sufficient to transform the claimed “abstract idea” into a patent-eligible application. *Alice*, 134 S. Ct. at 2355–58.

The Examiner concludes that the additional elements in claim 1 are not rooted in computer technology to overcome problems specifically arising in the realm of GUIs. Final Act. 4; Ans. 5. The Examiner also concludes Appellants’ “additional elements (i.e., the computing system, the graphical user interface, and the database tables) . . . are merely instructions to implement the abstract idea on a computer and require no more than a generic computer to perform generic computer functions.” Final Act. 4. The Examiner explains that “[p]opulating a generic database is a well-understood, routine, and conventional activity in the art,” “filling out of forms and the saving of forms is a well-understood, routine, and conventional activity in the GUI art,” and “[a]n expandable/collapsible interface that saves information to a database could not be more conventional.” Final Act. 4; Ans. 4–5.

Appellants assert the Examiner has not sufficiently demonstrated the additional elements fail to provide significantly more than the abstract idea itself. App. Br. 10 (citing *Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016)). Other than a bare conclusion that the ordered combination of the claimed features is not well-

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known, Appellants’ only argument that the claims recite significantly more is that the claims do not pre-empt “the alleged abstract idea of ‘analyzing raw data, organizing said data and displaying the organized data.’” App. Br. 10–11.

An inventive concept “cannot be furnished by the unpatentable law of nature (or natural phenomenon or abstract idea) itself.” *Genetic Techs. Ltd. v. Merial L.L.C.*, 818 F.3d 1369, 1376 (Fed. Cir. 2016); *see also Alice*, 134 S. Ct. at 2355 (explaining that, after determining a claim is directed to a judicial exception, “we then ask, ‘[w]hat else is there in the claims before us?’” (emphasis added, brackets in original) (quoting *Mayo*, 566 U.S. at 78)). Instead, an “inventive concept” is furnished by an element or combination of elements that is recited in the claim *in addition to* the judicial exception and sufficient to ensure the claim as a whole amounts to significantly more than the judicial exception itself. *Alice Corp.*, 134 S. Ct. at 2355 (citing *Mayo*, 566 U.S. at 72–73); *see BSG*, 2018 WL 3862646, at *7 (explaining that the Supreme Court in *Alice* “only assessed whether the claim limitations *other than the invention’s use of the ineligible concept* to which it was directed were well-understood, routine and conventional” (emphasis added)). On the other hand, “[i]f a claim’s only ‘inventive concept’ is the application of an abstract idea using conventional and well-understood techniques, the claim has not been transformed into a patent-eligible application of an abstract idea.” *BSG*, 2018 WL 3862646, at *7 (citing *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1370 (Fed. Cir. 2018)). “[I]t is irrelevant whether [the claimed abstract idea] may have been non-routine or unconventional as a factual matter . . . narrowing or reformulating an abstract idea does not add ‘significantly more’ to it.” *BSG*, 2018 WL 3862646, at *7.

I agree with the Examiner that claim 1 recites the routine use of conventional computer components to perform the recited method steps that constitute the abstract idea. *See OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015) (“[R]elying on a computer to perform routine tasks more quickly or more accurately is insufficient to render a claim patent eligible.”); *see also Intellectual Ventures*, 792 F.3d at 1370 (“[O]ur precedent is clear that merely adding computer functionality to increase the speed or efficiency of the process does not confer patent eligibility on an otherwise abstract idea.”); *Alice*, 134 S. Ct. at 2358–59.

Again, even treating every limitation related to the recited database object as limiting, I agree with the Examiner that Appellants’ claims do not recite significantly more than the abstract idea itself. Notably, the claims recite only well-known, routine, and conventional computing system, GUI elements, and database tables. Appellants’ conclusory assertion to the contrary—i.e., that the combination of claimed features is not well-known—is unpersuasive. Appellants provide insufficient persuasive evidence or explanation how or why claim 1 improves GUIs or another technology or otherwise adds significantly more to the abstract idea as opposed to merely implementing a GUI with a particular visual arrangement and causal relationships to particular user input, which are all aspects of the abstract idea itself and not *additional* limitations.

Accordingly, the claimed limitations, considered both individually and together, do not add significantly more to the abstract idea and, therefore, do not confine the abstract idea in a way that renders the subject matter patent eligible.

Summary

For the above reasons, I am not persuaded the Examiner erred in rejecting claims 1–3, 6–10, 13–17, and 20–22 under 35 U.S.C. § 101 as ineligible and I would affirm this rejection.

THE § 103 REJECTIONS

Claims 1–3, 6–10, 13–17, and 20–22

The Examiner rejects claims 1, 2, 6–9, 13–16, and 20–22 as obvious in view of Kramer, Tanaka, and Sako and claims 3, 10, and 17 as obvious in view of Kramer, Tanaka, Sako, and Kraft. App. Br. 5–18. Appellants do not separately argue any dependent claims. *See* App. Br. 5–18; Reply Br. 2–3. Furthermore, Appellants rely on the same arguments for patentability for each of the independent claims, and the claims have commensurate limitations. *See* App. Br. 14–17. Therefore, in this Dissent, I address Appellants’ argument only with respect to independent claim 1.

Of particular relevance to Appellants’ arguments, the Examiner finds “Kramer explicitly teaches an interface that can be expanded and collapsed, with form data capable of being entered and stored in a database” and “Kramer allows for the expandable user interface element to be closed or opened.” Ans. 6; *see* Final Act. 7 (“user can enter data into forms that are expandable/collapsible in the interface.”) The Examiner then finds Kramer does not teach closing an expandable UI element in response to submitting the instance of the data element and explains, therefore, that “Sako has been combined with Kramer.” Ans. 6.

The Examiner finds Sako teaches the aspect of the claims relating to presenting a UI element “in a separate frame” of the GUI and “upon submission of the instance of the data element to the database table, the expanded user interface element is closed.” Final Act. 8. Specifically, the

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Examiner finds Sako discloses “patient info can be moved upon pressing the ‘set’ button and inserted into a list on the separate screen.” Final Act. 8; *see* Ans. 6. The Examiner explains that Sako’s “panels . . . are no longer displayed, the patient window has been closed, and the information has been moved, which is what Examiner has combined with the database population and expandable/collapsible interface in Kramer.” Ans. 6 (citations omitted).

Appellants argue Sako’s moving of patient information “does not disclose closing of the [patient] information window, but instead describes moving the [patient] information window to a different section of the screen.” Reply Br. 2. Appellants, the Examiner, the majority, and I all appear to agree that Sako discloses a patient information window in which a user may enter patient information and, upon the user clicking the “set” button, Sako displays an animation that scales down the patient information window and moves the window from its initial location in the patient information *input* region to its ultimate location in the patient information *display* region. Sako ¶¶ 36, 38, Fig. 4. Sako further discloses that, after moving from the input-enabled region (i.e., the patient information input region) to the input-disabled region (i.e., the patient information display region), the patient information attributes are “in a protected state, with input being disabled.” Sako ¶ 37.

First, I note claim 1 does not recite closing a particular window, but merely recites that the “expanded user interface element is closed” upon submitting the instance. Sako explicitly discloses the patient information window is “scaled down” before it is displayed in the patient information display region, which suggests the non-scaled down version was “expanded.” For that reason alone, I believe a person of ordinary skill in the art would have understood Sako to teach, or at least suggest, closing the

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expanded UI element because the UI element is now *contracted* as compared to its expanded state prior to the move.

Claim 1 further recites the expanded UI element includes “user interface *input fields* to receive values.” Therefore, based on the fact Sako’s window is *input-disabled* after moving, I believe a person of ordinary skill in the art would have understood Sako to teach, or at least suggest, closing the expanded UI *element*, which includes UI *input fields*. That is, the particular element that was expanded to allow user input is no longer expanded with input fields.

Therefore, I do not believe the Examiner erred in determining Sako teaches, or at least suggests presenting a UI element “in a separate frame” of the GUI and “upon submission of the instance of the data element to the database table, the expanded user interface element is closed.” Based on the arguments and evidence before us, I agree with the Examiner’s conclusion that the claims would have been obvious.

CONCLUSION

I would affirm the Examiner’s decision to reject claims 1–3, 6–10, 13–17, and 20–22 under 35 U.S.C. §§ 101 and 103.