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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte YIGIT CAGLAYAN and KEMAL UYAN

Appeal 2018-002185
Application 13/833,625
Technology Center 3600

Before MARC S. HOFF, BETH Z. SHAW, and STEVEN M.
AMUNDSON, *Administrative Patent Judges*.

SHAW, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ appeal under 35 U.S.C. § 134 from a final rejection of claims 1–9 and 16–24. Claims 10–15 and 25–30 are cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ According to Appellants, MasterCard International Incorporated is the real party in interest. App. Br. 2.

INVENTION

The claims recite a system and method for processing financial transactions using a mobile device. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A computer-implemented method for processing a financial transaction, comprising:
 - storing, in a database of a processing server device, a plurality of wallet data entries, wherein each wallet data entry includes at least a mobile device identifier and payment details associated with at least one payment account;
 - receiving, by a receiving device of the processing server device, an authorization request for a financial transaction from a transaction system of a merchant involved in the financial transaction, wherein the authorization request includes at least a specific mobile device identifier and transaction data and does not include payment details;
 - in response to receiving the authorization request, transmitting, by a transmitting device of the processing server device, over a communication network, via a mobile network operator (MNO), a selection request including at least the transaction data to a mobile computing device associated with the specific mobile device identifier included in the authorization request, wherein said transmission activates an application program installed on the mobile computing device causing the mobile computing device to (i) display, on a display thereof, selection data including at least one payment account and (ii) prompt user-selection of a payment account from the at least one payment account, wherein payment details associated with the at least one payment account are not stored on the mobile computing device;
 - receiving, by the receiving device of the processing server device, via the communication network, an indication of a selected payment account for funding of the financial transaction from the mobile computing device;
 - identifying, by a processing device of the processing server device, the payment details associated with the indicated selected payment account in a wallet data entry stored in the database

Appeal 2018-002185
Application 13/833,625

including the mobile device identifier included in the authorization request; and
transmitting, by the transmitting device of the processing server device, at least the payment details associated with the indicated selected payment account and the transaction data to a payment network for approval of the payment transaction.

RELATED APPEALS

This appeal is related to Application No. 14/483,254, Appeal No. 2018-002102. App. Br. 2.

REJECTION

The Examiner rejected claims 1–9 and 16–24 under 35 U.S.C. § 101.

CONTENTIONS AND ANALYSIS

An invention is patent eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g., Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014) (quotation marks and citation omitted).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 219 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement

Appeal 2018-002185
Application 13/833,625

risk.”); *see also* *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.”).

Concepts determined to be abstract ideas, and, thus, patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); “tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1853))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, . . . and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (citing *Benson* and *Flook*); *see, e.g., Diehr*, 450 U.S. at 187 (“It is now commonplace that an *application* of a law of nature or

Appeal 2018-002185
Application 13/833,625

mathematical formula to a known structure or process may well be deserving of patent protection.”).

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (citation omitted). “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.* (alterations in original) (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

The U.S. Patent and Trademark Office (“USPTO”) recently published revised guidance on the application of § 101. USPTO’s 2019 REVISED PATENT SUBJECT MATTER ELIGIBILITY GUIDANCE, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Revised Guidance”). Under that Revised 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* MANUAL OF PATENT EXAMINING PROCEDURE (“MPEP”) §§ 2106.05(a)–(c), (e)–(h) (9th ed. rev. 08.2017, Jan. 2018)).

Appeal 2018-002185
Application 13/833,625

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 § 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 Revised Guidance.

Abstract Idea

Appellants address the claims as a group, and we treat claim 1 as representative. Under Supreme Court precedent, claims directed purely to an abstract idea are patent ineligible. As set forth in the Revised Guidance, which extracts and synthesizes key concepts identified by the courts, abstract ideas include (1) mathematical concepts, (2) certain methods of organizing human activity, and (3) mental processes. Among those certain methods of organizing human activity listed in the Revised Guidance are fundamental economic practices or commercial interactions. Claim 1 recites a fundamental economic practice or commercial interaction. Specifically, the steps of claim 1 fall under the umbrella of fundamental economic practices or commercial interactions, including transactions or sales activities, because “receiving” “an authorization request for a financial transaction” and “transmitting” “payment details” would ordinarily take place in a sale or market transaction, which occurs in a commercial transaction that requires a payment. *See* Spec. ¶ 1 (“The present disclosure relates to the conducting of financial transactions using a mobile device”); Spec. ¶ 4 (“The present

Appeal 2018-002185
Application 13/833,625

disclosure provides a description of systems and methods for the processing of financial transactions and identification of payment details.”).

Claim 1 is, thus, similar to claims that courts have concluded recite a fundamental economic practice. *See, e.g., Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378–79 (Fed. Cir. 2017) (holding that concept of “local processing of payments for remotely purchased goods” is a “fundamental economic practice, which *Alice* made clear is, without more, outside the patent system.”) (quotation marks and citation omitted); *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (concluding that claimed concept of “offer-based price optimization” is an abstract idea “similar to other ‘fundamental economic concepts’ found to be abstract ideas by the Supreme Court and this court”) (citation omitted); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (holding that concept of “creating a contractual relationship—a ‘transaction performance guaranty’” is an abstract idea) (citation omitted); *see also* Revised Guidance, 84 Fed. Reg. at 52, 53 (listing “[c]ertain methods of organizing human activity—fundamental economic principles or practices” as one of the “enumerated groupings of abstract ideas”). Thus, we conclude claim 1 recites a fundamental economic practice, one of certain methods of organizing human activity identified in the Revised Guidance, and thus an abstract idea.

In accordance with the Revised Guidance, and looking to MPEP §§ 2106.05(a)–(c) and (e)–(h), we determine that additional elements of claim 1 integrate a judicial exception, in this case the abstract idea of a fundamental economic practice, into a practical application.

Claim 1 recites additional elements of “in response to receiving the authorization request” “transmitting, by a transmitting device of the processing server device, over a communication network, via a mobile network operator (MNO), a selection request including at least the transaction data to a mobile computing device associated with the specific mobile device identifier included in the authorization request,” “wherein said transmission activates an application program installed on the mobile computing device” and “causing the mobile computing device to (i) display, on a display thereof, selection data including at least one payment account and (ii) prompt user-selection of a payment account from the at least one payment account, wherein payment details associated with the at least one payment account are not stored on the mobile computing device.” The claim as a whole integrates the fundamental economic practice into a practical application. Specifically, the additional elements recite a specific manner of transmitting a selection request to a mobile computing device, activating “an application program installed on the mobile computing device,” causing the mobile computing device to “display, on a display thereof, selection data including at least one payment account” and “prompt user-selection of a payment account from the at least one payment account, wherein payment details associated with the at least one payment account are not stored on the mobile computing device.” These elements provide a specific improvement over prior systems, resulting in an improved system for confirming payment at a mobile device, without requiring storage of payment information at the mobile device and without requiring transmission of payment information directly from the mobile device to a device of a merchant.

Appeal 2018-002185
Application 13/833,625

Accordingly, the claim as a whole integrates the abstract idea into a practical application because the claim limitations, e.g., transmitting a selection request to a mobile computing device, activating “an application program installed on the mobile computing device,” causing the mobile computing device to “display, on a display thereof, selection data including at least one payment account” and “prompt user-selection of a payment account from the at least one payment account, wherein payment details associated with the at least one payment account are not stored on the mobile computing device,” impose meaningful limits on practicing the abstract idea. For these reasons, the claims are directed to patent-eligible subject matter.

DECISION

For the above reasons, the Examiner’s rejection of claims 1–9 and 16–24 is reversed.

REVERSED