UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JORGE A. ARROYO, STEPHEN P. KRUGER,
PATRICK J. O'SULLIVAN,
LUCIANO MARTINS PEREIRA DA SILVA

Appeal 2018-002202
Application 14/632,185
Technology Center 3600

Before CARL W. WHITEHEAD JR., JASON V. MORGAN and
MICHAEL J. STRAUSS, *Administrative Patent Judges.*

WHITEHEAD JR., *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants are appealing the final rejection of claims 1–14, which
constitute all the claims pending in this application, under 35 U.S.C.
§ 134(a). Appeal Brief 8. We have jurisdiction under 35 U.S.C. § 6(b)
(2012).

We affirm.

Introduction

The invention is directed to:

A customer relationship management (CRM) system uses
techniques and methods to gather, organize, automate, and
synchronize sales, for marketing, customer service, and technical
support. The CRM system stores this information in a database.

Further, this information is retrieved from the database and analyzed to allow a company to better target various customers.

Specification ¶ 2.

Illustrative Claim

1. A method for notifying a user about relevant data for opportunities, the method comprising:

obtaining, from a database, opportunities, each opportunity corresponding to a record structure in the database with a number of fields of metadata;

analyzing the metadata associated with different opportunities including comparing the metadata from different opportunities to identify patterns for the opportunities;

identifying, based on the patterns, correlations for the opportunities in which data from a more mature opportunity is determined to be relevant to a less mature opportunity; and

notifying, based on the correlations, a user about the relevant data for the less mature opportunity.

Rejections on Appeal

Claims 1–14 stand provisionally rejected on the ground of nonstatutory double patenting as being unpatentable over claims 8—9 and 13–27 of co-pending Application 14/272,215, Arroyo (US Patent Application 2015/0324859 A1; published November 12, 2015). Final Rejection 2–7.

Claims 1–14 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to nonstatutory subject matter. Final Action 7–10.

Claims 1–14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wagner (US Patent Application Publication 2015/0170163 A1; published June 18, 2015) and Sabharwal (US Patent

Application Publication 2012/0323639 A1; published December 20, 2012).
Final Action 11–26.

ANALYSIS

Rather than reiterate the arguments of Appellants and the Examiner,
we refer to the Appeal Brief (filed August 1, 2017), the Reply Brief (filed
December 26, 2017), the Final Action (mailed March 20, 2017) and the
Answer (mailed November 9, 2017) for the respective details.

Non-statutory Double Patenting

Appellants do not proffer substantive arguments regarding and we
summarily affirm the Examiner's provisional rejection of claims 1–14 on the
ground of non-statutory double patenting. *See* Appeal Br. 9; Reply Br. 4–5;
see also Ex parte Frye, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential)
("If an appellant fails to present arguments on a particular issue — or, more
broadly, on a particular rejection — the Board will not, as a general matter,
unilaterally review those uncontested aspects of the rejection. *See, e.g.,*
Hyatt v. Dudas, 551 F.3d 1307, 1313–14 (Fed. Cir. 2008) (the Board may
treat arguments appellant failed to make for a given ground of rejection as
waived)").

35 U.S.C. §101 rejection

The Examiner determines the claims are patent ineligible under 35
U.S.C. § 101 because the claims are directed to an abstract idea comprising a
fundamental economic practice or organizing human activity, and do not
include additional elements that are sufficient to amount to significantly

more than the abstract idea. Final Action 8, 10; *see also Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208, 217 (2014) (Describing the two-step framework "for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.").

After the mailing of the Answer and the filing of the Briefs in this case, the USPTO published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (hereinafter "Memorandum"). Under the Memorandum, the Office first looks to whether the claim recites:

> (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes); and
> (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)).

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

> (3) adds a specific limitation beyond the judicial exception that are not "well-understood, routine, conventional" in the field (see MPEP § 2106.05(d)); or
> (4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See Memorandum.

We are not persuaded the Examiner's rejection is in error. We adopt the Examiner's findings and conclusions as our own, and we add the following primarily for emphasis and clarification with respect to the Memorandum.

Appellants argue the pending claims are not directed to an abstract idea because:

> Claim 10 is directed to a method for autonomously expanding and improving a database of opportunities. Through operation of the method recited in claim 10, the database is expanded to newly include identified relationships between existing records (i.e.[,] opportunities) and new links of relevant information from more mature opportunities to less mature opportunities, i.e.[,] "updating the database with the correlations and the relevant data [from the more mature opportunity] associated with the less mature opportunity." (Claim 10).

Appeal Brief 9–10.

Appellants further argues, "[s]imilarly, claim 1 recites identifying these same correlations within the database and creating a record of the correlations by 'notifying, based on the correlations, a user about the relevant data [from a different more mature opportunity] for the less mature opportunity.' (Claim 1)." Appeal Brief 11.

We agree with the Examiner's determination that the claims are directed to an abstract idea. *See* Final Action 7–10. The Specification discloses:

> [A] CRM system is used as a model for managing a business's interactions with current and future customers. The CRM system uses techniques and methods to organize, automate, and synchronize sales, for marketing, customer service, and technical support. In one example, the CRM system may be a classical CRM system that monitors sources such as current customers and potentially future customers to gather information to better target various customers.

Specification ¶ 57.

The concept of a marketing is a fundamental business practice long prevalent in our system of commerce. The use of a marketing is also a building block of ingenuity in attempting to stimulate sales. Thus, a CRM system is an example of a conceptual idea subject to the Supreme Court's "concern that patent law not inhibit further discovery by improperly tying up the future use of these building blocks of human ingenuity." *Alice*, 573 U.S. at 216 (citations omitted). Claim 10 recites "further comprising updating the database with the correlations and the relevant data associated with the less mature opportunity." These steps comprise fundamental economic principles or practices and/or commercial or legal interactions; thus the claim recites the abstract idea of "certain methods of organizing human activity." Memorandum, Section I (Groupings of Abstract Ideas); *see* Specification ¶¶ 1, 2. Our reviewing court has found claims to be directed to abstract ideas when they recited similar subject matter. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (using advertising).

Appellants argue, "[t]he subject matter of claim 10 is just such an improvement in computer-related technology that allows the database of opportunities to self-update and self-expand by creating and storing the new correlations between opportunities and creating new links for relevant data from more mature to less mature opportunities." Appeal Brief 10. We do not find Appellants' argument persuasive because claim 10 merely uses the database as a tool to provide the customer with *updated* information relevant to the latest opportunity as a way to market the opportunity to the customer. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016). ("[W]e find it relevant to ask whether the claims are directed to an improvement to computer functionality versus being directed to an abstract

idea . . . the focus of the claims is on the specific asserted improvement in computer capabilities (i.e., the self-referential table for a computer database) or, instead, on a process that qualifies as an 'abstract idea' for which computers are invoked merely as a tool."). The claims do not recite an additional element or elements that reflect an improvement in the functioning of a computer, or an improvement to other technology or technical field. *See* Final Action 9 ("Based on a review of the specification the additional elements are found to be generic computer hardware ('general purpose computer' in Paragraphs 0020 and 0094) and do not amount to significantly more to the abstract idea..");
Alice, 573 U.S. at 222 ("In holding that the process was patent ineligible, we rejected the argument that 'implement[ing] a principle in some specific fashion' will 'automatically fal[l] within the patentable subject matter of § 101.'") (*quoting Parker v. Flook*, 437 U.S. 584, 593(1978)).

Accordingly, we determine the claim does not integrate the judicial exception into a practical application. *See* Memorandum, Section III(A)(2) (Prong Two: If the Claim Recites a Judicial Exception, Evaluate Whether the Judicial Exception Is Integrated Into a Practical Application). Nor do we find the claim includes a specific limitation or a combination of elements that amounts to significantly more than the judicial exception itself. *See* Memorandum, Section III(B) (Step 2B: If the Claim Is Directed to a Judicial Exception, Evaluate Whether the Claim Provides an Inventive Concept); *see also Aatrix Software, Inc. v. Green Shades Software, Inc.*, 890 F.3d 1354, 1359 (Fed. Cir. 2018) ("the 'inventive concept' cannot be the abstract idea itself"). Other than the abstract idea itself, the remaining claim elements

only recite generic computer components that are well-understood, routine, and conventional. *See* Final Action 9–10; *Alice*, 573 U.S. at 226.

Accordingly, we agree with the Examiner that claims 1–14, not argued separately, are not patent eligible. *See* Appeal Brief 11.

35 U.S.C. §103 rejections

Appellants contend, "Wagner merely helps a user to prioritize a schedule of, for example, sales visits" and "Wagner does not look for correlations between opportunities where a more mature opportunity guides efforts on a less mature opportunity, i.e.[,] 'identifying, based on the patterns, correlations for the opportunities in which data from a more mature opportunity is determined to be relevant to a less mature opportunity.' (Claim 1)." Appeal Brief 12 (*citing* Final Action 13–14). The Examiner finds Sabharwal addresses Wagner's CRM software alleged deficiency because Sabharwal discloses maturity levels "in which data from a more mature opportunity . . . is determined to be relevant to a less mature opportunity." Final Action 14 (*citing* Sabharwal ¶¶ 34–37, 42).

Appellants further contend, "[h]owever, Sabharwal, like Wagner, is not particularly relevant to the claimed subject matter. Specifically, Sabharwal has nothing to do with managing a CRM database comprised of records for different opportunities." Appeal Brief 12. We do not find Appellants' arguments persuasive because it is evident that both Sabharwal and Wagner pertain to managing business information dependent databases. Wagner employs CRM software and discloses:

> Examples of a system and method for calculating relevance of sales opportunities and generating a visualization of the relevance of the sales opportunities are described. In one

> example embodiment, objects from a CRM database are
> accessed to compute an importance score and an urgency score
> for each object. The importance score is computed based on
> parameters indicative of an importance of an opportunity. The
> urgency score is computed based on parameters indicative of an
> urgency of a sales opportunity. A relevance score is computed
> for the objects using the importance score and the urgency score.
> The objects are ranked based on the corresponding relevance
> score.

Wagner ¶ 15.

Sabharwal ("A system, computer-readable storage medium, and

computer-implemented method for determining a maturity level for a

business process") (Abstract) discloses:

> In some embodiments, after the correlation module **108**
> calculates the weighted maturity levels **118,** the correlation
> module **108** determines recommended actions using the
> weighted maturity levels **118.** For example, consider a business
> process that is associated with five questions and corresponding
> responses to questions **112.** The weighted maturity levels **118**
> corresponding to the five responses to questions **112** may
> indicate a number of recommended actions **208** for improving
> the business process.

Sabharwal ¶ 35.

Accordingly, we agree with the Examiner's determination that it

would have been obvious to modify the business information database of

Wagner, wherein Wagner analyzes the relevancy of the business data, by

employing Sabharwal's disclosure of analyzing business data based upon

maturity levels. *See* Final Action 14.

Appellants argue that, "Sabharwal appears to only ever discuss

evaluating the maturity and potential improvements to a *single* business

process. Sabharwal has not been shown to correlate between different

business processes and, most importantly, to associate relevant data from a

more mature process with a less mature one." Appeal Brief 13. We do not find Appellants' argument persuasive. Sabharwal discloses, "[t]he term 'process' as used herein comprises a series of activities to produce a product or perform a service, and is to be interpreted broadly as including a process group, a sub-process, or any collection of processes." Sabharwal ¶ 16. Subsequently, we sustain the Examiner obviousness rejection of claims 1– 14.

DECISION

The Examiner's provisional obviousness-type double-patenting rejection of claims 1–14 is affirmed.

The Examiner's nonstatutory subject matter rejection of claims 1–14 under 35 U.S.C. §101 is affirmed.

The Examiner's obviousness rejection of claims 1–14 under 35 U.S.C. §103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED