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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* LIBO SU, EGAN SCHULZ, and  
MICHELLE SERRANO

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Appeal 2018-002343  
Application 14/137,793<sup>1</sup>  
Technology Center 3600

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Before HUNG H. BUI, IRVIN E. BRANCH, and ADAM J. PYONIN,  
*Administrative Patent Judges.*

PYONIN, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> PayPal, Inc. is listed as the real party in interest. App. Br. 2.

## STATEMENT OF THE CASE

### *Introduction*

The Application is directed to “techniques for facilitating electronic commerce in an augmented reality environment.” Spec. ¶ 8. Claims 1–4, 8–14, 16–18, and 25–30 are pending; of these, claims 1, 9, and 16 are independent. App. Br. 18–21.<sup>2</sup> Claim 1 is reproduced below for reference (emphasis added):

1. A computing system, comprising:
  - one or more hardware processors; and
  - a non-transitory memory coupled to the one or more hardware processors and having instructions stored thereon that are executable by the one or more hardware processors to cause the computing system to perform operations comprising:
    - receiving an image of a real-world environment that was acquired via an optical input system;
    - receiving at least one user input command that is associated with a particular real-world object depicted in the image;
      - based on information included in the image, determining an identity of the particular real-world object;*
      - based on the determined identity of the particular real-world object and the at least one user input command, retrieving information specifying a monetary amount corresponding to the particular real-world object; and
      - causing graphic overlay information to be shown in association with a view of the particular real-world object on an output display component, wherein the graphic overlay information includes the monetary amount.

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<sup>2</sup> Throughout this opinion, we refer to the pages of the Appeal Brief as if numbered consecutively starting on the first page

*References and Rejections*

Claims 1–4, 8–14, 16–18, and 25–30 stand rejected under 35 U.S.C. § 101 as being patent ineligible. Final Act. 4.

Claims 1–4, 8–12, 16–18, and 26–30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosenblatt (US 2013/0085941 A1; Apr. 4, 2013) and Grove (US 2002/0188551 A1; Dec. 12, 2002). Final Act. 8.

Claims 13 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosenblatt, Grove, and Calman (US 2012/0233072 A1; Sept. 13, 2012). Final Act. 13.

Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosenblatt, Grove, and Webb (US 2014/0040045 A1; Feb. 6, 2014). Final Act. 15.

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments. Arguments Appellants could have made but chose not to make are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). We discuss each of the statutory grounds of rejection, in turn.

*A. 35 U.S.C. § 101*

The Examiner determines the claims are patent ineligible under 35 U.S.C. § 101, because “the claims are not significantly more than an abstract idea.” Ans. 4; *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 docketing of this Appeal, the USPTO published revised guidance on the application of § 101 (“Guidance”). *See* USPTO’s 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Memorandum”). Under the Guidance, 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.

Appellants argue the Examiner erred in determining the claims are abstract, because “Claim 1 ... relates to a computing system that operates within a particular technical environment.” App. Br. 9. Appellants contend that, “[w]hile claim 1 mentions a ‘monetary amount’ in its limitations, this is not the focus of the claim” (*id.* at 10), and “claim 1 does not even explicitly mention any ‘financial transaction’ at all” (*id.* at 11). “Instead, claim 1

relates to a series of concrete, technical steps performed relative to a real-world image.” *Id.* at 10.

Pursuant to the Guidance, we are persuaded the rejection is in error. The Examiner determines “[t]he instant claims are directed to facilitating financial transactions, which is similar to . . . certain methods of organizing human activity.” Ans. 4–5. Examples of certain methods of organizing human activity are enumerated in the Guidance to include “fundamental economic principles or practices (including hedging, insurance, mitigating risk),” “commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations),” and “managing personal behavior or relationships or interactions between people.” Memorandum, Section I (Groupings of Abstract Ideas), 84 Fed. Reg. at 52.

Claim 1, in contrast with these abstract concepts, requires receiving an image, retrieving a monetary amount corresponding to an object in the image, and displaying a graphic overlay shown in association with a view of the particular real-world object on an output display component, wherein the graphic overlay includes the monetary amount. These limitations are not certain methods of organizing human activity, pursuant to the Guidance: the claim does not recite steps of a financial practice such as hedging, and the claimed retrieval and display of information is not an interaction or relationship as described in the Guidance. Memorandum, Section I (Groupings of Abstract Ideas), 84 Fed. Reg. at 52. Nor do we see, based on the record before us, any indication that claim 1 recites mathematical concepts or mental processes. *See* Memorandum, Section III (A) (1) (Prong

One: Evaluate Whether the Claim Recites a Judicial Exception), 84 Fed. Reg. at 52.

Accordingly, we are persuaded claim 1 “does not recite a judicial exception (a law of nature, natural phenomenon, or subject matter within the enumerated groupings of abstract ideas in Section I),” so “the claim is eligible at Prong One of revised Step 2A.” Memorandum, Section III (Instructions for Applying Revised Step 2A During Examination), 84 Fed. Reg. at 54. We do not sustain the Examiner’s patent eligibility rejection of claim 1, independent claims 9 and 16 which recite similar limitations, or the claims dependent thereon.

*B. 35 U.S.C. § 103(a)*

Appellants argue the Examiner’s obviousness rejection is in error, because “Rosenblatt and Grove do not teach or suggest ‘based on information included in the image, determining an identity of the particular real-world object’” as claimed. App. Br. 14 (emphasis omitted). Particularly, Appellants contend “Rosenblatt is simply describing a generic digital camera that is capable of taking a picture of an object,” and in the reference, “[n]o further elaboration is provided, and no other portions of Rosenblatt discuss this briefly mentioned aspect.” Reply Br. 3.

We are not persuaded that the Examiner errs. Rosenblatt, as cited by the Examiner, teaches the “camera **46** may be used to capture images or video and may be used to obtain merchandise information,” as “the camera **46** may be used to take a picture of an item for purchase to identify the

item.” Rosenblatt ¶ 44; Ans. 7.<sup>3</sup> We find Rosenblatt’s disclosure to be tantamount to the claim 1 recitation “based on information included in the image, determining an identity of the particular real-world object.”

Appellants argue Rosenblatt does not teach the examples as elaborated in the Specification; however, Appellants do not show the claim language itself is not taught or suggested by the cited references. *See* Reply Br. 3–4; *see also In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (“limitations are not to be read into the claims from the specification”). Accordingly, we are not persuaded the Examiner’s rejection of independent claim 1 is in error.

We sustain the Examiner’s obviousness rejection of claim 1.

Appellants do not separately argue the claims. *See* App. Br. 6. Thus, we also sustain the Examiner’s obviousness rejection of claims 2–4, 8–14, 16–18, and 25–30.

## DECISION

The Examiner’s rejections of claims 1–4, 8–14, 16–18, and 25–30 under 35 U.S.C. § 103(a) are affirmed.

The Examiner’s rejection of claims 1–4, 8–14, 16–18, and 25–30 under 35 U.S.C. § 101 is reversed.

The Examiner’s decision is affirmed because we have affirmed at least one ground of rejection with respect to each claim on appeal. *See* 37 C.F.R. § 41.50(a)(1).

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<sup>3</sup> We note *Grove*, as cited by the Examiner, also teaches identifying an object. *See* Final Act. 9; *Grove* ¶ 42 (“a look-up is performed within the database **23**, and specifically on the items table **42**, to obtain a title”), ¶ 43 (“Retrieving the item includes retrieving additional information (e.g. title, description[]) . . . associated with the item.”).

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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)(iv).

AFFIRMED