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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TETSURO MOTOYAMA and AVERY FONG

Appeal 2018-002839¹
Application 12/122,497²
Technology Center 3600

Before NINA L. MEDLOCK, KENNETH G. SCHOPFER, and
TARA L. HUTCHINGS, *Administrative Patent Judges*.

HUTCHINGS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–12. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Our decision references Appellants' Appeal Brief ("App. Br.," filed Sept. 15, 2017) and Reply Brief ("Reply Br.," filed Jan. 24, 2018), and the Examiner's Answer ("Ans.," mailed Nov. 24, 2017) and Non-Final Office Action ("Non-Final Act.," mailed Dec. 23, 2016).

² Appellants identify Ricoh Company, Ltd. as the real party in interest. App. Br. 2.

CLAIMED INVENTION

The Appellants' claimed invention "relates generally to project management," and "more specifically to managing project schedule data using separate current and historical task schedule data and to-do list representations for project schedule data." Spec. ¶ 3.

Claims 1, 5, and 9 are the independent claims on appeal. Claim 1, reproduced below with bracketed notations added, is illustrative of the claimed subject matter:

1. A computer-implemented method for managing project schedule data, the computer-implemented method comprising:
 - [(a)] receiving, from a user via a member schedule editor, a request to create a task in a project;
 - [(b)] prior to schedule data being specified for the task,
 - generating task data that identifies the task in the project, wherein the task data has a value that indicates whether the task is a project task or a non-project task, and
 - storing the task data for the task in a data repository of a computer system, and
 - the computer system generating and storing in the data repository of the computer system in association with the task data, revision data having a value that indicates that the task associated with the task data does not currently have any associated schedule data and is a to-do list task;
 - [(c)] a project member assigned to perform the task using the member schedule editor to:
 - specify and change schedule data for the task,
 - define one or more sub-tasks for the task, and
 - define one or more non-project tasks; and
 - [(d)] the member schedule editor:
 - displaying one or more tasks that are both assigned at least to the user and are not yet completed,

using the value of the revision data to determine whether to display the task as a to-do list task or a non-to-do list task,

using the value of the task data to determine whether to display the task as a project task or a non-project task, and

in response to a project member assigned to perform the task using the member schedule editor to specify and change schedule data for the task:

generating and storing, in the data repository of the computer system, the schedule data for the task, and

updating the value of the revision data stored in association with the task data to indicate that the task now has associated schedule data and is a non-to-do list task.

REJECTION

Claims 1–12 are rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

ANALYSIS

Appellants argue the pending claims as a group. App. Br. 3–8; *see also* Reply Br. 2–9. We select independent claim 1 as representative. The remaining claims stand or fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Under 35 U.S.C. § 101, 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 Supreme Court, however, has long interpreted § 101 to include an implicit exception: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice Corp.*, 573 U.S. at 217. The first step in that analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* If the claims are not directed to a patent-ineligible concept, e.g., an abstract idea, the inquiry ends. Otherwise, the inquiry proceeds to the second step where the elements of the claims are considered “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 79, 78). This is “a 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.* at 217–18 (alteration in original).

The Court acknowledged in *Mayo*, that “all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Mayo*, 566 U.S. at 71. Therefore, the Federal Circuit has instructed that claims are to be considered in their entirety to determine “whether their character as a whole is directed to excluded subject matter.” *McRO, Inc. v. Bandai Namco Games Am., Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)).

The U.S. Patent and Trademark Office (the “USPTO”) published revised guidance on January 7, 2019 for use by USPTO personnel in

evaluating subject matter eligibility under 35 U.S.C. § 101. That guidance “extracts and synthesizes key concepts identified by the courts as abstract ideas to explain that the abstract idea exception includes” the following three groupings: (1) mathematical concepts; (2) certain methods of organizing human activity, e.g., fundamental economic principles or practices, commercial or legal interactions; and (3) mental processes. 2019 REVISED PATENT SUBJECT MATTER ELIGIBILITY GUIDANCE, 84 Fed. Reg. 50, 52 (Jan. 7, 2019) (the “2019 Revised Guidance”).

Under the 2019 Revised Guidance, in determining whether a claim is patent-eligible, we first look to whether the claim recites a judicial exception, including one of the enumerated groupings of abstract ideas (“Step 2A, Prong One”). *Id.* at 54. If so, we next consider whether the claim includes additional elements, beyond the judicial exception, “that integrate the [judicial] exception into a practical application,” i.e., apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception. (“Step 2A, Prong Two”). *Id.* at 54–55.

Only if the 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 “[a]dds a specific limitation or combination of limitations” that is not “well-understood, routine, conventional activity in the field” or simply “appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception” (“Step 2B”). *Id.* at 56.

Judicial Exception: Step One of the Mayo/Alice Framework; Step 2A, Prong 1 of the 2019 Revised Guidance

Appellants' Specification is titled "TO-DO LIST REPRESENTATION IN THE DATABASE OF A PROJECT MANAGEMENT SYSTEM." The Background of the Specification describes that "[k]nowing which tasks must be completed before other tasks can be started helps business organizations allocate resources on a project." Spec. ¶ 4. Currently, a project management tool designates a "critical path" that identifies a task or set of tasks that must be completed before other tasks can be created. *Id.* When a date in the project changes, the project management tool leverages the dependencies between tasks identified in the critical path to automatically update schedules. *Id.*

However, conventional project management systems store both current and historical data information, resulting in a large accumulation of historical data due to the large number of dependencies. *Id.* ¶ 5. For example, a change in the date of one task can change the dates in a large number of other, dependent tasks. *Id.* Another problem with conventional project management systems is the lack of attention afforded to unscheduled tasks. *Id.*

Consistent with this disclosure, claim 1 recites a method for managing project schedule data. The steps of the method include:

- [(a)] receiving, from a user . . . , a request to create a task in a project;
- [(b)] prior to schedule data being specified for the task, generating task data that identifies the task in the project, wherein the task data has a value that indicates whether the task is a project task or a non-project task, and storing the task data for the task . . . , and

. . . generating and storing . . . in association with the task data, revision data having a value that indicates that the task associated with the task data does not currently have any associated schedule data and is a to-do list task;

[(c)] a project member assigned to perform the task . . . to:
specify and change schedule data for the task,
define one or more sub-tasks for the task, and
define one or more non-project tasks; and

[(d)] . . . :

displaying one or more tasks that are both assigned at least to the user and are not yet completed,

using the value of the revision data to determine whether to display the task as a to-do list task or a non-to-do list task,

using the value of the task data to determine whether to display the task as a project task or a non-project task,
and

in response to a project member assigned to perform the task . . . specify and change schedule data for the task:
generating and storing . . . the schedule data for the task, and

updating the value of the revision data stored in association with the task data to indicate that the task now has associated schedule data and is a non-to-do list task.

These limitations, when given their broadest reasonable interpretation, recite receiving, processing, and storing data for use in managing project schedule data, i.e., managing relationships and interactions between people (including following rules or instructions), which is a certain method of organizing human activity, and, therefore, an abstract idea. *See* 2019 Revised Guidance, 84 Fed. Reg. at 52. The Federal Circuit has held similar concepts, such as generating insurance-policy-related tasks based on rules to be completed upon the occurrence of an event, to be patent ineligible. *See Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336,

1344 (Fed. Cir. 2013) (“[t]he abstract idea at the heart of system claim 1 of the ’284 patent is ‘generating tasks [based on] rules . . . to be completed upon the occurrence of an event’”) (citation omitted).

Appellants dispute the Examiner’s characterization of the claim as a method of organizing human activity and assert that claim 1 “do[es] not in any way relate to interpersonal or intrapersonal activities, transactions between people, social activities, etc., or managing human behavior.” App. Br. 4. Yet, claim 1 recites a method for “managing” project “schedule” data regarding “tasks” completed by members of the project (e.g., a “project member”). *See id.* at 9 (claim 1 recites a method for managing project schedule data comprising, in part, receiving a request to create a task for a project member to complete, generating task data that identifies the task in the project, and assigning a project member to perform the task); *see also* Spec. ¶ 63 (describing that a project manager sets and assigns tasks to project members). It could not be clearer from the claim language and the Specification that the claimed invention involves managing human behavior relating to tasks in a project, and Appellants’ assertions to the contrary do not persuade us of Examiner error.

Practical Application: Step One of the Mayo/Alice Framework; Step 2A, Prong 2 of the 2019 Revised Guidance

Having concluded that claim 1 recites a judicial exception, i.e., an abstract idea (Step 2A, Prong One), we next consider whether the claim recites “additional elements that integrate the exception into a practical application” (Step 2A, Prong Two). 2019 Revised Guidance, 84 Fed. Reg. at 54; *see also* MANUAL OF PATENT EXAMINING PROCEDURE (“MPEP”) § 2106.05(a)–(c), (e)–(h).

Beyond the abstract idea, claim 1 additionally recites a “computer system,” a “data repository,” and a “member schedule editor,” and that the method is “computer-implemented.” We find no indication in the Specification, nor do Appellants direct us to any indication, that these additional elements implement the abstract idea with a specialized computer hardware or other inventive computer components, i.e., a particular machine, or that the claimed invention is implemented using other than generic computer components to perform generic computer functions. Instead, these elements are described in the Specification at a high level of generality, i.e., as generic computer components. *See, e.g.*, Spec. ¶¶ 70–73, 77, 79, 273–282. And “after *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.” *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014).

Appellants argue that claim 1 is similar to the claims at issue in *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016), because they are “directed to a specific implementation of a solution to a problem arising in the software arts, and more specifically, to a specific solution to managing project data used by project management software.” App. Br. 5. Specifically, Appellants contend that claim 1 “uses revision data for tasks in a novel manner” to “indicate both the revision history of a task and whether the task is a to-do list task.” *Id.* This innovation “eliminates the need for separate data to be maintained for the revision history and to specify whether the task is a to-do list task.” *Id.* It also eliminates the need for separate queries to determine these two pieces of information. *Id.* Appellants liken this improvement to “a specific improvement to the way computers operate,

embodied in the dual use revision data.” *Id.* Yet, Appellants do not identify, and we do not find, any improvement in computer functionality analogous to the situation in *Enfish*. Instead, claim 1 improves the abstract idea (i.e., a method of organizing human activity) by using revision data for dual purposes: (1) to indicate revision history, and (2) to indicate whether a task is a to-do list task.

Similarly, Appellants also attempt to liken claim 1 to the claims at issue in *DDR Holdings*. See App. Br. 6–7. In this regard, Appellants assert that claim 1 is “rooted in computer technology in order to overcome a problem specifically arising in the context of computer networks, and the Internet in particular.” *Id.* at 7. Appellants contend that the claimed approach “efficiently manage[s] project data used by project management software on a computer in a manner that reduces the amount of storage and computational resources consumed by the computer.” *Id.* Yet, we fail to see any problem specifically arising in the realm of computer networks analogous to the situation in *DDR Holdings*. Appellants’ Specification describes a problem related to the proliferation of revision data and task lists, but this reflects a business challenge, not a challenge rooted in technology. For example, even were the project managed manually without software, prolific data relating to the revisions and tasks would nonetheless need to be stored and managed. Here, claim 1 solves the business challenge by an improvement to the process that is, itself, the abstract idea. In particular, claim 1 improves the manner in which data are organized, but the concept of data organization is also abstract. *Intellectual Ventures I LLC v. Erie Indem. Co.*, 850 F.3d 1315, 1327 (Fed. Cir. 2017) (organizing and accessing

records through the creation of an index-searchable database is an abstract idea).

We find nothing of record, short of attorney argument, that attributes an improvement in technology and/or a technical field to the claimed invention or that otherwise indicates that the claimed invention integrates the abstract idea into a “practical application,” as that phrase is used in the 2019 Revised Guidance. *See* 2019 Revised Guidance, 84 Fed. Reg. at 55. At best, the additional limitations recited in claim 1, considered individually and as an ordered combination, do no more than generally link the use of the abstract idea to a particular technological environment or field of use.

Inventive Concept: Step Two of the Mayo/Alice Framework; Step 2B of the 2019 Revised Guidance

Having determined under step one of the *Mayo/Alice* framework that claim 1 is directed to an abstract idea, we next consider under Step 2B of the 2019 Revised Guidance, the second step of the *Mayo/Alice* framework — whether claim 1 recites additional elements that provide an inventive concept (i.e., whether the additional elements amount to significantly more than the judicial exception itself).

Appellants contend that claim 1 recites “significantly more” than the abstract idea because it is “directed to the unconventional approach of using a value of revision data for a task in a project schedule system to indicate both the revision history of a task and whether the task is a to-do list task.” App. Br. 8. According to Appellants, “[t]hese features are not taught or suggested by any prior art, as evidenced by the absence of any prior art-based rejections.” *Id.* Yet, these limitations, even if novel and non-obvious, recite no elements beyond the abstract idea. Although the second step in the *Mayo/Alice* framework is termed a search for an “inventive concept,” the

analysis is not an evaluation of novelty or non-obviousness, but rather, a search for “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.’” *Alice Corp.*, 573 U.S. at 217–18 (alteration in original). A novel and non-obvious claim directed to a purely abstract idea is, nonetheless, patent-ineligible. *See Mayo*, 566 U.S. at 90.

Here, Appellants have not identified, and we do not find, any additional elements recited in claim 1 that, individually or in combination, provide significantly more than the abstract idea. Instead, the additional elements recite generic computer elements for executing the abstract idea.

Accordingly, we sustain the rejection of independent claim 1 under 35 U.S.C. § 101. We also sustain the rejections of claims 2–12, which fall with claim 1.

CONCLUSION

In summary:

Claims Rejected	Basis	Affirmed	Reversed
1–12	§ 101	1–12	

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