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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* CHRIS COCHRAN and RODRIGO SADA

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Appeal 2018-002940  
Application 13/711,233  
Technology Center 3600

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Before CARL W. WHITEHEAD JR., JESSICA C. KAISER and  
DAVID J. CUTITTA II, *Administrative Patent Judges*.

WHITEHEAD JR., *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants<sup>1</sup> are appealing the final rejection of claims 1–20 under 35 U.S.C. § 134(a). Appeal Brief 5–10. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

*Introduction*

The invention is directed to “methods of routing funds from a single money transfer into at least two different financial transactions, and

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<sup>1</sup> Appellants identify The Western Union Company as the real party in interest. Appeal Brief 2.

determining how to coordinate and identify such resultant transactions.”  
Specification ¶ 2.

*Representative Claim*

1. A system for dividing and identifying financial transfers, wherein the system comprises:
  - a server configured to:
    - receive an indication that an amount of funds has been received, wherein the indication includes a first restriction on a mechanism that can be used to release the amount of funds, wherein the first restriction on the mechanism used to release the amount of funds comprises a prohibition of at least one of the following:
      - a cash payout;
      - a pre-paid financial instrument;
      - an e-wallet payment;
      - a diversion to a new money transfer by recipient;
      - a bill payment;
      - a diversion to a wire transfer; and
      - an Automated Clearing House transfer;
    - associate, in a storage medium, in response to receiving the indication, a first identifier with the amount of funds;
    - receive a first request to release a first portion of the funds at a money transfer agent location, the first request including the first identifier;

determine that the money transfer agent location has a second restriction on the mechanism that can be used to release the amount of the funds, wherein the second restriction on the mechanism used to release the amount of funds comprises a prohibition of at least one of the following:

a cash payout;

a pre-paid financial instrument;

an e-wallet payment;

a diversion to a new money transfer by recipient;

a bill payment;

a diversion to a wire transfer; and

an Automated Clearing House transfer;

associate, in the storage medium, a first record of release with the first identifier;

associate, in the storage medium, in response to receiving the first request, a second identifier with a second portion of the funds;

receive a second request to release at least a portion of the second portion of the funds, the second request including the second identifier; and

based on the first and second restrictions, instruct the money transfer agent location to release the first and second portion of the funds using mechanisms that are in compliance with the first and second restrictions.

*Rejections on Appeal*

Claims 1–20 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter. Final Action 3–4; Answer 2–3.

Claims 1–20 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Weichert (US Patent Publication 2004/0064405 A1; published April 1, 2004), Linehan (US Patent 6,327,578 B1; issued December 4, 2001) and Modi (US Patent Publication 2006/0006224 A1; published January 12, 2006). Final Action 4–17; Answer 3–16.

ANALYSIS

Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed May 30, 2017), the Final Action (mailed November 25, 2016), and the Answer (mailed October 6, 2017), for the respective details.

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 the abstract idea of dividing and identifying financial transfers.” Final Action 3. The Examiner further determines, “[t]his is a concept involving human activity related to commercial practices, similar to the concept found in *Ultramerical v. Hulu and WildTangent* (2014 U.S[.] App. LEXIS 21633 (Fed. Cir. 2014)).” Final Action 3–4; see *Alice Corp. 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 Appeal Brief 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) (9th ed. 2018)).

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 ineligible subject matter because:

With regard to the second step of the *Alice* framework, the Office Action alleges that “significantly” more is not present in the claims. Specifically, the Office Action alleges that “the additional limitation of a server is an attempt to limit the use of the abstract idea to a particular technological environment” and “the claims simply instruct the practitioner to implement the abstract idea with routine conventional activity.” Office Action, p. 4. Appellant respectfully traverses at least because the claims do include significantly more for at least two reasons identified by the USPTO Subject Matter Eligibility guidance.

Appeal Brief 5.

Claim 1 specifically recites, “[a] system for dividing and identifying financial transfers” wherein the server “receive[s] an indication that an amount of funds has been received, wherein the indication includes a first restriction on a mechanism that can be used to release the amount of funds.” Claim 1 recites, “receive a first request to release a first portion of the funds at a money transfer agent location” wherein “the first request including the first identifier” and “determine that the money transfer agent location has a second restriction on the mechanism that can be used to release the amount of the funds.” Claim 1 further recites, “receive a second request to release at least a portion of the second portion of the funds, the second request including the second identifier” and determines “based on the first and second restrictions, instruct the money transfer agent location to release the first and second portion of the funds using mechanisms that are in compliance with the first and second restrictions.”

These steps comprise fundamental economic principles or practices and/or commercial or legal interactions, which is one of “certain methods of organizing human activity,” identified in the Memorandum, and thus an abstract idea. Memorandum, Section I (Groupings of Abstract Ideas); *see*

Specification ¶ 2 (“[T]he various embodiments of the invention discussed herein relate at least to methods of routing funds from a single money transfer into at least two different financial transactions, and determining how to coordinate and identify such resultant transactions.”). 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) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction); *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012) (claims directed to abstract idea of processing loan information through a clearinghouse). It is noted that Appellants do not argue that the claims do not recite an abstract idea, instead choosing to argue the second step<sup>2</sup> of the *Alice* test. *See* Appeal Brief 5–6; *see also* Memorandum. Therefore, we conclude the claims recite an abstract idea pursuant to Step

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<sup>2</sup> The Supreme Court has set forth an analytical “framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 573 U.S. at 217 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71–73 (2012)). In the first step of the analysis, we determine whether the claims at issue are “directed to” a judicial exception, such as an abstract idea. *Alice*, 573 U.S. at 217. If not, the inquiry ends. *Thales Visionix Inc. v. U.S.*, 850 F.3d 1343, 1346 (Fed. Cir. 2017); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1339 (Fed. Cir. 2016). If the claims are determined to be directed to an abstract idea, then we consider under step two whether the claims contain an “inventive concept” sufficient to “transform the nature of the claim into a patent-eligible application.” *Alice*, 573 U.S. at 217 (quotations and citation omitted).

2A, Prong One of the guidance. *See* Memorandum, Section III(A)(1) (Prong One: Evaluate Whether the Claim Recites a Judicial Exception).

Having determined that the claims recite a judicial exception, our analysis under the Memorandum turns now to determining whether there are “additional elements that integrate the judicial exception into a practical application.” *See* MPEP § 2106.05(a)--(c), (e)--(h).

Appellants argue:

First, the recitations of the claims are not executed with generic computers, and are instead executed with particular machines. Specifically, claims 1, 13, and 19 recites particular non-generic machines: “a server,” “a server computer,” “a nontransitory machine readable medium,” and “a processor” which are each particularly configured, as specifically recited by the claims and as further detailed by the specification, to perform particular functions as also recited by the claims and detailed by the specification.

Appeal Brief 5.

We do not find Appellants’ arguments persuasive because the claims utilize a computer system as merely a tool to divide and identify financial transfers to different accounts. *See Enfish*, 822 F.3d at 1335–36 (“[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*

Answer 2; *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 claims do not integrate the judicial exception into a practical application and thus are ***directed to*** a judicial exception. *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).

Next, we determine whether the claim includes additional elements that provide significantly more than the recited judicial exception, thereby providing an inventive concept. *Alice*, 573 U.S. at 217–18 (quoting *Mayo*, 566 U.S. at 72–73). Appellants argue, “the claims also include specific limitations other than what is well-understood, routine, and conventional in the field which confine the claims to particular useful applications, another factor established by the USPTO *Alice* guidance as constituting ‘significantly more.’” Appeal Brief 6. Appellants further argue:

Namely, while the alleged abstract idea is “dividing and identifying financial transfers” (Office Action, p. 3), the above recitations limit the scope of the claim’s use of that alleged abstract idea to specific circumstances in which both the release mechanism and agent location for release of funds are restricted to particular means. The claim does not remotely appear to subsume the alleged abstract idea of dividing and identifying financial transfers, but rather focuses on the more specific and particular purpose of limiting fund release mechanism where established by parties and locations involved with the transaction. At least by inclusion of the above specific recitations which are not well-understood, routine, and conventional in the field, preemption of use of the alleged abstract idea is protected

against, therefore further establishing “significantly more” under the USPTO’s *Alice* guidance, in addition to the aforementioned use of particular machines to implement the claims.

Appeal Brief 7.

We do not find Appellants’ argument persuasive. We find the claims do not include 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) (Moore, J., concurring) (“the ‘inventive concept’ cannot be the abstract idea itself”); *see* Final Action 4; *see also* Specification ¶¶ 4–5.

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 4–5; Specification ¶¶ 3, 15, 30–35 and Figure 3; *Alice*, 573 U.S. at 226.

Accordingly, we conclude that claims 1–20, argued together, are directed to a fundamental economic practice, which is one of certain methods of organizing human activity identified in the Memorandum and thus an abstract idea, and those claims do not recite limitations that amount to significantly more than the abstract idea itself. *See* Appeal Brief 9–10. We sustain the Examiner’s § 101 rejection of claims 1–20.

### 35 U.S.C. § 103 rejection

Appellants contend, “claim 1 recites, and claims 13 and 19 similar[ly] recite, that the first and second restrictions associated with the funds transfer

and money transfer agent location, respectively, are limitations on the financial channel in which funds can be distributed (i.e., a cash payout, a pre-paid financial instrument, an e-wallet payment, etc.).” Appeal Brief 7–8.

Claim 1 recites “determine that the money transfer agent location has a second restriction on the mechanism that can be used to release the amount of the funds.” Modi discloses, “the sender might give the recipient some choice, by allowing the recipient to choose cash or a prepaid card when the recipient arrives at the bank.” Modi ¶ 47.

The Examiner finds:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Weichert/Linehan with the elements as taught by Modi because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately with a reasonable expectation of success and predictable results.

Final Action 6.

Appellants contend:

Paragraph 40 of Weichert only discusses determining if a partial shipment of goods has been made by a vendor before funds are released to them. Paragraph 47 of Modi only relevantly discusses that a sender of funds could specify if a recipient is given a choice of funds disbursement means, but does not discuss providing prohibitions.

Appeal Brief 9–10.

The Examiner finds, “Modi teaches a money transfer system wherein a service provider allows a sender to choose from a pre-determined list of fund delivery options (Modi: pgh 47)” wherein “[t]he service provider imposes a restriction on the financial channel in which funds can be

distributed by limiting the options for the sender to choose from during the compilation of the pre-determined list” and therefore “[t]he sender imposes an additional restriction on the financial channel in which funds can be distributed by choosing an option from the pre-determined list.” Answer 17. The Examiner determines that “[i]n this way, two restrictions are placed on the transfer, similar to the restrictions described in the claimed invention.” Answer 17.

Appellants surmise, “even if we assumed that specifying possible means implies specifying prohibited means, nothing in the [cited] portion of Modi [] discusses prohibitions associated with a money transfer agent location (as opposed to the possible and/or prohibited means specified by the sender of Modi).” Appeal Brief 10. Appellants contend that paragraph 18 of the Specification discloses support for the disputed limitations - “determine that the money transfer agent location has a second restriction on the mechanism that can be used to release the amount of the funds” and “based on the first and second restrictions, instruct the money transfer agent location to release the first and second portion of the funds using mechanisms that are in compliance with the first and second restrictions.” *See* Appeal Brief 2–3. Specification, paragraph 18 is reproduced below in its entirety:

The sender may also provide instructions regarding receipt of the money transfer by an intended recipient, and these instructions may also be transmitted to server 110. For example, the sender may dictate when, where, and how the intended recipient may take delivery of funds. How a recipient may take delivery of funds may include restrictions on the manner in which the funds are received. For example, the restrictions may limit the mechanism used to receive the funds to one or more of a cash payout, a pre-paid financial instrument or card, a payment

to an e-wallet, a diversion to a new money transfer by the recipient, a bill payment, a diversion to a new wire-transfer by the recipient, or an Automated Clearing House (“ACH”) transfer.

Paragraph 18 fails to disclose anything distinctive about the money transfer agent location that would support Appellants’ proposed narrow claim interpretation. Nor does paragraph 18 disclose anything that would distinguish the disputed limitations over the cited art. Accordingly, we do not find Appellants’ arguments persuasive of Examiner error because the combination of Welchert/Linehan/Modi discloses prohibitions associated with a money transfer agent location. *See* Final Action 5–6. Subsequently, we sustain the Examiner’s obviousness rejection of independent claims 1, 13 and 19, as well as, dependent claims 2–12, 14–18 and 20, not argued separately. *See* Appeal Brief 10.

#### DECISION

The Examiner’s non-statutory subject matter rejection of claims 1–20 is sustained.

The Examiner’s obviousness rejection of claims 1–20 is sustained.

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