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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 REYNALDO MEDINA III, CHARLES LEE OAKES,
BRADLY JAY BILLMAN, and MICHAEL PATRICK BUECHE JR.

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Appeal 2018-004319
Application 14/199,829
Technology Center 3600

_____

Before MAHSHID D. SAADAT, KEVIN F. TURNER, and
JOHN A. EVANS, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant[1] appeals under 35 U.S.C. § 134(a) from the Examiner's
Final Rejection of claims 21, 29, 30, 34, 36–38, and 41–54, which constitute
all the claims pending in this application. We have jurisdiction under
35 U.S.C. § 6(b).

We reverse.

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[1] Appellant identifies United Services Automobile Association of San
Antonio, TX, as the real party in interest. Appeal Br. 1.

STATEMENT OF CASE

Introduction

Appellant's Specification describes systems and methods for "automobile accident claims initiation" by using a mobile device where the provided data may be analyzed to verify or derive further information and be used for arranging services for the insured. *See* Spec. ¶¶ 3–4.

Exemplary claim 21 under appeal reads as follows;

21.   A method comprising:

determining, at a system comprising a server communicatively coupled to a network, that an accident claims initiation application on a mobile device associated with a user has been activated, wherein the accident claims initiation application is activated based on at least one detection device on a first vehicle communicating to the mobile device that the first vehicle has been in an accident;

establishing a network connection with the mobile device based on the determination that the accident claims initiation application has been activated;

receiving, from the mobile device through the network connection, image data indicative of a portion of a license plate associated with a second vehicle;

determining the portion of a license plate number of the license plate based on analysis of the received image data;

identifying, based on the portion of the license plate number, a legal status of the second vehicle, the legal status comprising at least one of a stolen status, an inspection status, or an owner registration status;

receiving, from the mobile device through the network connection, an identification of a driver of the second vehicle;

determining an authenticity of the identification of the driver based on the identification of the driver and the portion of the license plate number;

   causing an indication of the legal status and an indication of the authenticity of the identification of the driver to be rendered on the mobile device; and

   causing a plurality of selectable options to be rendered on the mobile device, the plurality of selectable options based at least on the portion of the license plate number and the plurality of selectable options comprising at least one of an initiate claim option, a contact law enforcement option, or a request rental vehicle option.

Rejection on Appeal

Claims 21, 29, 30, 34, 36–38, and 41–54 stand rejected under 35 U.S.C. § 101 for being directed to patent-ineligible subject matter. *See* Final Act. 11–19.

ANALYSIS

Principles of Law

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. v. CLS Bank Int'l*, 573 U.S. 208, 216 (2014) (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 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, 193 (1981)); "tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores" (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. (15 How.) 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., id.* at 187 ("It is now

commonplace that an application of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection." (emphasis omitted)).

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 USPTO recently published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (hereinafter "Guidance"). Under the 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 interactions 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, 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 Guidance. Patent eligibility under 35 U.S.C. § 101 is a question of law that is reviewable de novo. *See Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012).

Arguments

The Examiner determines that the claims are directed to non-statutory subject matter. Final Act. 11. The Examiner finds:

> In the instant case, the claims are directed towards initiating an insurance claim. Initiating an insurance claim is a fundamental economic practice and "an idea of itself", thus the claims include an abstract idea. The claims do not include limitations that are "significantly more" than the abstract idea because the claims do not include an improvement to another technology or technical field, an improvement to the functioning of the computer itself, or meaningful limitations beyond generally linking the use of an abstract idea to a particular technological environment. Note that the limitations, in the instant claims, are done by the generically recited mobile device. The limitations are merely instructions to implement the abstract idea on a computer and require no more than a generic computer to perform generic computer functions that are well-understood, routine and conventional activities previously known to the industry.

Final Act. 11–12. The Examiner specifically finds the recited claim steps "describe an automated process of insurance claiming process, which was previously done without computer (i.e. using telephone, fax, and mail to communicate and submit claim information)." Final Act. 13. With respect

to the additional elements and whether they amount to significantly more than the judicial exception, the Examiner finds "[t]he recitation of the computer limitations amounts to mere instructions to implement the abstract idea on a computer. Taking the additional elements individually and in combination, the computer components at each step of the process perform purely generic computer functions." Final Act. 15.

Appellant argues that the claimed invention is not directed to an abstract idea because limitations such as "'determining . . . that an accident claims initiation application on a mobile device associated with a user'" and "causing a plurality of selectable options to be rendered on the mobile device" cannot be performed without technology or in human mind with pen and paper. Appeal Br. 9–10. According to Appellant, the claims require "non-generic technology" such as the "'detection device' on a vehicle that is configured to determine the occurrence of an accident and to communicate with a mobile device." Appeal Br. 11.

Step 2A, Prong One – Recited Judicial Exception

Step 2A of the Guidance is a two-prong inquiry. In Prong One we evaluate whether the claim recites a judicial exception. For abstract ideas, Prong One represents a change as compared to prior guidance because we here determine whether the claim recites mathematical concepts, certain methods of organizing human activity, or mental processes.

We conclude at least the following limitation of claim 1 recites a mental process that practically could be performed via pen and paper or in a person's mind:

> receiving, . . ., image data indicative of a portion of a
> license plate associated with a second vehicle;

> determining the portion of a license plate number of the license plate based on analysis of the received image data;

> identifying, based on the portion of the license plate number, a legal status of the second vehicle, the legal status comprising at least one of a stolen status, an inspection status, or an owner registration status;

> receiving, from the mobile device through the network connection, an identification of a driver of the second vehicle;

> determining an authenticity of the identification of the driver based on the identification of the driver and the portion of the license plate number;

> . . . .

Appeal Br. 13 (Claim App.). We agree with the Examiner that:

> The claimed process is very similar to conventional insurance claiming process via telephone, which has been a long standing practice. In traditional insurance claim process, a claimant calls a human agent of an insurance company to provide information related to parties involved in the accident, including the license plate number and driver identification number of both parties, the agent looks up a database to determine the authenticity of the information and reports the results to the claimant and then provides assistance options to the claimant over the phone. The present claimed process merely changes the communication device from a telephone to a mobile device and automates known manual process.

Ans. 4. Other than reciting "from the mobile device through the network" and "causing a plurality of selectable options to be rendered on the mobile device," the claim includes nothing that could not be performed manually and in the human mind. Appellant's Specification describes that the recited systems and methods facilitate the collection of insurance claim data, which may be difficult when the insured is involved in an accident. Spec. ¶¶ 9–10. Therefore, contrary to Appellant's argument that "the technological limitations of the claims are not fundamental economic practices simply

being performed on a computer" (*see* Appeal Br. 10), claim 21, as a whole, is directed to collecting information related to an accident which facilitates initiating a claim and taking appropriate actions. *See* Spec. ¶¶ 37–39.

Additionally, we conclude that claim 21 recites a fundamental economic practice, such as "determining . . . an accident claims initiation application" and collecting and analyzing information related to the vehicles involved in an accident for identifying options for the insured. Appeal Br. 13 (Claims App.). Thus, we conclude the claim recites a method of fundamental economic principles or practices (including hedging, insurance, mitigating risk) and commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations), which also fall within the "certain methods of organizing human activity" category of abstract ideas enumerated in the Guidance. *See also* Ans. 6 (determining "initiating an insurance claim via mobile device, which is an automated version of a longstanding economic practice of initiating claim via telephone"). Our reviewing court recognizes that "[a]n abstract idea can generally be described at different levels of abstraction." *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1240 (Fed. Cir. 2016). That need not and, in this case does not, "impact the patentability analysis." *Id.* at 1241. Further, "[t]he Board's slight revision of its abstract idea analysis does not impact the patentability analysis." *Id.* Moreover, merely combining several abstract ideas does not render the combination any less abstract. *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) ("Adding one abstract idea (math) to another abstract idea . . . does not render the claim non-abstract."); *see also FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed.

Cir. 2016) (determining the pending claims were directed to a combination of abstract ideas).

Similar limitations are recited in claim 29 ("a system comprising a processor" for performing the above-discussed functions) and claim 37 ("a non-transitory computer-readable medium comprising instructions" for performing the above-discussed functions).

Because we conclude the independent claims recite an abstract idea, we proceed to Prong Two to determine whether the claims are "directed to" the judicial exception.

Step 2A, Prong Two –Practical Application

If a claim recites a judicial exception, in Prong Two we determine whether the recited judicial exception is integrated into a practical application of that exception by: (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception(s); and (b) evaluating those additional elements individually and in combination to determine whether they integrate the exception into a practical application. If the recited judicial exception is integrated into a practical application, the claim is not directed to the judicial exception.

Here, claim 21 recites the additional elements of "causing an indication of the legal status and an indication of the authenticity of the identification of the driver to be rendered on the mobile device" and "causing a plurality of selectable options to be rendered on the mobile device, the plurality of selectable options based at least on the portion of the license plate number and the plurality of selectable options comprising at least one of an initiate claim option, a contact law enforcement option, or a request rental vehicle option," which allow an insured to choose the

appropriate actions following an accident. Although we agree with the
Examiner that "merely utilizing mobile device's basic function of
transmitting information via network to automate a longstanding manual
practice" used for "determining an authenticity of the identification of the
driver" without specifying a particular algorithm "is simply automating
mental task[s]" (Ans. 9–10), Appellant's Specification describes the claimed
steps facilitate the claim processing or recovery from the accident. Spec.
¶ 38. The disclosed process responds to the need for accident claim
initiation when an application on the mobile device requests and transmits
data which is analyzed to provide helpful options to the insured, such as
insurance agent information, rental car information, or request for
emergency services. Spec. ¶¶ 41–45, 53–59 (describing the details of
data/image collection and analysis).

Considering claim 21 as a whole, the above-mentioned limitations do
"integrate[] a judicial exception into a practical application . . . [in that they]
apply, rely on, or use the judicial exception in a manner that imposes a
meaningful limit[ation] on the judicial exception, such that the claim is more
than a drafting effort designed to monopolize the judicial exception."
Guidance at 53. Specifically, the manner in which an indication of the legal
status and authenticity of the identification of the driver is rendered on the
mobile device and rendering a plurality of selectable options on the mobile
device, . . . comprising at least one of an initiate claim option, a contact law
enforcement option, or a request rental vehicle option, amounts to more than
the mere manipulation of data. *See* MPEP 2106.05(c). In fact, the recited
"rendering" steps are the types of functions more typical of computer
operations, as opposed to human activity. The human analogy equivalent

would be an individual performing all the data collection, analysis, and presenting options on the insured mobile device or another graphical representation, which is plausible, but far-fetched given the technical nature of the claimed steps in light of the Specification.

In summary, the above-discussed limitations result in a claim initiation process which renders the information and selectable options on the insured mobile device, and amounts to more than the mere manipulation of data. *See* MPEP § 2106.05(c) ("Particular Transformation"). Thus, we conclude that claim 21 recites additional elements that integrate the abstract idea into a practical application. Claims 29 and 37 similarly integrate the abstract idea into a practical application. Because claims 21, 29, and 37 integrate the recited judicial exception into a practical application, they are not "directed to" a judicial exception and, therefore, our inquiry ends.

Conclusion

For at least the above reasons, under the Guidance, we do not sustain the Examiner's § 101 rejection of independent claims 21, 29, and 37, as well as the Examiner's rejection of dependent claims 30, 34, 36, 38, and 41–54, which stand with the independent claims from which they depend.

DECISION

We reverse the Examiner's rejection of claims 21, 29, 30, 34, 36–38, and 41–54 under 35 U.S.C. § 101.

In summary:

Claims Rejected	Basis	Affirmed	Reversed
21, 29, 30, 34, 36–38, and 41–54	§ 101		21, 29, 30, 34, 36–38, and 41–54

REVERSED