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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* VIDIT JAIN and NIKHIL RASIWASIA

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Appeal 2018-004848  
Application 13/517,603  
Technology Center 2100

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Before CARLA M. KRIVAK, HUNG H. BUI, and JON M. JURGOVAN,  
*Administrative Patent Judges.*

KRIVAK, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–4, 6–13, and 15–24, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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<sup>1</sup> The Appeal Brief identifies Excalibur IP, LLC as the real party in interest (App. Br. 2).

## STATEMENT OF THE CASE

Appellants' invention is directed to a method and system "for mining trends around trending terms" by generating clusters of user comments on articles related to a trending term, extracting and ranking terms from the user comments, and rendering user comment(s) containing the trending term and a selected ranked term (Spec. ¶¶ 4–5, 7, 42).

Claims 1, 10, 19 are independent. Independent claim 1, reproduced below, is exemplary of the subject matter on appeal.

1. A method of mining trends around trending terms, the method comprising:

receiving a user input specifying a trending term and a time period;

retrieving a plurality of articles related to the trending term from one or more websites, wherein the plurality of articles were generated during the time period specified in the user input;

generating a comment cluster for each of the plurality of articles, wherein each comment cluster comprises a plurality of user comments submitted in relation to the plurality of articles;

extracting one or more terms from the plurality of user comments for each of the comment clusters based on a frequency of occurrence of the one or more terms, the one or more extracted terms being related to the trending term specified in the user input, being different than the trending term, and pertaining to subject matter of at least one of the plurality of user comments;

displaying the one or more extracted terms, each of the one or more displayed terms being selectable by a user; and

displaying one or more user comments of the generated comment clusters containing both the trending term and a selected term of the one or more displayed.

## REJECTIONS and REFERENCES

The Examiner rejected claims 1–4, 6–13, and 15–24 under 35 U.S.C. § 101 as directed to non-statutory subject matter.<sup>2</sup>

The Examiner rejected claims 1 and 10 under 35 U.S.C. § 103(a) based upon the teachings of Koppula (US 2011/0258017 A1; published Oct. 20, 2011), Jason (US 2012/0271829 A1; published Oct. 25, 2012), and Zuccarino (US 2013/0298000 A1; published Nov. 7, 2013).

The Examiner rejected claims 2–4, 6–9, 11–13, 15–18, and 23 under 35 U.S.C. § 103(a) based upon the teachings of Koppula, Jason, Zuccarino, and Hobbs (US 2012/0131013 A1; published May 24, 2012).

The Examiner rejected claims 19–22 and 24 under 35 U.S.C. § 103(a) based upon the teachings of Hobbs, Jason, and Zuccarino.

## ANALYSIS

### *Rejection under 35 U.S.C. § 101*

In rejecting claims 1–4, 6–13, and 15–24 under 35 U.S.C. § 101, the Examiner finds the claims are directed to “the mere aggregation of data in order to form clusters of information into related groups and displaying that mere data along with additional related content,” which is an abstract idea of “collecting, displaying, and manipulating data” (Ans. 5–6).<sup>3</sup>

Appellants argue claims 1–4, 6–13, and 15–24 are not directed to the generic abstract ideas asserted by the Examiner, but rather to improved

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<sup>2</sup> This rejection is presented for the first time in the Examiner’s Answer (*see* Ans. 4–9, “NEW GROUNDS OF REJECTION”).

<sup>3</sup> The Answer citations are to the Examiner’s Answer filed February 27, 2018.

computer systems that mine trends around trending terms and display the mined trends so that a “user can understand the trending term relationships and receive highlighted user comments for trending entities without having to search through multiple search results to obtain such information” (Reply Br. 5–6, 16–17). As such, Appellants argue the present claims are most analogous to *Core Wireless* (Reply Br. 3, 6–7 (citing *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1359 (Fed. Cir. 2018))).

When considering whether the claims are directed to a patent ineligible concept, such as an abstract idea, “[t]he ‘directed to’ inquiry . . . cannot simply ask whether the claims *involve* a patent-ineligible concept, because essentially every routinely patent-eligible claim involving physical products and actions *involves* a law of nature and/or natural phenomenon.” *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016) (citing *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 70–71 (2012)). Rather, “the ‘directed to’ inquiry applies a stage-one filter to claims” considered in their entirety, in light of the Specification, to ascertain whether the claims’ character as a whole is directed to excluded subject matter (*id.* (citing *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015))).

Having reviewed the evidence, we disagree with the Examiner’s finding that the claims are directed to an abstract idea of retrieving, aggregating, displaying, and manipulating data (*see* Ans. 5–6). Rather, we conclude the character of the claims as a whole is directed to *improved user interfaces for electronic devices, and improved methods and systems for filtering Internet content to display a relevant and limited set of information*

*to the user* (Reply Br. 5–7, 17). *See Core Wireless*, 880 F.3d at 1362–63 (claims directed to “an improved user interface for computing devices” and to “a particular manner of summarizing and presenting information in electronic devices” and “displaying a limited set of information to the user,” improve “the efficiency of using the electronic device by bringing together ‘a limited list of common functions and commonly accessed stored data’” and “are not directed to an abstract idea”); *see also Trading Techs. Int’l, Inc. v. CQG, Inc.*, 675 F. App’x 1001, 1002–05 (Fed. Cir. 2017) (claims directed to “improvements in existing graphical user interface devices that have no ‘pre-electronic trading analog’” and “recite more than ‘setting, displaying, and selecting’ data or information that is visible on the [graphical user interface] device” are not directed to an abstract idea); *Enfish*, 822 F.3d at 1335–36.

Our conclusion is supported by Appellants’ Specification, which confirms the improved user interfaces and content filtering techniques. Particularly, the Specification describes Appellants’ invention as directed to a method and system “for mining trends around trending terms” to identify and display user comments (on trending articles) containing both a trending term *and* “trends that are mined around the . . . trending term” (*see* Spec. ¶¶ 5–7, 41; Title (capitalization altered)). Appellants’ data mining technique “mines trends that are popular around a trending term or a given entity during a given period of time” enabling “a user to understand trending or popularity of the entity during a given time period, and to explore evolution of trends around the entity over time” (*see* Spec. ¶ 53). As Appellants explain, their method and system for mining trends are “rooted in the technological advancements of the Internet, Internet searching, and social

media,” and improve upon prior ways of displaying information related to trending terms (Reply Br. 4–5; *see* Spec. ¶¶ 2–3).

Because we find the claims are directed to eligible subject matter, we do not reach step two of the test set forth in *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014). *Enfish*, 822 F.3d at 1339. Therefore, we do not sustain the Examiner’s rejection of claims 1–4, 6–13, and 15–24 under 35 U.S.C. § 101.

*Rejection under 35 U.S.C. § 103(a)*

The Examiner finds the combination of Koppula, Jason, and Zuccarino teaches extracting term(s) from user comments that were submitted in relation to articles related to a trending term, displaying the extracted term(s) to be selectable by a user, and displaying user comment(s) containing both the trending term and a selected extracted term, as recited in independent claim 1 (Final Act. 3–6). Particularly, the Examiner finds Koppula teaches retrieving articles related to a specified trending term (Final Act. 2–3 (citing Koppula ¶¶ 42, 45, 52–53)). The Examiner also finds Jason teaches generating a comment cluster of user comments for each of a plurality of articles, and extracting term(s) from the user comments based on a frequency of occurrence, the extracted term(s) being related to but different from the articles’ trending term, as claimed (Final Act. 4–5 (citing Jason ¶¶ 24–25, 35–36, 38, 45); Ans. 11). The Examiner further finds Zuccarino discloses “extraction and displaying of filtered comments considered relevant to a requested Anchor page” from which “[t]he user has the ability to select content,” and “displaying one or more of a plurality of comments that are related to . . . [the] requested Anchor Page,” thereby

teaching the claimed displaying steps (Final Act. 5–6 (citing Zuccarino ¶¶ 21–22, 24–26, 56–58, Figs. 4–5); Ans. 12). We do not agree.

We agree with Appellants that Koppula, Jason, and Zuccarino, alone or in combination, fail to teach or suggest displaying—from among clustered user comments about an article related to a trending term—one *comment containing both the trending term and a term selected by a user from displayed terms that were extracted from the clustered comments* based on a frequency of occurrence, the *extracted terms* being related to but different from the trending term, as recited in claim 1 (App. Br. 14–15; Reply Br. 19).<sup>4</sup> Particularly, “there is no teaching that Zuccarino’s system selects the user comments to display based on there being two keywords [a trending term and an extracted term related to but different from the trending term] in the user comment such that a relationship between the keywords could be determined” (App. Br. 14). Rather, Zuccarino displays comments (about an anchor story) authored by the user’s online friends and connections (*see* Zuccarino ¶¶ 23–25, 36, 56–57). For example, upon the user’s selection of a news story (e.g., a story titled “A horse in Peril”), Zuccarino displays a friend’s comment about this story (*see* Zuccarino ¶¶ 36, 56, Fig. 2B).

Zuccarino’s displayed comment is therefore selected based on the comment’s author (e.g., user’s friend or family member). It is not *based on a user-selected term from terms extracted* “from the plurality of user comments . . . based on a frequency of occurrence of the one or more terms, the one or more extracted terms being related to the trending term specified in the user input, [and] being different than the trending term,” as recited in

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<sup>4</sup> The citations are to the Appeal Brief filed July 24, 2017.

claim 1.

Jason does not make up for the above-noted deficiencies of Zuccarino. Jason merely extracts trending terms from Twitter messages and search queries to generate lists of trending terms by topic (e.g., sports) (*see* Jason ¶¶ 35–37, 45). Jason’s trending terms are associated with caption data indicating why the term is trending (*see* Jason ¶¶ 37, 45). Jason’s caption data, however, is not “content involving a trending term and another term extracted based on frequency of occurrence” as claimed (App. Br. 14). Thus, Jason does not disclose displaying a user comment that contains *both a trending term and another term selected by a user from displayed terms extracted from comments* based on a frequency of occurrence, as required by claim 1 (App. Br. 14–15).

Koppula similarly fails to teach displaying user comments containing both a trending term and a user-selected term from terms extracted from comments (App. Br. 14–15). Rather, Koppula merely discloses extracting trending terms and retrieving articles on the trending terms (*see* Koppula ¶¶ 45, 52–53). The Examiner also has not shown that the additional teachings of Hobbs (used in the rejection of independent claim 19 and all dependent claims) make up for the above-noted deficiencies of Koppula, Jason, and Zuccarino (App. Br. 18–19).

Thus, for the reasons set forth above, we do not sustain the Examiner’s rejection of independent claim 1 and claims 2–4 and 6–9 dependent therefrom. We also do not sustain the Examiner’s rejection of independent claims 10 and 19, argued for substantially the same reasons as claim 1, and claims 11–13, 15–18, and 20–24 dependent therefrom (App. Br. 16–20).

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Application 13/517,603

DECISION

The Examiner's decision rejecting claims 1–4, 6–13, and 15–24 under 35 U.S.C. § 101 is reversed.

The Examiner's decision rejecting claims 1–4, 6–13, and 15–24 under 35 U.S.C. § 103(a) is reversed.

REVERSED