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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAVID T. BATEMAN, AARON PHILLIPS,
ANDREW E. PLAGENS, J. CHARLES DRENNAN, and
WENDELL H. LANGDON¹

Appeal 2018-004854
Application 14/984,444
Technology Center 2600

Before ERIC B. CHEN, MICHAEL M. BARRY, and JOHN R. KENNY,
Administrative Patent Judges.

KENNY, *Administrative Patent Judge.*

DECISION ON APPEAL
STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134 from a final rejection of claims 1–26, which constitute all pending claims. Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Appellants identify TitleFlow LLC as the real party in interest. App. Br. 2.

SPECIFICATION

The Specification describes systems and methods for managing real property rights. Spec. ¶ 2. The disclosed systems and methods involve scanned optical-characterized recognized documents, ownership flows, ownership graphs, and ownership graph validity rules. *Id.* ¶¶ 34, 35, 49, 98.

CLAIMED INVENTION

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of processing conveyance records obtained from repositories of unstructured data in county land offices, the method comprising:

obtaining and storing, with one or more processors, more than a thousand scanned documents, each having text describing one or more conveyances of interest in real property;

obtaining and storing, with one or more processors, an ownership flow of an interest in real property described by at least some of the documents, the ownership flow including a plurality of conveyances in a conveyance graph;

receiving, from a client computing device, with one or more processors, a request to view the ownership flow, the request identifying the interest in real property;

applying, with one or more processors, ownership graph rules to the ownership flow to identify conveyances in the ownership flow that violate one or more of the rules;

sending, to the client computing device, with one or more processors, instructions to display the ownership flow with an indication of a conveyance violating one or more of the rules;

receiving, from the client device, with one or more processors, a command to edit the ownership flow to comply with the violated rule;

in response to the command, with one or more processors, storing an updated ownership flow reflecting the edit;

after storing the updated ownership flow, receiving, with one or more processors, another request to view the ownership flow; and

sending, with one or more processors, instructions to display the updated ownership flow reflecting the edit.

REJECTION

Claims 1–26 stand rejected under 35 U.S.C. § 101. Final Act. 7–9. These claims were also subject to prior art rejections in the Final Office Action, but those prior art rejections were withdrawn in the Answer. Final Act. 9–19; Ans. 3.²

ANALYSIS

In *Alice Corp. Pty. Ltd. v. CLS Bank International*, 134 S. Ct. 2347 (2014), the Supreme Court reiterates an analytical two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 79 (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*, 134 S. Ct. at 2355. The first step in the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts,” such as an abstract idea. *Id.* If the claims are directed to eligible subject matter, the

² The Answer does not expressly, but does implicitly, withdraw the prior art rejection of claims 21–26 (*see* Ans. 3) because the Answer does not address any of Applicants’ arguments regarding the purported patentability of claims 21–26 over the prior art. *Id.* at 3–16.

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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 directed to a patent-ineligible concept, the second step in the analysis is to consider the elements of the claims “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.” *Alice*, 134 S. Ct. at 2355 (citing *Mayo*, 566 U.S. at 79, 78). In other words, the second step is to “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.* (citing *Mayo*, 566 U.S. at 72–73).

In rejecting claims 1–26 under 35 U.S.C. § 101, the Examiner determines these claims are directed to the abstract ideas of (i) collecting and analyzing information to detect misuse and notifying a user when misuse is detected; (ii) collecting and comparing known information; (iii) collecting, displaying, and manipulating data; (iv) collecting information, analyzing it, and displaying certain results of the collection and analysis; (v) organizing and manipulating information through mathematical correlations; and (vi) processing conveyance records, which the Examiner determines is a fundamental economic practice, analogous to creating a contractual relationship. Final Act. 4; Ans. 5. The Examiner analogizes limitations in claims 1–26 to limitations addressed in *FairWarning IP, LLC v. Iatric Systems, Inc.*, 839 F.3d 1089 (Fed. Cir. 2016); *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016); and *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014). Ans. 5. The Examiner finds that claim

1, for example, would encompass the every-day activities of a county staff member reviewing county real estate transactions. Ans. 6–9.

The Examiner further determines that the additional elements recited by claim 1 add nothing more to the claimed invention than components that perform basic routine functions provided by a general purpose computer and, therefore, do not provide an inventive concept sufficient to render the claims patent eligible. Final Act. 4.

Claim 1

Alice Step One

Turning to the first step of the *Alice* inquiry, Appellants argue that the Examiner improperly overgeneralizes or simplifies claim 1 by failing to account for the following recited steps:

receiving, from a client computing device, with one or more processors, a request to view the ownership flow, the request identifying the interest in real property;
applying, with one or more processors, ownership graph rules to the ownership flow to identify conveyances in the ownership flow that violate one or more of the rules; and
sending, to the client computing device, with one or more processors, instructions to display the ownership flow with an indication of a conveyance violating one or more of the rules.

App. Br. 6.

Appellants argue these recited steps are not inherent features of using a computer to perform the allegedly abstract idea/ideas. App. Br. 6.

Instead, Appellants assert that these steps are part of a solution to a problem with traditional computer systems. *Id.* Appellants argue claim 1 uses limited rules in a process designed to achieve a technological result by reciting “applying, with one or more processors, ownership graph rules to the ownership flow to identify conveyances in the ownership flow that

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violate one or more of the rules.” *Id.* at 9. Appellants assert that the recited ownership graph rules are at least as specific as the rules recited in the claims of *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299 (Fed. Cir. 2016) and, therefore, are not directed to an abstract idea. *Id.*; Reply Br. 5. Appellants also argue that claim 1 recites specific operations by which a specific data structure (a conveyance graph) is interrogated with specific rules (graph conveyance rules) to produce a resulting user interface by which human reviewers can quickly and efficiently understand and improve complex title chains for various property interests. Reply Br. 7. Appellants argue, therefore, claim 1 is similar to the claims addressed in *Finjan, Inc. v. Blue Coat Systems, Inc.*, 879 F.3d 1299 (Fed. Cir. 2018), and, thus, are not directed to an abstract idea. *Id.*

Appellants also argue that the Examiner’s determination that claim 1 would encompass the every-day activities of a county staff member reviewing county real estate transactions is both irrelevant and erroneous. Reply Br. 3–4. Appellants argue that, even if claim 1 encompasses such activities, claims that automate manual processes can be patent eligible. *Id.* Further, Appellants argue that the every-day activities of a county staff member would not satisfy claim 1 because the county staff member would not programmatically process conveyances in a conveyance graph nor generate a display for human review with “an indication of a conveyance violating one or more of the rules.” *Id.*

We disagree with Appellants’ arguments regarding step one of the *Alice* inquiry. First, Appellants’ reliance on *McRO* is misplaced. The claims in *McRO* recited a “specific . . . improvement in computer animation” using “unconventional rules that relate[d] sub-sequences of phonemes, timings, and morph weight sets.” *McRO*, 837 F.3d at 1302–03, 1307–08, 1314–15.

In *McRO*, the defendants conceded that, before the claimed invention, an animator's process was driven by subjective determinations rather than specific, limited mathematical rules. *Id.* at 1314. The claimed invention in *McRO* "improv[ed] the prior art through 'the use of rules, rather than artists, to set the morph weights and transitions between phonemes.'" *Id.* at 1313 (citation omitted). In contrast, the Examiner finds the ownership graph rules recited by claim 1 encompass commonly accepted and widely followed business rules and data integrity requirements. Ans. 12–13. For example, the Specification discloses a 100 % ownership rule: i.e., flagging conveyances in which the grantor did not own what was conveyed, or cases where 100% ownership of a type of interest is not documented. App. Br. 2, 7–8; Spec. ¶¶ 34, 96. The Examiner found the 100% rule is merely a common business practice disclosed in the prior art reference RFFlow, and the Examiner identified where in that reference the rule is disclosed. Ans. 13–14. Appellants do not rebut these findings. Reply Br. 5. Instead, Appellants argue that regardless of whether the rules are commonly followed, it is the specificity of the rules that provides patent eligibility. We do not agree. For one, the recited rules are not specific. They are merely termed ownership graph rules. In addition, the rules in *McRO* were technological rules, not rules of business practice. Therefore, the specificity of the rules in *McRO* resulted in the claims being directed to a patent eligible technological invention, rather than an ineligible abstract idea. The rules recited by claim 1 are directed to business practices, rather than technological improvements, and, thus, do not avoid patent ineligibility.

Second, Appellants' reliance on *Finjan* is also misplaced. In *Finjan*, the claims were directed to a non-abstract improvement in computer functionality, rather than the abstract idea of computer security.

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The *Finjan* claims employed a new kind of file that enabled a computer security system to do things it could not do before: tailoring access for different users and identifying threats before a file reaches a user's computer. *Finjan*, 879 F.3d at 1305. Here, the recited conveyance graph is technologically a conventional graph and the rules recited by claim 1 are directed to business practices.

Third, we agree with the Examiner that the claims are more analogous to those in *FairWarning IP, LLC*, 839 F.3d at 1097 (“The claims here do not propose a solution or overcome a problem ‘specifically arising in the realm of computer [technology].’”), quoting *DDR Holdings, LLC v. Hotels.com, LP*, 773 F.3d 1245, 1257 (Fed. Cir. 2014); *Electric Power Group*, 830 F.3d at 1354 (“the focus of the claims is not on such an improvement in computers as tools, but on certain independently abstract ideas that use computers as tools.”); and *buySAFE, Inc.*, 765 F.3d at 1354 (“the contractual relations at issue constituted ‘a fundamental economic practice long prevalent in our system of commerce.’”), quoting *Bilski v. Kappos*, 561 U.S. 593, 611 (2010). Accordingly, we determine claim 1 is directed to an abstract idea.

Alice Step Two

Appellants argue that claim 1 sets forth an inventive concept because none of the cited prior art teaches or suggests claim 1. App. Br. 11. Appellants further assert that claim 1 is analogous to claims that the Federal Circuit determined recited an inventive concept in *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016); and *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016). *Id.* at 11–12.

We disagree. First, whether the cited prior art teaches or suggests the limitations of claim 1 is irrelevant for the patent eligibility inquiry. *Mayo*, 566 U.S. at 78, 88 (even a truly groundbreaking abstract idea, like Einstein’s theory of relativity, cannot make a claim patent-eligible); *Affinity Labs of Texas, LLC v. DirecTV, LLC*, 838 F.3d 1253, 1263 (Fed. Cir. 2016) (novelty “does not avoid the problem of abstractness”); *Genetic Techs. Ltd. v. Merial L.L.C.*, 818 F.3d 1369, 1376 (Fed. Cir. 2016) (“a claim directed to a newly discovered law of nature (or natural phenomenon or abstract idea) cannot rely on the novelty of that discovery for the inventive concept necessary for patent eligibility”); *buySAFE*, 765 F.3d at 1352 (abstract ideas are unpatentable “no matter how ‘[g]roundbreaking, innovative, or even brilliant’” they may be); *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 716 (Fed. Cir. 2014) (the fact that a method was “not previously employed in this art is not enough—standing alone—to confer patent eligibility upon the claims”).

Second, Appellants’ reliance on *Enfish* is misplaced. The Federal Circuit did not determine that the claims in *Enfish* recited an inventive concept. Instead, the Federal Circuit determined the patent eligibility of those claims under *Alice* step one. *Enfish*, 822 F.3d at 1329.

Third, Appellants’ reliance on *BASCOM* is misplaced. In *BASCOM*, the Federal Circuit found an inventive concept because the patent at issue claimed “a technology-based solution . . . to filter content on the Internet that overcomes existing problems with other Internet filtering systems.” *BASCOM*, 827 F.3d at 1351. Here, as the Examiner finds, and as Appellants have not persuaded us otherwise, beyond abstract ideas, claim 1 recites “generic computer functions that are well-understood, routine, and conventional activities previously known to the industry. These computer

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components are recited at a high level of generality and add no more to the claimed invention than the components that perform basic functions routinely provided by a general purpose computers.” Final Act. 5; App. Br. 10–12.

Accordingly, we sustain the rejection of claim 1.

Claims 2–9, 11–19, 21–24, and 26

Appellants do not separately argue claims 2–9, 11–19, 21–24, and 26. App. Br. 4–13. Accordingly, we sustain the rejection of those claims.

Claims 10 and 20

For the first time, in the Reply Brief, Appellants separately argue claims 10 and 20, contending that the following recitation renders these claims patent eligible: “sending identifiers of the other ownership flows to the client computing device comprises: sending links to images of documents effecting corresponding transfers of ownership.” Reply Br. 6. Appellants argue that the post-Appeal Brief issuance of *Core Wireless Licensing S.A.R.L. v. LG Electronics, Inc.*, 880 F.3d 1356 (Fed. Cir. 2018) provides good cause under 37 C.F.R. § 41.42(b)(2) for raising this issue in the Reply Brief. *Id.* at 6. We are not persuaded. Appellants could have separately argued claims 10 and 20 based on the cited limitation in the Appeal Brief. Appellants cite nothing from *Core Wireless* that represented a change in law or would have altered the viability of a separate patentability argument such that they could have only presented the argument after *Core Wireless* issued. *Id.* at 6. Further, by waiting until the Reply Brief to separately argue claims 10 and 20, Appellants deprives us of the benefit of the Examiner’s position regarding the separate patentability of those claims. Accordingly, under 37 C.F.R. § 41.41(b)(2), we do not consider Appellants’

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separate patentability arguments for claims 10 and 20, and we sustain the rejection of those claims.

Claim 25

Appellants argue claim 25 recites more specific rules than claim 1 and, therefore, claim 25 would be patent eligible even if claim 1 is not. App. Br. 12–13; Reply Br. 5–6. We disagree. The Examiner found that the additional recitations of claim 25 are directed to particular business practices (Ans. 15–16), and Appellants have not persuaded us of any error in that finding. Reply 5–6. More narrowly claiming ineligible subject matter does not render a claim patent eligible. *Mayo*, 55 U.S. at 88–89. Accordingly, we sustain the rejection of claim 25.

DECISION

We affirm the rejection of claims 1–26.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED