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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SONY JOSEPH and ILYA ALEXANDER IZRAILEVSKY

Appeal 2018-007076
Application 14/292,618
Technology Center 3600

Before MAHSHID D. SAADAT, ALLEN R. MacDONALD, and NABEEL U. KHAN, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's decision to reject claims 1–4, 6, 7, 9–12, 14, 15, 17–20, 22, and 23.[2] We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Intuit Inc. Appeal Br. 4.

[2] Claims 5, 8, 13, 16, and 21 have been canceled previously.

STATEMENT OF THE CASE

Introduction

Appellant's invention relates to "categorizing a financial transaction of a user." Spec. ¶ 2.

Representative Claim

Representative claim 1 under appeal read as follows;

1. A method for categorizing a financial transaction, comprising:

obtaining an uncategorized transaction record of the financial transaction, wherein the uncategorized transaction record comprises a transaction description;

selecting, by a computer processor and based on the transaction description of the financial transaction, at least a first business and a second business from a pre-determined business list,

wherein the first business is in a first merchandise category and has a first business qualifier,

wherein the second business is in a second merchandise category and has a second business qualifier, and

wherein each business qualifier is an attribute of a business that is available from a public source;

obtaining a plurality of categorized transaction records of a user;

calculating, by the computer processor, a first business qualifier score representing a first frequency of occurrence of the first business qualifier occurring in the plurality of categorized transaction records;

calculating, by the computer processor, a second business qualifier score representing a second frequency of occurrence of the second business qualifier occurring in the plurality of categorized transaction records;

generating a comparison result based at least on comparing the first business qualifier score and the second business qualifier score and determining that the first business qualifier score exceeds the second business qualifier score;

identifying, based on the comparison result, that the financial transaction is performed by the user and the first business;

assigning the first merchandise category of the first business to the uncategorized transaction record;

identifying a transaction time of the financial transaction as an instance of a plurality of predetermined recurring time points, wherein the uncategorized transaction record further comprises the transaction time;

calculating a first temporal correlation score representing a third frequency of occurrence of the first merchandise category occurring in the plurality of categorized transaction records at the plurality of pre-determined recurring time points; and

calculating a second temporal correlation score representing a fourth frequency of occurrence of the second merchandise category occurring in the plurality of categorized transaction records at the plurality of pre-determined recurring time points,

wherein calculating the first temporal correlation score and the second temporal correlation score is based on a Bayesian probability, and

wherein generating the comparison result is further based on comparing the first temporal correlation score and the second temporal correlation score.

Rejection on Appeal

Claims 1–4, 6, 7, 9–12, 14, 15, 17–20, 22, and 23 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. *See* Ans. 3.

ANALYSIS

Appellant argues the pending claims as a group. Appeal Br. 9–22; Reply Br. 2–5. As permitted by 37 C.F.R. § 41.37, we decide the Appeal based on claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Arguments

The Examiner determines that the claims are directed to "a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more." Ans. 3. The Examiner adds that the claims are directed to an abstract idea because they describe the concept of "categorizing financial transaction[s] by calculating scores based on frequency of occurrences and performing identification based on comparing the scores, which corresponds to concepts identified as abstract ideas by the courts." Ans. 3–4, 7 (citing *In re TLI Comm'cns LLC Pat. Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016) (classifying and storing data in an organized manner); *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (collecting information, analyzing it, and displaying certain results of the collection and analysis); *Classen Immunotherapies, Inc. v. Biogen IDEC*, 659 F.3d 1057, 1067 (Fed. Cir. 2011) (collecting and comparing known information); *Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (data recognition and storage); *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011) (obtaining and comparing intangible data);

Digitech Image Techs., LLC v. Elecs. for Imaging, Inc., 758 F.3d 1344, 1350 (Fed. Cir. 2014) (organizing information through mathematical correlations); *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 213 (2014) (mitigating settlement risk); *In re Grams*, 888 F.2d 835, 840 (Fed. Cir. 1989) (mathematical algorithm); *In re Abele*, 684 F.2d 902, 908 (CCPA 1982) (mathematical algorithm)).

With respect to the additional elements and whether they amount to significantly more than the judicial exception, the Examiner finds:

> The claims recite additional limitation of a "computer processor", "financial management application", "memory storing instructions executable by the processor"', "generator" and "module" to perform obtaining, selecting, calculating, generating, identifying, assigning and tallying steps. The "computer processor", "financial management application", "memory storing instructions executable by the processor"', "generator" and "module" are recited at a high level of generality and are recited as performing generic computer functions routinely used in computer applications. Generic computer components recited as performing generic computer functions that are well-understood, routine and conventional activities amount to no more than implementing the abstract idea with a computerized system. The use of generic computer components to obtain, select, calculate, identify, assign and tally data based on human instructions does not impose any meaningful limit on the computer implementation of the abstract idea. Thus, taken alone, the additional elements do not amount to significantly more than the above-identified judicial exception (the abstract idea)

Ans. 5. Based on these determinations, the Examiner concludes that the claims are ineligible under § 101.

Appellant argues the Examiner ignores features recited in claim 1 and improperly characterizes claim 1 as "categorizing [a] financial transaction by

calculating scores based on frequency of occurrences and performing identification based on comparing the scores." *See* Appeal Br. 11–12. Appellant also argues the Examiner's comparison of claim 1 with other claims previously deemed to be directed to an abstract idea is flawed, and argues claim 1 is different from the claims identified in *Alice*, *Digitech*, *CyberSource*, *Content Extraction*, *Classen*, *Electric Power Group*, *TLI Communications*, *Abele*, and *Grams* because claim 1 requires calculating at least two unique scores per candidate business (*i.e.*, merchant) to resolve an ambiguity in a single transaction record, and then assigning the correct merchandise category to the single transaction record. *See* Appeal Br. 12–16; *see also* Reply Br. 2. Appellant additionally argues claim 1 is directed to an improvement to the operation of a computer, rather than an abstract idea, because the process recited in claim 1 enables the computer to handle ambiguous records and reduce the likelihood that a financial transaction with an ambiguous description field will be improperly characterized. *See* Appeal Br. 16–18.

Appellant further argues, when the limitations of claim 1 are considered as an ordered combination, claim 1 resolves an ambiguity associated with multiple business (*i.e.*, merchants) arising from a description field of a financial transaction through the calculations of unique scores for each business, where the calculations are neither routine nor conventional. *See* Appeal Br. 18–19; *see also* Reply Br. 3–4. As also argued by Appellant, claim 1 recite significantly more than an abstract idea because claim 1 recites a process that can resolve an ambiguous transaction description field, and thus, shows an improvement to another technology or technical field. *See* Appeal Br. 20; *see also* Reply Br. 5. Appellant additionally argues that

the arrangement of the elements of claim 1 successfully transforms any abstract idea into a patent-eligible invention because there is no risk claim 1 will preempt any abstract idea. *See* Appeal Br. 20–22.

Principles of Law

Section 101 of the Patent Act provides that "any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof" is patent eligible. 35 U.S.C. § 101. But the Supreme Court has long recognized an implicit exception to this section: "'Laws of nature, natural phenomena, and abstract ideas are not patentable.'" *Alice Corp.*, 573 U.S. at 216 (quoting *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)). To determine whether a claim falls within one of these excluded categories, the Court has set out a two-part framework. The framework requires us first to consider whether the claim is "directed to one of those patent-ineligible concepts." *Alice*, 573 U.S. at 217. If so, we then examine "the elements of each claim both individually and 'as an ordered combination' to determine whether the additional elements 'transform the nature of the claim' into a patent-eligible application." *Alice*, 573 U.S. at 217 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 78, 79 (2012)). That is, we examine the claims for an "inventive concept," "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*, 573 U.S. at 217–18 (alteration in original) (quoting *Mayo*, 566 U.S. at 72–73).

In January 2019, the USPTO published revised guidance on the application of § 101. *See* USPTO, *2019 Revised Patent Subject Matter*

Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) ("Guidance"). Under that 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 activities such as a fundamental economic practice, or mental processes); and
>
> (2) additional elements that integrate the judicial exception into a practical application (*see* MANUAL OF PATENT EXAMINING PROCEDURE ("MPEP") §§ 2106.05(a)–(c), (e)–(h) (9th ed. Rev. 08.2017, Jan. 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, and conventional in the field (*see* MPEP § 2106.05(d)); or
>
> (4) simply appends well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See Guidance, 84 Fed. Reg. at 56.

Abstract Idea

To determine whether a claim recites an abstract idea, we (1) identify the claim's specific limitations that recite an abstract idea, and (2) determine whether the identified limitations fall within certain subject matter groupings, namely (a) mathematical concepts; (b) certain methods of organizing human activity; or (c) mental processes.

Independent claim 1 is directed to an abstract idea because the claim recites a mental process, one of the abstract idea groupings listed in the Guidance. *See* Guidance 84 Fed. Reg. at 52, 53 (listing "[m]ental processes . . . including an observation, evaluation, judgment, opinion)" as one of the "enumerated groupings of abstract ideas").

The claims are directed to "a method, system and computer readable medium to improve accuracy in categorizing financial transactions with ambiguous transaction descriptions." Spec. ¶ 12. The claimed method includes the following:

(1) "obtaining an uncategorized transaction record of the financial transaction, wherein the uncategorized transaction record comprises a transaction description;"

(2)

> selecting . . . based on the transaction description of the financial transaction, at least a first business and a second business from a pre-determined business list,
>
> wherein the first business is in a first merchandise category and has a first business qualifier,
>
> wherein the second business is in a second merchandise category and has a second business qualifier, and
>
> wherein each business qualifier is an attribute of a business that is available from a public source;

(3) "obtaining a plurality of categorized transaction records of a user;"

(4) "calculating . . . a first business qualifier score representing a first frequency of occurrence of the first business qualifier occurring in the plurality of categorized transaction records;"

(5) "calculating . . . a second business qualifier score representing a second frequency of occurrence of the second business qualifier occurring in the plurality of categorized transaction records;"

(6) "generating a comparison result based at least on comparing the first business qualifier score and the second business qualifier score and determining that the first business qualifier score exceeds the second business qualifier score;"

(7) "identifying, based on the comparison result, that the financial transaction is performed by the user and the first business;"

(8) "assigning the first merchandise category of the first business to the uncategorized transaction record;"

(9) "identifying a transaction time of the financial transaction as an instance of a plurality of predetermined recurring time points, wherein the uncategorized transaction record further comprises the transaction time;"

(10) "calculating a first temporal correlation score representing a third frequency of occurrence of the first merchandise category occurring in the plurality of categorized transaction records at the plurality of pre-determined recurring time points;" and

(11)

> calculating a second temporal correlation score representing a fourth frequency of occurrence of the second merchandise category occurring in the plurality of categorized transaction records at the plurality of pre-determined recurring time points,
>
> wherein calculating the first temporal correlation score and the second temporal correlation score is based on a Bayesian probability, and

> wherein generating the comparison result is further based on comparing the first temporal correlation score and the second temporal correlation score.

Appeal Br. 23–24 (Claims App.).

Here, apart from the claimed "computer processor," every limitation of claim 1 recites an abstract idea, namely a mental process (including an observation, evaluation, judgement, opinion). The claimed method of categorizing financial transactions with ambiguous transaction descriptions does not require a machine, let alone a particular machine, to implement, and therefore, fits squarely within the mental process category of the agency's guidelines. *See* Guidance, 84 Fed. Reg. at 52 (listing exemplary mental processes including (1) an observation, (2) an evaluation, (3) a judgment, and (4) an opinion).

Appellant's argument that the Examiner failed to consider all the limitations of claim 1 is not persuasive, as we agree with the Examiner did consider each and every claim limitation, both individually and in combination, including the "calculating" limitations recited in claim 1. *See* Ans. 7. Appellant's argument that claim 1 is unlike the claims at-issue in *Alice*, *Digitech*, *CyberSource*, *Content Extraction*, *Classen*, *Electric Power Group*, *TLI Communications*, *Abele*, and *Grams* is also not persuasive, as the argument merely reiterates the limitations recited in claim 1 without explaining how they distinguish claim 1 from the abstract ideas identified in the aforementioned court cases.

Although claim 1 recites an abstract idea based on these mental processes, we nevertheless must still determine whether the abstract idea is integrated into a practical application, namely whether the claim applies, relies on, or uses the abstract idea in a manner that imposes a meaningful

limit on the abstract idea, such that the claim is more than a drafting effort designed to monopolize the abstract idea. *See* Guidance, 84 Fed. Reg. at 54–55. We, therefore, (1) identify whether there are any additional recited elements beyond the abstract idea, and (2) evaluate those elements individually and collectively to determine whether they integrate the exception into a practical application. *See* Guidance, 84 Fed. Reg. at 54–55.

Here, the claimed "computer processor" is the only recited element beyond the abstract idea, but this additional element does not integrate the abstract idea into a practical application when reading claim 1 as a whole. We are not persuaded that the claimed invention improves the computer or its components' functionality or efficiency, or otherwise changes the way the computer functions. In other words, contrary to Appellant's assertion (*see* Appeal Br. 16–18), the claimed invention merely utilizes a computer processor as a tool to improve the underlying method of categorizing financial transactions with ambiguous transaction descriptions. Thus, the claims here merely use generic computing components to categorize the financial transactions, but does not improve the underlying computer, as was the case in *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299 (Fed. Cir. 2016) or *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016).

Further, the claimed "computer processor" does not integrate the abstract idea into a practical application, as Appellant's Specification discloses that the recited element encompasses generic components. *See, e.g.*, Spec. ¶ 44. In addition, independent claim 9 recites a "financial management application," a "memory," a "business qualifier score generator," a "temporal correlation score generator," a "financial transaction

categorization module," and a "repository," and independent claim 17 recites a "computer readable medium," which are not disclosed in the Specification as requiring anything more than generic components. *See, e.g.*, Spec. ¶¶ 13, 44–45. Simply adding generic hardware and computer components to perform abstract ideas does not integrate those ideas into a practical application. *See* Guidance, 84 Fed. Reg. at 55 (identifying "merely includ[ing] instructions to implement an abstract idea on a computer" as an example of when an abstract idea has not been integrated into a practical application).

We have considered Appellant's argument that claim 1 is directed to an improvement to the operation of a computer but we are not persuaded by this argument. Instead, as previously discussed, we agree with the Examiner's finding that the claimed method of categorizing financial transactions with ambiguous transaction descriptions merely utilizes a computer as a tool and does not improve the underlying operation of the computer. *See* Ans. 7.

Thus, the claims do not integrate the judicial exception into a practical application. The claims do not (1) improve the functioning of a computer or other technology, (2) are not applied with any particular machine (except for a generic computer), (3) do not effect a transformation of a particular article to a different state, and (4) are not applied in any meaningful way beyond generally linking the use of the judicial exception to a particular technological environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception. *See* MPEP §§ 2106.05(a)–(c), (e)–(h).

Inventive Concept

Because we determine claim 1 is "directed to" an abstract idea, we consider whether claim 1 recites an "inventive concept." The Examiner determined claim 1 does not recite an inventive concept because the additional elements in the claim do not amount to "significantly more" than an abstract idea. *See* Ans. 5, 7–8.

We agree. The additional element recited in the claims is a "computer processor." The claim recites this element at a high level of generality, and Appellant's Specification indicates that this element is a generic computer component. *See, e.g.*, Spec. ¶ 44. Using generic computer components to perform abstract ideas does not provide the necessary inventive concept. *See Alice*, 573 U.S. at 223 ("[T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention."). Thus, this element, taken individually or together with the other claim elements, does not amount to "significantly more" than the abstract ideas themselves.

We have considered Appellant's argument that claim 1 recites an inventive concept because the claims is directed to an improvement to the operation of a computer but it is not persuasive. Instead, as previously discussed, we agree with the Examiner's finding that the claimed method of categorizing financial transactions with ambiguous transaction descriptions merely utilizes a computer as a tool and does not improve the underlying operation of the computer. *See* Ans. 7. Likewise, we are not persuaded by Appellant's argument that claim 1 recites calculations of unique scores that are neither routine nor conventional. We note Appellant's Specification describes that a method for categorizing a financial transaction, including the

steps of calculating business qualifier scores and temporal correlation scores, can be performed by any type of computing score. *See* Spec. ¶¶ 31, 44; Fig. 2. Thus, Appellant's Specification provides objective evidence that the "calculating" operations recited in claim 1 are well-understood, routine, and conventional operations.

Preemption

Appellant's argument that the claims do not preempt any alleged abstract idea and are, therefore, patent-eligible (*see* Appeal Br. 20–22) is also not persuasive. The Federal Circuit has made clear that "the absence of complete preemption does not demonstrate patent eligibility" of a claim. *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015).

Conclusion

For at least the above reasons, we agree with the Examiner that claim 1 is "directed to" an abstract idea and does not recite an "inventive concept." Accordingly, we sustain the Examiner's rejection of claim 1 and the remaining claims which fail to include additional elements that add significantly more to the abstract idea, under 35 U.S.C. § 101.

DECISION

We affirm the Examiner's rejection of claims 1–4, 6, 7, 9–12, 14, 15, 17–20, 22, and 23 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter.

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).

In summary:

Claims Rejected	Basis	Affirmed	Reversed
1–4, 6, 7, 9–12, 14, 15, 17–20, 22, 23	§ 101	1–4, 6, 7, 9–12, 14, 15, 17–20, 22, 23	

AFFIRMED