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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* MICHAEL R. ABOUMRAD SR.

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Appeal 2018-007359  
Application 15/194,292  
Technology Center 3700

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Before JAMES P. CALVE, JILL D. HILL, and BRENT M. DOUGAL,  
*Administrative Patent Judges.*

HILL, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–16. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> 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 Michael R. Aboumrad SR. Appeal Br. 2.

### CLAIMED SUBJECT MATTER

Sole independent claim 1, reproduced below, represents the claimed subject matter, with certain disputed limitations italicized:

1. A method of managing a card game through player terminals, the method comprising the steps of:
  - providing an electronic game table, the electronic game table comprising a computing unit, a dealer terminal and a plurality of player terminals, each of the player terminals comprising a player input/output device, *the player input/output device being a player mouse*, the player mouse being configured to be used to interact with the computing unit, the dealer terminal comprising a dealer input/output device, *the dealer input/output device being a dealer mouse*, the dealer mouse being configured to be used to interact with the computing unit;
  - managing a virtual deck, a dealer profile, and a winnable-hand ranking list with the computing unit;
  - receiving a monetary ante from at least one active terminal from the plurality of player terminals;
  - allocating three initial cards from the virtual deck to each of the at least one active terminal and the dealer profile, the three initial cards allocated to each active terminal being designated to a corresponding player hand and the three initial cards allocated to the dealer profile being designated to a dealer hand;
  - receiving either a playing bet request or a fold request from each of the active terminals for the corresponding player hand with the computing unit;
  - allocating two additional cards from the virtual deck to each of the active terminals and the dealer profile, the two additional cards allocated to each active terminal being designated to the corresponding player hand and the two additional cards allocated to the dealer profile being designated to the dealer hand;
  - assigning a rank to the corresponding player hand for each active terminal and a rank to the dealer hand based on the winnable-hand ranking list with the computing unit; and

awarding a monetary payout to at least one winning terminal with the computing unit, if the rank of the corresponding player hand for the winning terminal is greater than the rank of the dealer hand, the winning terminal being one of the active terminals.

#### REFERENCES

The prior art relied upon by the Examiner is:

<b>Name</b>	<b>Reference</b>	<b>Date</b>
Dahl	US 5,653,444	Aug. 5, 1997
English	US 5,984,310	Nov. 16, 1999
Sines	US 2005/0032564 A1	Feb. 10, 2005
Iosilevsky	US 2005/0215326 A1	Sept. 29, 2005
Snow	US 2007/0218968 A1	Sept. 20, 2007

#### REJECTIONS

I. Claims 1–16 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

II. Claims 1, 3–14, and 16 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Dahl and Snow or Iosilevsky.

III. Claim 2 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Dahl and Snow or Iosilevsky, and Sines.

IV. Claim 15 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Dahl and Snow or Iosilevsky, and English.

#### ANALYSIS

Because Appellant's arguments regarding Rejection I (statutory subject matter) are based on the outcome of our obviousness determination, we consider Rejections II–IV first.

Obviousness

*Rejection II – Dahl, Snow, Iosilevsky*

*Claims 1, 3, 5–14, and 16*

Appellant argues claims 1, 3, 5–14, and 16 as a group. Appeal Br. 16. We select claim 1 as representative. Claims 3, 5–14, and 16 stand or fall with claim 1.

Regarding claim 1, the Examiner finds, *inter alia*, that Iosilevsky discloses a card game played on an electronic game table 10, the electronic game table comprising “a computing unit 17, a dealer terminal and a plurality of player terminals 12,” each of the terminals 12 “comprising an input/output device which may be a ‘computer mouse’, see Abstract and see paragraph [0009].” Final Act. 3.

Appellant argues that, according to the Specification, the dealer and player terminals each comprise an “input/output device such as a keyboard-mouse combination,” and Iosilevsky’s “control element is merely a computer mouse instead of a keyboard-mouse combination,” such that Iosilevsky’s control element “is essentially different from the dealer input/output device and the player input/output device of the present application.” Appeal Br. 6.

The Examiner responds that a keyboard-mouse combination is not recited in the claims, and that claim 1 “recites the limitation of ‘a player mouse’ and ‘a dealer mouse’” rather than any keyboard-mouse combination. Ans. 16.

The Examiner is correct. Although the limitations of claim 1 are interpreted in light of the written description, “it is important not to import into a claim limitations that are not part of the claim.” *SuperGuide Corp. v.*

*DirecTV Enterprises, Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004) (holding “a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.”). Claim 1 recites the input/output device being a mouse, not a mouse-keyboard combination. We decline to construe “input/output device being a . . . mouse” to require a mouse and a keyboard. Appellant does not refute the Examiner’s finding that Iosilevsky discloses a card game played on an electronic game table having terminals with a mouse as the input/output device (Final Act. 3). For this reason, we discern no error in the Examiner’s findings, and we sustain the rejection of claim 1. Claims 3, 5–14, and 16 fall with claim 1.

*Claim 4*

Regarding claim 4, which recites that the method of claim 1, additionally comprises, *inter alia*, “providing a monetary transaction device for each of the player terminals”; and “dispensing the monetary withdrawal through the monetary transaction device of an arbitrary terminal.” The Examiner finds that Snow discloses a monetary transaction device. *See* Final Act. 4 (referring to the non-final Office action mailed 03/10/17), Ans. 16.

Appellant argues that their Specification requires that the claimed “monetary transaction device incorporates monetary deposit function and monetary withdrawal function.” Appeal Br. 9. However, claim 4 only recites the monetary transaction device dispensing a monetary withdrawal.<sup>2</sup>

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<sup>2</sup> It is claim 3 that recites the monetary transaction device having a monetary deposit function.

Regarding the claimed withdrawal function, Appellant argues that Snow's panel 106 does not include a monetary withdrawal function. *Id.*

The Examiner responds that Snow discloses its panel 106 having a monetary withdrawal function. Ans. 16 (citing Snow ¶ 141 (“Other player input functions may be provided on a panel 106 which might accept currency, coins, tokens, identification cards, player tracking cards, ticket-in/ticket-out acceptance, and the like.”)). According to the Examiner, “[t]he ticket-out reference in paragraph 141 clearly discloses that a monetary withdrawal is dispensed through the panel 106,” because “[t]he ticket-out context refers to a ticket for players to give to a cashier to receive payment which broadly reads on monetary withdrawal as claimed.” *Id.* at 16–17.

Appellant does not refute the Examiner's contention that “[t]he ticket-out context [of Snow's panel 106] refers to a ticket for players to give to a cashier to receive payment which broadly reads on monetary withdrawal as claimed” (Ans. 17). We, therefore, discern no error in the Examiner's finding that Snow discloses a monetary transaction device 106 dispensing a withdrawal. We sustain the rejection of claim 4.

#### *Rejections III and IV*

Claims 2 and 15 depend from claim 1. Appellant makes no argument that either claim is patentable independently of claim 1. We, therefore, sustain Rejections III and IV for the reasons explained above regarding the prior art rejection of claim 1.

#### *Statutory Subject Matter*

The Examiner refers to the non-final Office Action dated March 10, 2017, which finds that, under *Alice* step 2A, claims 1–16 are directed to “an

abstract idea of fundamental economic practices and mathematical relationships/formulas.” *See* Final Act. 2 (referring to Non-Final Office Action of Mar. 10, 2017, p. 2 (emphases omitted)). The Examiner recites certain limitations of the claims regarding wagering, managing, and awarding money, and contends that the limitations “are clearly directed to the economic practices of a casino and are effectively a method of exchanging and resolving financial obligations based on probabilities created during the randomizing and the displaying of cards,” which is “akin to the ‘method of exchanging financial obligations’ discussed in *Alice*.” Non-Final Office Act. (mailed Mar. 10, 2017) 3 (emphasis omitted). The Examiner also recites certain other limitations of claim 1 directed to allocating and ranking cards, and contends that these limitations are “rules tell[ing] players what to do in response to a particular event or set of events . . . similar to instructions to follow a formula or algorithm to conduct the game and resolve the parties’ financial obligations.” *Id.* at 4. According to the Examiner, a method of managing a card game is directed to an abstract idea, much like *Alice*’s method of exchanging financial obligations. *Id.* Further, the Examiner contends that claims describing a set of rules for a game were determined to be directed to an abstract idea in *In re Smith*, 815 F.3d 816, 819 (Fed. Cir. 2016). *Id.* The Examiner then recites additional limitations directed to shuffling, dealing, allocating, and arranging cards, contending that these limitations are purely conventional steps that do not supply a sufficiently inventive concept or transform the claimed abstract idea into patent eligible subject matter. *Id.* at 4–5 (citing *Smith*). We adopt the Examiner’s consideration of each claim limitation as our own, including the Examiner’s similar findings and reasoning in the Answer. *See* Ans. 3–8.

Regarding *Alice* step 2B, the Examiner determines that the claims do not include additional elements that amount to significantly more than the judicial exception, because a virtual deck including eight Ace-cards, eight King-cards, eight Queen-cards, eight Jack-cards, eight 10-cards, and two Joker-cards as the virtual deck does not “pass the machine-or-transformation test” and merely provides “objects upon which the process (method steps) operates.” Non-Final Office Act. (mailed Mar. 10, 2017) 5–7. The virtual deck itself is not transformed in the claimed process. *Id.* at 9.

The Examiner further determines that the claims do not include additional elements that are sufficient to amount to significantly more than the abstract idea, because “the claimed ‘electronic game table’, ‘computing unit’, ‘player terminals’, ‘monetary transaction device’ and ‘dealer terminal’, are . . . generic computer [and] gaming machine structure that . . . perform generic computer functions on a gaming machine that are well-understood, routine, and conventional activities.” *Id.* (emphasis omitted).

Appellant argues that “[t]he present application is not directed to an abstract idea of fundamental economic practices and mathematical relationships/formulas,” because claim 1 recites a “dealer input/output device” and a “player input/output device” that are described in Appellant’s Specification to include keyboard-mouse combinations that are not met by Iosilevsky’s mouse. Appeal Br. 10–11. Based on this alleged deficiency in Iosilevsky’s disclosure, Appellant argues that “the computer function performed by the method of claim 1 is not well-understood, routine, or conventional activities previously known to the industry,” and amounts to “significantly more than the judicial exception.” *Id.* at 11.

We are not persuaded by Appellant's argument because, as explained above, the claims recite a mouse, rather than a mouse-keyboard combination, and Iosilevsky discloses a mouse. Further, the Examiner provides a thorough element-by-element analysis of the claims.

*In re Smith*, cited by the Examiner, indeed held that rules for conducting a wager game compare to fundamental economic practices. Fundamental economic practices and managing personal behavior or relationships or interactions between people fall within the abstract idea exception subgrouping of certain methods of organizing human activity. *See USPTO, 2019 Revised Patent Subject Matter Eligibility Guidelines*, 84 Fed. Reg. 52 & n.13 (Jan. 7, 2019). Appellant is correct that the claims in *In re Smith* were directed to a method of playing black jack and recited "physical playing cards" being shuffled and dealt manually in a particular pattern, not requiring a computer apparatus or a network as in the present claims. Appeal Br. 9. However, regarding the computer components recited in Appellant's claims, such elements merely include instructions to implement the rules for conducting a wagering game on a computer and use the computer as a tool to implement the rules. *See* MPEP § 2106.05(f) ("Use of a computer or other machinery in its ordinary capacity for . . . tasks (e.g., to receive, store, or transmit data) or simply adding a general purpose computer or computer components after the fact to an abstract idea . . . does not provide significantly more."); *CLS Bank, Int'l v. Alice Corp.*, 717 F.3d 1269, 1286 (Fed. Cir. 2013) (en banc) *aff'd*, 134 S. Ct. 2347 (2014) ("[S]imply appending generic computer functionality to lend speed or efficiency to the performance of an otherwise abstract concept does not meaningfully limit claim scope for purposes of patent eligibility."); 2019 Revised Guidance, 84

Fed. Reg. 55 (explaining that courts have identified “merely us[ing] a computer as a tool to perform an abstract idea” as an example of when a judicial exception may not have been integrated into a practical application).

Regarding Appellant’s argument that the claim recitation of “receive, via the network interface, real-time game data” and “determine real-time odds for each first element of the parlay wager based at least partially on the real-time game data received via the network interface” (Appeal Br. 9), this receipt and analysis of data used in the wagering game employs generic computing components to perform well-understood, routine, and conventional activities.

For the reasons set forth above, Appellant’s arguments are not persuasive, and we sustain Rejection I.

#### DECISION SUMMARY

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–16	101	Eligibility	1–16	
1, 3–14, 16	103	Dahl, Snow or Iosilevsky	1, 3–14, 16	
2	103	Dahl, Snow or Iosilevsky, Sines	2	
15	103	Dahl, Snow or Iosilevsky, English	15	
<b>Overall Outcome</b>			1–16	

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).

Appeal 2018-007359  
Application 15/194,292

AFFIRMED