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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* KENNETH C. GRIFFIN and TOM MIGLIS

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Appeal 2018-007988  
Application 12/539,435<sup>1</sup>  
Technology Center 3600

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Before JOSEPH L. DIXON, HUNG H. BUI, and JON M. JURGOVAN,  
*Administrative Patent Judges.*

BUI, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant seeks our review under 35 U.S.C. § 134(a) of the Examiner’s Non-Final Office Action rejecting claims 1–3 and 11–14, which are all the claims pending on appeal. Claims 4–10 and 15–20 have been canceled. Appeal Br. A-2, A-3. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.<sup>2</sup>

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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. The real party in interest is KCG IP Holdings LLC. Appeal Br. 3.

<sup>2</sup> Our Decision refers to Appellant’s Appeal Brief filed April 9, 2018 (“Appeal Br.”); Reply Brief filed July 31, 2018 (“Reply Br.”); Examiner’s Answer mailed May 31, 2018 (“Ans.”); Non-Final Office Action mailed

## STATEMENT OF THE CASE

Appellant's invention is directed to an investment fund data integration system and method for "measuring the exposure of an investment fund to an issuer of financial assets" by "a display application configured to create a display for displaying financial data" pertaining to financial assets, the created display including (i) "a first view adapted to display a list of financial transactions related to the financial assets" and (ii) "a second view adapted to display asset metrics associated with the financial assets." Spec. ¶ 6; Abstract. The display application enables a user to select, via the first view, a particular financial transaction that is associated with a particular financial asset, and presents, via the second view, asset metrics associated with the particular financial asset and associated with other financial assets (in the investment fund) issued by the issuer of the particular financial asset. Spec., Abstract.

Claims 1 and 12 are independent. Independent claim 1, reproduced below, is exemplary of the subject matter on appeal.

1. An investment fund data integration system operatively coupled to a plurality of data sources, the data integration system comprising:
  - a processor;
  - a database configured to store financial data pertaining to a plurality of financial assets held by an investment fund, the financial data collected or generated by the plurality of data sources; and
  - a computer-readable memory storing a plurality of instructions of a display application, the plurality of instructions including instructions that, when executed on the processor, cause the processor to create a display providing a plurality of

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August 30, 2017 ("Non-Final Act."); and original Specification filed August 11, 2009 ("Spec.").

views for displaying the financial data pertaining to the plurality of financial assets stored in the database, wherein a first view of the plurality of views includes a list of financial transactions related to the plurality of financial assets,

the display application enables a user to select, via the first view, a particular financial asset associated with a particular financial transaction included in the list of financial transactions, and to drag the particular financial asset to a second view of the plurality of views, and

in response to the user dragging the particular financial asset to the second view, the display application determines an issuer of the particular financial asset,

determines all other financial assets, held by the investment fund, that were also issued by the determined issuer of the particular financial asset, and

displays in the second view (i) an asset metric associated with the particular financial asset, and (ii) asset metrics associated with the other financial assets that were also issued by the determined issuer of the particular financial asset.

Appeal Br. A-1 (Claims App.).

#### *Examiner's Rejection*

Claims 1-3 and 11-14 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Non-Final Act. 5-7; Ans. 3-6.<sup>3</sup>

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<sup>3</sup> The Examiner's Answer presents a more detailed 35 U.S.C. § 101 rejection as "new grounds of rejection." See Ans. 3. Below, we address together the § 101 rejection presented in the Non-Final Action (*see* Non-Final Act. 5-7) and the § 101 rejection presented in the Answer (*see* Ans. 3-6).

## ANALYSIS

In support of the § 101 rejection of claims 1–3 and 11–14, the Examiner determines that the claims “are directed to an abstract idea of identifying exposure of an investment fund to an issuer of financial assets for use in an investment fund data integration system operatively coupled to a plurality of data sources,” which is similar to abstract ideas previously identified by the courts, such as “collecting information, analyzing it, and displaying certain results of the collection and analysis in *Electric Power Group* and in *Fairwarning*.” Ans. 4 (citing *Electric Power Group, LLC, v. Alstom*, 830 F.3d 1350 (Fed. Cir. 2016); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089 (Fed. Cir. 2016)); *see also* Non-Final Act. 6.

The Examiner then determines the claims do not recite “significantly more than the abstract idea itself” as they “do not amount to an improvement to the functioning of a computer itself . . . [and] do not move beyond a general link of the use of an abstract idea to a particular technological environment.” Ans. 10.

### *Legal Framework*

Patent eligibility is a question of law that is reviewable *de novo*. *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012). Accordingly, we review the Examiner’s § 101 determinations concerning patent eligibility under this standard.

Patentable subject matter is defined by 35 U.S.C. § 101, as follows:

[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

In interpreting this statute, the Supreme Court has emphasized that patent protection should not preempt “the basic tools of scientific and technological work.” *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972) (“*Benson*”); *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71 (2012) (“*Mayo*”); *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014) (“*Alice*”). The rationale is that patents directed to basic building blocks of technology would not “promote the progress of science” under the U.S. Constitution, Article I, Section 8, Clause 8, but instead would impede the same. Accordingly, laws of nature, natural phenomena, and abstract ideas, are not patent-eligible subject matter. *Thales Visionix Inc. v. United States*, 850 F.3d 1343, 1346 (Fed. Cir. 2017) (citing *Alice*, 573 U.S. at 216).

The Supreme Court has set forth a two-part *Alice/Mayo* test for subject matter eligibility in *Alice* (573 U.S. at 217–18). The first step is to determine whether the claim is directed to a patent-ineligible concept. *Id.* (citing *Mayo*, 566 U.S. at 76–77). If so, then the eligibility analysis proceeds to the second step of the *Alice/Mayo* test in which we “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 (internal quotation marks omitted) (quoting *Mayo*, 566 U.S. at 72, 79). There is no need to proceed to the second step, however, if the first step of the *Alice/Mayo* test yields a determination that the claim is directed to patent-eligible subject matter.

The Federal Circuit has described the *Alice* step-one inquiry as looking at the “focus” of the claims, their “character as a whole,” and the *Alice* step-two inquiry as looking more precisely at what the claim elements add—whether they identify an “inventive concept” in the application of the

ineligible matter to which the claim is directed. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016); *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015).

In an effort to achieve clarity and consistency in how the U.S. Patent and Trademark Office (the “Office”) applies the Supreme Court’s two-step framework, the Office has published revised guidance interpreting governing case law and establishing a framework for all patent-eligibility analysis under *Alice* and § 101 effective as of January 7, 2019. *See 2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50–57 (Jan. 7, 2019) (“2019 Revised Guidance”) and October 2019 Patent Eligibility Guidance Update (October 2019 Update), as currently reflected in the Manual of Patent Examination Procedure (MPEP) §§ 2103, 2104, 2105, 2106 and 2106.03 through 2106.07(c).

#### *2019 Revised Guidance*

Under the 2019 Revised Guidance, we first look under *Alice* step 1 or “Step 2A” to whether the claim recites:

- (1) Prong One: any judicial exceptions, including certain groupings of abstract ideas (i.e., [i] mathematical concepts, [ii] mental processes—concepts performed in the human mind (including an observation, evaluation, judgment, opinion), or [iii] certain methods of organizing human activity such as a fundamental economic practice or managing personal behavior or relationships or interactions between people); and
- (2) Prong Two: additional elements that integrate the judicial exception into a practical application (*see* Manual of Patent

Examining Procedure (“MPEP”) §§ 2106.05(a)–(c), (e)–(h)).<sup>4</sup>

See 2019 Revised Guidance, 84 Fed. Reg. at 51–52, 55, Revised Step 2A, Prong One (Abstract Idea) and Prong Two (Integration into A Practical Application). Only if a claim: (1) recites a judicial exception, and (2) does not integrate that exception into a practical application, do we then evaluate whether the claim provides an “inventive concept” under *Alice* step 2 or “Step 2B.” See 2019 Revised Guidance at 56; *Alice*, 573 U.S. at 217–18. For example, we look to whether the claim:

- 1) adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (see MPEP § 2106.05(d)); or
- 2) 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 2019 Revised Guidance, 84 Fed. Reg. at 56.

Thus, we review patent eligibility under § 101 *de novo* in comport with the 2019 Revised Guidance, as discussed below.

*USPTO Step 1–Categories of Invention*

Under the 2019 Revised Guidance, we determine independent claim 1 recites an “investment fund data integration system” and independent claim 12 recites a “method,” which are a form of “machine” and “process,” respectively, thereby falling within one of the categories enumerated under § 101 and satisfying Step 1 of the Revised Guidance.

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<sup>4</sup> All references to the MPEP are to the Ninth Edition, Revision 08.2017 (rev. Jan. 2018).

*Alice/Mayo—Step 1 (Abstract Idea)*  
*USPTO Step 2A—Prongs 1 and 2*

*USPTO Step 2A—Prong 1 (Does the Claim Recite a Judicial Exception?)*

We proceed to apply Step 2A, Prong 1 of the 2019 Revised Guidance to determine if independent claims 1 and 12 recite a judicial exception including (a) mathematical concepts; (b) certain methods of organizing human activity such as a fundamental economic practice; and (c) mental processes. 2019 Revised Guidance, 84 Fed. Reg. at 51–52.

Reviewing claims 1 and 12, we note the claims involve a fundamental economic practice of analyzing financial assets held by investment funds. *See* 2019 Revised Guidance, 84 Fed. Reg. at 51–52 (describing an abstract idea category of “[c]ertain methods of organizing human activity—fundamental economic principles or practices” and “commercial or legal interactions (including . . . business relations)”).

*USPTO Step 2A—Prong 2 (Integration into Practical Application)*

Although claims 1 and 12 recite an abstract idea of a fundamental economic practice, as provided for in the 2019 Revised Guidance, such claims may nonetheless be patentable if they recite a particular, practical application of the abstract idea embodied therein. *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1352 (Fed. Cir. 2016).

Accordingly, we proceed to the second prong of Step 2A, where we inquire whether an additional element of the claims integrates the fundamental economic practice into a practical application. 2019 Revised Guidance at 54–55. Such an additional element may reflect an improvement in the functioning of a computer, or an improvement to another technology or technical field. *Id.* at 55; *see also* *McRO, Inc. v. Bandai Namco Games*

*America Inc.*, 837 F.3d 1299 (Fed. Cir. 2016); *Finjan Inc. v. Blue Coat Systems, Inc.*, 879 F.3d 1299 (Fed. Cir. 2018); and *Core Wireless Licensing, SARL v. LG Electronics, Inc.*, 880 F.3d 1356 (Fed. Cir. 2018) (claims were directed to improvements instead of abstract ideas).

Having reviewed the evidence, we disagree with the Examiner's findings that (1) claim 1 (and claim 12, reciting similar limitations) is merely directed to "collecting information, analyzing it, and displaying certain results of the collection and analysis," and (2) the claims provide "an abstract business solution" to "a business problem of risk mitigation." See Ans. 4, 7; Non-Final Act. 6. Rather, we agree with Appellant that claim 1 (and similarly, claim 12) is "directed to an improved computer user interface that enables a user to quickly and easily see the exposure that an investment fund has to the issuer of a financial asset associated with a particular financial transaction," thereby providing "an improvement to the technology of computer user interfaces." Appeal Br. 9; Reply Br. 5.

Particularly, claim 1 (and similarly, claim 12) enables the creation of a "display [of a display application] providing a plurality of views for displaying the financial data pertaining to the plurality of financial assets," the views including *a first view* by which a user can *select* a particular financial asset associated with a particular financial transaction and *drag* the particular financial asset to *a second view*, and *in response to the user's dragging* the particular financial asset to *the second view*, the display application (i) determines an issuer of the particular financial asset, (ii) determines other financial assets issued by that issuer, and (iii) displays asset metrics associated with the issuer's financial assets. Thus, claim 1 provides "a computer user interface having functionality for efficiently assessing the

exposure of an investment fund to the issuer of a financial asset associated with a particular financial transaction,” the computer interface providing a “specific functional relationship between the ‘first view’ and ‘second view’ [that] enables the user to quickly and easily assess the impact of a potential or recent financial transaction on the investment fund’s exposure/risk level, for example.” Appeal Br. 11–12 (citing Spec. ¶ 60); *see also* Spec. ¶¶ 71–74, 76–77. As Appellant’s Specification explains, the claimed investment fund data integration system “may provide a first view (e.g., a trade blotter) to display a list of financial transactions related to the various financial assets held by the investment fund and a second view (e.g., a position blotter),” such that

[a] trader . . . interested in determining an impact of a particular trade on specific trading strategy. . . . may access the trade at issue in the trade view 400. The trader may then select, for example, the security associated with that trade (e.g., by clicking on the security field in the entry associated with the trade) and move the security into the position view 1000 (e.g., by grabbing and dragging the security from the trade view 400 to the position view 1000). The trader may then view one or more positions of the security (e.g., open position, current position, and so on), one or more positions of other securities issued by the same issuer; one or more positions of other securities of the same time, and so on. As a result, the trader may be able to assess the impact of a particular trade on the overall exposure of the investment fund, or a particular portfolio or trading strategy within the investment fund, to different issuers, different security types, and so on.

Spec. ¶¶ 73, 76.

We therefore agree with Appellant that claims 1 and 12 “effect an improvement to the technology of computer user interfaces” and address “a problem arising in the realm of computer-based financial management tools:

the inability of a user of such tools to quickly and easily ascertain, for a particular financial asset of interest, total exposure to the issuer of that financial asset.” Reply Br. 4–5; Appeal Br. 11–12. In particular, Appellant’s improved computer interface provides specific operational responses to particular triggers, by performing “three specific operations ‘in response to’ . . . a specific trigger (i.e., in response to ‘the user dragging the financial asset to the second view’)” to: (i) determine an issuer of the particular financial asset; (ii) determine all other financial assets, held by the investment fund, that were also issued by the determined issuer of the particular financial asset; and (iii) display in the second view an asset metric for the particular financial asset and asset metrics for the other financial assets issued by that issuer. Appeal Br. 11–12; *see Core Wireless Licensing*, 880 F.3d at 1362–63 (“Although the generic idea of summarizing information certainly existed prior to the invention, these claims are directed to a particular manner of summarizing and presenting information in electronic devices” that “restrains the type of data that can be displayed in the summary window”; the claims are thus directed to “an improved user interface for electronic devices” and to “a specific manner of 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,’” improve “[t]he speed of a user’s navigation through various views and windows . . . [by] ‘sav[ing] the user from navigating to the required application, opening it up, and then navigating within that application to enable the data of interest to be seen,’” 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).

Because claims 1 and 12 are directed to an improved computer interface and technique for electronically determining investment funds’ exposures, claims 1 and 12 integrate the judicial exception into a practical application. Thus, claims 1 and 12, and their dependent claims 2, 3, 11, 13, and 14, are not directed to a judicial exception (abstract idea), rather, they are directed to patent-eligible subject matter under § 101. Accordingly, we do not address Step 2B of the 2019 Revised Guidance (corresponding to step two of the *Alice/Mayo* test).

For these reasons, we do not sustain the Examiner’s rejections of claims 1–3 and 11–14, as directed to non-statutory subject matter under 35 U.S.C. § 101.

## CONCLUSION

On the record before us, we conclude Appellant has demonstrated the Examiner erred in rejecting claims 1–3 and 11–14 under 35 U.S.C. § 101. As such, we REVERSE the Examiner’s rejection of claims 1–3 and 11–14 under 35 U.S.C. § 101.

## DECISION SUMMARY

In summary:

Appeal 2018-007988  
Application 12/539,435

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1-3, 11-14	101	Eligibility		1-3, 11-14

REVERSED