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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DIANE SALMON, SUSAN FRENCH, VICTORIA GRAHAM, AMIT BHARGAVA, SHIPRA JHA, and NANCY KIM

Appeal 2018-008141
Application 14/244,488
Technology Center 3600

Before JOSEPH L. DIXON, JOYCE CRAIG, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

BELISLE, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant[1] appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 21–40. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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[1] Throughout this Decision, we use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42 (2016). Appellant identifies the real party in interest as VISA International Service Association. App. Br. 2.

STATEMENT OF THE CASE

The Claimed Invention

Appellant's invention generally relates to "apparatuses, methods and systems for rewards, points and currency exchange," and more particularly, to "universal value exchange multipoint transactions apparatuses, methods and systems." Spec. ¶ 3 (emphasis omitted).

According to the Specification, "[i]n some implementations, the user may desire to convert purchasing power available in one currency ecosystem to another currency utilized in a completely different ecosystem." Spec. ¶ 46. As an example, "the user may desire to convert points from traditional rewards programs into cash withdrawn from an ATM-linked account." Spec. ¶ 46. As another example, "the user may desire to convert rewards points from an airline miles program into virtual currency that can be utilized in an online social networking game, e.g., Farmville." Spec. ¶ 46.

Claim 21, reproduced below, is representative of the subject matter on appeal:

> 21. A processor-implemented method for identifying points redemption eligibility to transform value equivalent exchange instructions in cross-ecosystem currency exchanges, comprising:
>
> obtaining, by one or more data processors, a cross-ecosystem currency exchange instruction in response to a user instruction, said instruction including the following information: currency source types, source currency account numbers, source currency access usernames, source currency access passwords, currency destination types, destination currency account numbers, destination currency access usernames, and destination currency access passwords, said user instruction being provided via user interface elements on a user mobile device for interactions with a user;

determining, by the one or more data processors, currency types based on parsing the cross-ecosystem currency exchange instruction;

identifying, by the one or more data processors, multiple brokers based on parsing the cross-ecosystem currency exchange instruction;

determining, by the one or more data processors, exchange rates of the currency types;

obtaining, by the one or more data processors, currency exchange restrictions and conditions associated with the multiple brokers, wherein the currency exchange restrictions include a restriction rule against converting rewards points into rewards points of another rewards points program, wherein the currency exchange conditions includes a condition rule defining a threshold amount of rewards points for exchange;

generating, by the one or more data processors, based on the rules from the currency exchange restrictions and conditions, electronic currency exchange flow paths for exchange with the multiple brokers;

issuing, by the one or more data processors, electronic currency transfer requests messages in the generated electronic currency exchange flow paths to the multiple brokers;

determining, by the one or more data processors, a points redemption eligibility, from the multiple brokers through the electronic currency exchange flow paths, for completing the exchange on the cross-ecosystem currency exchanges, said determining comprising identifying a source of points, a destination of the points, a complementary exchange response for the points redemption, and a liquidation response for the redemption; and

generating, by the one or more data processors, an adjustment of accounts associated with the issued electronic currency transfer request to reflect the completed cross-ecosystem currency exchange and the points redemption for display on the user interface elements.

App. Br. 21–22 (Claims Appendix).

The Examiner's Rejection

The Examiner made the following rejection of the claims on appeal:

Claims 21–40 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 2–7.

ANALYSIS[2]

Appellant disputes the Examiner's conclusion that claims 21–40 are directed to patent-ineligible subject matter. App. Br. 8–20. Appellant argues these pending claims as a group. *See* App. Br. 8–20. Thus, for purposes of our analysis, we select independent claim 21 as the representative claim, and any claim not argued separately will stand or fall with our analysis of the rejection of claim 21. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2017).

Appellant argues the claimed invention "solv[es] a specific technical problem associated with universal value exchange" (App. Br. 8), and asserts that "[t]he technological problem in prior technology is the lack of uniform way to technically address loyalty or rewards program in the same approach to currencies in the real-world monetary system" (App. Br. 10). *See* App. Br. 11 ("[T]he claims address a challenge (ability to perform value exchanges across various ecosystems) particularly present in the digital value exchange.") (emphasis omitted). In particular, Appellant argues the claimed invention solves this alleged problem "by providing a systematic

[2] Throughout this Decision, we have considered Appellant's Appeal Brief filed February 7, 2018 ("App. Br."); the Examiner's Answer mailed May 17, 2018 ("Ans."); the Final Office Action mailed August 7, 2017 ("Final Act."); and Appellant's Specification filed April 3, 2014 ("Spec.").

and uniform data instruction structure," and that "[t]he technical solution creates a new and novel GUI to address the technical problem technologically and eliminate errors created using previous GUIs." App. Br. 10. Appellant argues the claimed invention also provides an improved "user interface." App. Br. 11. Appellant argues the claimed invention "solve[s] a problem using a specific ordered combination of rules." App. Br. 13–14 (emphasis omitted); *see* App. Br. 17 ("[T]he recited claims solve problems with desired results by generating a specific ordered combination of rules to create currency exchange flow paths to facilitate the value exchanges for a user in response to a request from the user."). Appellant also argues the Examiner oversimplifies the claims by failing "to consider the recited specific combination of rules for enabling funds transfer for prepaid accounts." App. Br. 19. In the Answer, the Examiner maintained and further clarified the Section 101 rejection (Ans. 4–12), and Appellant did not file a reply brief.

The Supreme Court's two-step framework guides our analysis of patent eligibility under 35 U.S.C. § 101. *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 217 (2014). In addition, the Office recently published revised guidance for evaluating subject matter eligibility under 35 U.S.C. § 101, specifically with respect to applying the *Alice* framework. USPTO, *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) ("Office Guidance"). If a claim falls within one of the statutory categories of patent eligibility (i.e., a process, machine, manufacture, or composition of matter) then the first inquiry is whether the claim is directed to one of the judicially recognized exceptions (i.e., a law of nature, a natural phenomenon, or an abstract idea). *Alice*, 573 U.S. at 217. As part of this

inquiry, we must "look at the 'focus of the claimed advance over the prior art' to determine if the claim's 'character as a whole' is directed to excluded subject matter." *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016). Per Office Guidance, this first inquiry has two prongs of analysis (i) does the claim recite a judicial exception (e.g., an abstract idea), and (ii) if so, is the judicial exception integrated into a practical application. 84 Fed. Reg. at 54. Under the Office Guidance, if the judicial exception is integrated into a practical application, *see infra*, the claim is patent eligible under § 101. 84 Fed. Reg. at 54–55. If the claim is directed to a judicial exception (i.e., recites a judicial exception and does not integrate the exception into a practical application), the next step is to determine whether any element, or combination of elements, amounts to significantly more than the judicial exception. *Alice*, 573 U.S. at 217; 84 Fed. Reg. at 56.

Here, we conclude Appellant's independent claim 21 recites an abstract idea. More specifically, Appellant's claims are generally directed to facilitating currency exchange, as found by the Examiner. *See* Final Act. 2. This is consistent with how Appellant describes the claimed invention. *See* Spec. ¶¶ 3 ("The present innovations are directed generally to apparatuses, methods and systems for rewards, points and currency exchange."), 6–7 (describing converting various types of currency into other various types of currency, such as, for example, rewards points into cash withdrawn from an ATM); App. Br. 8 (describing the claimed invention as focused on "universal value exchange"). Consistent with our Office Guidance and case law, we conclude that facilitating currency exchange, including among various currency ecosystems, is a certain method of organizing human

activity (e.g., a fundamental economic practice)—i.e., an abstract idea. *See* 84 Fed. Reg. at 52; *see also Alice*, 573 U.S. at 219–20 (concluding that use of a third party to mediate settlement risk is a "fundamental economic practice" and thus, an abstract idea); *Bilski v. Kappos*, 561 U.S. 593, 611–12 (2010) (concluding hedging to be a fundamental economic practice and, therefore, an abstract idea); *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1054 (Fed. Cir. 2017) (holding that "processing an application for financing a purchase" falls within certain methods of organizing human activities and is, therefore, an abstract idea).

Claim 21 is reproduced below with the claim limitations that recite facilitating currency exchange in *italics*:

> 21. A processor-implemented method for identifying points redemption eligibility to transform value equivalent exchange instructions in cross-ecosystem currency exchanges, comprising:
>
> *obtaining*, by one or more data processors, *a cross-ecosystem currency exchange instruction in response to a user instruction, said instruction including the following information: currency source types, source currency account numbers, source currency access usernames, source currency access passwords, currency destination types, destination currency account numbers, destination currency access usernames, and destination currency access passwords*, said user instruction being provided via user interface elements on a user mobile device for interactions with a user;
>
> *determining*, by the one or more data processors, *currency types based on parsing the cross-ecosystem currency exchange instruction*;
>
> *identifying*, by the one or more data processors, *multiple brokers based on parsing the cross-ecosystem currency exchange instruction*;
>
> *determining*, by the one or more data processors, *exchange rates of the currency types*;

> *obtaining*, by the one or more data processors, *currency exchange restrictions and conditions associated with the multiple brokers*, wherein the currency exchange restrictions include a restriction rule against converting rewards points into rewards points of another rewards points program, wherein the currency exchange conditions includes a condition rule defining a threshold amount of rewards points for exchange;
>
> *generating*, by the one or more data processors, based on the rules from the currency exchange restrictions and conditions, *electronic currency exchange flow paths for exchange with the multiple brokers*;
>
> *issuing*, by the one or more data processors, *electronic currency transfer requests messages in the generated electronic currency exchange flow paths to the multiple brokers*;
>
> *determining*, by the one or more data processors, *a points redemption eligibility, from the multiple brokers through the electronic currency exchange flow paths, for completing the exchange on the cross-ecosystem currency exchanges, said determining comprising identifying a source of points, a destination of the points, a complementary exchange response for the points redemption, and a liquidation response for the redemption*; and
>
> *generating*, by the one or more data processors, *an adjustment of accounts associated with the issued electronic currency transfer request to reflect the completed cross-ecosystem currency exchange and the points redemption for display on the user interface elements*.

App. Br. 21–22 (emphasis added).

More particularly, the concept of facilitating currency exchange comprises (i) obtaining a currency exchange request (i.e., the claimed step of "obtaining . . . a cross-ecosystem currency exchange instruction"); (ii) determining currency types (i.e., the claimed step of "determining . . . currency types"); (iii) identifying brokers of the currency types (i.e., the claimed step of "identifying . . . multiple brokers"); (iv) determining

exchange rates (i.e., the claimed step of "determining . . . exchange rates of the currency types"); (v) identifying any restrictions or conditions in the requested exchange (i.e., the claimed step of "obtaining . . . currency exchange restrictions and conditions"); (vi) contacting brokers (i.e., the claimed steps of "generating . . . electronic currency exchange flow paths for exchange with the multiple brokers" and "issuing . . . electronic currency transfer requests messages . . . to the multiple brokers"); and (vii) exchanging currencies using the brokers (i.e., the claimed steps of "determining . . . a points redemption eligibility" and "generating . . . an adjustment of accounts").

Because claim 21 recites a judicial exception, we next determine whether the claim integrates the judicial exception into a practical application. 84 Fed. Reg. at 54. To determine whether the judicial exception is integrated into a practical application, we identify whether there are "*any additional elements recited in the claim beyond the judicial exception(s)*" and evaluate those elements to determine whether they integrate the judicial exception into a practical application. 84 Fed. Reg. at 54–55 (emphasis added); *see also* Manual of Patent Examining Procedure ("MPEP") § 2106.05(a)–(c), (e)–(h) (9th ed. Rev. 08.2017, Jan. 2018).

Here, we find the additional limitation(s) do not integrate the judicial exception into a practical application. More particularly, the claims do not recite (i) an improvement to the functionality of a computer or other technology or technical field (*see* MPEP § 2106.05(a)); (ii) a "particular machine" to apply or use the judicial exception (*see* MPEP § 2106.05(b)); (iii) a particular transformation of an article to a different thing or state (*see* MPEP § 2106.05(c)); or (iv) any other meaningful limitation

(*see* MPEP § 2106.05(e)). *See* 84 Fed. Reg. at 55. Rather, the step of "provid[ing]" the user instruction "via user interface elements on a user mobile device for interactions with a user" is the type of extra-solution activities (i.e., in addition to the judicial exception) the courts have determined insufficient to transform judicially excepted subject matter into a patent-eligible application. *See* MPEP § 2106.05(g); *Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Can.*, 771 F. Supp. 2d 1054, 1065 (E.D. Mo. 2011) *aff'd*, 687 F.3d 1266 (Fed. Cir. 2012) (explaining that "storing, retrieving, and providing data . . . are inconsequential data gathering and insignificant post solution activity"). Contrary to Appellant's argument (App. Br. 11), the invention of independent claim 21 does not improve a user interface. Indeed, other than reciting that the "user instruction" is "provided via user interface elements on a user mobile device," claim 21 does not include any limitation directed to any particular aspect of a user interface itself.

Also contrary to Appellant's arguments (*see, e.g.*, App. Br. 8–11, 16–19), the invention of claim 21 is not directed to a technological improvement. Although Appellant characterizes the claimed invention as "solving a specific technical problem associated with universal value exchange" (App. Br. 8), Appellant does not sufficiently identify the *technological* "problem" being solved. *See* App. Br. 8–20. The purported improvement or "specific approach" ("providing a systematic and uniform data instruction structure") (App. Br. 9–10), however, relates to the abstract idea, and does not improve a computer, technology, or a technical field. *See McRO, Inc. v. Bandai Namco Games Am., Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016) ("We . . . look to whether the claims in these patents focus on a specific means or method that improves the relevant technology or are

instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.") (citing *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016)). Here, unlike in *McRO* and *Enfish*, we find the invention of claim 21 uses computers, networking, and currency exchange as tools, rather than improving upon those tools. Further, Appellant does not explain persuasively how the steps recited in claim 21 are not merely the generic use of the Internet, computer networks, or "digital value exchange[s]." *See* App. Br. 11–13; *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1258–59 (2014) ("We caution, however, that not all claims purporting to address Internet-centric challenges are eligible for patent.").

For at least the foregoing reasons, claim 21 does not integrate the judicial exception into a practical application.

Because we determine the invention of claim 21 is directed to an abstract idea or combination of abstract ideas, we analyze the claim under step two of *Alice* to determine if there are additional limitations that individually, or as an ordered combination, ensure the claims amount to "significantly more" than the abstract idea. *Alice*, 573 U.S. at 217–18 (citing *Mayo*, 566 U.S. at 72–73, 77–79). As stated in the Office Guidance, many of the considerations to determine whether the claims amount to "significantly more" under step two of the *Alice* framework are already considered as part of determining whether the judicial exception has been integrated into a practical application. 84 Fed. Reg. at 56. Thus, at this point of our analysis, we determine if the claims add a specific limitation, or combination of limitations, that is not well-understood, routine, conventional

activity in the field, or simply appends well-understood, routine, conventional activities at a high level of generality. 84 Fed. Reg. at 56.

Here, Appellant's claim 21 does not recite specific limitations (or a combination of limitations) that are not well-understood, routine, and conventional. Obtaining, determining, identifying, and generating data and instructions from data as in claim 21, for example, merely requires the well-understood function of a computer/computer network. *See buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) ("That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive."). In addition, we note Appellant describes the components of the claimed invention at a high level of generality and the components perform generic functions that are well-understood, routine, and conventional. *See, e.g.*, Claim 21 ("processor-implemented;" "one or more data processors"); Spec. ¶ 276 ("The CPU comprises at least one high-speed data processor adequate to execute program components for executing user and/or system-generated requests."); Figs. 2A–2G.

Additionally, to the extent Appellant contends the claims do not seek to tie-up (i.e., preempt) an abstract idea (*see* App. Br. 17–18), we are unpersuaded of Examiner error. "'[W]hile preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.'" *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1098 (Fed. Cir. 2016) (quoting *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015)); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) ("[T]hat the claims do not preempt all price optimization or may be limited to price

optimization in the e-commerce setting do not make them any less abstract."). Further, "[w]here a patent's claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot." *Ariosa*, 788 F.3d at 1379.

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner's rejection of independent claim 21 under 35 U.S.C. § 101. Further, we sustain the Examiner's rejection under 35 U.S.C. § 101 of claims 22–40, which were not argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv).

CONCLUSION

In summary:

Claim(s) Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
21–40	101	Eligibility	21–40	

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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED