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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHARLES GODEWYN, ING-MARIE JONSSON,
and MARIA ZOLOTOVA

Appeal 2018-008204
Application 14/586,588
Technology Center 3600

Before ROBERT E. NAPPI, JAMES R. HUGHES, and JOYCE CRAIG,
Administrative Patent Judges.

CRAIG, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–18. *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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 SugarCRM, Inc. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The claims are directed to a calendar with customer relationship management (CRM) Gantt chart integration. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for Gantt chart customer relationship management (CRM) and calendar data integration in a CRM application, the method comprising:

defining in a database of a CRM application multiple different phases of multiple different pipelines for respectively different target customers, each of the phases requiring a specific number of days for completion;

associating in the database different tasks to be performed in connection with different ones of the different phases of different ones of the different pipelines;

displaying in a user interface of the CRM application a Gantt chart of the different pipelines;

selecting a portion of the Gantt chart reflective of a date range; and additionally displaying in the Gantt chart, selected ones of the different tasks associated with ones of the different phases of the selected portion.

REJECTIONS

Claims 1–18 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter. Final Act. 12–14.

Claims 1–18 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Kimla et al. (US 2015/0066582 A1; published Mar. 5, 2015) (“Kimla”) and Defusco et al. (US 2013/0024452 A1; published Jan. 24, 2013) (“Defusco”). Final Act. 14–25.

ANALYSIS

Rejection of Claims 1–18 Under 35 U.S.C. § 101

Appellant argues that the Examiner’s rejection of claim 1 under 35 U.S.C. § 101 as directed to patent-ineligible subject matter is in error. Appeal Br. 5–15.

To the extent Appellant has not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. 37 C.F.R. § 41.37(c)(1)(iv). Appellant argues claims 1–18 as a group. Appeal Br. 5, 15. Given our discretion under 37 C.F.R. § 41.37(c)(1)(iv), we decide the § 101 rejection of claims 1–18 based on representative claim 1.

Legal Standard

“Whether a claim is drawn to patent-eligible subject matter is an issue of law that we review de novo.” *SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319, 1331 (Fed. Cir. 2010).

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. If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must 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 (citation omitted).

To summarize, under the current Office 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 activity such as a fundamental economic practice, or mental processes); and

(2) additional elements that integrate the judicial exception into a practical application (see Manual for Patent Examining Procedure (“MPEP”) §§ 2106.05(a)–(c), (e)–(h)).

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, conventional” in the field (see MPEP § 2106.05(d)); or

(4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See Office Guidance.

Step 1

Claim 1, as a method claim, falls within the process category of § 101. *See* Office Guidance, 84 Fed. Reg. at 53–54 (citing MPEP §§ 2106.03, 2106.06).

Step 2A(i): Does the Claim Recite a Judicial Exception?

The Examiner determined that claim 1 is directed to the abstract idea of “generating rule-based tasks.” Final Act. 12; Ans. 4. Generating such rule-based tasks can be performed by the human mind or with pen and paper. The Office Guidance explains that “mental processes” include acts that people can perform in their minds or using pen and paper, even if the claim recites that a generic computer component performs the acts. *See* Guidance, 84 Fed. Reg. at 52 n.14 (“If a claim, under its broadest reasonable interpretation, covers performance in the mind but for the recitation of generic computer components, then it is still in the mental processes category unless the claim cannot practically be performed in the mind.”); *see also Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016) (“[W]ith the exception of generic computer-implemented steps, there is nothing in the claims themselves that foreclose them from

being performed by a human, mentally or with pen and paper.”), quoted in Office Guidance, 84 Fed. Reg. at 52 n.14.

Consistent with Appellant’s description of the claims (Spec. ¶¶ 7–8), we agree that the “defining,” “associating,” and “selecting” steps recited in claim 1 describe activities that can be performed in the human mind or practicably with pen and paper. Each of the steps involves observation, evaluation, judgment, or opinion. For example, “defining . . . multiple different phases of multiple different pipelines for respectively different target customers, each of the phases requiring a specific number of days for completion” requires evaluation of possible phases and judgment as to which phases to define. Similarly, “associating . . . different tasks to be performed in connection with different ones of the different phases of the different pipelines” requires evaluation of tasks and phases, as well as judgment as to which tasks should be associated with which phases. “Selecting a portion of the Gantt chart reflective of a date range” also requires evaluation of possible date ranges and judgment as to which to select. Moreover, the Specification describes that an end user mentally integrates the tasks referenced in a Gantt chart visualization with the tasks of a separate C&S component of the CRM system. Spec. ¶ 7.

The instant claims are similar to the claims in *Erie Indemnity* and *FairWarning*, which were found to be drawn to abstract concepts. See *Intellectual Ventures I LLC v. Erie Indem. Co.*, 850 F.3d 1315, 1327 (Fed. Cir. 2017) (Claims involving “organizing and accessing records through the creation of an index-searchable database” were “drawn to the abstract idea of creating an index and using that index to search for and retrieve data.”); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94, 1097

(Fed. Cir. 2016) (Claims “drawn to the concept of analyzing records of human activity to detect suspicious behavior” involve selecting information . . . for collection [and] analysis . . . [which] does nothing significant to differentiate a process from ordinary mental processes.”). Thus, the “defining,” “associating,” and “selecting” steps recited in claim 1 fall into the mental process category of abstract ideas. *See* 84 Fed. Reg. at 52.

Moreover, the steps reciting “displaying” and “additionally displaying” a Gantt chart could be performed by merely writing down and showing such information—a step that can involve mere judgment and logical reasoning. *Cf. CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372–73 (Fed. Cir. 2011) (noting that a recited step that utilized a map of credit card numbers to determine the validity of a credit card transaction could be performed entirely mentally by merely using logical reasoning). Accordingly, the two “displaying” steps fall squarely within the mental processes category of the agency’s guidelines and, therefore, recite an abstract idea. *See* Office Guidance, 84 Fed. Reg. at 52 (listing exemplary mental processes including observation and evaluation).

Because we agree with the Examiner that the claim recites an abstract idea, we proceed to Prong Two of Step 2A to determine if the idea is integrated into a practical application, in which case the claim as a whole would not be “directed to” merely an abstract idea.

Step 2A(ii): Judicial Exception Integrated into a Practical Application?

Because we determined that claim 1 recites a patent-ineligible concept, we next determine whether the recited judicial exception is integrated into a practical application of that exception by: (a) identifying whether there are any additional elements recited in the claim beyond the

judicial exception(s); and (b) evaluating those additional elements individually and in combination to determine whether they integrate the exception into a practical application.

We use the term “additional elements” for claim features, limitations, or steps that the claim recites beyond the identified judicial exception. *See* Revised Guidance at 55 n.24. In claim 1, the additional elements include the recited “CRM application,” “database,” and “user interface.”

We agree with the Examiner’s determination that none of the additional limitations is sufficient to amount to significantly more than the judicial exception because the additional computer elements “do not include any requirement for performing the claimed functions of gathering, analyzing, and displaying by use of anything but entirely conventional, generic technology.” Final Act. 14; *see also* Ans. 4. The recited “CRM application” is described generically in Appellant’s Specification as “executing in the memory of the host computing system using the CRM data.” Spec. ¶ 10. The Specification describes the recited “database” generically as accessible by different client computers over a computer communications network. Spec. ¶ 21. The Specification also describes the recited “user interface” of the CRM application generically as “loaded into memory and displayed” (Spec. ¶ 17) and “presented in a display of a computer” (*id.* ¶ 21).

Because claim 1 merely implements the claimed method on general purpose computers, performing normal data update and display functions, the claimed systems, method, and medium do not reflect “an improvement in the functioning of a computer.” Office Guidance, 84 Fed. Reg. 55. Claim 1 is directed to “Gantt chart customer relationship management (CRM) and

calendar data integration in a CRM application” (Claim 1), and thus do not reflect “an improvement to other technology or technical field.” *Id.* at 55. The claims do not require a particular machine or manufacture, and do not transform an article to a different state. *Id.* Further, the claims merely link the recited abstract idea generally to a networked computer environment, and thus do no more than represent a drafting effort to monopolize the abstract idea in a computer implementation. *Id.* As such, the abstract idea is not integrated into a practical application.

Appellant’s argument that the claims “improve over the prior art” is unavailing. *See* Appeal Br. 11 (citing Spec. ¶ 7). The novelty of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter. *Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981). Our reviewing court further guides that “[e]ligibility and novelty are separate inquiries.” *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1340 (Fed. Cir. 2017); *see also Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1263 (Fed. Cir. 2016) (holding that “[e]ven assuming” that a particular claimed feature was novel does not “avoid the problem of abstractness”).

Furthermore, Appellant’s claim 1 is unlike the technology-based integrations cited by Appellant. *See* Appeal Br. 10–12. Appellant’s claims are not similar to the claims found eligible in *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299 (Fed. Cir. 2016). The claims in *McRO*—unlike the claims here—recited a “specific . . . improvement in computer animation” using “unconventional rules” that related “sub-sequences of phonemes, timings, and morph weight sets” to automatically

animate lip synchronization and facial expressions for three-dimensional characters that only human animators could previously produce. *McRO*, 837 F.3d at 1302–03, 1307–08, 1313–15. In *McRO*, “the incorporation of the claimed rules” improved an existing technological process. *McRO*, 837 F.3d at 1314.

In contrast, claim 1 does not improve an existing technological process. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016) (distinguishing between claims wherein the focus of the claims is on an improvement in computer capabilities and those that invoke a computer as a tool). Here, the invention under appeal merely adapts to a technological setting (comprising a generic CRM application, database, and user interface) the concept of displaying an integrated report. Appellant does not claim to have invented a new user interface, database, or any other improvement in the computer technology underlying the claims. *See BSG Tech., LLC v. BuySeasons, Inc.*, 899 F.3d 1281, 1287–88 (Fed. Cir. 2018) (“The claims do not recite any improvement to the way in which such databases store or organize information an improvement to the information stored by a database is not equivalent to an improvement in the database’s functionality . . . the database serves in its ‘ordinary capacity’ of storing . . . information.”). Considering claim 1 as a whole, then, Appellant’s invention lacks a technical solution to a technical problem like the claims in *McRO* and *Enfish*.

Thus, we agree with the Examiner that claim 1 merely implements generic computer components to perform the recited functions. *See* Final Act. 13; Ans. 5–6. 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, claim 1 recites an abstract ideas as identified in Step 2A(i), *supra*, and none of the limitations integrates the judicial exception into a practical application.

Therefore, because the abstract idea is not integrated into a practical application, we conclude that the claim is directed to the judicial exception.

Step 2B — “Inventive Concept” or “Significantly More”

If the claims are directed to a patent-ineligible concept, as we conclude above, we proceed to the “inventive concept” step. For Step 2B we must “look with more specificity at what the claim elements add, in order to determine ‘whether they identify an “inventive concept” in the application of the ineligible subject matter’ to which the claim is directed.” *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1258 (Fed. Cir. 2016) (quoting *Elec. Power Grp.*, 830 F.3d at 1353). We look to see whether there are any “additional features” in the claims that constitute an “inventive concept,” thereby rendering the claims eligible for patenting even if they are directed to an abstract idea. *Alice*, 573 U.S. at 221. Those “additional features” must be more than “well-understood, routine, conventional activity.” *Mayo*, 566 U.S. at 79.

The Examiner determined that the additional elements in claim 1 amount to no more than implementing the abstract idea with a computerized system with generic computer components recited as performing generic

computer functions that are well-understood, routine and conventional activities. Final Act. 14.

Appellant argues that the language of claim 1 “expressly provides how the concept of ‘Gantt chart CRM and calendar data integration in a CRM application’ is achieved,” without foreclosing all possible methods for achieving such integration. Appeal Br. 13; *see also id.* at 15.

Appellant’s argument is not persuasive because preemption is not the sole test for patent eligibility, and any questions on preemption in the instant case have been resolved by the Examiner’s *Mayo/Alice* analysis. As our reviewing court has explained, “questions on preemption are inherent in and resolved by the § 101 analysis,” and, although “preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *cf. 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.”).

Appellant does not direct our attention to anything in the Specification that indicates the computer components perform anything other than well-understood, routine, and conventional functions, such as looking up data in a database, updating data, and displaying data on a user interface. *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 re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 614 (Fed. Cir. 2016) (server that receives

data, extracts classification information from the received data, and stores the digital images insufficient to add an inventive concept); *Alice*, 573 U.S. at 225–26 (receiving, storing, sending information over networks insufficient to add an inventive concept).

We determine that the claimed elements, viewed individually and as an ordered combination, merely use well-understood, routine, and conventional computer components and functions to implement operations previously performed in existing rewards points programs. Because the Specification describes the additional elements in general terms, without describing the particulars, we conclude the claim limitations may be broadly but reasonably construed as reciting conventional computer components and techniques, particularly in light of Appellant’s Specification, as cited above. *See Berkheimer Memo*² § III.A.1; Spec. ¶¶ 10, 17, 21. We conclude claim 1 does not have an inventive concept because the claim, in essence, merely recites various computer-based elements along with no more than mere instructions to implement the identified abstract idea using the computer-based elements.

Because the claims fail under both the Step 2A and Step 2B analyses, we sustain the Examiner's § 101 rejection of independent claim 1 and grouped claims 2–18, not argued separately with particularity.

² “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*)” at 3 (Apr. 19, 2018) (explaining that a specification that describes additional elements “in a manner that indicates that the additional elements are sufficiently well-known that the specification does not need to describe the particulars of such additional elements to satisfy 35 U.S.C. § 112(a)” can show that the elements are well understood, routine, and conventional).

Rejection of Claims 1–18 Under 35 U.S.C. § 103(a)

We have reviewed the § 103(a) rejection of claims 1–18 in light of Appellant’s arguments that the Examiner erred. We have considered in this decision only those arguments Appellant actually raised in the Briefs. Any other arguments Appellant could have made, but chose not to make, in the Briefs are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellant’s arguments are not persuasive of error. We agree with and adopt as our own the Examiner’s findings of facts and conclusions as set forth in the Answer and in the Action from which this appeal was taken. We provide the following explanation for emphasis.

With respect to independent claim 1, Appellant contends the Examiner erred because the cited portions of Kimla and Defusco do not teach or suggest a “Gantt chart,” as recited in claim 1. Appeal Br. 17.

We are not persuaded that the Examiner erred. Appellant refers to definitions of “Gantt chart” that appeared in previous prosecution documents, but did not include the definitions and related arguments in the Appeal Brief. *See id.* Rule 37 C.F.R. § 41.37(c) requires that an appeal brief set forth arguments and the basis therefore, with citations of the statutes, regulations, authorities and parts of the record relied upon. According to the rule,

[i]t is essential that the Board be provided with a brief fully stating the position of the appellant with respect to each ground of rejection presented for review in the appeal so that no search of the Record is required in order to determine that position. Thus, the brief should not incorporate or reference previous responses.

MPEP § 1205.02 (R-08.2017, Jan. 2018).

Considering the record before us, Appellant defines “Gantt chart” in the Specification as “a type of bar chart that illustrates a project schedule by showing the start and finish dates of the various terminal elements and summary elements of a project.” Spec. ¶ 6. Applying Appellant’s definition, the Examiner found that Kimla teaches or suggests a Gantt chart. Ans. 11–12 (citing Kimla Fig. 4D, ¶¶ 31, 72, 79). The Examiner also found that Defusco teaches a Gantt chart. Ans. 12–13 (citing Defusco Figs. 6, 11, 24).

We are not persuaded that the Examiner erred. Appellant argues that that “Kimla does not disclose a series of horizontal lines that show an amount of work done in certain period of time in relation to the amount planned for those periods.” Reply Br. 7. Appellant makes a similar argument regarding Defusco. *Id.* at 9. The plain language of claim 1, however, does not require a series of horizontal lines that show an amount of work done in certain period of time in relation to the amount planned for those periods. Nor has Appellant persuaded us that the broadest reasonable interpretation³ of “Gantt chart” includes such requirements. Therefore, Appellant has not persuaded us that the Examiner’s interpretation of the term “Gantt chart” is overly broad, unreasonable, or inconsistent with Appellant’s Specification. Nor has Appellant persuasively rebutted the Examiner’s findings that the combination of Defusco and Kimla teaches or suggests the recited “Gantt chart.”

³ As an initial matter of claim construction, we give the claim its broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). “In the patentability context, claims are to be given their broadest reasonable interpretations . . . limitations are not to be read into the claims from the specification.” *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citations omitted).

For these reasons, we are not persuaded that the Examiner erred in finding that the combination of Defusco and Kimla teaches or suggests the disputed “Gantt chart” limitation, as recited in claim 1.

Accordingly, we sustain the Examiner’s § 103(a) rejection of independent claim 1, as well as the Examiner’s § 103(a) rejection of independent claims 7 and 13 and dependent claims 2–6, 8–12, and 14–18, argued as a group with claim 1. *See* Appeal Br. 16.

DECISION

We affirm the decision of the Examiner rejecting claims 1–18.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Basis/References	Affirmed	Reversed
1–18	101	Eligibility	1–18	
1–18	103(a)	Defusco, Kimla	1–18	
Overall Outcome:			1–18	

TIME PERIOD FOR RESPONSE

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