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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* RICHARD LASOTA, PAUL CAHILL, and PAUL DI PAOLA

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Appeal 2018-008896  
Application 11/966,813  
Technology Center 3600

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Before CAROLYN D. THOMAS, KARA L. SZPONDOWSKI, and  
MICHAEL M. BARRY, *Administrative Patent Judges*.

SZPONDOWSKI, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–7 and 9–18, constituting all claims pending in the application. 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 American International Group, Inc. Br. 1.

## STATEMENT OF THE CASE

Appellant's invention generally relates to "generating an initial projection of the net loss of an insurance company from a major loss event." Spec. ¶ 2. Claims 1 and 12, reproduced below, are representative of the claimed subject matter:

1. A method for making an initial loss projection of an insurance company resulting from a loss event using an initial net loss projection server connected to a plurality of computers *via* a computer network and connected to an electronic database of information housed in a physical storage device, the information concerning in-force insurance policies issued by the insurance company, the method comprising:

operating the initial net loss projection server to execute a loss estimate collaboration program stored on a physical computer-readable medium, the loss estimate collaboration program including computer-executable instructions providing a common information repository on the computer network;

identifying within a seventy-two hour period entities involved in, or affected by, the event independent of filing a claim with said insurance company for the loss event;

for each identified entity:

searching, using the initial net loss projection server, the electronic database of information concerning in-force insurance policies issued by the insurance company, wherein the information includes names of the insured and coverage limits,

identifying, using the initial net loss projection server, whether said insurance company issued one or more in-force policies to said identified entity, and

adding each identified in-force policy to a listing of identified in-force policies that the insurance company has issued to any of the entities identified as being involved in, or affected by, the loss event;

presenting, using the initial net loss projection server, the listing of the identified in-force policies in an event file for the loss event in the common information repository;

displaying, using the initial net loss projection server, the listing of identified in-force policies in a graphical user interface;

receiving, through the graphical user interface, a selection of at least one in-force policy from the listing of identified in-force policies to be included in the initial net loss projection, wherein each selected in-force policy displays an indication in the graphical user interface that it is included in the initial loss projection;

calculating using the initial net loss projection server, the initial loss projection for the event based on aggregating coverage limits of said selected in-force policies by summing a respective net policy dollar limit of each of said selected in-force policies.

12. A system for performing an initial loss projection for an event, comprising:

a plurality of computers;

a computer network connected to the plurality of computers;

a server connected to the computer network and accessible by the computers operably connected to the computer network;

a common information repository for the event, the common information repository being accessible by the plurality of computers through the computer network,

the common information repository having an event file for storing information identifying (1) entities involved in, or affected by, the event, (2) in-force policies of the entities, and (3) a set of selected in-force policies of the entities that are to be included in the initial net loss projection;

an in-force policy database operably arranged with the server, the in-force policy database including information regarding the in-force policies, the information including names of the insured and coverage limits;

a physical computer-readable medium having computer-executable instructions stored thereon, the computer-executable instructions comprising a loss estimate collaboration program, the server programmed with the collaboration program to perform steps of:

presenting, using the computer network, a webpage including a graphical user interface operably associated with the in-force policy database, the graphical user interface displaying in-force policy information,

receiving a selection, through the graphical user interface, of at least one in-force policy to be placed in the set of selected in-force policies for inclusion in the initial loss projection independent of receiving a claim under any of said in-force policies, and

calculating, within a seventy-two hour period after creating the event file, the initial loss projection for the event based on the set of selected in-force policies by summing a respective net policy dollar limit of each of said selected in-force policies.

Br. 12–13, 15 (Claims Appendix).

## REJECTIONS

Claims 1–7 and 9–18 stand rejected under 35 U.S.C. § 101 as directed to ineligible subject matter.

## ANALYSIS

An invention is patent eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g.*, *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 219 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk.”); *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk.”).

Concepts determined to be abstract ideas, and thus patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611);

mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)).

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 (quotation marks omitted). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

The PTO has published revised guidance on the application of § 101. USPTO, *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (January 7, 2019) (“2019 Guidance”); October 2019 Update: Subject Matter Eligibility, 84 Fed. Reg. 55,942 (available at the USPTO’s website) (“October 2019 PEG Update”). Under the 2019 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* 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:

- (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, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

*See* 2019 Guidance, 84 Fed. Reg. at 52–57.

2019 Guidance, Step 2A, Prong 1

The Examiner determines the claims are directed to a method for making an initial loss projection of an insurance company, which is an idea of itself. Final Act. 6. The Examiner identifies that certain limitations in claim 1 “describe the concept of collecting information, analyzing it, and displaying certain results of the collection and analysis,” similar to *Electric Power Group, LLC v. Alstom*, 830 F.3d 1350 (Fed. Cir. 2016) (emphasis omitted). Final Act. 6–8. The Examiner determines that, like in *Electric Power*, the claims “can be done without a computer.” Final Act. 8; Ans. 8.

Appellant argues independent claims 1 and 12 are “directed to making an initial loss projection resulting from a loss event through a computer network that would otherwise not be possible in the allotted timeframe with the use of the recited technological features.” Br. 5; *see also* Br. 8.

Appellant has not persuasively rebutted the Examiner’s findings and conclusions. A claim recites a mental process when the claim encompasses acts people can perform using their minds or pen and paper. *See, e.g., CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372-73 (Fed. Cir. 2011) (determining that a claim whose “steps can be performed in the human mind, or by a human using a pen and paper” is directed to an

unpatentable mental process). This is true even if the claim recites that a generic computer component performs the acts. *See, e.g., Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1335 (Fed. Cir. 2015) (“Courts have examined claims that required the use of a computer and still found that the underlying, patent-ineligible invention could be performed via pen and paper or in a person's mind.”); *see also Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016) (“Symantec”) (“[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.”); 2019 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.”). The 2019 Guidance recognizes mental observations, evaluations and judgments as constituting patent-ineligible abstract ideas. *See* 2019 Guidance, 84 Fed. Reg. 52.

Appellant generally describes the invention as “a method and system for projecting the initial loss resulting from a major loss event [MLE].” Spec. ¶ 2. Appellant explains that after a major incident that causes significant loss of human life and/or property damage, it would be advantageous for the high-level executives of an insurance company to know the initial net loss exposure that the incident presents to the company within twenty-four to seventy-two hours. Spec. ¶¶ 3–4. Appellant states that within a conventional business structure of an insurance company, generating a relatively accurate net loss projection in a very short period of time has been a very difficult task for various reasons, including that the

insurance company may not know the identities of all of the entities involved, whether there are in-force insurance policies covering such entities that might be relevant, when different underwriting divisions of the insurance company are involved, and the possible existence of reinsurance treaties or facultative certificates that would reduce the policy limit exposure. Spec ¶¶ 4–7. Appellant further explains that these complexities create difficulty, especially when the information regarding the relevant insurance policies and applicable reinsurance cannot be quickly and efficiently gathered. Spec. ¶ 8.

Claim 1 recites the following limitations: (1) “identifying within a seventy-two hour period entities involved in, or affected by, the event independent of filing a claim with said insurance company for the loss event”; (2) “for each identified entity: searching . . . concerning in-force insurance policies issued by the insurance company, wherein the information includes names of the insured and coverage limits, identifying . . . whether said insurance company issued one or more in-force policies to said identified entity, and adding each identified in-force policy to a listing of identified in-force policies that the insurance company has issued to any of the entities identified as being involved in, or affected by, the loss event”; (3) “presenting . . . the listing of identified in-force policies in an event file for the loss event . . .”; (4) “displaying . . . the listing of identified in-force policies in a graphical user interface”; (5) “receiving . . . a selection of at least one in-force policy from the listing of identified in-force policies to be included in the initial net loss projection, wherein each selected in-force policy displays an indication in the graphical user interface that it is included in the initial loss projection”: and (6) “calculating . . . the initial loss

projection for the event based on aggregating coverage limits of said selected in-force policies by summing a respective net policy dollar limit of each of said selected in-force policies.” Independent claim 12 recites a system claim with similar limitations.

Each of the steps above can be practically performed by a human being, and, therefore, recite a mental process under the 2019 Guidelines. Appellant’s Specification supports our findings. For example, Appellant describes that the news reports can be reviewed to identify the entities involved in, or impacted by the major loss event. Spec. ¶ 49. “The task of reviewing media coverage to collect facts surrounding the MLE and to identify the entities involved in the MLE is *preferably performed by specially trained and experienced searchers.*” Spec. ¶ 49 (emphasis added). After the entity is identified, Appellant describes that “*a member of the initial net loss projection team can determine whether the identified entity is insured by the insurance company*” by searching through a database. Spec. ¶ 51 (emphasis added). The search results concerning the in-force policies may then be stored and accessed by team members. Spec. ¶¶ 51–52. For example, “[*s*]elected members of the team can review the policy information to determine whether the particular policy is relevant to the incident.” Spec. ¶ 53 (emphasis added). After the relevant in-force policies for the identified entities have been determined, the initial net loss projection can be made. Spec. ¶ 57.

Accordingly, Appellant has not sufficiently argued why the claims do not recite an abstract idea, and we agree with the Examiner’s findings and conclusions. *See* Final Act. 6–8; Ans. 10–11. Therefore, we conclude the claims at least recite a mental process pursuant to Step 2A, Prong One of the

guidance. *See* 2019 Guidance, Section III(A)(1) (Prong One: Evaluate Whether the Claim Recites a Judicial Exception).

2019 Guidance, Step 2A, Prong 2

In determining whether the claims are “directed to” the identified abstract idea, we next consider whether the claims recite additional elements that integrate the judicial exception into a practical application.<sup>2</sup> We discern no additional element (or combination of elements) recited in the claims that integrates the judicial exception into a practical application. *See* 2019 Guidance, 84 Fed. Reg. at 54–55.

The Examiner determines the claims “are recited at a high level of generality” and “use[] a computer to receive, process, and send data,” which are merely generic computers performing generic computer functions. Final Act. 8. Specifically, the Examiner identifies the following additional limitations: “initial net loss projection server,” “loss estimate collaboration program,” “electronic database,” and “graphical user interface to receive and display data.” Final Act. 9.

Appellant contends the claims “include specific functionality for calculating an initial loss projection by summing a respective net policy dollar limit of each of a series of in-force policies, which is a new way of

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<sup>2</sup> We acknowledge that some of the considerations at Step 2A, Prong Two, properly may be evaluated under Step 2 of *Alice* (Step 2B of the Office guidance). For purposes of maintaining consistent treatment within the Office, we evaluate them under Step 1 of *Alice* (Step 2A of the Office guidance). *See* 2019 Guidance, 84 Fed. Reg. at 55 n.25, 27–32.

solving the persistent problem of calculating an initial net loss projection.”

Br. 6. Appellant argues

The claimed approach gives an insurance provider a framework for making an initial projection for the net loss associated with a major loss event that enables collaboration between different distributed branches of the corporation and that is capable of providing a comprehensive and reliable assessment of the initial net loss projection quickly after the occurrence of a major incident without the need to wait for claims to be filed. This is a significant improvement over any existing technological system/process known at the time of the invention. The claimed solution is rooted in computer technology in order to satisfy persistent needs specifically arising in the field of loss projections after a loss event.

Br. 7; *see also* Br. 9. Appellant also contends certain steps in claim 1 “identify particular devices and require a particularly-programmed machine.” Br. 6. Appellant argues “the steps and features of claim 1 confine the claim to a particular useful application that would not be possible to perform without the new computer-implemented steps and features recited therein.” Br. 8. With respect to claim 12, Appellant argues the claim “specif[ies] how interactions with the server and common information repository occur to yield a particular useful application to solve a persisting problem in the industry – namely, how to quickly develop a projection for the magnitude of damage caused by a loss event to a particular company.” Br. 8.

Appellant’s arguments are not persuasive. As additional elements, the independent claims recite computer system components. Br. 12–16. Specifically, method claim 1 recites “operating the initial net loss projection server to execute a loss estimate collaboration program stored on a physical

computer-readable medium, the loss estimate collaboration program including computer-executable instructions providing a common information repository on the computer network,” an “initial net loss projection server,” an “electronic database of information,” a “common information repository,” and a “graphical user interface.” Br. 12–13. Similarly, system claim 12 recites “a plurality of computers,” “a server connected to a computer network and accessible by the computers operably connected to the computer network,” “a common information repository,” “an in-force policy database operably arranged with the server,” “a physical computer-readable medium having computer-executable instructions stored thereon, the computer-executable instructions comprising a loss estimate collaboration program,” and “a webpage including a graphical user interface operably associated with the in-force policy database, the graphical user interface displaying in-force policy information.” Br. 15.

We agree with the Examiner that these additional limitations recite generic computer components performing generic computer functions. *See* Final Act. 8–9; Ans. 10–12. Appellant’s Specification does not indicate that these limitations are anything other than generic, nor does Appellant direct our attention to any evidence that they are not generic. *See, e.g.* Spec. ¶ 37 (“server 22 . . . can include a program running thereon that provides the functionality for an information repository 24 that can be accessed by users over the network 20 for storing, editing, and analyzing information and storing decision results”); Spec. ¶ 38 (“where the network 20 comprises the Internet”); Spec. ¶ 39 (“information repository can include a database”); Spec. ¶ 41 (“[a] database 38 of insurance policy and reinsurance information . . .”); Spec. ¶ 45 (“information repository 24 is implemented as an

electronic collaboration site (‘ECS’)); Spec. ¶ 60 (“ECS . . . includes web pages designed to make it easy for a user to add, review, and edit information”).

We find no indication in the Specification, nor does Appellant direct us to any indication, that the operations recited by the claims invoke any inventive programming, require any specialized computer hardware or other inventive computer components (i.e., a particular machine), or that the claimed invention is implemented using other than generic computer components to perform generic computer functions (e.g., identifying, storing, analyzing, and displaying data). *See DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) (“[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.”). The claims merely add generic computer components to support the abstract idea, which is insufficient to integrate the judicial exception into a practical application.

Moreover, we are unpersuaded the claims constitute an improvement to the functioning of the computer or to any other technology or technical field; they merely adapt the abstract idea to an execution of steps performed on a computer. *See Credit Acceptance Corp. v. Westlake Services*, 859 F.3d 1044, 1055 (Fed. Cir. 2017) (“Our prior cases have made clear that mere automation of manual processes using generic computers does not constitute a patentable improvement in computer technology.”). The problem described in Appellant’s Specification pertains to providing an accurate initial net loss projection after the occurrence of an MLE, given the complexities within the conventional corporate structure of an insurance company. E.g., Spec. ¶¶ 3–8. Appellant explains:

The unique collaborative process in accordance with the invention enables and encourages efficient collection and sharing of information required for initially projecting the maximum net loss exposure faced by the company in a timely, efficient and accurate manner. This is achieved by defining roles and responsibilities for the MLE process coordinators and other participants in various parts of the insurance company (e.g., Claims, Underwriting, and Reinsurance divisions) so that they can work together in an organized way to determine the initial net loss projection.

Spec. ¶ 72. Appellant's invention is not directed to a solution to a technical problem, but rather is directed to an improved collaboration process related to a business problem. The claims do not recite an advance in hardware or software that improves this process, but rather, any improvement is to the process itself, e.g., the abstract idea.

Accordingly, we determine the claims do not integrate the judicial exception into a practical application. *See* 2019 Guidance, Section III(A)(2) (Prong Two: If the Claim Recites a Judicial Exception, Evaluate Whether the Judicial Exception Is Integrated Into a Practical Application). We, therefore, agree with the Examiner that the claims are directed to a judicial exception. *See* Final Act. 2–12; Ans. 10–16.

2019 Guidance, Step 2B

Turning to step 2 of the *Alice/Mayo* framework, we look to whether the claims: (a) add a specific limitation or combination of limitations that are not well-understood, routine, conventional activity in the field, or (b) simply append well-understood, routine, conventional activities previously

known to the industry, specified at a high level of generality, to the judicial exception. 2019 Guidance, 84 Fed. Reg. at 56.

As discussed above, the Examiner determines the claims recite generic computer components that perform generic computer functions that are well-understood, routine, and conventional activities, such as collecting information, analyzing it, and displaying the results of the collection and analysis. Final Act. 7; Ans. 10–13.

Appellant argues “the prior art fails to teach or suggest a method for making an initial loss projection of an insurance company resulting from a loss event” as recited in claim 1. Br. 8. Appellant makes a similar argument for claim 12. Br. 10. Appellant further argues “[t]he claimed approach includes unconventional steps and limitations that improve the operation of the claimed method by initiating the process before filing of a claim.” Br. 8; *see also* Br. 10. With respect to claim 12, Appellant also argues the claims “recite a specific way to automate the solution and to enable users of the system to be located geographically apart from each other using meaningful limitations that go far beyond what is well understood, routine, and conventional in the field.” Br. 10.

We are not persuaded by Appellant’s arguments and agree with the Examiner’s findings and conclusions. Final Act. 3–12; Ans. 10–16. When viewed as a whole, nothing in the claim adds significantly more (i.e., an inventive concept) to the abstract idea. Similarly, the additional elements in the claim, identified above, amount to no more than mere instructions to apply the exception using generic computer components, which is insufficient to provide an inventive concept. *See, e.g.*, Spec. ¶¶ 37–39, 41, 45, 60. As discussed above, Appellant does not direct our attention to

anything in the Specification that indicates the claimed computer components perform anything other than well-understood, routine, and conventional processing functions, such as identifying, storing, analyzing, and displaying data. *See Elec. Power Grp., LLC v. Alstom SA*, 830 F.3d 1350, 1355 (Fed. Cir. 2016) (“Nothing in the claims, understood in light of the specification, requires anything other than off-the-shelf, conventional computer, network, and display technology for gathering, sending, and presenting the desired information”); *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”); *Alice*, 573 U.S. at 224–26 (receiving, storing, sending information over networks insufficient to add an inventive concept). In short, each step does no more than require a generic computer to perform generic computer functions.

Furthermore, we are unable discern anything in the claims, even when the recitations are considered in combination, that represents something more than the performance of routine, conventional functions of a generic computer. That is, the claims at issue do not require any nonconventional computer components, or even a “non-conventional and non-generic arrangement of known, conventional pieces,” but merely call for performance of the claimed information identifying, storing, analyzing, and displaying data “on a set of generic computer components.” *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016).

To the extent Appellant argues the claims necessarily contain an “inventive concept” based on their alleged novelty or non-obviousness over

the cited references, Appellant misapprehends the controlling precedent. Although the second step in the *Alice/Mayo* framework is termed a search for an “inventive concept,” the analysis is not an evaluation of novelty or non-obviousness, but rather, a search for “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 217–218. A novel and nonobvious claim directed to a purely abstract idea is, nonetheless, patent-ineligible. *See Mayo*, 566 U.S. at 90.

Appellant does not separately argue the dependent claims. *See* Br. 8, 11. Accordingly, for the foregoing reasons we sustain the Examiner’s 35 U.S.C. § 101 rejection of claims 1–7 and 9–18.

#### CONCLUSION

We affirm the Examiner’s decision to reject claims 1–7 and 9–18. In summary:

| <b>Claims Rejected</b> | <b>Basis</b> | <b>Affirmed</b> | <b>Reversed</b> |
|------------------------|--------------|-----------------|-----------------|
| 1–7, 9–18              | § 101        | 1–7, 9–18       |                 |

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).

AFFIRMED