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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte VIJAY PARTHASARATHY,
ALEXANDER ADRIANUS MARTINUS VERBEEK,
and YUECHEN QIAN

Appeal 2019-000955
Application 14/270,436
Technology Center 3600

Before JENNIFER L. MCKEOWN, BETH Z. SHAW, and
SCOTT E. BAIN, *Administrative Patent Judges*.

SHAW, *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, 3–11, 13–18, and 21–24. Final Act.

2. 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(a). Appellant identifies the real party in interest as
Koninklijke Philips N.V. Appeal Br. 1.

CLAIMED SUBJECT MATTER

The claims are directed to a system and method for indicating the quality of information to support clinical decision making. Claim 9,² reproduced below, is illustrative of the claimed subject matter:

9. A system for indicating the quality of a medical report, the system comprising:
- one or more processors programmed to:
 - process a portion of a medical report in natural language using a natural language processing engine;
 - generate a score of the medical report based on a plurality of categories relating to the quality of the medical report, the categories including of report content, report format, and report trustworthiness; and
 - control a display device to display the generated score.

REJECTION

Claims 1, 3–11, 13–18, and 21–24 are rejected under 35 U.S.C. § 101. Final Act. 2.

OPINION

Appellant argues the pending claims as a group. *See* Appeal Br. 7–16. As permitted by 37 C.F.R. § 41.37, we decide the appeal based on claim 9. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2016).

Section 101 of the Patent Act provides that “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof” is patent eligible. 35 U.S.C. § 101. But the

² We note that claim 1 appears to be missing a word within the phrase “a medical report system configured to a medical report. . . .” Due to this discrepancy and because Appellant argues the claims as a group (Appeal Br. 7–16), we select claim 9 as illustrative.

Supreme Court has long recognized an implicit exception to this section: “Laws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014) (quoting *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)). To determine whether a claim falls within one of these excluded categories, the Court has set out a two-part framework. The framework requires us first to consider whether the claim is “directed to one of those patent-ineligible concepts.” *Alice*, 573 U.S. at 217. If so, we then examine “the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 573 U.S. at 217 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 78, 79 (2012)). That is, we examine the claims for an “inventive concept,” “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 217–18 (alteration in original) (quoting *Mayo*, 566 U.S. at 72–73).

The Patent Office recently issued guidance about this framework. *See* 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“2019 Eligibility Guidance”). Under the guidance, to decide whether a claim is “directed to” an abstract idea, we evaluate whether the claim (1) recites an abstract idea grouping listed in the guidance *and* (2) fails to integrate the recited abstract idea into a practical application. *See* 2019 Eligibility Guidance, 84 Fed. Reg. at 51. If the claim is “directed to” an abstract idea, as noted above, we then determine whether the claim recites an inventive concept. The 2019 Eligibility Guidance explains that when

making this determination, we should consider whether the additional claim elements add “a specific limitation or combination of limitations that are not well-understood, routine, conventional activity in the field” or “simply append[] well-understood, routine, conventional activities previously known to the industry.” 2019 Eligibility Guidance, 84 Fed. Reg. at 56.

With these principles in mind, we turn to the Examiner’s § 101 rejection.

Abstract idea

Turning to Step 2A, Prong 1, the claimed method is for indicating the quality of a medical report. Spec. 2:21–22. Claim 9 includes “process[ing] a portion of a medical report in natural language” and “generat[ing] a score of the medical report based on a plurality of categories relating to the quality of the medical report, the categories including of report content, report format, and report trustworthiness.”

Claim 9 recites an abstract idea grouping listed in the 2019 Eligibility Guidance: “mental processes.” *See* 2019 Eligibility Guidance, 84 Fed. Reg. at 52, 53 (listing “[m]ental processes—concepts performed in the human mind (including an observation, evaluation, judgment, opinion)” as one of the “enumerated groupings of abstract ideas” (footnote omitted)). The 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* 2019 Eligibility 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* 2019 Eligibility Guidance, 84 Fed. Reg. at 52 n.14; *Mortg. Grader, Inc. v. First Choice Loan Servs. Inc.*, 811 F.3d. 1314, 1324 (Fed. Cir. 2016) (holding that computer-implemented method for ““anonymous loan shopping”” was an abstract idea because it could be ““performed by humans without a computer””); *quoted in* 2019 Eligibility Guidance, 84 Fed. Reg. at 52 n.14.

The method recited in claim 9 executes steps that people can perform in their minds or using pen and paper. A person can perform the “process[ing]” and “generat[ing]” steps of claim 9 by using his or her mind (or pen and paper) in the claimed manner. For example, a person can “process a portion of a medical report in natural language” using his or her mind or pen and paper. A person can “generate a score of the medical report based on a plurality of categories relating to the quality of the medical report, the categories including of report content, report format, and report trustworthiness,” using pen and paper. Accordingly, claim 9 recites a mental process, and thus an abstract idea.

Turning to Step 2A, Prong 2, the remaining elements recited in claim 9 do not integrate the abstract idea into a practical application. In addition to the steps discussed above, claim 9 recites “one or more processors” and a “display device to display the generated score.” The recited processors and display device encompass generic components. *See, e.g.*, Spec. 12:16–27 (“a processor includes one or more of a microprocessor, a microcontroller, a

graphic processing unit (GPU), an application-specific integrated circuit (ASIC), a field-programmable gate array (FPGA), and the like; . . . and a display device includes one or more of a LCD display, an LED display, a plasma display, a projection display, a touch screen display, and the like.”). Simply programming a general-purpose computer “processor” to perform abstract ideas does not integrate those ideas into a practical application. *See* 2019 Eligibility Guidance, 84 Fed. Reg. at 55 (identifying “merely includ[ing] instructions to implement an abstract idea on a computer” as an example of when an abstract idea has not been integrated into a practical application).

In addition, “*display the generated score*” in claim 9’s last clause is insignificant post-solution activity, because it is merely ancillary to the focus of the claimed invention, namely, generating the score of the medical report based on the plurality of categories, given the display’s high level of generality and context in the claimed invention. Where, as here, the recited display function is merely ancillary to the score *generation* focus of the claimed invention, given its high level of generality and context in the claimed invention, the recited display function is insignificant post-solution activity and, therefore, does not integrate the exception into a practical application for this additional reason. *See* 2019 Eligibility Guidance, 84 Fed. Reg. at 55 (citing MPEP § 2106.05(g)).

Thus, the claims do not integrate the judicial exception into a practical application. The claims do not (1) improve the functioning of a computer or other technology, (2) are not applied with any particular machine (except for a generic computer), (3) do not effect a transformation of a particular article to a different state, and (4) are not applied in any meaningful way beyond

generally linking the use of the judicial exception to a particular technological environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception. *See* MPEP §§ 2106.05(a)–(c), (e)–(h). We, therefore, agree with the Examiner that claim 9 is directed to an abstract idea.

Inventive Concept

Because we determine claim 9 is “directed to” an abstract idea, we consider whether claim 9 recites an “inventive concept” pursuant to Step 2B of the 2019 Eligibility Guidance. The Examiner determined claim 9 does not recite an inventive concept because the additional elements in the claim do not amount to “significantly more” than an abstract idea. *See* Final Act. 5, 6.

We agree with the Examiner’s determination. As noted above, the claimed invention merely uses generic computing components to implement the recited abstract idea. The additional elements recited in the claim include the “one or more processors” and “display device.” The claim recites these elements at a high level of generality, and the written description indicates that these elements are generic computer components. *See, e.g.,* Spec. 12:16–27. Using generic computer components to perform abstract ideas does not provide the necessary inventive concept. *See Alice*, 573 U.S. at 223 (“[T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.”). Thus, these elements, taken individually or together, do not amount to “significantly more” than the abstract ideas themselves.

Appellant contends various elements recited in the claim provide the necessary inventive concept. Appeal Br. 13. But these elements form part of the recited abstract ideas and thus are not “additional elements” that “‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 78); *see also* 2019 Eligibility Guidance, 84 Fed. Reg. at 55 n.24 (“USPTO guidance uses the term ‘additional elements’ to refer to claim features, limitations, and/or steps that are recited in the claim *beyond the identified judicial exception*.” (Emphasis added)).

Rather, the recited (1) one or more processors; and (2) display device are the additional recited elements whose generic computing functionality is well-understood, routine, and conventional. *See Intellectual Ventures*, 792 F.3d at 1368 (noting that a recited user profile (i.e., a profile keyed to a user identity), database, and communication medium are generic computer elements); *Mortgage Grader, Inc. v. First Choice Loan Servs. Inc.*, 811 F.3d 1314, 1324–25 (Fed. Cir. 2016) (noting that components such as an “interface,” “network,” and “database” are generic computer components that do not satisfy the inventive concept requirement). *Accord* Final Act. 5, 6 (Concluding that the claims’ additional generic computer components do not add significantly more than the abstract idea.). Appellant’s arguments do not persuade us claim 9 is “directed to” a patent-eligible concept.

To the extent Appellant contends that the claimed invention is rooted in technology because it is ostensibly directed to a technical solution (*see* Appeal Br. 14), we disagree. Even assuming, without deciding, that the claimed invention can indicate a quality of a medical report faster than doing so manually, any speed increase comes from the capabilities of the generic

computer components—not the recited process itself. *See FairWarning IP, LLC v. Iatric Systems, Inc.*, 839 F.3d 1089, 1095 (Fed. Cir. 2016) (citing *Bancorp Services, LLC v. Sun Life Assurance Co.*, 687 F.3d 1266, 1278 (Fed. Cir. 2012) (“[T]he fact that the required calculations could be performed more efficiently via a computer does not materially alter the patent eligibility of the claimed subject matter.”)); *see also Intellectual Ventures I LLC v. Erie Indemnity Co.*, 711 F. App’x 1012, 1017 (Fed. Cir. 2017) (unpublished) (“Though the claims purport to accelerate the process of finding errant files and to reduce error, we have held that speed and accuracy increases stemming from the ordinary capabilities of a general-purpose computer ‘do[] not materially alter the patent eligibility of the claimed subject matter.’”). Like the claims in *FairWarning*, the focus of claim 9 is not on an improvement in computer processors as tools, but on certain independently abstract ideas that use generic computing components as tools. *See FairWarning*, 839 F.3d at 1095 (citations and quotation marks omitted).

Conclusion

For at least the above reasons, we agree with the Examiner that claim 9 is “directed to” an abstract idea and does not recite an “inventive concept.” Accordingly, we sustain the Examiner’s rejection of the pending claims under 35 U.S.C. § 101.

DECISION

The Examiner’s rejection is affirmed.

DECISION SUMMARY

Claims Rejected	Basis	Affirmed	Reversed
# 1, 3-11, 13-18 and 21-24	§ 101	# 1, 3-11, 13-18 and 21-24	

FINALITY AND 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