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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KENNETH L. SPERLING, KAREN F. FROST, STEVEN W. CLARK, DAVID MALLETT, TIM MAROZ, DAVID T. PETTA, JUSTIN M. KINDY, TIMOTHY N. NIMMER, and JORDAN L. SIMMERMAKER

Appeal 2019-001212
Application 14/635,956
Technology Center 3600

Before BRADLEY W. BAUMEISTER, JEREMY J. CURCURI, and ADAM J. PYONIN, *Administrative Patent Judges.*

PYONIN, *Administrative Patent Judge.*

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's rejection. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[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 AON Global Operations Limited. Appeal Br. 4.

STATEMENT OF THE CASE

Introduction

The Application is directed to a graphical user interface "dashboard" that "connects industry participants to entities and/or individuals to support the selection and management of products and associated activities." Spec. 1:9–11. The dashboard interface may, for example, allow entities to "select benefits offerings from an insurance plan carrier industry participant." Spec. 2:25–27. Claims 9–15 and 20–32 are pending; of these, claims 20 and 32 are independent. App. Br. 33–47. Claim 20 is reproduced below for reference (with added emphases and bracketed claim element identification):

> 20. A dashboard interface system, comprising:
>
> [1] a non-transitory computer readable medium having instructions stored thereon; and
>
> [2] one or more processors executing upon at least one computing device;
>
> [3] wherein the instructions, when executed by at least one of the one or more processors of the dashboard interface system, cause the dashboard interface system to
>
> [a] prepare, for presentation to a user of a first industry participant computing system of a plurality of industry participant computing systems, a first dashboard interface comprising overview information arranged in a series of information panes, wherein a first information pane of the series of information panes includes product acquisition information, and a second information pane of the series of information panes includes product-related interactions and activities information, wherein preparing the first dashboard interface comprises including, within the second information pane, an interaction control configured, upon selection, to trigger an internal algorithm designed for interoperation with the dashboard interface system, wherein the internal algorithm, when executed, causes the first industry participant system to prepare an

interaction information presentation, within the first dashboard interface, comprising

[b] aggregate transaction data related to products acquired by the plurality of individual users, *wherein the requesting industry participant maintains respective transaction data for each user of the plurality of users internally for private review*;

[c] provide, via a network to the first industry participant computing system, the first dashboard interface;

receive, via the network responsive to selection of the interaction control, a request for information pertaining to one or more products of a plurality of industry participant products, wherein each product of the one or more products is provided by a requesting industry participant associated with the request;

[d] determine, *in real time* from a plurality of industry participants associated with the plurality of industry participant computing systems, a plurality of peer industry participants to the requesting industry participant, wherein determining the plurality of peer industry participants comprises at least one of

a) an industry participant providing administrative services on behalf of the requesting industry participant, and

b) an entity participant sharing one or more of an employment sector, a geographic location, a size, and a maturity with the requesting participant;

[e] access, from a computer storage system comprising one or more nontransitory computer readable storage mediums, requestor product data related to the one or more products, and comparison product data related to a plurality of similar products, wherein each similar product of the plurality of similar products is offered by a particular peer industry participant of the plurality of peer industry participants;

[f] determine, based at least in part upon the requestor product data and the comparison product data, a plurality of product acquisition values;

[g] prepare, for presentation to a user of the first industry participant computing system, a portion of a second dashboard interface including a visual comparison of acquisition

> by product type of the requesting industry participant to the respective acquisition by product type of each peer industry participant of the plurality of peer industry participants, wherein the plurality of peer industry participants are identified anonymously within the dashboard interface; and
>
> [h] provide, to the first industry participant system via the network, the second dashboard interface for incorporation of aggregate interaction data and aggregate transaction data by the internal algorithm.

Rejection

Claims 9–15 and 20–32 are rejected under 35 U.S.C. § 101 as being patent ineligible. Final Act. 2.

OPINION

We have reviewed the Examiner's rejections in light of Appellant's arguments. Arguments Appellant could have made but chose not to make are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

The Examiner determines the claims are patent ineligible under 35 U.S.C. § 101, because "the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more." Final Act. 2; *see also Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208, 217 (2014) (describing the two-step framework "for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.").

After the docketing of this Appeal, the USPTO published revised guidance on the application of § 101 ("Guidance"). *See, e.g.*, USPTO 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) ("Memorandum"); USPTO October 2019 Update: Subject Matter

Eligibility (Oct. 17, 2019) ("Update"). Under Step 2A of the Guidance, the Office looks to whether the claim recites:

> (1) Prong One: 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) Prong Two: 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, does the Office then look, under Step 2B, 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 Memorandum, 84 Fed. Reg. at 56.

We are not persuaded the Examiner's rejection is in error. We adopt the Examiner's findings and conclusions as our own, to the extent consistent with our analysis herein. We add the following primarily for emphasis and clarification with respect to the Guidance.

A. Step 2A, Prong One

Pursuant to Step 2A, Prong One, of the Guidance, we agree with the Examiner that claim 20 "involve[s] insurance data analysis" and recites a judicial exception. Final Act. 3; Memorandum, 84 Fed. Reg. at 54. The claim recites elements [a], [b], [c], [d] (including elements a) and b)), [e], [f],

[g], and [h], which describe accessing data from various databases, determining information, and presenting the information as part of "dashboard" interfaces. These limitations merely recite collecting, analyzing, and displaying data, and they reasonably can be characterized as "[m]ental processes" that entail steps of "observation, evaluation, judgment, opinion." Memorandum 84 Fed Reg. at 52; *see also* Update page 7; *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) ("The focus of the asserted claims . . . is on collecting information, analyzing it, and displaying certain results of the collection and analysis"); *Mortg. Grader, Inc. v. First Choice Loan Servs. Inc.*, 811 F.3d 1314, 1324 (Fed. Cir. 2016) ("the asserted claims are directed to the abstract idea of 'anonymous loan shopping'").

Further, these steps relate to insurance enrollment, and reasonably can be characterized as reciting "agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations" and "following rules or instructions," as part of "managing personal behavior or relationships or interactions between people" and "commercial or legal interactions." Memorandum, 84 Fed Reg. at 52; *see also* Spec. ¶ 45:13–30. Thus, these limitations additionally can be characterized as reciting "[c]ertain methods of organizing human activity." Memorandum, 84 Fed Reg. at 52; *see also Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) ("[T]he claims of the '582 patent are manifestly directed to an abstract idea, which the district court accurately described as 'local processing of payments for remotely purchased goods,'" and "is the type of fundamental business

practice that, when implemented using generic computer technology, is not patent-eligible.").

Accordingly, we conclude the claims recite one or more abstract ideas under Prong One of the Guidance.

B. Step 2A, Prong Two

Appellant argues the Examiner's rejection is in error, because the Examiner has only provided "a cursory and superficial evaluation of Appellant's claims [that] hardly makes out a prima facie case of unpatentability." App. Br. 15. Appellant further contends claim 20 provides patent eligible benefits: "avoiding risk to sensitive data while enjoying the benefits of the holistic interface" (App. Br. 28), "improvement in speed and usability of an industry participant user interface" (App. Br. 21−22); and "providing a quick visual comparison of acquisition by product type, without revealing the identity of individual industry participants" (App. Br. 22).

We are not persuaded the Examiner's rejection is insufficiently supported, or otherwise is in error, pursuant to Step 2A, Prong Two, of the Guidance. *See* Ans. 3–4; *see also* Update page 1 ("[T]he claims in *Alice Corp. v. CLS Bank*, 'described' the concept of intermediated settlement without ever explicitly using the words 'intermediated' or 'settlement.'"). As discussed above, the recited steps performed by the dashboard interface are part of the recited judicial exception. *See* Ans. 4. That is, the disputed limitations do not comprise additional element(s) imparting eligibility. *See* Memorandum, 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.").

Moreover, even assuming the disputed limitations comprise additional elements, the elements do not integrate the judicial exception into a practical application. Memorandum, 84. Fed. Reg. at 54. The claim does not "pertain[] to an improvement to the functioning of a computer or to another technology." Update, page 12. Rather, as correctly noted by the Examiner, the claim uses ordinary computer functionality to provide business and regulatory improvements. *See* Ans. 6, 11–14; *see also Trading Techs. Int'l, Inc. v. IBG LLC*, 921 F.3d 1084, 1090 (Fed. Cir. 2019) ("This invention makes the trader faster and more efficient, not the computer. This is not a technical solution to a technical problem."); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1095 (Fed. Cir. 2016) ("[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."); *Elec. Power Grp.*, 830 F.3d at 1356 ("The claims in this case specify what information in the power-grid field it is desirable to gather, analyze, and display, including in 'real time'; but they . . . . do not state an arguably inventive concept in the realm of application of the information-based abstract ideas.").

Claim 20 additionally recites the system limitations [1], [2], and [3]. These additional elements, relating to computer hardware and storage, are specified at a high level of generality and "do[] no more than generally link the use of a judicial exception to a particular technological environment." Memorandum, 84 Fed. Reg. at 55; Final Act. 4; *see also Alice*, 573 U.S. at 226 ("[N]one of the hardware recited by the system claims 'offers a

meaningful limitation beyond generally linking 'the use of the [method] to a particular technological environment,' that is, implementation via computers.") (citations omitted).

Accordingly, we determine claim 20 does not integrate the judicial exception into a practical application. *See* Memorandum, 84 Fed. Reg. at 54. As the "claim recites a judicial exception and fails to integrate the exception into a practical application" (*id.* at 51), "the claim is directed to the judicial exception" (*id*. at 54).

C. Step 2B

Appellant argues "independent Claim 20 discloses [] unconventional steps" and, thus, "qualif[ies] as 'significantly more' than abstract concepts." App. Br. 23 (emphasis omitted). We disagree; as discussed above, the recited step limitations are not additional elements, and they do not transform the claim into patent eligible subject matter. Therefore, we are not persuaded the Examiner's rejection is in error, pursuant to Step 2B of the Guidance.

The recited hardware limitations are broadly recited and implemented by well-understood, routine, and conventional components, as shown by the record before us. *See* Final Act. 9; Ans. 10; *see also* Spec. 6:1–15, 10:29–31, 43:29–31, 51:19–53:31; *Alice*, 573 U.S. at 226 ("Nearly every computer will include a 'communications controller' and 'data storage unit' capable of performing the basic calculation, storage, and transmission functions required by the method claims"). We agree with the Examiner that the additional elements, individually and combination, do not provide for an

inventive concept that is significantly more than the recited judicial exception. *See* Final Act 3; Memorandum, 84 Fed. Reg. at 56.

Accordingly, we sustain the Examiner's patent eligibility rejection of independent claim 20, as well the remaining claims not separately argued. *See* App. Br. 8, 32.

CONCLUSION

Claims Rejected	35 U.S.C. §	Basis/Reference(s)	Affirmed	Reversed
9–15, 20–32	101	Eligibility	9–15, 20–32	

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