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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LELAND ENGLEBARDT

Appeal 2019-001631
Application 14/482,485¹
Technology Center 3600

Before ANTON W. FETTING, JOSEPH A. FISCHETTI,
and PHILIP J. HOFFMANN, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant seeks our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims **1-5 and 11-15**. Claims 6–10 and 16–20 have been withdrawn. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF DECISION

We AFFIRM.

¹ Appellant identifies Mastercard International Incorporated as the real party in interest. Appeal Br. 2. We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a).

THE INVENTION

Appellant's disclosure states: "a description of systems and methods for the sharing and aggregation of transaction data using an integrated circuit payment card." Spec. ¶ [0005].

Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A method for sharing transaction data, comprising:
 - storing, inside a point of sale device, a removable integrated circuit payment card, wherein the integrated circuit payment card is configured to store payment credentials associated with a payment account and includes an antenna configured to operate using electric power provided by the point of sale device;
 - receiving, by a receiver of the integrated circuit payment card, transaction data for a payment transaction from the point of sale device;
 - encrypting, by a processor of the integrated circuit payment card, the received transaction data;
 - receiving, by the receiver of the integrated circuit payment card, an indication of receipt of an authorization response associated with the payment transaction from the point of sale device, wherein the indication is received separately from the transaction data; and
 - transmitting, by the antenna, the encrypted transaction data to a mobile communication device following receipt of the authorization response.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Jain '272	US 2009/0070272 A1	Mar. 12, 2009
Jain '480	US 9,384,480 B2	Jul. 5, 2016

The following rejections are before us for review.

Claims 1-5 and 11-15 are rejected 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.

Claims 1-5 and 11-15 are rejected under 35 U.S.C. § 102 (a)(1) and (a)(2) as being anticipated by Jain (U.S. Patent PG Publication 2009/0070272, now U.S. Patent 9,384,480).

FINDINGS OF FACT

1. We adopt the Examiner's findings as set forth in the Final Office Action² and in the Examiner's Answer.

2. Jain discloses:

In some implementations, the transaction card 112 may execute one or more of the following: wirelessly receive a request from the POS device 114 to execute a transaction and/or and provide a response; translate between wireless protocols and protocols compatible with the transaction card 112; translate between transaction-card protocols and protocols compatible with mobile device 110; present and receive information (e.g., PIN request, PIN) from the user through the GUI 111; decrypt and encrypt information wirelessly transmitted between the transaction card 112 and the POS 114;.... In some implementations, the transaction card 112 may include a communication module with of a protocol translation module, antenna tuning circuit, power circuit and a miniature antenna tuned to exchange wireless data with a retail terminal 114.

¶ 23.

² All references to the Final Office Action refer to the Final Office Action mailed on April 6, 2018.

3. Jain discloses:

The POS 114 can include any software, hardware, and/or firmware that receives from the transaction card 112 account information for executing a transaction with one or more financial institutions 106. For example, the POS 114 may be an electronic cash register capable of wirelessly communicating transaction information with the transaction card 112a. The POS 114 may communicate transaction information associated with traditional contact payment methods such as plastic cards and checks. ... The transaction information may include verification information, check number, routing number, account number, transaction amount, time, driver's license number, merchant ID, merchant parameters, credit-card number, debit-card number, digital signature and/or other information. In some implementations, the transaction information may be encrypted. In illustrated implementation, the POS 114 can wirelessly receive encrypted transaction information from the transaction card 112 and electronically send the information to one or more of the financial institutions 106 for authorization. For example, the POS 114 may receive an indication that a transaction amount has been accepted or declined for the identified account and/ or request additional information from the transaction card 112.

¶ 37.

ANALYSIS

35 U.S.C. § 101 REJECTION

We will affirm the rejection of claims **1-5 and 11-15** under 35 U.S.C. § 101.

The Appellant argues claims 1–5, and 11–15 as a group. We select claim 1 as the representative claim for this group (Appeal Br. 5), and so the remaining claims stand or fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2015).

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. Pty. Ltd. 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*. *Alice*, 573 U.S. 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 id.* 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, 67 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); “tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S.

252, 267–68 (1854)); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “a claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, . . . and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

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.* (alterations in original) (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.*

In January 2019, the U.S. Patent and Trademark Office (USPTO) published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Guidance”).³ “All USPTO personnel are, as a matter of internal agency management, expected to follow the guidance.” *Id.* at 51; *see also* October 2019 Update at 1.

Under the 2019 Revised Guidance and the October 2019 Update, 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) (“Step 2A, Prong One”); and

(2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h) (9th ed. Rev. 08.2017, Jan. 2018)) (“Step 2A, Prong Two”).⁴

Guidance, 84 Fed. Reg. at 52–55.

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look, under Step 2B, to whether the claim:

³ In response to received public comments, the Office issued further guidance on October 17, 2019, clarifying the 2019 Revised Guidance. USPTO, *October 2019 Update: Subject Matter Eligibility* (the “October 2019 Update”) (available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf).

⁴ This evaluation is performed by (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception, and (b) evaluating those additional elements individually and in combination to determine whether the claim as a whole integrates the exception into a practical application. *See* Guidance - Section III(A)(2), 84 Fed. Reg. at 54–55.

(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.

Guidance, 84 Fed. Reg. at 52–56. The U.S. Court of Appeals for the Federal Circuit has explained that “the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the [S]pecification, based on whether ‘their character as a whole is directed to excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). It asks whether the focus of the claims is on a specific improvement in relevant technology or on a process that itself qualifies as an “abstract idea” for which computers are invoked merely as a tool. *See Enfish*, 822 F.3d at 1335–36.

In so doing, as indicated above, we apply a “directed to” two prong test: 1) evaluate whether the claim recites a judicial exception, and 2) if the claim recites a judicial exception, evaluate whether the claim “appl[ies], rel[ies] on, or use[s] the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” Guidance, 84 Fed. Reg. at 53; *see also* MPEP § 2106.05(a)–(c), (e)–(h).

The Specification states:

For many years, a number of consumers have kept track of their payment transactions. Consumers have used ledgers, registers, books, and, more recently, spreadsheets and computer applications for keeping track of payment transactions, such as to manage personal budgets and to detect fraud. In more recent

times, application programs often rely on communications with issuing banks in order to obtain account and transaction information for consumers, many times by using login information for the issuing bank's website as provided by the consumer.

Specification ¶2.

However, such methods often require a consumer to first sign up with their issuing bank, sign up with the application's service, provide their private login credentials for their issuing bank to the service, and verify access of the application service to their account with the issuing bank. Such a process can be time consuming and very cumbersome for consumers, which may discourage consumers from joining, and may also discourage consumers for security reasons due to the requirement to divulge their personal login information. Further, such account and transaction history provided by such services is often done at periodic intervals or when prompted by the consumer, and thus may not provide data in real time, which may result in increased risk of fraud.

Specification ¶ 3.

The preamble states that the claim is "for sharing transaction data." claims 1. Claim 1 recites in pertinent part,

... store payment credentials associated with a payment account..., receiving ... transaction data for a payment transaction from the point of sale device; encrypting ... the received transaction data; receiving ... an indication of receipt of an authorization response associated with the payment transaction from the point of sale device, wherein the indication is received separately from the transaction data; and transmitting ... the encrypted transaction data ... following receipt of the authorization response.

The Examiner found the claims recite at least an "exchange of financial obligations [which falls] ... under the umbrella of a fundamental economic practice and was an abstract idea." (Final Act. 5).

We agree with the Examiner that claim 1 recites a fundamental idea of using payment credentials associated with a payment account to indicate, separately from transaction data, receipt of an authorization associated with a payment transaction from the point of sale device. For example, storing payment credentials associated with a payment account and receiving an indication of receipt of an authorization response associated with the payment transaction from the point of sale device are each known steps of a purchase process particularly when a financial institution is used. Fundamental economic principles or practices are included as one of certain methods of organizing human activity which is an enumerated judicial exception. Guidance, 84 Fed. Reg. at 52.

Turning to the second prong of the “directed to” test, claim 1 only generically requires “a point of sale device,” “integrated circuit payment card and processor,” and “an antenna.” These components are described in the specification at a high level of generality. *See* Spec. ¶¶ 23–30, Figs. 1–3. We fail to see how the generic recitations of these most basic computer components and/or of a system so integrates the judicial exception as to “impose[] a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” Guidance at 53. We find no indication in the Specification, nor do Appellants direct us to any indication, that the operations recited in independent claim 1 invoke any assertedly 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. *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.”). Claim 1 does not improve another technology, because neither an authorization response or payment transaction data involves technology. Guidance, 55; *see also* MPEP § 2106.05(a). Because no more than a generic computer is required, the claim also does not define, or rely on, a “particular machine.” MPEP § 2106.05(b). As such, the method has no other meaningful limitations (MPEP § 2106.05(e)), and thus merely recites instructions to execute the abstract idea on a computer (MPEP § 2106.05(f)).

Thus, we find that the claims recite the judicial exception of a fundamental economic practice that is not integrated into a practical application.

That the claims do not preempt all forms of the abstraction or may be limited to POS authorizations, does not make them any less abstract. *See OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (“And that 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.”).

Turning to the second step of the *Alice* analysis, because we find that the claims are directed to abstract ideas/judicial exceptions, the claims must include an “inventive concept” in order to be patent-eligible, i.e., there must be an element or combination of elements sufficient to ensure that the claim in practice amounts to significantly more than the abstract idea itself. *See Alice*, 573 U.S. at 217–18 (quoting *Mayo Collaborative Servs.*, 566 U.S. at 72–73).

Concerning this step the Examiner found the following:

It is abundantly clear that the claim does not involve any ordered combination of elements as the recited processor does not utilize any special properties of a network or distributed computing in order to gain any technological improvement and merely are directed towards a centralized, ‘one size-fits-all’ technological implementation.

Final Act. 6.

We agree with the Examiner. “[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea . . . on a generic computer.” *Alice*, 573 U.S. at 225. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer to store, receive, encrypt and transmit data and modify the data as a result amounts to electronic data query and retrieval—one of the most basic functions of a computer. All of these computer functions are well-understood, routine, conventional activities previously known to the industry. *See Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016); *see also In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1316 (Fed. Cir. 2011) (“Absent a possible narrower construction of the terms ‘processing,’ ‘receiving,’ and ‘storing,’ . . . those functions can be achieved by any general purpose computer without special programming”). In short, each step does no more than require a generic computer to perform generic computer functions. The claims do not, for example, purport to improve the functioning of the computer itself. In addition, as we stated above, the claims do not affect an improvement in any

other technology or technical field. The Specification spells out different generic equipment and parameters that might be applied using this concept and the particular steps such conventional processing would entail based on the concept of information access under different scenarios (*see, e.g.*, Spec. ¶¶ 23–30, Figs. 1–3). Thus, the claims at issue amount to nothing significantly more than instructions to apply the abstract idea using some unspecified, generic computer. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice*, 573 U.S. at 225–226.

Considered as an ordered combination, the computer components of Appellant’s claims adds nothing that is not already present when the steps are considered separately. The sequence of data reception-analysis (store, receive, encrypt receive, and transmit) and storing is equally generic and conventional or otherwise held to be abstract. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction), *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (holding that sequence of data retrieval, analysis, modification, generation, display, and transmission was abstract), *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) (holding sequence of processing, routing, controlling, and monitoring was abstract). The ordering of the steps is, therefore, ordinary and conventional.

We have reviewed all the arguments Appellants have submitted concerning the patent eligibility of the claims before us that stand rejected under 35 U.S.C. § 101. (Appeal Br. 5–9, Reply Br. 2–3). We find that our

analysis above substantially covers the substance of all the arguments, which have been made. But, for purposes of completeness, we will address various arguments in order to make individual rebuttals of same.

Appellant lists various claim limitations as examples of improvements without providing evidence that they are improvements in the computer as contrasted with financial practice and “the integrated circuit payment card only receives data from point of sale devices, and only transmits data to mobile communication devices.” (Appeal Br. 6–7). Appellant also asserts, “[f]irst, there is no requirement that the mobile communication device needs to communicate with the point of sale device...” and “the integrated circuit payment card only receives data from point of sale devices, and only transmits data to mobile communication devices.”

To the extent that Appellant is asserting that this arrangement of devices in its system is new, we note the applicable 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. As found above, nothing in the record before us indicates an element or combination of elements in the claimed system is sufficient to ensure that the patent in practice amounts to significantly more than the ineligible concept.

We are also unpersuaded by Appellant’s argument that “faster and more efficient operation” is effected by “having the receipt of the indication of the authorization response be received separately from the transaction data, this enables the payment card to perform any needed functions with the transaction data.” (Appeal Br. 7). This is because an improvement in

efficiency alone does not render the process patent eligible. While the claimed system and method certainly purport to accelerate the process of analyzing audit log data, the speed increase comes from the capabilities of a general-purpose computer, rather than the patented method itself. *See Bancorp Servs., L.L.C. v. Sun Life Assurance Co. of Can.* (U.S.), 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.”) *FairWarning IP, LLC v. Iatric Sys.*, 839 F.3d 1089, 1095 (Fed. Cir. 2016).

Appellant next argues, “the Examiner has failed to consider the claim limitation as an ordered *combination*, where the invention as a *whole* yields an inventive concept that provides technological benefits.” (Appeal Br. 8).

We disagree with Appellant because the question is whether the claims as a whole “focus on a specific means or method that improves the relevant technology” or are “directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.” *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016). In this case, claim 1 as a whole is focused on satisfying certain contingencies for using payment credentials associated with a payment account to indicate, separately from transaction data, receipt of an authorization associated with a payment transaction from the point of sale device. In other words, nothing in claim 1 purports to improve computer functioning or “effect an improvement in any other technology or technical field.” *Alice*, 134 S.Ct. at 2359.

Likewise unpersuasive are Appellant’s analogies of the appealed claims to those in *Amdocs (Israel) Limited v. Openet Telecom Inc.*, 841 F.3d

1288. (Appeal Br. 8). In *Amdocs*, the court adopted the district court’s interpretation of the claim term “enhance,” stating, it approved “reading the ‘in a distributed fashion’ and the ‘close to the source’ of network information requirements into the term ‘enhance.’” *Id.* at 1300. The court then went on to find the claim’s “enhancing” limitation necessarily required that the generic components operate in an unconventional manner to achieve an improvement in computer functionality. *Id.* at 1300–1301.

In this way, the claims of *Amdocs* are inconsistent with those before us on appeal here in that in the latter, there are no specific technologic modifications required to solve a problem or improve the functioning of a known system generally to produce patent-eligible subject matter. *See, e.g., DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014); *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299, 1315 (Fed. Cir. 2016). No such problem or evidence other than attorney argument showing how the claims solve a stated technical problem has been identified here, and we are not persuaded that the claims are not directed to an abstract idea.

For the reasons identified above, we determine there are no deficiencies in the Examiner’s prima facie case of patent ineligibility of the rejected claims.

35 U.S.C. § 102 (a) REJECTION

The Appellant argues claims 1–5, and 11–15 as a group. We select claim 1 as the representative claim for this group (Appeal Br. 9), and so the

remaining claims stand or fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2015).

Independent claim recites, (1) “encrypting, by a processor of the integrated circuit payment card, the received transaction data;” and (2) “receiving, by the receiver of the integrated circuit payment card, an indication of receipt of an authorization response associated with the payment transaction from the point of sale device, wherein the indication is received separately from the transaction data.” Claim 1.

The Examiner found, concerning limitation (1) that Jain discloses this feature at paragraphs 23, 25 and 37, and limitation (2) at paragraphs 27 and 48. (Final Act. 12).

Appellant conversely argues as to finding (1) the following:

However, what Jain discloses is that a POS 114 sends a wireless request to a transaction card 112. The transaction card 112 then provides ‘secure transaction information’ to the POS 114 for use in a transaction. This is different from the claimed invention for two reasons. First, in Jain the request transmitted from the POS 114 to the transaction card 112 *does not include transaction data*, as recited in the appealed claims. Instead, it is simply a request that is answered by the transaction card 112.

(Appeal Br. 9–10).

We disagree with Appellant. Jain explicitly discloses the transaction card 112 may “decrypt and encrypt information wirelessly transmitted between the transaction card 112 and the POS 114.” (FF. 3). That the claim recites, encrypting the received transaction data is not determinative here because of the breadth of the claim. Nothing in the claim 1 defines what transaction data is other than it and the indication of receipt of an authorization response are received separately. Thus, even the request made to the transaction card in Jain would meet this general limitation. *See* FF. 2.

In fact, paragraph 51 of Jain states that the transaction card 112 can include a payments application 310. Paragraph 58 in Jain discloses that the payment application may “provide a response containing encrypted data by encrypting the clear data using the cryptographic capabilities of the secure element; transmit the encrypted data using the contactless chipset 318.”

Appellant next argues, “Jain does not further disclose transmitting the encrypted transaction data to a mobile communication device.”

(Appeal Br. 10).

Again, in light of the breadth of the claim, the Appellant’s argument is not persuasive as to error in the rejection. Jain explicitly discloses that the transaction card 112 may “wirelessly receive a request from the POS device 114 to execute a transaction and/or and provide a response;” and “decrypt and encrypt information wirelessly transmitted between the transaction card 112 and the POS 114.” (FF. 2).

Accordingly we affirm the rejection of claims 1-5 and 11-15 under 35 U.S.C. § 102.

CONCLUSIONS OF LAW

We conclude the Examiner did not err in rejecting claims **1-5 and 11-15** under 35 U.S.C. § 101.

We conclude the Examiner did not err in rejecting claims **1-5 and 11-15** under 35 U.S.C. § 102.

CONCLUSION

In summary:

Claim(s) Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1-5, 11-15	101	Judicial Exception	1-5, 11-15	
1-5, 11-15	102(a)	Jain	1-5, 11-15	
Overall Outcome			1-5, 11-15	

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.