UNITED STATES PATENT AND TRADEMARK OFFICE

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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 RAJESH G. SHAKKARWAR
_____

Appeal 2019-001913
Application 14/326,357
Technology Center 3600
_____

Before JASON V. MORGAN, ADAM J. PYONIN, and
SCOTT RAEVSKY, *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 Verient,
Inc. *See* page 3 of Supplemental Appeal Brief, filed Oct. 9, 2018 ("Appeal
Br.").

STATEMENT OF THE CASE

Introduction

The application is directed to "generating a personal identification number (PIN) debit child product for use in performing a debit payment transaction with a merchant entity." Spec. ¶ 9. Claims 1–29 are pending; claims 1, 15, and 29 are independent. Appeal Br. 20–24. Claim 1 is reproduced below for reference:

> 1.   A computer-implemented method implemented by a payment processing platform, the method comprising:
>
> receiving, via a remote software application, a user selection of a financial institution that is separate and distinct from the payment processing platform;
>
> receiving a user selection of a core account held with the financial institution, wherein the core account provides financial backing for a personal identification number (PIN) debit child product;
>
> generating the PIN debit child product, wherein the PIN debit child product is associated with the core account and includes a virtual PIN, a debit child card number, and a bank identification number (BIN), and the BIN identifies the payment processing platform as an issuer of the PIN debit child product; and
>
> translating the debit child card number into a debit card number associated with the core account by using a customer ID.

References and Rejections

Claims 1–29 stand rejected under 35 U.S.C. § 101 as patent ineligible for being directed to a judicial exception without significantly more. Final Act. 2, 5, 7.

Claims 15–28 stand rejected under 35 U.S.C. § 101 as patent ineligible for covering a signal *per se*. Final Act. 4.

ANALYSIS

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).

Signal Per Se

The Examiner rejects claims 15–28 because "the broadest reasonable interpretation [of the recited] computer readable medium covers forms of non-transitory tangible media and transitory propagating signals per se," and is thus "non-statutory subject matter." Final Act. 4. Appellant does not challenge this rejection. *See* Appeal Br. 10. Accordingly, we summarily sustain this rejection.

Judicial Exception

The Examiner determines the claims are patent ineligible under 35 U.S.C. § 101 because the claims are "directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more." Final Act. 2, 5, 7*; see also Alice Corp. 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"), noticed at 84 Fed. Reg. 55942 (Oct. 18, 2019).

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 54–56.

Appellant does not separately argue the claims. *See* Appeal Br. 11–18. We select claim 1 as representative. *See* 37 C.F.R. §41.37(c)(1)(iv). We are not persuaded the Examiner's rejection is in error. We adopt the Examiner's findings and conclusions as our own, and we add the following primarily for emphasis and clarification with respect to the Guidance.

A.   Step 2A, Prong One

Claim 1 describes creating and managing a debit child product based on a core financial account, where such a child product includes a virtual personal identification number (PIN) and can be "used to make payment transactions" that "are processed as though the payment transactions were made using the core account." Spec. ¶ 20. Pursuant to Step 2A, Prong One of the Guidance, we agree with the Examiner that claim 1 recites a judicial exception. *See* Ans. 3, 4.

Specifically, claim 1 recites the following receiving steps: "receiving . . . a user selection of a financial institution that is separate and distinct from the payment processing platform," and "receiving a user selection of a core account held with the financial institution, wherein the core account provides financial backing for a personal identification number (PIN) debit child product." These steps recite receiving certain data, and under the broadest reasonable interpretation, such receipt of information can be reasonably characterized as "[m]ental processes" that entail steps of "observation." *See* Memorandum 84 Fed. Reg. at 52; Update page 9; Spec. ¶ 5 ("the customer may hand the debit card to the cashier"); *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) ("But merely selecting information, by content or source, for collection, analysis, and display does nothing significant to differentiate a process from ordinary mental processes.").

Claim 1 further recites the steps of "generating the PIN debit child product" and "translating the debit child card number into a debit card number associated with the core account by using a customer ID," wherein "the PIN debit child product is associated with the core account and includes

a virtual PIN, a debit child card number, and a bank identification number (BIN), and the BIN identifies the payment processing platform as an issuer of the PIN debit child product." These are steps of "observation, evaluation, judgment, opinion" and under the broadest reasonable interpretation, can also be reasonably characterized as "[m]ental processes." Memorandum 84 Fed. Reg. 52; *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1376 (Fed. Cir. 2011) ("one could mentally perform the fraud detection method . . . of only the general approach of obtaining information about credit card transactions utilizing an Internet address and then using that information in some undefined manner to determine if the credit card transaction is valid.").

Additionally, the above-quoted limitations are steps of managing an account used for payment transactions, and under the broadest reasonable interpretation, can be reasonably characterized as reciting "mitigating risk," "agreements in the form of contracts; legal obligations; . . . business relations," and "following rules or instructions." Memorandum, 84 Fed Reg. at 52; Final Act. 2, 3; *see also* Spec. ¶¶ 20, 63. The claim thus recites "fundamental economic principles or practices," "commercial or legal interactions," and "managing personal behavior or relationships or interactions between people," which are "[c]ertain methods of organizing human activity." Memorandum, 84 Fed Reg. at 52; Update at 5; *Smart Sys. Innovations, LLC v. Chicago Transit Auth.*, 873 F.3d 1364, 1371–72 (Fed. Cir. 2017) (determining abstract claims that associate financial information and allow access to a transit system based on the information); *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."); *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1054 (Fed. Cir. 2017) ("[T]he abstract idea of 'processing an application for financing a purchase'"); *Innovation Scis., LLC v. Amazon.com, Inc.*, 778 F. App'x 859, 863 (Fed. Cir. 2019) ("We agree with the district court that claim 17 is directed to the abstract idea of securely processing a credit card transaction with a payment server.").

Accordingly, we conclude the claims recite a judicial exception under Prong One of the Guidance. *See* Memorandum, 84 Fed Reg. at 54.

B.   Step 2A, Prong Two

Appellant argues "the present claims recite the specific limitations that effect a useful result or technological improvement." Appeal Br. 11. According to Appellant, the "technological improvement . . . enhance[s] security when processing an online transaction by providing a way to generate and process a child product associated with the user's core account while limiting exposure of the user's core account information." *Id*. at 12. Appellant contends the claimed approach secures transactions "by adding a payment processing platform to the online processing system" and "generat[ing] a child product, which is a new[2] form of an electronic

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[2] We note the novelty of the recited abstract idea is of no moment in the eligibility analysis. *See Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1151 (Fed. Cir. 2016) ("[A] claim for a *new* abstract idea is still an abstract idea. The search for a § 101 inventive concept is thus distinct from demonstrating § 102 novelty."); *Intellectual Ventures I LLC v. Symantec*

financial product, that includes a virtual PIN in place of the PIN associated with a user's core account." *Id*. at 13.

We are not persuaded the Examiner errs in determining claim 1 is directed to the recited judicial exception. *See* Final Act. 11–13. The features relied on by Appellant are part of the judicial exception discussed above in Prong One, and do not comprise additional elements, individually or in combination, that integrate the exception into a practical application. *See* Memorandum, 84 Fed. Reg. at 54–55; *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1170 (Fed. Cir. 2018) (The abstract idea itself cannot supply the inventive concept, "no matter how groundbreaking the advance."). That is, claim 1 further recites "a computer-implemented method . . . via a remote software application," in addition to the limitations reciting the judicial exception. These "additional element[s] merely recite[] the words 'apply it' (or an equivalent) with the judicial exception, or merely include[] instructions to implement an abstract idea . . . on a computer, or merely uses use[] a computer as a tool to perform an abstract idea." Memorandum, 84 Fed. Reg. at 55; *see also* Spec. ¶ 25; *Smart Sys. Innovations, LLC v. Chicago Transit Auth.*, 873 F.3d at 1372–73 (Fed. Cir. 2017) (Determining the claims "invoke computers in the collection and arrangement of data. Claims with

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Corp., 838 F.3d 1307, 1315 (Fed. Cir. 2016) (same for obviousness). As discussed *supra*, the claimed debit child product and virtual PIN is part of the recited judicial exception. We further note that child financial accounts were known in the prior art. *See, e.g.*, US 5,350,906 (issued Sept. 27, 1994) at 11:8–10 ("portion of the PIN number is utilized to identify the subaccount (database location) within the sponsor account (database)"); US 5,883,810 (issued Mar. 16, 1999) ("When the customer desires to conduct an online transaction, the customer asks the issuing institution to issue a transaction number for a single transaction.").

such character do not escape the abstract idea exception."). This is not enough to integrate the underlying abstract idea into a practical application. *See* Memorandum, 84 Fed. Reg. at 55.

Even considered as additional elements, we disagree with Appellant that claim 1 produces a specific technological improvement. *See* Appeal Br. 15; Reply Br. 4, 5; *see also* Ans. 5–7. Claim 1 does not recite a transaction; rather, the claim recites the generation—but not use—of account information. That is, the claim does not preclude a transaction using core account information. We also find unpersuasive Appellant's assertion that the claim improves transaction security because it is not commensurate with the scope of the claim.[3] *See* Appeal Br. 14; *Am. Axle & Mfg., Inc. v. Neapco Holdings LLC*, 939 F.3d 1355, 1363 (Fed. Cir. 2019) ("features that are not claimed are irrelevant as to step 1 or step 2 of the *Mayo/Alice* analysis").

Appellant further argues "the claims pose no danger of preempting an abstract idea." Appeal Br. 17. We are not persuaded of Examiner error, and we agree with the Examiner that the question of preemption in the instant case has been resolved by the rejection itself. *See* Ans. 8, 9; *see also Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) ("[W]here a patent's claims are deemed only to disclose

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[3] Separately, we determine that any security benefits, as claimed, do not provide a technological improvement (as opposed to a financial benefit), because preventing misuse by hiding financial information is similar to "the same questions (though perhaps phrased with different words) that humans in analogous situations detecting fraud have asked for decades, if not centuries." *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1095 (Fed. Cir. 2016).

patent ineligible subject matter under the *Alice* framework, as they are in this case, preemption concerns are fully addressed and made moot.").

Accordingly, we determine claim 1 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 claim 1 is eligible pursuant to Step 2 of *Alice* (Step 2B of the Guidance): "the present claims recite limitations specific to implementing the functionality of the claimed approach. These specific limitations are novel and non-obvious over the references cited by the Examiner. The present claims therefore cannot be considered conventional, routine, or well understood." Appeal Br. 16. Appellant further contends "the Examiner has not cited any evidence that these particular limitations are well-known, conventional, or routine operations." *Id*.

We are not persuaded of Examiner error. As discussed above, the implementation limitations of claim 1 are part of the recited judicial exception; they are not "additional elements individually and in combination" that may "provide an inventive concept" amounting to "significantly more than the exception itself." Memorandum, 84 Fed. Reg. at 55–56; *see also id*. at 55 n.24. Moreover, the Examiner has identified portions of the Specification supporting the determination that "the additional elements when considered both individually and as an ordered combination do not amount to significantly more than the abstract idea."

Final Act. 3; Ans. 7, 8 (citing Spec. ¶¶ 3, 4, 40, 48). We find the Examiner's determination to be reasonable. *See, e.g.*, Spec. ¶ 19 ("the invention may be employed with any system that is configured to facilitate a PIN debit transaction."); *see also id.* ¶¶ 22, 25, 53, 64; *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."). Thus, we determine independent claim 1's claim elements, individually and as an ordered combination, do not provide significantly more than the recited judicial exception.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Basis/Reference(s)	Affirmed	Reversed
1–29	101	Judicial Exception to Eligibility	1–29	
15–28	101	Non-Statutory Subject Matter	15–28	
Overall Outcome			1–29	

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

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