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409 BROAD STREET
PITTSBURGH, PA 15143

EXAMINER
BOUSTANY, JIHAD KAMAL

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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 PRAMOD ANANTHARAM, RAJ GUPTA,
and BIPLAV SRIVASTAVA

———

Appeal 2019-002537
Application 13/930,267
Technology Center 2400

———

Before ERIC S. FRAHM, BETH Z. SHAW, and SCOTT E. BAIN,
Administrative Patent Judges.

SHAW, *Administrative Patent Judge.*

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the
Examiner's decision to reject claims 1, 2, 4, and 6–20. *See* Final Act. 1. 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. Appellant identifies the real party in interest as International
Business Machines Corporation, the assignee of record. Appeal Br. 3.

CLAIMED SUBJECT MATTER

The claims are directed to extracting events and assessing their impact on a transportation network. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of assessing impact of an event on a transport network, said method comprising:

utilizing at least one processor to execute computer code configured for:

receiving, using the at least one processor, an event notification provided in an identified format and containing information associated with more than one event, wherein at least one of the events of the more than one event affects at least one target vehicle in the transport network, wherein the at least one vehicle follows a predetermined route comprising a plurality of stops in the transport network;

extracting, using the at least one processor, metadata for each of the events from the event notification, the metadata including at least one of:

event location information, event time information, and event type information, wherein the extracting comprises:

comparing the event notification to a plurality of event models, wherein each of the plurality of event models is associated with an extraction pattern;

identifying the event model relevant to each of the events contained within the event notification based upon a pattern of the event notification; and

extracting the metadata for each of the events from the event notification using the extraction pattern associated with the event model;

converting, using the at least one processor, the event notification provided in the identified format to a notification having a predetermined format different from the identified format by using the extracted metadata corresponding to an event, from the more than one event, affecting the at least one target vehicle;

determining, using the converted metadata, an estimated impact of the event on the at least one target vehicle in the transport network and storing the estimated impact of the event;

said determining comprising:

estimating, using the at least one processor, a delay with respect to at least one stop in the plurality of stops for the at least one target vehicle in the transport network; and

determining, using the at least one processor, a probability of a delay occurring at the at least one stop, depending on one or more events at the stop and a prior probability of a delay occurring at the at least one stop; and

providing the stored estimated impact when information associated with the at least one stop is requested by an application accessed by a user.

REFERENCE

The prior art relied upon by the Examiner is:

Name	Reference	Date
Zhao	US 2004/0068364 A1	Apr. 8, 2004
Okude	US 2006/0287818 A1	Dec. 21, 2006
Horvitz	US 2008/0004793 A1	Jan. 3, 2008
Scofield	US 2011/0224898 A1	Sept. 15, 2011
Brady	US 9,846,902 B2	Dec. 19, 2017

REJECTION

Claims 1, 2, 4, and 6–20 stand rejected under 35 U.S.C. § 101. Final Act. 6.

Claims 1, 4, 6–12, 14, 15, and 17–19 stand rejected under 35 U.S.C. § 103 as being unpatentable over Okude, Brady, and Scofield. Final Act. 11.

Claims 2, 16, and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Okude, Brady Scofield, and Zhao. Final Act. 26.

Claim 13 stands rejected under 35 U.S.C. § 103 as being unpatentable over Okude, Brady, Scofield, and Horvitz. Final Act. 32.

OPINION

Section 101

Appellant argues the pending claims as a group. As permitted by 37 C.F.R. § 41.37, we decide this issue based on claim 1. *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 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 has 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 principals in mind, we turn to the Examiner's § 101 rejection.

Abstract Idea

Turning to Step 2A, Prong 1, the claimed method includes the following limitations, emphasized in italics:

> *receiving*, using the at least one processor, *an event notification provided in an identified format and containing information associated with more than one event*, wherein at least one of the events of the more than one event affects at least one target vehicle in the transport network, wherein the at least one vehicle follows a predetermined route comprising a plurality of stops in the transport network;
> *extracting*, using the at least one processor, *metadata for each of the events from the event notification, the metadata including at least one of*:
> *event location information, event time information, and event type information*, *wherein the extracting comprises:*

   comparing the event notification to a plurality of event models, wherein each of the plurality of event models is associated with an extraction pattern;

   identifying the event model relevant to each of the events contained within the event notification based upon a pattern of the event notification; and

   extracting the metadata for each of the events from the event notification using the extraction pattern associated with the event model;

   converting, using the at least one processor, *the event notification provided in the identified format to a notification having a predetermined format different from the identified format by using the extracted metadata corresponding to an event, from the more than one event, affecting the at least one target vehicle*;

   determining, using the converted metadata, an estimated impact of the event on the at least one target vehicle in the transport network and storing the estimated impact of the event;

   said determining comprising:

   estimating, using the at least one processor, *a delay with respect to at least one stop in the plurality of stops for the at least one target vehicle in the transport network*; and

   determining, using the at least one processor, *a probability of a delay occurring at the at least one stop, depending on one or more events at the stop and a prior probability of a delay occurring at the at least one stop*; and

   providing the stored estimated impact when information associated with the at least one stop is requested by an application accessed by a user.

Claim 1 recites at least one abstract idea grouping listed in the 2019 Eligibility Guidance: "[m]ental 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 "[m]ental 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.") (emphasis omitted); *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 1 executes steps that people can perform in their minds or using pen and paper. A person can perform each of the italicized steps of claim 1 by using his or her mind, or pen and paper, in the claimed manner. For example, a person can "receiv[e] . . . an event notification" using his or her mind or pen and paper. A person can "compar[e] the event notification to a plurality of event models, wherein each of the plurality of event models is associated with an extraction pattern" using his or her mind or pen and paper. A person can "identif[y] the event model relevant to each of the events contained within the event notification based upon a pattern of the event notification" using his or her mind or pen and paper. A person can determine "an estimated impact of the

event on the at least one target vehicle in the transport network and storing the estimated impact of the event" using his or her mind or pen and paper.

This invention is not analogous to that which the court held eligible in *McRO, Inc. v. Bandai Namco Games Am., Inc.*, 837 F.3d 1299 (Fed. Cir. 2016), despite Appellant's arguments to the contrary (Appeal Br. 24; Reply Br. 23). There, the claimed process used a combined order of specific rules that rendered information in a specific format that was applied to create a sequence of synchronized, animated characters. *McRO*, 837 F.3d at 1315. Notably, the recited process *automatically animated characters* using particular information and techniques—an improvement over manual three-dimensional animation techniques that was not directed to an abstract idea. *Id.* at 1316.

But unlike the claimed invention in *McRO* that improved how the physical display operated to produce better quality images, the claimed invention here merely uses generic computing components to assess the impact of an event on a transport network. This generic computer implementation is not only directed to a mental process, but also does not improve a display mechanism as was the case in *McRO*. *See SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1167 (Fed. Cir. 2018) (distinguishing *McRO*).

Turning to Step 2A, Prong 2, the remaining elements recited in claim 1 do not integrate the abstract idea into a practical application. In addition to the steps discussed above, claim 1 recites at least one "processor" and an "application accessed by a user." The recited processor and application are generic components. *See, e.g.*, Spec. Fig. 7, ¶¶ 42, 53 ("processor of a general purpose computer"). *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).

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 1 is directed to an abstract idea.

Inventive Concept

Because we determine claim 1 is "directed to" an abstract idea, we consider whether claim 1 recites an "inventive concept." The Examiner determined claim 1 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. 9, 10.

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 "processor" and "application accessed by a user." The claim recites these elements at a high level of generality, and the written description indicates that these elements are generic. *See, e.g.*, Fig. 7, ¶ 53. 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 in combination, 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. 25–33. 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 "processor" and "application accessed by a user" are the additional recited elements whose generic computing functionality is well-understood, routine, and conventional. *See Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1368 (Fed. Cir. 2015) (noting that a recited user profile (i.e., a profile keyed to a user identity), database, and communication medium are generic computer elements); *Mortg. Grader*, 811 F.3d at 1324–25 (noting that components such an "interface," "network," and "database" are generic computer components that do not satisfy the inventive concept requirement). *Accord* Final Act. 9,10 (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 1 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. 25–30; Reply Br. 27), we disagree. Even assuming, without

deciding, that the claimed invention can monitor traffic events and provide updates regarding traffic impacts 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 Sys., Inc.*, 839 F.3d 1089, 1095 (Fed. Cir. 2016) (citing *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.")); *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 1 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).

Accordingly, we sustain the rejection of claims 1, 2, 4, and 6–20 under 35 U.S.C. § 101.

Section 103 Rejections

We note that regardless of the general contentions and imputed intended meanings articulated by Appellant in the Appeal Brief, "[i]t is the *claims* that measure the invention." *See SRI Int'l v. Matsushita Elec. Corp. of Am.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc) (citations omitted).

> Though understanding the claim language may be aided by the explanations contained in the written description, it is important not to import into a claim limitations that are not a part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.

SuperGuide Corp. v. DirecTV Enters, Inc., 358 F.3d 870, 875 (Fed. Cir. 2004) (citing *Electro Med. Sys. S.A. v. Cooper Life Sci., Inc.*, 34 F.3d 1048, 1054 (Fed. Cir. 1994)). "[A]lthough the specification often describes very specific embodiments of the invention, [the Federal Circuit has] repeatedly warned against confining the claims to those embodiments." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc) (citations omitted).

Appellant argues Okude fails to teach or suggest, "receiving, using the at least one processor, an event notification provided in an identified format and containing information associated with more than one event, wherein at least one of the events of the more than one event affects at least one target vehicle in the transport network, wherein the at least one vehicle follows a predetermined route comprising a plurality of stops in the transport network," as recited in claim 1. Appeal Br. 38. In particular, Appellant argues that Okude is for a navigation system for a "regular vehicle" rather than a "target vehicle in a transport network [that] follows a predetermined route comprising a plurality of stops in the transport network." *Id.* at 39.

Yet, as the Examiner explains, and we agree, Okude teaches a vehicle that follows a predetermined route comprising a plurality of stops in a transport network. Ans. 17; Okude ¶ 66. In particular, Okude describes how "the unit 606 calculates predicted arrival time at predetermined points (such a present point, a via-point, the destination, and a point designated by the

driver in advance) on the searched guidance route, and acquires meteorological forecast information at the predicted arrival time (step S16)." Okude ¶ 66. The Examiner explains that "[o]ne of ordinary skill in the art would understand that destinations are 'stops in the transport network', as one reaches a destination as a particular point along a route that one would stop at." Ans. 17–18. "Therefore, having multiple predetermined points (destinations) along a guidance route (predetermined route) effectively teaches the aforementioned limitations." *Id.*

We agree with the Examiner's findings. Appellant does not point us to a definition of "target vehicle." The broadest reasonable construction of "target vehicle in [a] transport network . . . [that] follows a predetermined route" as recited in claim 1 does not preclude a vehicle following a predetermine route. Appellant provides insufficient evidence proving that the Specification or claims limit "target vehicle in [a] transport network . . . [that] follows a predetermined route" in a way that, under a broad but reasonable interpretation, is not encompassed by Okude's teachings of a vehicle following a predetermined route.

Appellant also argues the references fail to teach or suggest the "estimating," determining," and "providing" limitations of claim 1:

> estimating, using the at least one processor, a delay with respect to at least one stop in the plurality of stops for the at least one target vehicle in the transport network; and
> determining, using the at least one processor, a probability of a delay occurring at the at least one stop, depending on one or more events at the stop and a prior probability of a delay occurring at the at least one stop; and
> providing the stored estimated impact when information associated with the at least one stop is requested by an application accessed by a user.

Appeal Br. 39–40. In particular, Appellant argues that Okude merely teaches an in-vehicle navigation system. *Id.* Appellant argues:

> This is clearly distinguishable from the claimed limitations, where a target vehicle is impacted by a traffic event and then a user who is waiting for that vehicle to stop at one of the plurality of stops can access an application to obtain the estimated impact. In the system of Okude, a person outside the vehicle would have no way of accessing any information provided by the system, particularly any information that could identify an estimated delay in the vehicle arriving at the transport network stop.

Id. at 40.

As the Examiner points out, however, these arguments are not commensurate in scope with claim 1, which does not recite "a user who is waiting for that vehicle to stop" or "a person outside the vehicle." Ans. 18 (emphasis omitted).

Appellant additionally argues that the combination of references is in error because the Examiner did not articulate a reason why a person skilled in the art would combine the prior art references. Appeal Br. 35–37. In the Answer, the Examiner explains that:

> It would have been obvious to one with ordinary skill in the art to take the teachings of Brady related to applying a specific predefined template to a received body of information in order to extract target information and apply them to the teachings of Okude to introduce steps in which information may be extracted from a larger collection of information. The extraction method of Brady is applied *"because the text contained in email message bodies is of a free form nature"* (Brady Paragraph [0049]). Furthermore, Brady recites that *"because it is known from step 407 which online merchant sent the email message of interest and whether the email message is an order confirmation or a shipping confirmation, a template specific to the online merchant and type of confirmation is used"* (Brady Paragraph [0050]). It is clear that the information

received in Brady may not be easily recognizable to a universal processing apparatus. Therefore, applying predefined templates to match target information to aid in the extraction process is implemented into the claimed invention. Okude similarly receives information from external sources, such as acquiring information from a traffic information database (Okude Paragraph [0009]), a meteorological forecast center, and a traffic information center (Okude Paragraph [0034]). Information acquired from a third party may not necessarily be in a desired format or may be in varying formats based upon the source. Therefore, it is obvious to one of ordinary skill in the art to utilize predefined templates in order to extract information from disparate sources, as taught in Brady.

Ans. 15 (boldface omitted).

Further, the Examiner explains that:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Scofield related to determining actual delay times on a road and apply them to the teachings of Okude and Brady to further expand the data acquiring and guidance determining steps of the invention. If historical traffic information shows specific delays on specific roads during certain times of the year, the information may or may not be meteorologically related, and may be based on, for example, national or cultural events, such as parades or assemblies. Such events may cause traffic congestion or delays, and incorporating information about such events may further refine the guidance determining system. Scofield further teaches considering a *"percentage or other amount of delay faced by vehicles passing the traffic flow impediment"* and that such information may be used as a decision point for further analysis (Scofield Paragraph [0082]). It would have been further obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Scofield related to considering percentage of a delay occurring at a particular impediment point as a variable for further analyzing traffic information and applying them to the teachings of Okude and Brady for the purpose of marking whether particular information sets concerning traffic delays

require further analysis. One would be motivated as such as if a delay is only a minor delay, or if a delay has a low percentage of occurrence, than it may not be worth system resources or user attention to further analyze such information sets.

Ans. 16.

Upon reviewing the record before us, we find that the Examiner's suggestion for the proposed modification in the prior art suffices as an articulated reason with some rational underpinning to establish a prima facie case of obviousness for the reasons discussed in the Answer. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). In the absence of sufficient evidence or line of technical reasoning to the contrary, we find no reversible error.

Accordingly, we sustain the rejection of claim 1 under § 103. Because Appellant has not presented separate patentability arguments or has reiterated substantially the same arguments as those previously discussed for patentability of claim 1 above, the remaining pending claims fall therewith. *See* 37 C.F.R. § 41.37(c)(1)(iv).

CONCLUSIONS

We affirm the rejection of claims 1, 2, 4, and 6–20 under § 101.

We affirm the rejections under § 103, as shown in the Decision Summary below.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 2, 4, 6–20	101	Eligibility	1, 2, 4, 6–20	
1, 4, 6–12, 14, 15, 17–19	103	Okude, Brady, Scofield	1, 4, 6–12, 14, 15, 17–19	
2, 16, 20	103	Okude, Brady Scofield, Zhao	2, 16, 20	
13	103	Okude, Brady, Scofield, Horvitz	13	
Overall Outcome	101		1, 2, 4, 6–20	

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