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 JOHN BEST, EDWIN GONZALEZ, THOMAS STACY and
ELLIOT COTTO

_____

Appeal 2019-003964
Application 15/404,140
Technology Center 3600

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Before JEFFREY S. SMITH, TREVOR M. JEFFERSON, and
AMBER L. HAGY, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Illustrative Claim

1. A method for implementing automatic updating of user payment information across multiple vendor websites, comprising:

providing a user interface to a user device associated with a user via an account management application running on the user device, the user interface enabling the user to manage payment information stored in a plurality of user accounts, each account associated with a respective one of a plurality of vendors, the plurality of user accounts being associated with the user;

receiving, electronically by one or more hardware processors on the user device associated with the user interface of the account management application, a first set of inputs from the user, the first set of inputs comprising instructions to push payment information associated with the user, the payment information including credentials that enable each respective vendor to access payment directly from the user's financial institution;

receiving, electronically by the one or more hardware processors on the user device associated with the user interface of the account management application, a second set of inputs from the user, the second set of inputs comprising instructions indicating two or more user accounts for at least two vendor websites of a plurality of vendor websites with which the payment information is to be updated, each user account being associated with the user and with one vendor website of the plurality of vendor websites;

requesting, electronically by the one or more hardware processors on the user device associated with the account management application and from a token service provider ("TSP") server, tokenized payment information for each payment method indicated in the payment information that is associated with the user for each vendor;

receiving, electronically by the one or more hardware processors on the user device from the TSP server, the tokenized payment information for each payment method indicated in the payment information that is associated with the user for each vendor; and

automatically concurrently pushing, electronically by the one or more hardware processors on the user device and over one or more networks in communication with respective remote servers associated with at least each of the at least two vendor websites, corresponding tokenized payment information, including credentials that enable each respective vendor to access payment directly from the user's financial institution, to the two or more user accounts, in response to receiving the first and second sets of inputs from the user, each of the two or more user accounts being associated with the two or more vendor websites.

Prior Art

| Raj et al. | US 2014/0344153 A1 | Nov. 20, 2014 |
| Braski et al. | US 2016/0117679 A1 | Apr. 28, 2016 |

Examiner's Rejections

Claims 1–20 stand rejected under 35 U.S.C. § 101 as directed to patent-ineligible subject matter.

Claims 1–20 stand rejected under 35 U.S.C. § 103 as unpatentable over Braski and Raj.

ANALYSIS

35 U.S.C. § 101 Rejection

The Examiner determines claims 1–20 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to a judicial exception (i.e., an abstract idea) without significantly more. Final Action 3–5; *see 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").

The USPTO published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (January 7, 2019) ("Guidance"). Under the Guidance, the Office first looks to whether the claim recites:

> (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., (a) mathematical concepts, (b) certain methods of organizing human activity such as a fundamental economic principles and practice, commercial or legal interactions, managing personal behavior, relationships, interpersonal interactions, (c) mental processes; and

> (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h) (9th ed. 2018).

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 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 Guidance.

Alice/Mayo—Step 1 (Abstract Idea)
Step 2A–Prongs 1 and 2 identified in the Revised Guidance

Step 2A, Prong One

Appellant contends the Examiner's 35 U.S.C. § 101 rejection should be reversed because

> [t]he claims in this application represent advancement in technology including improvements to computing technology. For example, the claims require, *inter alia,* the steps of requesting, electronically by the one or more hardware processors on the user device associated with a computer associated with the account management application and from a token service provider ("TSP") server, tokenized payment information for each payment method indicated in the payment information that is associated with the user for each vendor. This step alone takes the claim well beyond an abstract idea. The present claims do not recite fundamental economic practices, long prevalent in our system of commerce, or fundamental truths, or building blocks of human ingenuity. Thus, the present claims are patent eligible.

Appeal Br. 13.

Appellant's argument is not persuasive. Instead, we agree with the Examiner's determination that the claims recite an abstract idea. Final Action 4; Answer 3.

The Specification discloses:

> Various embodiments provide techniques for implementing automatic updating or pushing of payment information (which, herein, includes, without limitation, credit card data, other payment information, account information,

billing information, and/or the like) to multiple retail and payment sites (collectively, "vendor websites").

> In some embodiments, a user may log into a master account (e.g., a single sign-on account, a card management account, a payment management account, and/or the like), and may be provided with access to tools or options to manage his or her payment accounts and information, to manage his or her vendor accounts, and/or the like within the account. For example, tools or options to manage the user's payment accounts and information might include, without limitation, tools or options to add a payment method (e.g., add a credit card, add a debit card, add a checking account, add a savings account, add a mortgage loan account, add another loan account, and/or the like), update information for the payment method (e.g., update expiration date, update card security code, setup a particular payment method as a default payment method, etc.), delete a payment method (e.g., delete a credit card, delete a debit card, delete a checking account, delete a savings account, delete a mortgage loan account, delete another loan account, and/or the like), update billing information (e.g., update user's name (if there has been a change of name), update user's billing address, update user's mailing address, update user's telephone number, update user's e-mail address, and/or the like), and/or the like.

Specification ¶¶ 21–22. The Specification also discloses

> In this manner, a user can easily update all relevant vendor accounts whenever the user changes a payment method (e.g., credit card), whenever a payment method expires and a new one issues (e.g., when a credit card expires and a new card is issued), whenever the user changes addresses, and/or the like, without having to personally log into each relevant vendor's website and change by hand the payment information for the individual vendor.

Specification ¶ 25.

Claim 1 recites a method for implementing automatic updating of user payment information across multiple vendor websites, comprising:

1. receiving instructions to push payment information associated with a user, the payment information including credentials that enable each respective vendor to access payment directly from the user's financial institution;

2. receiving instructions indicating two or more user accounts for at least two vendor websites with which the payment information is to be updated;

3. requesting tokenized payment information from a token service provider ("TSP") server for each payment method indicated in the payment information that is associated with the user for each vendor;

4. receiving the tokenized payment information from the TSP server; and

5. automatically pushing the tokenized payment information including credentials that enable each respective vendor to access payment directly from the user's financial institution to the two or more user accounts.

Thus, the claim recites steps for automatically updating a user's payment information across multiple vendor websites to enable vendors to access payment directly from the user's financial institution. Such steps comprise fundamental economic practices, as well as commercial interactions, both of which constitute the abstract idea of "certain methods of organizing human activity." *See* Guidance at 52 (Section I(b)); *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.,* 876 F.3d 1372, 1378–79 (Fed. Cir. 2017) (holding that the concept of "local processing of payments for remotely purchased goods" is a "fundamental economic practice, which *Alice* made clear is, without more, outside the patent system").

Therefore, we conclude the claims recite an abstract idea pursuant to Step 2A, Prong One of the guidance. *See* Guidance, Section III(A)(1) (Prong One: Evaluate Whether the Claim Recites a Judicial Exception).

Step 2A, Prong Two

Under Prong Two of the Revised Guidance, we must determine "whether the claim as a whole integrates the recited judicial exception into a practical application of the exception." Guidance, Section III(A)(2). "A claim that integrates a judicial exception into a practical application will apply, rely on, or use 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." *Id.* Appellant contends

> Moreover, even if the claims can properly be characterized as "directed to" an abstract idea, the Answer fails to provide a complete and proper analysis under Step 2A of the patent-eligible analysis. As the 2019 PEG makes clear, Step 2A is a two-prong inquiry, with the second prong being to evaluate whether the claim recites <u>additional elements that integrate the exception into a practical application of the exception.</u>

Reply Br. 3–4. Appellant contends

> [t]he claimed tokenization and concurrently pushing steps, which seemed to remain unaddressed by the examiner in the 101 rejections in the Office Actions, and in the Answer, represent a technical improvement provided by embodiments of the invention. These steps provide increased security, as explained in the patent specification, particularly in paragraph [0131].

Id. at 5. Paragraph 131 of Appellant's Specification discloses

> The tokenization process provides extended security for the service provided by the service provider. Instead of pushing actual credit card numbers to a merchant, a tokenized credit card number that is specific to that particular merchant will be created and pushed into the merchant's website. If the merchant were to be breached by hackers, the "credit card data" that the hackers would not be useable on any other merchant's website.

We do not find Appellant's arguments persuasive. The recited limitations do not reflect an improvement in the functioning of a computer or other technology or technical field. *See* Guidance at 55; *cf. 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."). Further, the claims utilize general purpose hardware (a user device, hardware processors, vendor websites, and a token service provider server). *See* Specification ¶¶ 177–198, Figs. 11 and 12; *see also Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016) ("[W]e find it relevant to ask whether the claims are directed to an improvement to computer functionality versus being directed to an abstract idea . . . the focus of the claims is on the specific asserted improvement in computer capabilities (i.e., the self-referential table for a computer database) or, instead, on a process that qualifies as an 'abstract idea' for which computers are invoked merely as a tool.").

We are not persuaded by Appellant's contention that the claims recite steps beyond the abstract idea, such as "increased security." *See* Reply Br. 5–6. Specifically, the claim does not: (1) improve the functioning of a computer or other technology; (2) is not applied with any particular machine (except for generic hardware); (3) does not effect a transformation of a particular article to a different state; and (4) is 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).

Claim 1's data-gathering steps ("receiving . . . a first set of inputs," "receiving . . . a second set of inputs") reasonably can be characterized as merely constituting insignificant extra-solution activity:

> An example of pre-solution activity is a step of gathering data for use in a claimed process, *e.g.,* a step of obtaining information about credit card transactions [that] is recited as part of a claimed process of analyzing and manipulating the gathered information by a series of steps in order to detect whether the transactions were fraudulent.

MPEP § 2106.05(g). As our reviewing court has explained, such data gathering simply provides data for other method steps. *See, e.g., CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011) ("We have held that mere '[data-gathering] step[s] cannot make an otherwise nonstatutory claim statutory.'" (alterations in original) (quoting *In re Grams*, 888 F.2d 835, 840 (Fed. Cir. 1989))); *see also* 2019 Guidance at 55 (identifying "add[ing] insignificant extrasolution activity to the" abstract idea as an example of when an abstract idea has not been integrated into a practical application).

Claim 1's other steps entail updating user payment information. But the act of updating payment information constitutes the underlying abstract idea—the fundamental economic practice and the commercial interaction that, as we determine above, constitute certain methods of organizing human activity. *See BSG Tech LLC v. Buyseasons, Inc.*, 899 F.3d 1281, 1290 (Fed. Cir. 2018) ("It has been clear since *Alice* that a claimed invention's use of the ineligible concept to which it is directed cannot supply the inventive concept that renders the invention 'significantly more' than that ineligible concept."); *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."); *SAP America, Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1168 (Fed. Cir. 2018) ("What is needed is an inventive concept in the non-abstract application realm.").

Accordingly, we determine the claim does not integrate the recited judicial exception into a practical application and is, therefore, directed to an abstract idea. *See* Guidance, Section III(A)(2) (Prong Two: If the Claim Recites a Judicial Exception, Evaluate Whether the Judicial Exception Is Integrated Into a Practical Application).

Alice/Mayo—Step 2 (Inventive Concept)
Step 2B identified in the Revised Guidance

Step 2B

Next, we determine whether the claim includes additional elements that provide significantly more than the recited judicial exception, thereby providing an inventive concept. *Alice*, 573 U.S. at 217–18 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72–73 (2012)). We find the claim does not include a specific limitation or a combination of elements that amounts to significantly more than the judicial exception itself. *See* Guidance, Section III(B)(Step 2B: If the Claim Is Directed to a Judicial Exception, Evaluate Whether the Claim Provides an Inventive Concept); *see also Aatrix Software, Inc. v. Green Shades Software, Inc.*, 890 F.3d 1354, 1359 (Fed. Cir. 2018) ("the 'inventive concept' cannot be the abstract idea itself"). Other than the abstract idea itself, the remaining claim elements only recite generic computer components that are well-understood, routine, and conventional. *See* Final Action 4–5; Ans. 3–4; Specification ¶¶ 177–198, Figs. 11 and 12 ; *Alice*, 573 U.S. at 226.

Accordingly, we conclude claims 1–20 are directed to fundamental economic practices and commercial interactions, which are two of certain

methods of organizing human activity identified in the Guidance and thus an abstract idea. Further, the claims do not recite limitations that amount to significantly more than the abstract idea itself. We sustain the Examiner's 35 U.S.C. § 101 rejection of claims 1–20.

35 U.S.C. § 103 Rejection

Independent claim 1 recites "receiving . . . on the user device . . . [a] first set of inputs comprising instructions to push payment information . . . [and] pushing, electronically by the one or more hardware processors *on the user device* . . . tokenized payment information." The Examiner finds that Braski teaches these limitations. Final Action 6–9. Appellant contends Braski teaches that a financial institution server, rather than the claimed user device, pushes payment information to a wallet integration server. *See* Appeal Br. 16; Reply Br. 7–8.

Braski teaches that a user accesses a wallet integration server, and sends a selection of vendors to the wallet integration server. Braski, Abstract, ¶¶ 37–38, 68–69, Fig. 4A. Braski teaches that the wallet integration server retrieves the user's payment information from a financial institution server, encrypts the payment information, and transmits the payment information to the selected vendors. Braski, Abstract, ¶¶ 39–40, 72, Fig. 4C. Thus, Braski teaches that the wallet integration server, rather than the user device, pushes payment information to the vendors.

The Examiner does not provide persuasive evidence to show that implementing Braski's method for automatically updating payment information on a user device, rather than on a server, would have been within the level of ordinary skill. Given that Braski's disclosure appears to

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teach implementing the method only on a server, and not on a user's device, and given that the Examiner has not persuasively explained why implementing Braski's method on the user's device would have been obvious, we do not sustain the rejection of claim 1 and dependent claims 2–18 under 35 U.S.C. § 103.

In contrast to claim 1, independent claims 19 and 20 do not limit the claimed "pushing" to be performed on the user device. Therefore, Appellant's contention is not commensurate with the scope of the claims. We agree with the Examiner that "receive . . . instructions to push payment information" and "automatically concurrently push . . . payment information" as recited in claims 19 and 20 is taught by Braski's disclosure of a user authorizing, or "instructing," the wallet integration server to automatically update payment information, and the server subsequently automatically updating the payment information. Braski ¶ 14; *see id.* at Abstract, ¶¶ 5, 12–13, 35–41, 63–79; Final Action 6–9; Answer 4–8.

Appellant contends that Braski teaches encrypting the payment information, rather than tokenizing the payment information as claimed. Appeal Br. 17; Reply Br. 9. Appellant does not provide persuasive evidence or explanation to distinguish the claimed tokenized payment information from the encrypted payment information of Braski. To the extent that tokenized payment information is different than encrypted payment information, Raj teaches that tokenizing payment information was within the level of ordinary skill. Raj, Abstract, Figs. 3 and 4, ¶¶ 53–54, 58, 69–70, 97. Substituting the known tokenized payment information of Raj for the known encrypted payment information used by the wallet integration server of Braski yields the predictable result of the wallet integration server

automatically concurrently pushing tokenized payment information. *See KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007) ("The Court recognized that when a patent claims a structure already known in the prior art that is altered by the mere substitution of one element for another known in the field, the combination must do more than yield a predictable result.").

We sustain the rejection of claims 19 and 20 under 35 U.S.C. § 103.

DECISION

The rejection of claims 1–20 under 35 U.S.C. § 101 as directed to patent-ineligible subject matter is affirmed.

The rejection of claims 1–18 under 35 U.S.C. § 103 as unpatentable over Braski and Raj is reversed.

The rejection of claims 19 and 20 under 35 U.S.C. § 103 as unpatentable over Braski and Raj is affirmed.

CONCLUSION

In Summary:

Claims Rejected	35 U.S.C. §	References/Basis	Affirmed	Reversed
1–20	101	Non-statutory subject matter	1–20	
1–20	103	Braski, Raj	19, 20	1–18
Overall Outcome			1–20	

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. § 41.50(f).

AFFIRMED