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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAVID A. HERMAN, OMAR MAKKE, and
NICHOLAS COLELLA

Appeal 2019-004837
Application 14/938,010
Technology Center 3600

Before ADAM J. PYONIN, MELISSA A. HAAPALA, and
AMBER L. HAGY, *Administrative Patent Judges*.

PYONIN, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the
Examiner's rejection. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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 Ford
Global Technologies, LLC. Appeal Br. 2.

STATEMENT OF THE CASE

Introduction

The Application is directed to a method and apparatus for “sharing a vehicle’s state of health” to, for example, “ensure that there are no diagnostic engine faults, brake faults or other critical faults in the vehicle before sharing the ride,” or “to ensure that the rear child locks are not enabled.” Title, Spec. ¶ 29. Claims 1–20 are pending; claims 1, 9, and 18 are independent. Appeal Brief Appendix 1–4. Claims 1, 9, and 18 are reproduced below for reference (some formatting and emphases added):

1. A system comprising: a processor configured to:
 - receive a ride-hailing request including minimum vehicle health standards;
 - determine that a health report, indicating vehicle system health conditions, for a vehicle chosen to service the request, meets minimum standards specified in the request; and
 - send the vehicle health report to a ride-sharing matching system responsive to the request and determination.*

9. A system comprising: a processor configured to:
 - receive a pickup request from a passenger device;
 - request a vehicle health report, detailing vehicle system health, from a candidate vehicle; and
 - relay the pickup request to the candidate vehicle after a health report is received, and responsive to determining that the health report meets a minimum set of standards specified in the pickup request.*

18. A system comprising: a vehicle processor configured to:
 - determine that a local device in wireless communication with a vehicle corresponds to a passenger device from which a pickup request was initiated; and
 - transmit a vehicle health report directly to the local device, upon receiving a report request from the local device, after determining that the device corresponds to a device from*

which a passenger pickup request was received and that the vehicle is tasked with fulfilling the request.

References and Rejections

Claims 1–20 are rejected under 35 U.S.C. § 101 for being patent ineligible. Final Act. 2.

Claim(s) 18–20 are rejected under 35 U.S.C. § 102(a)(1) as being anticipated by Le (US 2013/0273847 A1; Oct. 17, 2013). Final Act. 5.

Claim(s) 1–4 are rejected under 35 U.S.C. § 102(a)(2) as being anticipated by Camacho (US 2014/0358896 A1; Dec. 4, 2014). Final Act. 6.

Claim 5 is rejected under 35 U.S.C. § 103 as being unpatentable over Camacho and Khanna (US 2015/0206267 A1; July 23, 2015). Final Act. 8.

Claims 6–8 are rejected under 35 U.S.C. § 103 as being unpatentable over Camacho and Le. Final Act. 9.

Claims 9–17 are rejected under 35 U.S.C. § 103 as being unpatentable over Khanna in view of Camacho. Final Act. 11.

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellant’s arguments. Any 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). We discuss each of the grounds of rejection below.

Patent Eligibility

The Examiner determines the claims are patent ineligible under 35 U.S.C. § 101, because “the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea)

without significantly more.” Final Act. 2 (emphasis omitted); *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 filing of the Appeal Brief in this case—but prior to the mailing of the Answer or the filing of the Reply Brief—the U.S. Patent and Trademark Office (USPTO) published revised guidance on the application of § 101 (“Guidance”). *See* 2019 Revised Patent Subject Matter Eligibility Guidance Notice, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Notice”); *see also* USPTO, October 2019 Update: Subject Matter Eligibility (“October Update”) (available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf). “All USPTO personnel are, as a matter of internal agency management, expected to follow the guidance.” Notice at 51; *see also* October Update at 1.

Under the Guidance, 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”).²

² 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* Notice - Section III(A)(2), 84 Fed. Reg. 54–55.

Notice, 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, 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.

Notice, 84 Fed. Reg. at 52–56.

We agree with, and adopt as our own, the Examiner’s eligibility analysis in the Answer. Ans. 4–12. We add the following primarily for emphasis and clarification with respect to the Guidance.

A. Step 2A, Prong One

Appellant does not challenge the Examiner’s analysis pursuant to Step 2A, Prong One of the Guidance. *See* Reply Br. 2 (challenging the “practical application test” of Step 2A, Prong Two). In any event, we agree with the Examiner’s determination that the claims encompass commercial interactions and fall within the “certain methods of organizing human activity” grouping of the Guidance. *See* Ans. 9–10. Claim 1 recites a processor configured to perform the steps of receiving, determining, and sending. The Examiner determines these limitations recite a judicial exception:

The claim 1 limitations recite a series of steps a user follows to request a vehicle health report which encompasses commercial interactions such as marketing or sales activities or behaviors; business relations; managing personal behavior or relationships or interactions between people including social activities,

teaching, and following rules or instructions that falls within the enumerated group of “certain methods of organizing human activity.”

Ans. 9, 10. The Examiner has properly analyzed the claim limitations with respect to the abstract idea groupings under Prong One of the Guidance, as the Examiner has identified the specific limitations in the claim that fall within the subject matter groupings of abstract ideas enumerated in the Guidance. *See id.*; Notice, 84 Fed. Reg. at 54. Accordingly, we find no error in the Examiner’s determination that the claims recite a judicial exception under Prong One of the Guidance. *See* Notice, 84 Fed. Reg. 54; *cf. ChargePoint, Inc. v. SemaConnect, Inc.*, 920 F.3d 759, 768 (Fed. Cir. 2019) (“[T]he invention of the patent is nothing more than the abstract idea of communication over a network for interacting with a device, applied to the context of electric vehicle charging stations.”); *Audatex N. America, Inc. v. Mitchell Int’l, Inc.*, 703 F. App’x 986, 989 (Fed. Cir. 2017) (“[T]he proposed claims are directed to the abstract idea of “providing a vehicle valuation through the collection and use of vehicle information.”); *Vehicle Intelligence & Safety LLC v. Mercedes-Benz USA, LLC*, 635 F. App’x 914, 917 (Fed. Cir. 2015) (“The claims at issue are drawn to a patent-ineligible concept, specifically the abstract idea of testing operators of any kind of moving equipment for any kind of physical or mental impairment.”).

Additionally, the claim 1 limitations “receive a ride-hailing request including minimum vehicle health standards,” and “determine that a health report, indicating vehicle system health conditions, for a vehicle chosen to service the request, meets minimum standards specified in the request” relate to obtaining information and making decisions based on the received data. *See* Spec. ¶¶ 2, 3. These limitations reasonably can be characterized as

“[m]ental processes” that entail steps of “observation, evaluation, judgment, opinion.” Notice, 84 Fed. Reg. at 52; *see also* October Update at 7, 8.

Accordingly, we conclude independent claim 1, and independent claims 9 and 18 which include similar limitations, recite a judicial exception under Prong One of the Guidance. *See* Notice, 84 Fed. Reg. at 54; *see also* October Update at 2.

B. Step 2A, Prong Two

Appellant argues the claims are patent eligible pursuant to Step 2A, Prong Two of the Guidance. Specifically, Appellant argues:

under the practical application test, the claims unquestionably present a practical application of the abstract idea, in that the practical result of the claims is that a vehicle chosen to service the request is able to report (or a report is provided about the vehicle) that it meets the required minimum health conditions, therefore confirming its eligibility to service the request. This is a highly specific niche carved out by the claims, avoiding broad pre-emption, and moreover this is plainly a practical application that results in the practical solution of the vehicle being able to confirm that it meets vehicle-health standards.

Reply Br. 2. Appellant further contends independent claims 1, 9 and 18 recite specific limitations that meet “the practical application test mandated by the new guidance.” *Id.* at 3.

We are not persuaded the Examiner errs in determining the claims are not integrated into a practical application under Prong Two of Step 2A of the Guidance. *See* Ans. 10–12; October Update at 12, 13. The features relied on by Appellant (such as with respect to minimum health requirements for a vehicle) 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* Notice, 84 Fed. Reg. at 54, 55. Claim 1 recites the additional element of “a processor,” in addition to the limitations reciting the judicial exception. Claims 9 and 18 recite similarly, at a high level, usage of generic computing equipment. *See* Ans. 12. These claimed “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 use[] a computer as a tool to perform an abstract idea.” Notice, 84 Fed. Reg. at 55.

Even if we consider the disputed limitations as additional elements, we disagree with Appellant’s contentions that such limitations remove the claims from the realm of ineligible subject matter. The claimed method coordinates cars for ride hailing.³ That the claims may “improve a user experience” does not integrate the recited exception into a practical application. The claims do not change the underlying or other technology; rather the claimed techniques merely communicate health reports for a candidate ride-hailing vehicle. *See* Ans. 4, 5; *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.”).

³ Separately, we note the claimed features, such as checking minimum vehicle health standards for a ride hailing request, can be considered broadly comparable to a taxi dispatcher or taxi stand coordinator assigning taxis based on passenger requests (e.g., handicapped accessible taxis; child booster seat availability, air conditioning status, etc.). *See* Spec. ¶ 41 (“[T]he passenger mobile device may connect directly to the vehicle in order to both verify a previously received score and ensure that certain vehicle systems (rear child locks, for example) are set to a passenger-preferred state.”).

Furthermore, we determine the specificity of the presently recited techniques is insufficient to establish patent eligibility. *See Alice*, 573 U.S. at 222, (quoting *Parker v. Flook*, 437 U.S. 584, 593 (1978)) (“In holding that the process was patent ineligible, we rejected the argument that ‘implement[ing] a principle in some specific fashion’ will ‘automatically fal[l] within the patentable subject matter of § 101.’”). Similarly, any questions on monopolization—or preemption—in the instant case have been resolved by the analysis herein and by the Examiner. *See 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 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 claims 1, 9, and 18 do not integrate the judicial exception into a practical application. *See Notice*, 84 Fed. Reg. at 54. As the claims recite a judicial exception and fail to integrate the exception into a practical application, the claims are “directed to the . . . judicial exception.” *Id.* at 54.

C. Step 2B

Appellant argues the “claims perform an atypical function, in that they provide a health report about a requested vehicle. This is not common in ride-sharing requests or taxi request, the current model is effectively ‘you get what you get.’” Appeal Br. 6. Appellant further argues claim 18 is patent eligible because “[i]t is not common for such devices (the ones used

to request vehicles) to directly communicate with the vehicles, and yet this claim provides for such communication.” Reply Br. 2.

We are not persuaded the Examiner errs. Sending communications between particular devices is part of the recited abstract idea discussed above, and does not comprise additional elements, individually or in combination, that amount to significantly more than the judicial exception. *See* Notice, 84 Fed. Reg. at 55–56; *see also id.* at 55 n.24. Further, Appellant has not persuasively shown the claimed elements, such as the “local device in wireless communication with a vehicle” recited by claim 18, are not well understood, routine, or conventional. *See* Ans. 12; Spec. ¶¶ 2, 3, 10 (“the process connects directly to the vehicle (via BLUETOOTH, WiFi, or some other suitable wireless connection)”; 13–28; Camacho ¶¶ 2–6; Le ¶¶ 2–4.

We agree with the Examiner that the additional elements recited by independent claims 1, 9, and 18—individually and in combination—are well understood, routine, and conventional. *See* Final Act. 3, 4; Ans. 4, 5; *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, the independent claims limitations, individually and as an ordered combination, do not provide significantly more than the recited judicial exception.

We are not persuaded the Examiner errs in determining independent claim 1, 9, and 18 are patent ineligible.

Anticipation

A. *Claim 18*

The Examiner finds independent claim 18 is anticipated by Le.

Specifically, the Examiner finds:

As claimed the vehicle processor configured to determine that a local device in wireless communication with a vehicle is met by the vehicle computing system structure from the Le reference. The limitations of corresponds to a passenger device from which a pickup request was initiated does not impact the system. The system claim interpretation differs from a method claim interpretation because the claimed structure must be present in the system regardless of whether the function is actually performed.

Ans. 13, 14.

Appellant argues the Examiner's anticipation rejection is in error, because "[t]he claims call for a specific determination" of whether a local device "correspond[s] to a passenger device from which a pickup request was initiated", which significantly impact[s] the [claimed] system." Reply Br. 3. Appellant asserts this limitation is not disclosed by Le. See Appeal Br. 14.

We are persuaded the Examiner's rejection is in error. Le discloses "health and wellness, or vehicle safety applications can send output to the vehicle for delivery *to a driver*." Le ¶ 39 (emphasis added). Claim 18, in contrast, recites "transmit a vehicle health report directly to the [passenger's] local device . . . after determining that the device corresponds to a device from which a passenger pickup request was received." That is, the claimed steps require a determination of a particular device to transmit certain data. We agree with Appellant that the determination and transmitting limitations are accorded patentable weight, and the Examiner has not identified a

disclosure in the cited reference relating to such limitations. *See* Reply Br. 3.

Accordingly, we do not sustain the Examiner's rejection of independent claim 18.

B. Claim 1

Appellant argues the Examiner's anticipation rejection of independent claim 1 is in error, because "claim 1 recites, inter alia, 'send the vehicle health report to a ride-sharing matching system responsive to the request and determination,'" whereas Camacho's "individual vehicle health reports (specifically those corresponding to vehicles determined to meet specified standards as claimed) never appear to be sent anywhere." Appeal Br. 14, 15. Appellant contends Camacho merely sends "a list of vehicles, not [] health reports on those vehicles," as the "vehicle database uses the parameters specified by a user to cull out a set of vehicles . . . and then returns the listing of vehicles deemed." *Id.* at 15.

We are persuaded the Examiner's anticipation rejection of claim 1 is in error. The Examiner finds "the Camacho reference ratings engine sends operational health of an identified vehicle which represents individual vehicle health report(s) to the multi-user vehicle database," because Camacho discloses "the vehicle and user information is transferred from vehicles and ratings server to the multi-user vehicle database query engine for rendering a variety of individualized ratings." Ans. 15; Camacho ¶¶ 17, 19, 23, 49, 54. We agree with Appellant that this does not meet the claim requirements.

Camacho’s vehicle information is forwarded to a database and query engine during operation of the vehicles. Camacho ¶ 23, 49, 54; *see also* Camacho ¶¶ 17, 19). Camacho, as cited by the Examiner, stores the vehicle information in the database for later use, such as for assigning a vehicle in response to a vehicle request. *See* Final Act. 6; Camacho ¶ 23 (“[D]atabase and query engine 109 maintains a multitude of both current status information as well as historical information (both driver and vehicle) upon which rating criteria are applied to render vehicle and driver ratings.”). As the cited portions of Camacho have already stored the health information, they do not send a health report *in response to a ride-hailing request*.

We agree with Appellant that the Examiner has not shown Camacho discloses the claim 1 limitation of “send[ing] the vehicle health report to a ride-sharing matching system responsive to the request and determination.” *See* Reply Br. 4. Accordingly, we find the Examiner’s anticipation rejection of independent claim 1 is in error. We do not sustain the Examiner’s anticipation rejection of independent claim 1.

Obviousness

A. Claim 9

Appellant argues the Examiner’s rejection of claim 9 is in error because, in Khanna and Camacho, “there is never a teaching of requesting a vehicle health report *from a vehicle* that is later sent a pickup request *responsive to receiving the report*.” Appeal Br. 17. Appellant contends the combination of cited references “lacks the components of requesting the health report and relaying the request to the vehicle responsive to receiving the health report and determining that the minimum standards are met.” *Id.*

We are not persuaded the Examiner errs in finding the limitations of claim 9 to be obvious in view of the combined teachings of Khanna and Camacho. The Examiner finds Khanna teaches the claimed “receive a pickup request from a passenger device,” and “relay the pickup request to the candidate vehicle after a . . . report is received, and responsive to determining that a . . . report meets a minimum set of standards specified in the pickup request.” Final Act. 12. We agree, because Khanna teaches a pickup request is relayed to a vehicle selected by a user from a list of vehicles meeting a minimum set of criteria.⁴ See Khanna ¶ 14 (“When the [pickup] request is sent to the transportation service, a set of drivers that are available to fulfill the request is determined and provided to the user. The list of available drivers is . . . sorted based on any suitable criteria” including criteria “preferred by the user.”); Khanna ¶ 15 (“When a user selects a particular driver from the list of drivers provided to the user’s client device, a request is sent to the driver.”). The Examiner further correctly finds Camacho teaches the claimed “request a vehicle health report, detailing vehicle system health, from a candidate vehicle.” Final Act. 12; Camacho ¶ 54 (“[V]ehicle and user data of the types enumerated in FIG. 2 is acquired by telematics units . . . incorporated into vehicles. Such vehicle and user information is transferred from vehicles, via the telematics units and the ratings server 145, to the multi-user vehicle database and query engine 109.”).

⁴ Separately, we note claim 9 recites “request *a* vehicle health report” and “after *a* health report is received” (emphases added), such that the claim does not require the received health report to be the requested vehicle health report.

We note claim 9 requires the pickup request is *relayed to a vehicle* after a health report is received, but does not state a timeframe for *requesting* a vehicle health report from the vehicle. Thus, we agree with the Examiner that one of ordinary skill would use Camacho's teaching of requesting and storing a candidate vehicle health report for later use, in Khanna's system of relaying a pickup based on user-specified criteria. *See* Final Act. 12, 13; Khanna ¶¶ 12–15; Camacho ¶ 41. Accordingly, we are not persuaded the Examiner errs in finding the limitations of claim 9 to be obvious in view of the combined teachings of the references. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981) (“The test for obviousness is not . . . that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.”)

We sustain the Examiner's obviousness rejection of independent claim 9.

CONCLUSION

We are persuaded the Examiner errs in finding independent claims 1 and 18 are anticipated by the cited references. Thus, we do not sustain the Examiner's anticipation rejection of these claims. We further do not sustain the rejections of claims 2–8, 19, and 20 dependent from claims 1 or 18.

We are not persuaded the Examiner errs in finding claims 1, 9, and 18 are patent ineligible, and claim 9 is obvious in view of the cited references. Appellant does not present separate substantive arguments for the claims dependent thereon. Thus, we sustain the Examiner's eligibility rejection of claims 1–20 and the Examiner's obviousness rejection of claims 9–17.

The Examiner's decision is affirmed because we have affirmed at least one ground of rejection with respect to each claim on appeal. *See* 37 C.F.R. § 41.50(a)(1).

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Basis/Reference(s)	Affirmed	Reversed
1-20	101	Eligibility	1-20	
18-20	102(a)(1)	Le		18-20
1-4	102(a)(2)	Camacho		1-4
5	103	Camacho, Khanna		5
6-8	103	Camacho, Le		6-8
9-17	103	Khanna, Camacho	9-17	
Overall Outcome			1-20	

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