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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MATTHEW SIVERTSON, GANG WANG,
KEVIN MCCLUSKEY, VINAY KUMAR, and JAY JIEBING YU

Appeal 2019-006613
Application 14/555,499
Technology Center 3600

Before CARL W. WHITEHEAD, JR., AMBER L. HAGY, and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

BENNETT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–21. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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 Intuit Inc. Appeal Br. 4.

CLAIMED SUBJECT MATTER

The claims are directed to a method and system for organized user experience workflow. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for providing user content, comprising:

obtaining a set of fields, wherein the set of fields define an order to an application workflow, wherein the number of fields in the set of fields is adjusted during the application workflow based on first user data obtained from a first user device, wherein the set of fields includes a first field and a third field, and wherein a cursor position is set to the first field;

generating, during the application workflow and by a user content flow driver, a priority field list for the application workflow, wherein the priority field list provides an order that the set of fields are used;

sorting, during the application workflow, the set of fields based on the priority field list to obtain a first sorted plurality of fields;

selecting a next field from the first sorted plurality of fields to obtain a selected next field;

generating first content based on the selected next field for a first context to produce a first generated content;

presenting the first field of the set of fields to a first user device by transmitting, to a first user experience player on the first user device, the first generated content to be presented in the application workflow on the first user device, wherein the first user experience player corresponds to a first platform, and wherein the first platform operates on a first operating system;

receiving, during the application workflow and in response to transmitting the first generated content, second user data in a first response for the first field;

updating, using the second user data and a plurality of priority parameters, the priority field list to obtain an updated priority field list,

wherein the updated priority field list comprises one or more fields in a different location from the priority field list, and

wherein the set of fields is updated in response to receiving the first response from the user device, by:

removing the third field from the set of fields; and

adding a fourth field to the set of fields, wherein the fourth field was not present in the set of fields prior to receiving the first response;

sorting, during the application workflow, the set of fields based on the updated priority field list to obtain a second sorted plurality of fields;

determining that a switch from the first context to a second context is made;

generating a second generated content by modifying the first content to reflect the second context;

setting the cursor position to the fourth field;

presenting the fourth field to the user device by transmitting, to a second user experience player on a second user device, based on the second sorted plurality of fields, and after a determination is made to switch from the first user experience player to a second user experience player, the second generated content to be presented in the application workflow on the second user device in a graphical user interface,

wherein the second user experience player corresponds to a second platform that is different from the first platform, and

wherein the second platform operates on a second operating system that is different from the first operating system;

updating the set of fields in response to receiving a second response from the user device that is to go back to a previous field, by:

removing the fourth field from the set of fields; and

adding the third field back to the set of fields;
setting the cursor position to the third field; and
presenting the third field to the user device.

Appeal Br. 29–31 (Claims Appendix).

REJECTION²

Claims 1–21 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 2–7.

ANALYSIS

Standard for Patent Eligibility

In issues involving subject matter eligibility, our inquiry focuses on whether the claims satisfy the two-step test set forth by the Supreme Court in *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208 (2014). The Court instructs us to “first determine whether the claims at issue are directed to a patent-ineligible concept,” *id.* at 218, and, in this case, the inquiry centers on whether the claims are directed to an abstract idea. If the initial threshold is met, we then move to the second step, in which we “consider 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.” *Id.* at 217–18 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 79, 78 (2012)). The Court describes the second step as a search for “an ‘inventive concept’”—*i.e.*, an element or combination of elements that is ‘sufficient to ensure that the

² A rejection under 35 U.S.C. § 103 was withdrawn in the Examiner’s Answer. Ans. 3.

patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.” *Id.* (quoting *Mayo*, 566 U.S. at 72–73).

The USPTO has published revised guidance on the application of § 101 consistent with *Alice* and subsequent Federal Circuit decisions. USPTO, *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Guidance”). 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) (referred to Step 2A, prong 1 in the Guidance); and

(2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)) (referred to Step 2A, prong 2 in the Guidance).

See Guidance, 84 Fed. Reg. at 52–55. Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then move to Step 2B of the Guidance. There, we 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, 84 Fed. Reg. at 56.

*Examiner's Findings and Conclusion*³

The Examiner rejects the claims as being directed to a judicial exception without significantly more. Final Act. 2–6; Ans. 3–10. Under the first step of the *Alice* inquiry, the Examiner determines the claims are “directed to the abstract idea of providing information to someone based on what is known about her, which is similar to the concept identified as abstract in *AffinityLabs*.” Final Act. 2. The Examiner further finds the claims to be abstract because they recite “collecting and analyzing information in order to provide a desirable information-based result, [which] is similar to the concept identified as abstract by the court in *Electric Power Group*.” *Id.*

Under the second step of the *Alice* inquiry, the Examiner determines the additional claim elements are insufficient to amount to significantly more than the judicial exception. Final Act. 5. The Examiner determines that the additional elements “include[] ‘hardware component’ and three black-box modules described entirely functionally, a ‘first scheduler’, a ‘second scheduler’, a ‘storage device’ and a ‘user interface’.” *Id.* The Examiner finds “these elements are recited at an exceedingly high degree of generality and only perform generic computer functions of manipulating information and sharing information with persons and/or other devices.” *Id.*

³ The Final Office Action was mailed prior to the Guidance. It applied the case-law based approach from previous eligibility guidance in rejecting the claims under § 101. The Appeal Brief, Examiner’s Answer, and Reply Brief were filed/mailed subsequent to the issuance of the Guidance—and their treatment of the eligibility issues applies the Guidance.

Appellant's Contentions

Appellant presents several arguments for eligibility. Appellant first argues the claim⁴ does not recite a judicial exception under Step 2A, prong 1 of the Guidance. Reply Br. 3–5. Appellant asserts the claim elements “could not be practically performed in the human mind” and “it is no more practical to perform such actions mentally than it is to track how much memory has been allocated to a computer application over a predetermined time period.” Reply Br. 4.

Appellant further argues that even if the claim recites an abstract idea, the claim integrates the abstract idea into a practical application under Step 2A, prong 2. Reply Br. 5–7. In that regard, Appellant asserts the claims are similar to those found eligible in *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356 (Fed. Cir. 2018). See Appeal Br. 24. Appellant further asserts the invention improves the functioning of a computer (Reply Br. 7; Appeal Br. 12–14, 17) and also effects a transformation of an article to a different state or thing (Reply Br. 7, Appeal Br. 17–18).

Appellant also contends the claims are eligible under Step 2B of the Guidance. Specifically, Appellant argues the Examiner’s analysis is flawed because “claim 1 recites non-abstract elements in addition to the computer hardware,” and the Examiner fails to address those limitations. Reply Br. 8.

⁴ Appellant argues the § 101 rejection of claims generally. We treat claim 1 as representative. 37 C.F.R. § 41.37(c)(1)(iv) (2018) (“When multiple claims subject to the same ground of rejection are argued as a group or subgroup by Appellant, the Board may select a single claim from the group or subgroup and may decide the appeal as to the ground of rejection with respect to the group or subgroup on the basis of the selected claim alone.”).

*Revised Guidance, Step 2A, Prong 1*⁵
The Judicial Exception

Applying the Guidance, we are persuaded the Examiner has erred in rejecting claim 1 as being directed to patent-ineligible subject matter. The Guidance instructs us first to determine whether any judicial exception to patent eligibility is recited in the claim. The Guidance identifies three judicially-expected groupings: (1) mathematical concepts, (2) certain methods of organizing human activity such as fundamental economic practices and commercial interactions (including . . . advertising, marketing or sales activities or behaviors; business relations), and (3) mental processes. *See* Guidance, 84 Fed. Reg. at 52, 54–55.

We agree with Appellant that the claims before us do not recite an invention within these groupings. The limitations of claim 1 recite a series of graphical user interface operations that cause a computer to operate and display outputted data in a specific manner. We discern no mathematical concepts recited therein, nor does the Examiner find any such operations. *See* Final Act. 4–5; Ans. 4–5. We also do not agree with the Examiner that the claims recite a commercial interaction. Although certain exemplary embodiments provided in the Specification are deployed in the context of a tax preparation application (*see, e.g.*, Figs. 12.1–12.5), the claims themselves make no mention of any commercial practice or business-related concept. Rather, the claims exclusively recite GUI generation, input, modification, and output operations. Nor do we find the steps recited in claim 1 as being

⁵ Throughout this opinion, we give the claim limitations the broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

properly considered part of a mental process. The claimed steps are not the sort to be practically performed by a human in their mind, as each relate to how a graphical user interface is constructed and maintained by a computer.

Having determined that claim 1 does not recite a judicial exception, the analysis need not go any further. *See* Guidance, 84 Fed. Reg. at 54 (“If the claim does not recite a judicial exception (a law of nature, natural phenomenon, or subject matter within the enumerated groupings of abstract ideas in Section I), then the claim is eligible at Prong One of revised Step 2A. This concludes the eligibility analysis, except in the rare circumstance described below.”). We, therefore, do not sustain the rejection of representative claim 1, as well as the remaining claims.

CONCLUSION

We reverse the Examiner’s rejection under 35 U.S.C. § 101.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-21	101	Eligibility		1-21

REVERSED