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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL FREDERICKS, ELLEN TROTOCHAUD,
SARAH KUBERRY, JOYCE CLIPPINGER, VALERY GORODNICHEV,
SCOTT JOHNSON, LEONARD TONG, SANJAY ALMEIDA,
ANIL BHAGWAT, PAUL PARTER, and JOHN LOVE

Appeal 2020-000407
Application 12/773,282
Technology Center 3600

Before JOHN A. JEFFERY, LINZY T. McCARTNEY, and
JAMES W. DEJMEK, *Administrative Patent Judges*.

McCARTNEY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ seeks review under 35 U.S.C. § 134(a) of the Examiner's final rejection of claims 1 and 3–40. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellant identifies the real party in interest as Concur Technologies, Inc. Appeal Brief 2, filed April 17, 2019 (Appeal Br.).

BACKGROUND

This patent application concerns “ancillary travel vendor fee expense management.” Specification, Abstract, filed May 4, 2010 (Spec.). Claim 1 illustrates the claimed subject matter:

1. A computer-implemented method of ancillary travel fee expense management comprising:

receiving, by at least one expense management application in communication with at least one database connected to at least one processor comprising at least one circuit, travel expense transaction data for at least one expense incurred from at least one main travel provider comprising: at least one airline, at least one rental car agency, or at least one hotel, or any combination thereof;

generating, by the at least one expense management application, at least one travel expense transaction record, wherein the at least one travel expense transaction record comprises the travel expense transaction data, wherein the travel expense transaction data comprises at least two of: credit card data, transaction data obtained directly from at least one travel vendor, receipts obtained directly from at least one travel vendor, data manually entered into at least one expense reporting application, transaction data obtained from at least one travel agency, and transaction data obtained from at least one airline transaction settlement organization;

storing the at least one expense transaction record in at least one expense transaction database;

analyzing, by at least one ancillary fee module, the at least one expense transaction record to determine when the at least one expense transaction is for at least one fee for at least one travel event ancillary good or service and when the at least one expense transaction matches at least one travel event main purchase, wherein the at least one ancillary good or service is offered by at least one third party who is not the main travel provider, and wherein: the at least one main purchase comprises: at least one plane ticket, at least one rental car, or at least one hotel room, or

any combination thereof; and the at least one ancillary good or service comprises: at least one good or service other than at least one plane ticket, rental car, or hotel room, or any combination thereof;

adding the at least one expense transaction record to at least one expense report; and

indicating on the expense report that the at least one travel event main purchase is coded with a first code for at least one plane ticket, at least one rental car, or at least one hotel room and the at least one expense transaction for the at least one fee for at least one ancillary good or service offered by the at least one third party is coded with a second code that indicates the at least one fee for at least one ancillary good or service is an ancillary fee, and a third code that indicates the at least one fee for at least one ancillary good or service matches the at least one fee for the at least one travel event main purchase from the at least one main travel provider.

Appeal Br. 12–13.

REJECTIONS²

Claims	35 U.S.C. §	References/Basis
1, 3–40	101	Eligibility
1–4, 6, 8–13, 16–20, 23–25, 27–31, 34, 37–39 ³	103(a)	Wofford, ⁴ Fredericks, ⁵ Vance ⁶
5	103(a)	Wofford, Fredericks, Vance, Dufour ⁷

² The Examiner withdrew a rejection of claims 1 and 3–40 under § 112. Examiner’s Answer 3, mailed August 23, 2019.

³ Although the heading of this rejection does not include claims 2 and 39, the accompanying analysis makes clear that claims 2 and 39 stand rejected on this ground. *See* Final Office Action 6–12, mailed November 29, 2018.

⁴ Wofford et al. (US 2008/0319808 A1; December 25, 2008).

⁵ Fredericks et al. (US 2004/0167808 A1; August 26, 2004).

⁶ Vance et al. (US 6,442,526 B1; August 27, 2002).

⁷ Dufour (US 2010/0228628 A1; September 9, 2010).

Claims	35 U.S.C. §	References/Basis
7, 21, 26, 35	103(a)	Wofford, Fredericks, Vance, Keeling ⁸
14, 32	103(a)	Wofford, Fredericks, Vance, Scanlan ⁹
15, 22, 33, 36	103(a)	Wofford, Fredericks, Vance, Official Notice

DISCUSSION

We have reviewed the Examiner’s rejections and Appellant’s arguments, and Appellant has not persuaded us that the Examiner erred in rejecting claims 1 and 3–40 under § 101. For this rejection, as consistent with the discussion below, we adopt the Examiner’s reasoning, findings, and conclusions on pages 2–5 of the Final Office Action mailed November 29, 2018 (Final Act.), and pages 6–8 of the Examiner’s Answer mailed August 23, 2019 (Ans.). But Appellant has persuaded us that the Examiner erred in rejecting claims 1 and 3–39 under § 103. We address these rejections in turn.

Section 101 Rejection

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)).

⁸ Keeling et al. (US 2005/0165680 A1; July 28, 2005).

⁹ Scanlan et al. (US 2006/0247993 A1; November 2, 2006).

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 [the] 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 claim 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 revised its guidance about this framework. *See* 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Revised Guidance”). Under the Revised Guidance, to decide whether a claim is directed to an abstract idea, we evaluate whether the claim (1) recites subject matter that falls within one of the abstract idea groupings listed in the Revised Guidance and (2) fails to integrate the recited abstract idea into a practical application. *See* Revised Guidance, 84 Fed. Reg. at 51, 54; *see also* USPTO, October 2019 Update: Subject Matter Eligibility at 1–2, 10–15, https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf (“October SME Update”) (providing additional guidance on determining whether a claim recites a judicial exception and integrates a judicial exception into a practical application). If the claim is directed to an abstract idea, as noted above, we then determine

whether the claim has an inventive concept. The Revised 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, specified at a high level of generality.” Revised Guidance, 84 Fed. Reg. at 56.

With these principles in mind, we turn to the § 101 rejection. Appellant argues claims 1 and 3–40 together, so as permitted by 37 C.F.R. § 41.37(c)(1)(iv), we decide the appeal for this ground of rejection based on claim 1.

Directed To

The Revised Guidance explains that the abstract idea exception includes “mental processes,” that is, acts that people can perform in their minds or using pen and paper. Revised Guidance, 84 Fed. Reg. at 52 & nn.14–15. The Revised Guidance explains that the abstract idea exception also includes “certain methods of organizing human activity” such as (1) fundamental economic principles or practices, (2) commercial or legal interactions, and (3) managing personal behavior or relationships or interactions between people. Revised Guidance, 84 Fed. Reg. at 52. The Examiner determined that claim 1 recites subject matter that falls within these abstract idea categories. *See* Final Act. 4; Ans. 6–7.

We agree. Claim 1 recites “[a] computer-implemented method of ancillary travel fee expense management” that includes a series of broadly worded, result-oriented steps. *See* Appeal Br. 12–13. The recited receiving, generating, storing, analyzing, adding, and indicating steps recite what the

method does but do not meaningfully limit how the method does it. *See* Appeal Br. 12–13. We thus see no meaningful difference between claim 1 and other broadly worded claims that courts have determined are directed to mental processes. *See, e.g., Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1146–52 (Fed. Cir. 2016); *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–56 (Fed. Cir. 2016); *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1316–19 (Fed. Cir. 2016); *In re BRCA1- & BRCA2-Based Hereditary Cancer Test Patent Litig.*, 774 F.3d 755, 761–65 (Fed. Cir. 2014); *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370–77 (Fed. Cir. 2011). Like the patent-ineligible claims in these decisions, claim 1 is so broadly worded that it encompasses acts that people can perform in their minds or using pen and paper. We thus agree with the Examiner that claim 1 recites mental processes.

Appellant asserts that claim 1 does not recite mental processes because the “generation of the codes for the expense transaction method are not performed in the human mind.” Appeal Br. 9. But claim 1 does not limit who or what generates and uses these codes, nor does the claim specify how the method generates the codes. *See* Appeal Br. 12–13. Given the expansive wording of the claim, the claim encompasses people mentally determining the codes and writing them on an expense report. Mentally determining information and writing it down fall within the mental processes category of abstract ideas. *See, e.g., CyberSource*, 654 F.3d at 1372 (determining that “unpatentable mental processes are the subject matter of” a claim when the claim’s “method steps can be performed in the human mind, or by a human using a pen and paper”); October SME Update at 9 (explaining that “[t]he use of a physical aid (i.e., the pen and paper) to help perform a mental step

. . . does not negate the mental nature of this limitation”). We thus find this argument unpersuasive.

In any event, we also agree that claim 1 recites certain methods of organizing human activity. Claim 1 recites a method that identifies, matches, and codes travel expenses on an expense report. *See* Appeal Br. 12–13. This type of expense categorization is a commercial practice that is similar to other practices that courts have determined are directed to abstract ideas. *See, e.g., Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1054–56 (Fed. Cir. 2017) (processing an application for financing a purchase); *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1313–16 (Fed. Cir. 2016) (filtering files or emails); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1367–69 (Fed. Cir. 2015) (*Capital One Bank*) (tracking financial transactions to determine whether they exceed a pre-set spending limit); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1347–49 (Fed. Cir. 2014) (collecting data, recognizing certain data within the collected data set, and storing that recognized data in a memory); *see also* October SME Update at 4–6 (providing examples of fundamental economic practices or principles and commercial or legal interactions that fall within the certain methods of organizing human activity category of abstract ideas). We thus agree with the Examiner that claim 1 recites certain methods of organizing human activity.

Appellant asserts that claim 1 does not recite certain methods of organizing human activity, but does not explain why that is so. *See* Appeal Br. 9. Appellant’s conclusory argument does not persuade us that the Examiner erred.

Because we determine that claim 1 recites abstract ideas, we next consider whether claim 1 integrates the abstract ideas into a practical application. *See Revised Guidance*, 84 Fed. Reg. at 51. In doing so, we evaluate the claim as a whole to determine whether the claim “integrate[s] the [abstract ideas] into a practical application, using one or more of the considerations laid out by the Supreme Court and the Federal Circuit.” *Revised Guidance*, 84 Fed. Reg. at 55; *see also* October SME Update at 12 (discussing the practical application analysis). That is, we consider any additional elements recited in the claim along with the limitations that recite an abstract idea to determine whether the claim integrates the abstract idea into a practical application. *See* October SME Update at 12.

The Examiner determined that the additional elements recited in claim 1 include an “application, modules, circuit, database[,] and [a] processor” that “are recited at a high[]level of generality.” Ans. 7. The Examiner determined that claim 1 does not integrate the recited abstract ideas into a practical application because, among other things, the claim amounts to “mere instructions to apply the exception using . . . generic computer component[s]” and “[g]enerally linking the use of the judicial exception to a particular technological environment or field of use.” Ans. 7.

We agree. The additional elements recited in claim 1 include “at least one expense management application,” “at least one database connected to at least one processor comprising at least one circuit,” and “at least one ancillary fee module.” Appeal Br. 12–13. The written description describes these components in largely functional terms and provides few technical details about these components. *See, e.g.*, Spec. 6–9, 22–30, Figs. 1, 2. This description shows that these elements encompass generic computer

components. *See, e.g., Intellectual Ventures I LLC v. Erie Indem. Co.*, 850 F.3d 1315, 1331 (Fed. Cir. 2017) (“The claimed mobile interface is so lacking in implementation details that it amounts to merely a generic component (software, hardware, or firmware) that permits the performance of the abstract idea, i.e., to retrieve the user-specific resources.”).

The claimed method uses these generic computer components as tools to implement the recited abstract ideas. *See* Appeal Br. 12–13. We therefore agree with the Examiner that when these additional elements are considered along with the limitations that recite an abstract idea, the claimed method does not integrate the recited abstract ideas into a practical application. *See, e.g., Alice*, 573 U.S. at 223–24 (“[W]holly generic computer implementation is not generally the sort of ‘additional featur[e]’ that provides any ‘practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.’” (second and third alterations in original) (quoting *Mayo*, 566 U.S. at 77)); *Capital One Bank*, 792 F.3d at 1370 (“Steps that do nothing more than spell out what it means to ‘apply it on a computer’ cannot confer patent-eligibility.”). Because claim 1 recites abstract ideas and does not integrate the abstract ideas into a practical application, we determine that claim 1 is directed to abstract ideas.

Appellant contends that claim 1 integrates the recited abstract ideas into a practical application because “the combination of analyzing the expense transaction and generation of the codes is a specific way to solve the problem of matching ancillary expenses to a main travel event.” Appeal Br. 10. According to Appellant, “[t]his is an additional element that is an improvement in the functioning of a computer, or an improvement to other technology, or technical field.” Appeal Br. 10. Appellant relatedly asserts

that “[t]he claimed subject matter improves the expense management application by including the three codes on the expense report.” Appeal Br. 10.

We find these arguments unpersuasive. The method recited in claim 1 at best improves the business practice of categorizing and matching certain travel expenses. This is not an improvement to computer functionality, technology, or a technical field. *Cf. Customedia Techs., LLC v. Dish Network Corp.*, 951 F.3d 1359, 1365 (Fed. Cir. 2020) (determining that “the claimed invention is at most an improvement to the abstract concept of targeted advertising wherein a computer is merely used as a tool. This is not an improvement in the functioning of the computer itself.”) *Trading Techs. Int’l, Inc. v. IBG LLC*, 921 F.3d 1084, 1093 (Fed. Cir. 2019) (“The claims of the ’999 patent do not improve the functioning of the computer, make it operate more efficiently, or solve any technological problem. Instead, they recite a purportedly new arrangement of generic information that assists traders in processing information more quickly.”). As discussed above, the claimed method simply uses generic computer components to execute abstract ideas.

Inventive Concept

Finally, we consider whether claim 1 has an inventive concept, that is, whether the claim has 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, 79). This requires us to evaluate 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, specified at a high level of generality.”
Revised Guidance, 84 Fed. Reg. at 56.

The Examiner determined that the additional elements recited in claim 1 are described “at a high level of generality and in a manner that indicates that the additional elements are sufficiently well-known that the specification does not need to describe the particulars of such additional elements to satisfy the statutory disclosure requirements.” Ans. 8.

Appellant does not explicitly challenge these determinations, and the record adequately supports them. As noted above, the additional elements recited in claim 1 include “at least one expense management application,” “at least one database connected to at least one processor comprising at least one circuit,” and “at least one ancillary fee module.” Appeal Br. 12–13. As also noted above, the written description provides few technical details about these elements. *See, e.g.*, Spec. 6–9, 22–30, Figs. 1, 2. This lack of technical details shows that these elements encompass well-understood, routine, and conventional computer components. *See, e.g., Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1384 (Fed. Cir. 1986) (“[A] patent need not teach, and preferably omits, what is well known in the art.”); USPTO, Memorandum on Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*) at 3 (Apr. 19, 2018), available at <https://www.uspto.gov/sites/default/files/documents/memo-berkheimer-20180419.PDF> (explaining that a specification that describes additional elements “in a manner that indicates that the additional elements are sufficiently well-known that the specification does not need to describe the particulars of such additional

elements to satisfy 35 U.S.C. § 112(a)” can show that the elements are well understood, routine, and conventional).

Whether we consider the additional elements individually or in combination, the additional elements do not provide an inventive concept. Claim 1 recites these elements at a high level of generality, and there is no indication that these elements override the conventional use of known features or involve an unconventional arrangement or combination of elements. At bottom, claim 1 recites a method that employs conventional computer components to perform the recited abstract ideas, which is not enough to provide an inventive concept. *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.”); *Customedia Techs.*, 951 F.3d at 1366 (“[T]he invocation of ‘already-available computers that are not themselves plausibly asserted to be an advance . . . amounts to a recitation of what is well-understood, routine, and conventional.’” (quoting *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1170 (Fed. Cir. 2018))).

Summary

We have considered Appellant’s remaining arguments and find them unpersuasive. For at least the reasons discussed above, we agree with the Examiner that claim 1 is directed to abstract ideas and lacks an inventive concept. We thus sustain the Examiner’s rejection of claim 1 under § 101.

Section 103 Rejection

Claim 1 recites

indicating on the expense report that the at least one travel event main purchase is coded with . . . a third code that indicates the at least one fee for at least one ancillary good or service

matches the at least one fee for the at least one travel event main purchase from the at least one main travel provider.

Appeal Br. 13. Appellant argues that the Examiner has not shown that the combination of Wofford, Fredericks, and Vance teaches or suggests this limitation. *See* Appeal Br. 7–9; Reply Br. 2–3. In particular, Appellant asserts that this combination of references does not teach the recited “third code.” *See* Appeal Br. 7–9; Reply Br. 2–3. According to Appellant, these references teach matching data generally but do not teach matching a fee for ancillary good or service to a fee for a travel event main purchase, much less applying a code to the matched data. *See* Appeal Br. 7–9; Reply Br. 2–3.

We agree with Appellant. The Examiner found that Wofford and Vance each teach the recited matching. *See* Final Act. 7, 9; Ans. 5–6. Although the references mention matching data, the cited parts of Wofford and Vance do not teach or suggest specifically matching the data recited in the disputed limitation, let alone applying a code to the matched data. We thus do not sustain the Examiner’s rejections of claim 1 and its dependent claims. Because the Examiner’s rejection of independent claim 16 suffers from similar flaws, we also do not sustain the Examiner’s rejections of claim 16 and its dependent claims.

CONCLUSION

The following table summarizes our decision for claims 1 and 3–40, the claims before us on appeal:

Claims Rejected	35 U.S.C. §	References/Basis	Affirmed	Reversed
1, 3–40	101	Eligibility	1, 3–40	
1–4, 6, 8–13, 16–20, 23–25, 27–31, 34, 37–39	103(a)	Wofford, Fredericks, Vance		1–4, 6, 8–13, 16–20, 23–25, 27–31, 34, 37–39
5	103(a)	Wofford, Fredericks, Vance, Dufour		5
7, 21, 26, 35	103(a)	Wofford, Fredericks, Vance, Keeling		7, 21, 26, 35
14, 32	103(a)	Wofford, Fredericks, Vance, Scanlan		14, 32
15, 22, 33, 36	103(a)	Wofford, Fredericks, Vance, Official Notice		15, 22, 33, 36
Overall Outcome			1, 3–40	

Because we affirm at least one ground of rejection for each claim on appeal, we affirm the Examiner’s decision. No 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