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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DANIEL T. HEINZE, PETER FELLER, and MARK L. MORSCH

Appeal 2017-003187
Application 14/271,719¹
Technology Center 3600

Before HUBERT C. LORIN, NINA L. MEDLOCK, and
BRADLEY B. BAYAT, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Daniel T. Heinze et al. (“Appellants”) seek our review under 35 U.S.C. § 134 from the rejection of claims 37–41, 43, 44, and 52–58. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We REVERSE.

¹ The Appellants identify A-Life Medical, LLC as the real party in interest. Appeal Br. 3.

THE INVENTION

The invention “relates to techniques for scoring or otherwise evaluating coded medical documents (where ‘coding’ refers to the process of identifying document contents, including medical findings, diagnoses and procedures, using a set of alpha-numeric medical codes) to assess a quality of a process used to code the documents.” Spec. 1.

Claim 37 is representative, and is reproduced below with bracketed matter added:

37. A method of evaluating coded medical documents performed by a computer, the method comprising:
- [1] providing, by a computer, a graphical user interface (GUI) wizard;
 - [2] receiving, by the computer via the GUI wizard, audit parameters for selecting a document universe and for calculating a sample size;
 - [3] calculating, by the computer, a sample size using the received audit parameters;
 - [4] selecting, by the computer, a document universe based on the received audit parameters;
 - [5] providing, by the computer via the GUI wizard, a plurality of medical documents coded by a coder and selected using the selected document universe and the calculated sample size;
 - [6] receiving, by the computer via the GUI wizard, a plurality of corrections by an auditor to the plurality of medical documents;
 - [7] recording, by the computer, the plurality of corrections to the coded medical documents to form a plurality of audited medical documents;
 - [8] determining, by the computer, a document score for each of the plurality of audited medical documents, each document score based on one or more document corrections provided by the auditor and weighted factors, wherein the weighted factors comprise predefined weights assigned to diagnosis codes and

finding codes of each of the plurality of audited medical documents;

[9] determining, by the computer, a sample score for the plurality of audited medical documents based on the determined document scores;

[10] determining, by the computer, the acceptability of the sample score by periodically performing an empirical test to compare the sample score to system control limits; and

[11] displaying, by the computer via the GUI, an X-bar chart analysis comprising the sample score, an upper control limit, a lower control limit, and a previously determined sample score of audited medical documents coded by the coder.

App. Br. 18 (Claims Appendix).

THE REJECTION

The following rejection is before us for review:

Claims 37–41, 43, 44, and 52–58 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

ANALYSIS

The rejection of claims 37–41, 43, 44, and 52–58 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

All the claims on appeal are rejected. Final Act. 2–11; Ans. 2–14. The Appellants argue that the claims are directed to patent eligible subject matter. Appeal Br. 6–16; Reply Br. 2–7.

Alice Corp. Pty. Ltd. v. CLS Bank International, 134 S. Ct. 2347 (2014) identifies a two-step framework for determining whether claimed subject matter is judicially-excepted from patent eligibility under § 101.

According to *Alice* step one, “[w]e must first determine whether the

claims at issue are *directed to* a patent-ineligible concept,” such as an abstract idea. *Alice*, 134 S. Ct. at 2355 (emphasis added).

This patent-eligibility question implicates the “directed to” inquiry of the *Alice* step one determination.

The “directed to” inquiry[] . . . cannot simply ask whether the claims *involve* a patent-ineligible concept, because essentially every routinely patent-eligible claim involving physical products and actions *involves* a law of nature and/or natural phenomenon—after all, they take place in the physical world. *See Mayo*, [566 U.S. at 71] (“For all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.”) Rather, the “directed to” inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether “their character as a whole is directed to excluded subject matter.” *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015); *see Genetic Techs. Ltd. v. Merial L.L.C.*, 818 F.3d 1369, 1375, 2016 WL 1393573, at *5 (Fed. Cir. 2016) (inquiring into “the focus of the claimed advance over the prior art”).

Enfish, LLC v. Microsoft Corp., 822 F.3d 1327, 1335 (Fed. Cir. 2016).

In addressing computer-implemented patents, the *TLI* court contrasted claims that are directed to an improvement in the functioning of a computer with claims that “simply add[] conventional computer components to well-known business practices” or consist only of “generalized steps to be performed on a computer using conventional computer activity.” *Id.* at 612.

Affinity Labs of Tex., LLC v. DIRECTV, LLC, 838 F.3d 1253, 1260–61 (Fed. Cir. 2016). The question is “whether the focus of the claims is on [a] specific asserted improvement in computer capabilities . . . or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Enfish*, 822 F.3d at 1335–36. Claims are not directed to

an abstract idea if the “plain focus of the claims” is on “an improvement to computer functionality itself, [rather than] on economic or other tasks for which a computer is used in its ordinary capacity.” *Id.* at 1336.

The Examiner determined that the claims are directed to the abstract idea of “determining the acceptability of a determined sample score that is based on determined document scores of audited medical documents.” Final Act. 2. According to the Examiner:

The abstract idea (1) at least correlates to the court identified abstract idea of (A) using categories to organize (e.g., selecting document universe based on audit parameters, recording corrections, and determining acceptability of a sample score), store (e.g., receiving and recording corrections), and transmit information (e.g., receiving data and displaying an X-bar chart), and/or the court identified abstract idea of (B) comparing new and stored information (e.g., calculating a sample size using received audit parameters, determining scores based on received corrections and weighted factors, and determining acceptability by comparing the sample score to control limits) and using rules to identify options (e.g., determining the acceptability of the sample score and the X-bar chart comparing the sample score to control limits).

Id. at 2–3.

The Appellants contend that the Examiner erred and that claim 37 is not directed to an abstract idea. Appeal Br. 6–16. According to the Appellants, “the independent claims recite, among other things, exact features of the user interface (e.g., the GUI wizard and/or the X-bar chart analysis)” and, thus, “define a specific user experience on a particular computer” (*id.* at 15). *See also* Reply Br. 3.

“In determining the eligibility of respondents’ claimed process for patent protection under § 101, their claims must be considered as a whole.”

Diamond v. Diehr, 450 U.S. 175, 188 (1981). The question is whether the claims as a whole “focus on a specific means or method that improves the relevant technology” or are “directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.” *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016).

In this case, we find that claim 37, as a whole, is focused, at least in part, on an improved “graphical user interface (GUI) wizard.” Independent claim 37 requires at least four steps performed by the GUI wizard. Specifically, claim 37 calls for, *inter alia*, “[2] receiving, by the computer via the GUI wizard, audit parameters for selecting a document universe and for calculating a sample size,” “[5] providing, by the computer via the GUI wizard, a plurality of medical documents coded by a coder and selected using the selected document universe and the calculated sample size,” “[6] receiving, by the computer via the GUI wizard, a plurality of corrections by an auditor to the plurality of medical documents,” and “[11] displaying, by the computer via the GUI, an X-bar chart analysis comprising the sample score, an upper control limit, a lower control limit, and a previously determined sample score of audited medical documents coded by the coder.” Appeal Br. 18 (Claims Appendix).

The claimed steps performed by the GUI wizard are described in detail in the Specification as implementing assertedly inventive features of the invention. *See, e.g.*, Spec. 8 (“The client GUI allows the auditor to make corrections to each coded document and automatically record the corrections and their types for calculating document and sample scores at 210. In addition, multiple documents within the sample audit batch can be viewed

and compared together using mechanisms such as the GUI.”); Spec. 17–21; Figs. 5A–5K.

We cannot agree with the Examiner that the combination of steps performed by the GUI wizard of claim 37 amounts to no more than generic steps of “providing an interface” and “displaying data.” Final Act. 3. *Cf. Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1362 (Fed. Cir. 2018) (holding that the “claims in this case are directed to an improved user interface for computing devices” because “[a]lthough the generic idea of summarizing information certainly existed prior to the invention, these claims are directed to a particular manner of summarizing and presenting information in electronic devices.”). Therefore, we cannot agree with the Examiner’s conclusion that claim 37, as a whole, is “directed to” an abstract idea.

Having made this threshold determination under step one of the *Alice* framework, we need not move to the second step.

Accordingly, the rejection of claim 37, and its dependent claims 38–41, 43, and 44, is not sustained.

Independent claim 52 contains similar limitations as claim 37, and the rejection of claim 52 and its dependent claims 53–58 is not sustained for the same reasons.

CONCLUSION

The Appellants have shown that the Examiner erred in rejecting claims 37–41, 43, 44, and 52–58 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Appeal 2017-003187
Application 14/271,719

DECISION

The decision of the Examiner to reject claims 37–41, 43, 44, and 52–58 is reversed.

REVERSED