

B. REMARKS

The Examiner is thanked for the performance of a thorough search. No claims are added or canceled in this reply. Hence, Claims 1-8, 10-18, and 20-22 are pending in this application. The amendments to the claims do not add any new matter to this application. All issues raised in the Office Action mailed November 20, 2018 are addressed hereinafter. Reconsideration is respectfully requested in view of the amendments and remarks provided herein.

REJECTION OF CLAIMS 1-22 UNDER 35 U.S.C. § 101

Claims 1-8, 10-18, and 20-22 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The stated basis for this rejection is that the claims are directed to an abstract idea and that the additional limitations beyond the abstract idea do not amount to “significantly more.” Since the mailing date of the Office Action, the USPTO has issued 2019 Revised Patent Subject Matter Eligibility Guidance, effective January 7, 2019 (hereinafter “the 2019 Guidance”). This response is therefore based upon the framework set forth in the 2019 Guidance and Applicant respectfully submits that a) Claims 1-8, 10-18, and 20-22 are not directed to an abstract idea; and b) even if Claims 1-8, 10-18, and 20-22 were directed to an abstract idea, that the additional limitations beyond the abstract idea amount to “significantly more.”

A. Revised Step 2A – Prong One

Under the 2019 Guidance, Step 2A of Alice/Mayo test is now a two-prong inquiry. In Prong One, two steps are performed to determine whether a claim recites an abstract idea: (a) identify specific claim limitations that are believed to be directed to an abstract idea; and (b) determine whether the identified limitations fall within the three subject matter groupings specified in the 2019 Guidance. The three groupings are a) mathematical concepts, b) certain methods of organizing human activity, and c) mental processes.

It is respectfully submitted that the claim limitations do not fall within the first grouping of a) mathematical concepts because the 2019 Guidance states that this grouping includes “mathematical relationships, mathematical formulas or equations, mathematical calculations” and the claims do not recite any mathematical relationships, mathematical formulas or equations, or mathematical calculations.

It is respectfully submitted that the claim limitations do not fall within the third grouping of c) mental processes because the 2019 Guidance states that this grouping includes “concepts performed in the human mind” and the claims require steps that cannot be performed in the human mind. These include, for example, “the distribution server, assigning the available virtual receptionist application to a customer service session with the cabinet application executing on computing device and providing the CID of the cabinet application executing on a computing device to the assigned virtual receptionist application” and “the distribution server instructing the assigned virtual receptionist application to initiate a video conferencing session between the cabinet application executing on the computing device and the assigned virtual receptionist using a video conferencing server that is separate from the distribution server and the computing device.”

These claim limitations also do not fall within the second grouping of b) certain methods of organizing human activity because the 2019 Guidance states that this grouping includes “fundamental economic principles or practices (including hedging, insurance, mitigation risk); commercial or legal interactions (including agreements in the form of contracts, legal obligations, advertising, 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),” and the claims do not recite any of these principles or practices.

B. Revised Step 2A – Prong Two

In Prong Two, a determination is made whether the claim as a whole integrates the recited judicial exception into a practical application of the exception. If so, then the claim is not directed to the judicial exception. If not, then the claim is directed to the judicial exception and requires further analysis under Step 2B.

The 2019 Guidance sets forth the test as follows: “[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.” The 2019 Guidance instructs examiners to evaluate whether a claim integrates a judicial exception into a practical application by: (a) identifying whether there are any additional elements recited in the claim

beyond the judicial exception(s); and (b) evaluating those additional elements individually and in combination to determine whether they integrate the exception into a practical application. The 2019 Guidance provides example considerations that indicate that an additional element (or combination of elements) may have integrated the exception into a practical application:

i. an additional element reflects an improvement in the functioning of a computer, or an improvement to other technology or technical field;

ii. an additional element that applies or uses a judicial exception to effect a particular treatment or prophylaxis for a disease or medical condition;

iii. an additional element implements a judicial exception with, or uses a judicial exception in conjunction with, a particular machine or manufacture that is integral to the claims;

iv. an additional element effects a transformation or reduction of a particular article to a different state or thing; and

v. an additional element applies or uses the judicial exception in some other 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.

It is respectfully submitted that to the extent that the claims are directed to a judicial exception, the claims as a whole integrate the recited judicial exception into a practical application of the exception at least because of consideration v. above. The claims apply the abstract idea of “customer service at a call center” in a meaningful way beyond generally linking the use of the judicial exception to a particular technological environment because the claims recite a specific application of the abstract idea in the context of a distribution server assigning a virtual receptionist application to a customer service session and causing the customer service session to be instantiated by the virtual receptionist application using a video conferencing server. In addition, the claims as a whole are more than a drafting effort designed to monopolize the exception because there are an infinite number of implementations of the abstract idea of “customer service at a call center” that do not include the limitations of the claims. For at least these reasons, it is respectfully submitted that the claims integrate the abstract idea of “customer service at a call center” into a practical application of the abstract idea and therefore are not directed to the abstract idea and qualify as proper statutory subject matter under 35 U.S.C. § 101.

C. Step 2B - the claims provide an inventive concept

According to the 2019 Guidance, even if a claim is determined to be directed to a judicial exception under revised Step 2A, the claim is nonetheless eligible if the additional elements provide an inventive concept by amounting to significantly more than the exception itself. The inquiry includes determining whether an additional element, or combination of elements:

adds a specific limitation or combination of limitations that are not well-understood, routine, conventional activity in the field, which is indicative that an inventive concept may be present, or

simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception, which is indicative that an inventive concept may not be present.

As set forth in the USPTO's April 19, 2018 Memorandum pertaining to "Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*)," (hereinafter "the April 19th Memorandum"), "an examiner should conclude that an element (or combination of elements) represents well-understood, routine, conventional activity **only** when the examiner can readily conclude that the element(s) is widely prevalent or in common use in the relevant industry."

It is respectfully submitted that at least the claimed features "the distribution server instructing the assigned virtual receptionist application to initiate a video conferencing session between the cabinet application executing on the computing device and the assigned virtual receptionist using a video conferencing server that is separate from the distribution server and the computing device" constitute additional elements beyond the abstract idea of "customer service at a call center" because they recite a particular way to instantiate a customer service session and the additional elements do not merely limit, and are outside the abstract idea of "customer service at a call center."

In addition, these additional elements are "other than what is well-understood, routine and conventional in the field" at least because: 1) there are no express statements in the specification, or made by the Applicant during prosecution, that demonstrate the well-understood, routine, conventional nature of these additional elements; 2) there are no court

decisions discussed in MPEP § 2106.05(d)(II) noting the well-understood, routine, conventional nature of the additional elements; 3) there are no known publications that demonstrate the well-understood, routine, conventional nature of the additional elements, and in particular, that these additional elements are “widely prevalent or in common use in the relevant field, comparable to the types of activity or elements that are so well-known that they do not need to be described in detail in a patent application to satisfy 35 U.S.C. § 112(a)” in accordance with the April 19th Memorandum; and 4) no official notice has been taken of the well-understood, routine, conventional nature of the additional elements.

It is therefore respectfully submitted that the aforementioned additional elements recited in the claims of the present application constitute “[a]dding a specific limitation other than what is well-understood, routine and conventional in the field” and amount to “significantly more” than the abstract idea of “customer service at a call center.”

In view of the foregoing, it is respectfully submitted that Claims 1-8, 10-18, and 20-22 are directed to statutory subject matter under 35 U.S.C. § 101. Accordingly, reconsideration and withdrawal of the rejection of Claims 1-8, 10-18, and 20-22 under 35 U.S.C. § 101 as being directed to non-statutory subject matter is respectfully requested.

REJECTION OF CLAIMS 1-3, 5-8, 10-13, 15-18, and 20-22 UNDER 35 U.S.C. § 102(a)(1)/(a)(2)

Claims 1-3, 5-8, 10-13, 15-18, and 20-22 are rejected under 35 U.S.C. § 102(a) as being anticipated by *Shafiee et al.*, U.S. Patent No. 6,771,766 (hereinafter “*Shafiee*”). It is respectfully submitted that Claims 1-3, 5-8, 10-13, 15-18, and 20-22 are patentable over *Shafiee* for at least the reasons provided hereinafter.

CLAIM 1

“A method providing an improvement in customer service sessions implemented over computer networks, the method comprising:
a distribution server, receiving via one or more computer networks from a cabinet application executing on a computing device, a request to initiate a customer service interaction, the request including a computer identifier (CID) of the cabinet application executing on the computing device;
the distribution server, selecting an available virtual receptionist application from a plurality of virtual receptionist applications executing on one or more computing

devices to provide virtual receptionist services to the cabinet application executing on the computing device;
the distribution server, assigning the available virtual receptionist application to a customer service session with the cabinet application executing on a computing device and providing the CID of the cabinet application executing on the computing device to the assigned virtual receptionist application;
the distribution server instructing the cabinet application executing on the computing device to instruct a video conferencing server, that is separate from the distribution server and the computing device, to initiate a video conferencing session between the cabinet application executing on the computing device and the assigned virtual receptionist application;
the distribution server initiating a customer service session between the assigned virtual receptionist application and the cabinet application, wherein the video conferencing session and the customer service session run concurrently;
wherein the method is performed using one or more processors.”

As is well understood, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) MPEP § 2131. Furthermore, “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). It is respectfully submitted that Claim 1 recites at least several features that are not in any way taught or suggested by *Shafiee* and that Claim 1 is patentable over *Shafiee*.

For example, it is respectfully submitted that the Claim 1 feature “the distribution server instructing the cabinet application executing on the computing device to instruct a video conferencing server, that is separate from the distribution server and the computing device, to initiate a video conferencing session between the cabinet application executing on the computing device and the assigned virtual receptionist application” is not taught or suggested by *Shafiee*.

In *Shafiee*, the Web request processor 159 at the multimedia call center server 150 establishes video conferencing sessions. *Shafiee* at 6:22-26 states, “The web request processor 159 may be used to facilitate the establishment of an audio and/or video conference (or some other type of communications, such as text messages for example) over the network 170.” *Shafiee* at 7:58-59 states, “If so, the web request processor 159 is notified.” *Shafiee* at 8:28-32 states, “If, on the other hand, the needed software is available, it is loaded as shown in steps 472 and 473 and the method 110` may submit a request to the web processor 159 to establish a call as shown in step 475.”

The system of *Shafiee* may alternatively have the agent station 130 establish a video conferencing session directly with the customer terminal 110. *Shafiee* at 15:32-37 states, “If, on the other hand, a call request has been received, then the agent station 130 establishes a call with the customer terminal associated with the request as shown in step 1510. An audio/video call may be established using means compliant with the H.323 standard, for example, via NetMeeting from Microsoft Corporation.” Similarly, *Shafiee* at 18:13-17 states, “In response to the call request communication 1664, the available agent station 130 may establish an audio, video, and/or other data (e.g., text message) call with the customer terminal 110.”

It is clear from these and other portions that the system of *Shafiee* uses a fundamentally different manner than Claim 1. In the first approach of *Shafiee*, the request processor 159 at the multimedia call center server 150 initiates a videoconferencing session between the customer terminal 110 and site server 120. In this approach, the videoconferencing session is invoked from the multimedia call center server 150, and the customer terminal 110 is never instructed to establish a videoconferencing session with the agent station 130.

In the second approach of *Shafiee*, the agent station 130 establishes a video conferencing session directly with the customer terminal 110, and there is no teaching or suggestion in *Shafiee* that the customer terminal 110 is instructed to establish a video conferencing session with the agent station 130 using a separate video conferencing server. For example, there is no teaching or suggestion in *Shafiee* that the site server 120 or the multimedia call center server 150 instructs the customer terminal 110 to instruct the web request processor 129 to initiate a video conferencing session.

In contrast, in Claim 1, the distribution server instructs the cabinet application executing on the computing device to instruct a video conferencing server, that is separate from the distribution server and the computing device, to initiate a video conferencing session between the cabinet application executing on the computing device and the assigned virtual receptionist application.

It is therefore respectfully submitted that the Claim 1 feature “the distribution server instructing the cabinet application executing on the computing device to instruct a video conferencing server, that is separate from the distribution server and the computing device, to initiate a video conferencing session between the cabinet application executing on the computing device and the assigned virtual receptionist application” is not taught or suggested by *Shafiee* and

that Claim 1 is therefore patentable over *Shafiee*. Claim 1 may recite other features that are also not taught or suggested by *Shafiee* but these additional features are not discussed at this time given the clear differences between Claim 1 and *Shafiee* already discussed herein.

Claims 2, 3, 5-8, and 10 all depend from Claim 1 and include all of the features of Claim 1. It is therefore respectfully submitted that Claims 2, 3, 5-8, and 10 are patentable over *Shafiee* for at least the reasons set forth herein with respect to Claim 1. Furthermore, it is respectfully submitted that Claims 2, 3, 5-8, and 10 recite additional features that independently render them patentable over *Shafiee*.

Claims 11-13, 15-18, 20 and 21, 22 recite features similar to Claims 1-3, 5-8, and 10, except in the context of apparatuses and non-transitory computer-readable media. It is therefore respectfully submitted that Claims 11-13, 15-18, 20 and 21, 22 are patentable over *Shafiee* for at least the reasons set forth herein with respect to Claims 1-3, 5-8, and 10.

In view of the foregoing, it is respectfully submitted that Claims 1-3, 5-8, 10-13, 15-18, and 20-22, recite one or more features that are not taught or suggested by *Shafiee* and that Claims 1-3, 5-8, 10-13, 15-18, and 20-22 are therefore patentable over *Shafiee*. Accordingly, reconsideration and withdrawal of the rejection of Claims 1-3, 5-8, 10-13, 15-18, and 20-22 under 35 U.S.C. § 102(a) as being anticipated by *Shafiee* is respectfully requested.

REJECTION OF CLAIMS 4 AND 14 UNDER 35 U.S.C. § 103(a)

Claims 4 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shafiee* in view of *Mottur*, U.S. Patent Publication No. 2003/0093430 (hereinafter "*Mottur*"). Claim 4 depends from Claim 1 and includes all of the features of Claim 1. As previously described herein, Claim 1 recites one or more features that are not taught or suggested by *Shafiee*. It is further respectfully submitted that these features are also not taught or suggested by *Mottur* and it is understood that *Mottur* is relied upon in the Office Action for teaching the additional features of Claim 4 and not the features of Claim 1. It is therefore respectfully submitted that Claim 4 is patentable over *Shafiee* and *Mottur*. Claims 13 and 14 recite features similar to Claim 4, except in the context of an apparatus.

In view of the foregoing, it is respectfully submitted that Claims 4 and 14 are patentable over *Shafiee* and *Mottur*. Accordingly, reconsideration and withdrawal of the rejection of

Claims 4 and 14 under 35 U.S.C. § 103(a) as being unpatentable over *Shafiee* in view of *Mottur* is respectfully requested.

CONCLUSION

It is respectfully submitted that all of the pending claims are in condition for allowance and the issuance of a notice of allowance is respectfully requested. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to charge any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302. The Examiner is invited to contact the undersigned by telephone if the Examiner believes that such contact would be helpful in furthering the prosecution of this application.

Respectfully submitted,

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