

REMARKS

Claims 1-8, 10-11, and 13-20 are the subject of the Office Action, with claims 1, 15, and 18 being presented in independent form. Claims 9 and 12 are cancelled. With this Response, Applicant has amended claims 1, 5-18, 15, and 18 to include subject matter supported by at least para. [0116]-[0117] in the Specification. New claims 21 and 22 are added, which includes inherent subject matter previously recited in claims 15 and 18, respectively. No new matter has been added. Applicant thanks Examiner for the courtesies extended during the telephone interview on July 2, 2020.

The Applicant respectfully requests the scheduling of an interview consistent with AFCP 2.0. The Examiner is invited to contact the Undersigned if any clarification of the remarks or claims is desired or if such communication could otherwise facilitate prosecution of the application.

Rejections under 35 U.S.C. § 101

Claims 1-8, 10-11, and 13-20 stand rejected under 35 U.S.C. § 101 as being directed to an abstract idea of adjustment to an insurance policy without significantly more.

Applicant respectfully traverses and requests withdrawal of this rejection. Specifically, Examiner asserts that the claims “describe an abstract idea of adjustment to an insurance policy which may correspond to Certain Methods of Organizing Human Activity as these limitations relate to fundamental economic principles (e.g., insurance).” (Final Office Action, p.3; emphasis added) In making this rejection, the Office generally follows the revised two-step analysis laid out in the USPTO “2019 Revised Patent Subject Matter Eligibility Guidance.” See Federal Register / Vol. 84, No. 4, dated January 7, 2019 (hereinafter “2019 PEG”). Applicant respectfully asserts that the presently amended claims are eligible under the 2019 PEG because the claims are not directed to an abstract idea, and the claims are directed to a technological solution to a technical problem, as explained below.

(1)

Under **Prong One** of Step 2A of the *Alice/Mayo* test, claims are evaluated to determine whether they recite limitations that fall within one of the following groupings of judicial exceptions: (a) mathematical concepts, (b) certain method of organizing human

activity, and (c) mental processes. (2019 PEG, Section III(A)(1)) Applicant respectfully contends that claim 1 as amended does not recite a patent-ineligible method of organizing human activity, inasmuch as amended claim 1 recites a process of having processor(s) to (1) transmit a warning notification to the mobile device or the onboard computer in real-time and (2) limit functionality of the mobile device or at least one component of the insured vehicle for the insured driver if the processor(s) collect telematics data and biometric data that indicate the driver being in a high risk of accident.

An October 2019 Update (hereinafter the “October Update”) to the 2019 PEG clarifies that organizing human activity “is limited to activity that falls within the enumerated sub-groupings of fundamental economic principles or practices, commercial or legal interactions, managing personal behavior, and relationships or interactions between people, and is not to be expanded beyond these enumerated sub-groupings except in rare circumstances as explained in Section III(C) of the 2019 PEG.” (Section II(B) of October Update; emphasis added).

Because the amended claim recites a process that is neither achievable by human intervention nor pertaining to economic, commercial, or legal practices, Applicant respectfully submits that reducing or eliminating distractions of a driver by (1) transmitting a warning notification to the mobile device or the onboard computer in real-time and (2) limiting functionality of the mobile device or at least one component of the insured vehicle is not an abstract idea under Prong One of Step 2A in the *Alice/Mayo* test.

(2)

Under **Prong Two** of Step 2A in the *Alice/Mayo* test, a claim is eligible for patenting if, although allegedly directed to a judicial exception, it recites additional elements that integrate the judicial exception into a practical application. (2019 PEG, Section III(A)(2)) The judicial exception is integrated into a practical application if the additional elements “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 exception.”

Even assuming, *arguendo*, amended claim 1 is directed to the judicial exception of abstract idea, amended claim 1 is patent eligible because it recites additional elements that are “unconventional or otherwise more than what is well-understood, routine, conventional activity in the field.” (2019 PEG, Section III(B)). Furthermore, Applicant respectfully asserts

that amended claim 1 includes limitations that reflect an improvement in the functioning of a vehicle system to reduce a driver's risk of accident, in which case "the claim integrates the judicial exception into a practical application and thus imposes a meaningful limit on the judicial exception" (Section III(A) of October Update).

The USPTO has provided the following analysis in Example 21, originally issued between December 16, 2014 through December 15, 2016 and included in the examples of the October Update: "However, when looking at the additional limitations as an ordered combination, the invention as a whole amounts to significantly more than simply organizing and comparing data. The claimed invention addresses the Internet-centric challenge of alerting a subscriber with time sensitive information when the subscriber's computer is offline." (Emphasis added).

Similarly, here, amended claim 1 recites meaningful limitations to address the challenge of computer-centric challenge of reducing a driver's risk of accident by analyzing the biometric data and risk aversion score and "determining ... one or more of physical, mental, or emotional conditions of the insured driver" such that when these "conditions indicate a high risk of accident for the insured driver," the processor(s) would then be "transmitting ... a warning notification to the mobile device or the onboard computer in real-time, and limiting ... functionality of the mobile device or at least one component of the insured vehicle for the insured driver." Such features are neither well-understood, routine, conventional in the field of fundamental economic practices (*e.g.*, insurance), which is the field specified in the Final Office Action, nor well-understood, routine, conventional in the field of accident risk reduction. For avoidance of doubt, Applicant respectfully disagrees with the field specified by the Patent Office.

The recited features being "unconventional or otherwise more than what is well-understood, routine, conventional activity in the field," (Section III(B) of 2019 PEG), is also clearly acknowledged by the Patent Office, as there is no 35 U.S.C. §102 or §103 rejections in the Office Action. Further, detailed computer-implemented steps (*e.g.*, analyzing the telematics data and the biometric data to "determin[e] one or more driving risk scores associated with the insured driver"; "generat[e] a risk aversion score associated with the insured driver"; and "determin[e] one or more of physical, mental, or emotional conditions of the insured driver") are recited in amended claim 1 beyond generic computer process as alleged in the Final Office Action. In fact, these steps do not amount to "mere data gathering, which is a form of insignificant extra-solution activity" (Final Office Action, p. 4) as alleged,

but actually are crucial to performing the aforementioned reduction of a driver's risk of accident, and as explained before, reflects an improvement of a vehicle system's functionality to reduce a user's risk of accident.

Therefore, the recited features of amended claim 1 meaningfully apply the abstract idea and hence integrate the abstract idea into a practical application, i.e. "the claim imposes meaningful limits on any recited judicial exception, and the claim would be eligible under the 2019 PEG at least at Step 2A Prong Two" (Section III(A) of October Update), because "the disclosure provides sufficient details such that one of ordinary skill in the art would recognize the claimed invention as providing an improvement" (Section III(B) of October Update).

In summary, amended claim 1 is directed to patent-eligible subject matter, because amended claim 1 recites features that do not fall into one of the enumerated groupings set forth in the 2019 PEG; or, because the features are integrated into a practical application with improvement to the functioning of a vehicle; or, alternatively because amended claim 1 recites additional elements that are not well-understood, routine, conventional in the field of vehicle safety and accident risk-control. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 101 rejections of amended claim 1 and its dependent claims.

Similar arguments also apply to amended claims 15 and 18 and respective dependent claims. Therefore, Applicant respectfully submits that the rejections of claims 1-8, 10-11, and 13-20 under 35 U.S.C. §101 have been overcome and should be withdrawn.

Conclusion

Applicant respectfully submits that claims 1-8, 10-11, and 13-22 are in condition for allowance. Please consider this response as a request for any necessary extensions of time. Applicant hereby authorizes the Office to charge any necessary fees to Deposit Account No. 02-0390, Faegre Drinker Biddle & Reath LLP.

Response to Final Office Action of 5/5/2020

In the event that there are any questions related to these amendments or to the application in general, the undersigned would appreciate the opportunity to address those questions directly in a telephone interview to expedite the prosecution of this application for all concerned.

Respectfully submitted,

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