UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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INTERTHINX, INC.
Petitioner[1]

v.

CORELOGIC SOLUTIONS, LLC
Patent Owner

_____

Case CBM2012-00007
Patent 5,361,201
_____

Before, MICHAEL P. TIERNEY, JONI Y. CHANG,
and BRIAN J. McNAMARA, *Administrative Patent Judges*.

McNAMARA, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 328(a) and 37 C.F.R. § 42.73

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[1] On November 12, 2013, the Board terminated Petitioner's involvement without terminating the proceeding under 37 C.F.R. § 327(a).

BACKGROUND

In its Petition for covered business method patent review of US 5,361,201 (the '201 Patent), Interthinx, Inc. ("Petitioner") asserted that claims 1, 5, 6, 9, and 10 were unpatentable under 35 U.S.C. §§ 102 and 103, and recited unpatentable subject matter under 35 U.S.C. § 101. Pet. 13-80. CoreLogic Information Solutions, LLC ("Patent Owner") later disclaimed claim 5. Prelim. Resp. 11, 13. The Board instituted a trial on January 31, 2013. Decision to Institute, Paper 16. Petitioner's involvement terminated late in this proceeding, pursuant to a settlement with the Patent Owner. Termination of Petitioner Pursuant To Settlement, Paper 47. The Board retained jurisdiction to issue this Final Written Decision. 35. U.S.C. § 317(a).

The '201 Patent, which is expired, is the subject of a jury verdict rendered on September 28, 2012, and a judgment entered in *CoreLogic Information Solutions, Inc. v. Fiserv, Inc.,* No. 2:10-CV-132-RSP (E.D. Tex. Oct. 2, 2012). Among other things, the District Court entered judgment of non-infringement in favor of Petitioner and in favor of Patent Owner, rejecting Petitioner's assertion that patent claims 1 and 10 of the '201 Patent are invalid as anticipated or obvious. Ex. 2006. Several days earlier, on September 23, 2012, the District Court denied Defendant's Motion for Summary Judgment that the Patent-In-Suit [the '201 Patent] is Invalid under 35 U.S.C. § 101. Ex. 2003. Post-trial motions filed in the District Court included Patent Owner's Motion for Judgment as a Matter of Law that Petitioner infringed the '201 Patent, Petitioner's Motion for Judgment as a Matter of Law that claims 1 and 10 of the '201 Patent are invalid under 35 U.S.C. § 102 and/or § 103, and Petitioner's Motion for Judgment as a Matter of Law that the '201 Patent is invalid under 35 U.S.C. § 101. The District Court denied all post-trial motions on September 30, 2013. Ex. 2039; Ex. 2040. On October 25,

2013, the parties moved to terminate this covered business method patent review. Paper 44. On November 12, 2013, the Board terminated Petitioner's involvement without terminating the proceeding. 37 C.F.R. § 327(a). Patent Owner presented arguments at an oral hearing conducted on December 2, 2013.

THE '201 PATENT (EXHIBIT 1001)

All of the challenged claims are drawn to "[a] computer implemented method for appraising a real estate property." Noting that traditional statistical techniques, such as multiple linear regression and logistical regression, have been tried in the past, the '201 Patent identifies uncertainty as to the optimal temporal and geographical sample size among the difficulties of applying a regression model to the appraisal problem. Ex. 1001, co1. 1, l. 56 - col. 2, l. 16. The '201 Patent addresses these problems with a model development component and a property valuation component. Ex. 1001, col. 6, ll. 4-6. Using predictive modeling techniques, such as neural networks and regression modeling, the model development component uses training data describing a number of real estate properties, characteristics, and prices to build models containing information representing learned relationships among a number of variables and to develop error models, which are typically regression models, to estimate error in predicted sales prices. Ex. 1001, col. 6, ll. 3-22. The property valuation component feeds input data describing the subject property and its geographic area to the neural network models and error models to generate price estimates, error ranges, and other codes to be output to a display device, printer, or database for future access. Ex. 1001, col. 6, ll. 23-30.

In our Decision to Institute, we adopted the constructions applied by the District Court. Paper 16 at 15-16. With the construction of the construed terms indicated by italics, claim 1 recites:

A computer implemented method (*which does not require a general purpose computer and does not exclude human interaction or input*) for appraising a real estate property, comprising the steps of:

collecting training data (*data which is available regarding real estate properties*);

developing a predictive model (*which is not limited to a neural network and does not exclude a regression model*) from the training data (*data which is available regarding real estate properties*);

storing the predictive model (*which is not limited to a neural network and does not exclude a regression model*);

obtaining individual property data for the real estate property;

developing an error model (*a model that estimates error in the predicted sales price of the subject property generated by the predictive model*) from the training data (*data which is available regarding real estate properties*);

storing the error model (*a model that estimates error in the predicted sales price of the subject property generated by the predictive model*) ; and

generating a signal indicative of an error range for the appraised value responsive to the application of the individual property data to the stored error model (*a model that estimates error in the predicted sales price of the subject property generated by the predictive model*).

Claim 6, which depends from disclaimed independent claim 5 and incorporates all the limitations of claim 5, differs from claim 1 in several ways. Claim 6 limits the training data to individual property training data describing past real estate sales which is aggregated into area training data sets describing a plurality of sales within a geographic area. The aggregating step is repeated using successively larger geographic areas until the number of sales within the geographic area over a predetermined time period exceeds a predetermined number. Another important difference between claims 1 and 6 is that claim 6 does not recite an error model.

Claim 9 differs from claim 1 by reciting the selection of a geographic area surrounding the real estate property and obtaining area data for the geographic area. Claim 9 also does not recite an error model.

Claim 10 depends from claim 9 and recites the same steps of developing an error model and generating a signal indicative of an error range that are recited in claim 1.

RES JUDICATA AND COLLATERAL ESTOPPEL

As noted above, in the co-pending litigation, the District Court denied all post-trial motions for judgment as a matter of law, and the parties subsequently settled. There has been no appeal of the District Court judgment.

Citing The Restatement of the Law Judgments 2d, Patent Owner argues that *res judicata* bars Petitioner's §101 case because the District Court entered a final summary judgment on the merits of that claim. PO Resp. 70-71. Citing the Supreme Court's decision in *Microsoft Corp. v. i4i*, 131 S.Ct. 2238, (2011) , and *Cybersource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1369 (Fed. Cir. 2011), Patent Owner argues that collateral estoppel also applies to Petitioner's challenge under 35 U.S.C. § 101 because the question is purely one of law, rather than fact, to which the clear and convincing standard is not applicable. PO Resp. 73-74. Thus, Patent Owner argues that in this case, the patent is expired and cannot be amended, the Board adopted the Court's claim construction, and that for questions of law, district courts and the Board apply the same standard. *Id.* at 74-75.

Patent Owner's underlying assumption that subject matter eligibility determinations are pure questions of law, not subject to the clear and convincing evidence standard, is not supported by the Federal Circuit. "[T]he analysis under [35 U.S.C.] § 101, while ultimately a legal determination, is rife with underlying factual issues." *Ultramercial, Inc. v. Hulu, LLC,* 722 F.3d 1335, 1339 (Fed. Cir. 2013) (*citing, e.g., CLS Bank Int'l v. Alice Corp.*, 717 F.3d 1269, 1304–05 (Fed. Cir. 2013) (en banc)) (Chief Judge Rader, and Judges Linn, Moore, and O'Malley, concluding that "any attack on an issued patent based on a challenge to the

eligibility of the subject matter must be proven by clear and convincing evidence,"
and Judges Lourie, Dyk, Prost, Reyna, and Wallach, concluding that a statutory
presumption of validity applies when § 101 is raised as a basis for invalidity in
district court proceedings.)). In denying Petitioner's motion for judgment as a
matter of law under 35 U.S.C. § 101, the District Court stated only that Petitioner
failed to show that claims 1 and 10 of the '201 Patent do not cover a "new and
useful process, machine, manufacture, or composition of matter, or any new and
useful improvement thereof." Ex. 2039, 2. The District Court's decision applied
the clear and convincing evidence standard to the facts underlying its
determination of law when denying Petitioner's motion for summary judgment and
motion for judgment as a matter of law that the claims of the '201 Patent do not
recite eligible subject matter. In contrast, the Board reviews the patentability of a
claim, rather than its validity, and applies a preponderance of the evidence standard
to the underlying factual determinations, e.g., whether the claims contain
limitations that narrow or tie them to specific applications of an otherwise abstract
concept. 35 U.S.C. § 326(e); *Ultramercial,* 722 F.3d at 1339. Because the Board
applies to the underlying facts an evidentiary standard that is different from the
standard applied by the courts, the issue decided by the Board is not identical to the
one decided or litigated in the first action and could not have been essential to the
final judgment in the first action. *See In re Freeman*, 30 F.3d, 1459, 1465 (Fed.
Cir. 1994). Petitioner did not have an opportunity to litigate the issue in the first
action. *Id.* Therefore, we conclude that Petitioner's challenge under 35 U.S.C. §
101 is not barred by *res judicata* or collateral estoppel.

In denying Petitioner's motion for judgment as a matter of law under 35
U.S.C. § 102 and/or 35 U.S.C. § 103 the Court stated only that it found substantial
evidence to support the jury's finding of validity. Ex. 2039, 2. Patent Owner

argues that collateral estoppel applies to the prior art ground of unpatentability because the issues before the District Court and the Board are identical, the issue was litigated at the District Court, the issue of whether the prior art invalidated the patent was essential to the final judgment of validity and the Petitioner had a full and fair opportunity to litigate the issue. However, the jury's finding that Petitioner had not proved invalid any claim of the '201 Patent under the clear and convincing evidence standard, is not binding on the Board, which evaluates claim patentability and applies a preponderance of the evidence standard. 35 U.S.C. 326(e); *see, In re Swanson*, 540 F.3d 1368, 1377 (Fed. Cir. 2008) (stating a court's holding that a patent is not invalid "is not binding on subsequent litigation or PTO reexaminations").

Patent Owner argues that, because the '201 Patent is expired and cannot be amended, the Board should apply the higher clear and convincing evidence standard applied by the District Court. PO Resp. 79. However, the statute does not provide an exception for expired patents. 35 U.S.C. § 326(e).

Finally, to apply issue preclusion, the party against whom the estoppel is being asserted must have been accorded a full and fair opportunity to litigate in the prior court proceeding the very issue he now seeks to relitigate. *In re Freeman*, 30 F.3d at 1467. Petitioner is no longer a party to this proceeding and Patent Owner has failed to demonstrate that the Office, which is proceeding to a final written decision under 35 U.S.C. § 327(a), had a full and fair opportunity to litigate the patentability issues in the prior court proceeding.

Therefore, we conclude that *res judicata* and collateral estoppel do not limit the Board's ability to decide the challenges at issue in this proceeding.

CLAIMS 1, 6, 9 AND 10 DO NOT RECITE PATENT ELIGIBLE SUBJECT MATTER UNDER 35 U.S.C. § 101

A persistent theme in Patent Owner's arguments is that the claims recite patentable subject matter because a computer is central to all the claims and the processes cannot be done manually. PO Resp. 59-62. The fact that a claim relies on a method that is implemented on a computer is not a per-se indicator of patentability. Rather, a challenged claim, properly construed, must incorporate enough meaningful limitations to ensure that what is claimed is more than just an abstract idea and is not a mere "drafting effort designed to monopolize [an abstract idea] itself." *Mayo Collaborative Servs. v. Prometheus Labs, Inc.*, 132 S. Ct. 1289, 1297 (2012). In order for a machine to impose a meaningful limitation on the scope of a method claim, it must play a significant part in permitting the claimed method to be performed, rather than function solely as an obvious mechanism for permitting a solution to be achieved more quickly. *SiRF Tech., Inc. v. Int'l Trade Comm'n*, 601 F.3d 1319, 1333 (Fed. Cir. 2010). Claims that recite a method of doing business on a computer, and do no more than merely recite the use of the computer for its ordinary function of performing repetitive calculations, are not patent eligible. *Bancorp Servs., L.L.C. v. Sun Life Assurance Co.*, 687 F.3d 1266, 1278-79 (Fed. Cir. 2012) (computer used for its most basic function, the performance of repetitive calculation, does not impose a meaningful claim limitation).

Patent Owner argues that under the machine or transformation test, the computer plays a necessary and vital role to the development and storage of the predictive and error models. PO Resp. 63. During the oral hearing, Patent Owner argued that the word "model" in the claims requires a specialized computer, not a mere algorithm, a mere function, or equations. Tr. 10. Patent Owner also argued that all of the claim limitations require the computer. Tr. 16. Although the preamble recites a computer implemented process, none of the claim elements,

with the possible exception of the "storing" limitations, specifically recites a relationship to the computer.

According to Patent Owner, the claims pass the Federal Circuit's "mental process test" because they recite an automated, predictive model based system for real estate appraisals using sophisticated error modeling techniques, including statistical techniques, to overcome human bias and cannot be performed entirely manually or in the human mind. *Id.* at 66-70, Tr. 19-21, 23. During the oral hearing, Patent Owner argued extensively that the claims require implementation on a computer. Tr. 15-18, 24-26. However, the claims recite collecting training data, developing the predictive model, and developing the error model in the abstract, and do not tie necessarily these steps to a computer or a particular application. Even the claim limitations that recite generating the signal responsive to application of individual property data to the model do not require any specific volume of data (as claimed, the individual property data could merely be the address of the property). For example, Dr. Lipscomb testified that claim 1 does not provide any threshold for training data. Ex. 1024, 99, 114. Dr. Lipscomb further testified that a predictive model could be developed manually using a limited number of observations. *Id.* at 101.

As previously discussed, the inquiry under § 101 requires a search for limitations in the claims that narrow or tie the claims to a specific application of an otherwise abstract concept. *Ultramercia*l, 722 F.3d at 1339. We consider the claim as a whole. *Id.* at 1344. Patent Owner argues that the claims satisfy the "abstract idea" test for patentable subject matter because, rather than being tied preemptively to a field of use, they are narrowly tied to a specific application, i.e., previously unknown computer-based modeling for real estate appraisal by developing and storing predictive and error models. PO Resp. 64-66.

A claim is not patent eligible if, instead of claiming an application of an abstract idea, the claim instead is drawn to the abstract idea itself. *Ultramercial,* 722 F.3d at 1343. Inventor, Dr. Jost considers his invention to be the process for predicting the selling price of a home (a point estimate) using statistical analysis to develop the point estimate, and a co-inventor's error model, which was also developed using statistical analysis. Ex. 1022, 72-73, 81-82. Dr. Jost's testimony is consistent with claims 1 and 10, which recite appraising real estate by developing and storing a predictive model and generating a signal indicative of the appraised (predicted) value, and developing and storing an error model and generating a signal indicative of the error range for the appraised (predicted) value.

Patent Owner's expert Dr. Lipscomb characterizes the invention as "a way to determine the sales price of a property that may not have a recent sales transaction" and that predictive models "have been around a long time." Ex. 1024, 42-43. Determining a price has been found to be abstract as a method of calculating. *See, SAP America, Inc. v. Versata Dev. Group, Inc.,* CBM2012-00001, 2013 WL 3167735, at *16 (PTAB, June 11 2013). Dr. Jost testified that it was common in statistics to provide a confidence interval around estimates. Ex. 1022, 102. The testimony of Dr. Jost and Dr. Lipscomb indicates that determining an error can be accomplished using the same well known techniques as those applied to the predictive model and that bounding a price estimate by an error range is an abstract concept. Therefore, we find the claimed development of a model to predict a value and an error model to assess the error range around the predicted value, as recited in claims 1 and 10, is an abstract concept. Similarly, claims 6 and 9 recite limitations that bound the geographic area from which data is obtained to develop the model. The limitations in claims 6 and 9 recite the abstract and well known concept of examining the geographic area around the subject

property so that relevant samples can be obtained to predict the price of the property.

A claim is not patent-eligible where it merely recites a law of nature and adds additional steps that merely reflect routine, conventional activity of those who work in the field. *Mayo*, 132 S. Ct. at 1298. As discussed above, we find that claims 1, 6, 9 and 10 recite abstract concepts and do not transform these ideas into patent eligible applications of these abstractions. Therefore, we conclude that claims 1, 6, 9 and 10 of the '201 Patent recite non-patentable subject matter.

ANALYSIS OF PRIOR ART CHALLENGES
COMPUTER-ASSISTED MASS APPRAISAL SYSTEMS

One theme underlying Patent Owner's arguments against the challenges to the claims of the '201 Patent is that the '201 Patent concerns an automated valuation model (AVM), whereas the prior art supporting the challenges concerns computer-assisted mass appraisal (CAMA) systems. PO Resp. 1-2. Patent Owner contends that the prior art stands in contrast to the claims of the '201 Patent because CAMA systems are used by tax assessors to assess all properties in a jurisdiction, while the '201 Patent describes generating a property-specific value to provide meaningful information to an underwriter. *Id.* at 2.

Although Patent Owner argues that appraising all properties in a jurisdiction is "the exact opposite of what the ['201 Patent] describes and claims," *id.*, Patent Owner admits that "CAMA systems generate a specific property value that is then used as part of the property tax assessment calculation." *Id*. at 15-16. This generation of a specific property value highlights the applicability of the CAMA references. Whether a valuation is desired for purposes of assessing taxes on many properties, making a purchase offer on a single property, or some other purpose, the objective of the '201 Patent claims and the CAMA prior art is the generation of

a specific property value. Thus, we do not agree with Patent Owner's underlying premise that the CAMA art is inapplicable to the claimed subject matter.

The Patent Owner Response also argues that there is no evidence that the references, some of which have more than one date, were publicly accessible. PO Resp. 13-14. However, Patent Owner did not move to exclude the references from this proceeding, as provided for in 37 C.F.R. § 42.64(c) and the Scheduling Order. Therefore, the Board does not exclude the CAMA evidence.

CLAIMS 1, 6, 9 AND 10 ARE ANTICIPATED BY OR OBVIOUS OVER JENSEN -1 (EXHIBIT 1014)

The Board instituted a trial based on Petitioner's challenge that Jensen-1 (Ex. 1014)[2] anticipates claims 1, 6, 9, and 10 of the '201 Patent. As construed, claims 1, 6, 9 and 10 recite developing and storing a predictive model, such as a regression model, from training data, i.e., data which is available regarding real estate properties. Claims 1 and 10 also recite developing and storing an error model, i.e., a model that estimates error in the predicted sales price of the subject property generated by the predictive model, from the same training data used to develop the predictive model. The claims recite no other limitations on the error model. Claims 1 and 10 further recite generating a signal indicative of the error range responsive to application of the individual property data to the error model. The claims do not limit how the individual property data is applied to the error model.

Patent Owner argues that Jensen-1 teaches using the training data to value all the properties and does not disclose obtaining individual property data and then valuing the individual property, as recited in all the challenged claims. PO Resp.

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[2] Jensen-1 (Ex. 1014) indicates that it was published in The Property Tax Journal in September 1987.

54-55. Patent Owner's argument is similar to its underlying theme that CAMA prior art does not apply to the claimed AVM system. As discussed above, we do not find this argument persuasive because the ultimate objective of each system is to determine a value for each individual parcel. The same sentence in Jensen-1 that refers to a model estimating the sales price of all the properties also refers to adjustments necessary to correct the actual sales prices of selected recent comparable sales for the property characteristic differences between *the subject property being valued* and each comparable sale, in order to ascertain what each comparable property would have sold for had it been identical to the subject property in a physical descriptive sense on the valuation date. Ex. 1014, p. 194. (Emphasis added). Thus, as recited in claims 1, 6, 9 and 10, Jensen-1 obtains individual property data and recognizes a relationship between individual property data and the training data.

Jensen-1 also discloses using the training data to predict the individual property value, as recited in claims 1, 6, 9 and 10. Jensen-1 discusses a model in which the value of a property is based on the land value qualified by a set of adjustments. Ex. 1014, p. 198. The adjustments reflect specific property characteristics. For example, up to a point, the value of a property can be expected to increase with increasing frontage. *Id.* Thus, specific properties with different frontage are valued differently.

Jensen-1 discloses other modeling approaches that determine various per unit rates within a market model using regression analysis, Longini and Carbone's adaptive estimation, and Carlson's iterative correlative estimation procedure. *Id.* at 200. Jensen-1's discussion of interactive correlative estimation specifically states that, within each iteration, "the model estimate and then the residual error (the actual sale price minus the model estimate) are computed on a per parcel basis."

Ex. 1014, p. 220. Thus, Jensen-1 discloses generating an appraised value responsive to the application of individual property data to the predictive error model. Jensen-1 specifically states that "[o]nce meaningful market models have been developed from the available sales, they can be used to estimate the fair market values of all of the parcels in the jurisdiction whether recently sold or not." Ex. 2014, p. 224. As discussed above, the reference to all parcels in the jurisdiction does not imply that all the parcels are evaluated the same. Jensen discloses that the market models take into account the various characteristics of each parcel and determine a value for each parcel.

Jensen-1 notes that the model estimate, i.e., the fair market value of each parcel as determined by the market models, is an abstract number and its reliability as an approximation of true market value depends on the quality of the individual estimates. Ex. 1014, p. 224. Jensen-1 specifically notes that when an actual sale price falls below the value estimate, it may or may not indicate a problem with the appraisal. *Id.* Thus, Jensen-1 applies to individual appraisals and attempts to assess an error in the appraisal of each parcel.

Patent Owner argues that Jensen-1 does not disclose or suggest an error model, as recited in claims 1 and 10. PO Resp. 51-54. Consistent with its position that CAMA systems seek to achieve a specific point estimate and do not employ error models, Patent Owner argues that error statistics disclosed in Jensen-1 are different from error models. *Id.* at 52. Patent Owner contends that error statistics are applicable to all properties in the training data, whereas an error model generates a signal unique to the individual property being valued. *Id.* at 16. Patent Owner further argues that reliability factors, mean square error and asymptotic confidence bands in Jensen-1 describe observations used in the training data and do not relate to any individual property. *Id*. at 53. However, claims 1 and

10 both recite that the error model is developed from the training data, rather than the individual property data. Thus, the use of training data to develop the error models and confidence bands in Jensen is consistent with the error model limitations of claims 1 and 10.

During the oral hearing, Patent Owner characterized Petitioner's arguments as assuming that, if there's an error range, an error model exists. Tr. 40. Patent Owner argued that the claimed error range is generated separately from the development of both the predictive and error models. Tr. 39. We note, however, that claims 1 and 10 only recite generating *a signal indicative of the error range* in response to the application of the individual property data to the stored model. (emphasis added). The limitation does not recite generating the error range itself in response to application of the individual property data. Although a particular application of the individual property data to the error model may create a separate signal for a particular property, the claims do not require that the error or the error range for each property be different. There is no limitation requiring a "signal unique to the individual property," as argued by Patent Owner. PO Resp. 52. Thus, claims 1 and 10 do not preclude confidence bands disclosed in Jensen-1 from the claimed error model, as Patent Owner contends. PO Resp. 52-53.

In consideration of the above, we conclude that claim 1 of the '201 Patent is anticipated by or obvious over Jensen-1.

Claim 6 depends from disclaimed claim 5, which does not include an error model. Claim 6 recites aggregating the training data into training data sets based on successively larger geographic areas until the number of sales within a geographic area over a predetermined time exceeds a predetermined number. Claim 6 does not specifically recite how the aggregated training data sets are integrated into the predictive model. Patent Owner argues that in contrast to

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aggregation, i.e., assembling data based on larger geographic area, CAMA models (and Jensen-1 in particular) disclose "disaggregation," i.e., moving from a larger geographic area to a smaller one. PO Resp. 24-25, 57. According to Patent Owner, Jensen-1 describes disaggregation because it discloses a "global" model estimated from a common database that is tailored down to small towns and rural areas. PO Resp. 57.

Jensen-1 recommends that for small sample environments, e.g., small towns, rural residential areas, farms, and certain types of commercial and non-residential properties, that individual models be generated from countywide or statewide models tailored to each town or village via a model update technique, such as weighted Bayesian regression. Ex. 1014, p. 236. Using this approach, all of the essential property descriptors will be included in the model with an adequate number of sales to support them. *Id.* Thus, instead of disaggregating a "global" model as Patent Owner suggests, PO Resp. 24-25, 57, Jensen-1 discloses aggregating information from larger geographic models, such as a statewide model or a countywide model, to create a model that can be used to predict the value of one or more properties in a geographic environment where the number of samples is insufficient for accurate modeling. Tailoring the models to each town or village using a statewide or countywide model to obtain a sufficient number of samples, inherently discloses using successively larger geographic areas until a predetermined number of sales in a predetermined time exceeds a predetermined number, as recited in claim 6. Even if Jensen-1 is not considered to disclose explicitly or inherently using successively larger geographic areas, its disclosure of using statewide or countywide data to model areas lacking an adequate number of samples suggests aggregating training data into sets based on larger geographic areas until one obtains a meaningful or predetermined number of sales over a time

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frame. Thus we conclude that the features of claim 6 would have been obvious under 35 U.S.C. § 103 over Jensen-1. Therefore, we conclude that claim 6 is anticipated by or at least obvious over Jensen-1.

Independent claim 9 recites obtaining area data and generating the signal indicative of the appraised value in response to applying the individual property data and the obtained area data to the predictive model. As discussed above, Jensen discloses obtaining data for countywide or statewide geographic areas in order to predict the valuation of properties in smaller areas. *Id.* In addition, Jensen-1 discloses using neighborhood data. Ex. 1014, 199-200. Thus, we conclude challenged claim 9 is anticipated by or obvious over Jensen-1.

Challenged claim 10 depends from claim 9 and recites an error model. We have previously discussed that Jensen-1 anticipates claim 9 and discloses the claimed error model. Therefore, we conclude that claim 10 is anticipated by or obvious over Jensen-1.

Having determined that claims 1, 6, 9, and 10 are unpatentable as anticipated by or obvious over Jensen-1, we do not reach the remaining prior art challenges in this proceeding.

CONCLUSION

This is a final written decision of the Board under 35 U.S.C. § 328(a). We hold claims 1, 6, 9, and 10 to be unpatentable under 35 U.S.C. §101. Specifically, the claims recite unpatentable abstract ideas, and the claims do not provide enough significant meaningful limitations to transform these abstract ideas into patent-eligible applications of these abstractions.

We further hold that claims 1, 6, 9 and 10 are anticipated by Jensen-1 under 35 U.S.C. § 102 or obvious over Jensen-1 under 35 U.S.C. § 103.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that claims 1, 6, 9 and 10 of the '201 Patent are CANCELLED as unpatentable.

PATENT OWNER:

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