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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LOUIS J. CASTLE II and ZHIHAO ZHANG

Appeal 2016-004694
Application 13/871,824¹
Technology Center 3700

Before STEFAN STAICOVICI, JAMES P. CALVE, and
ANTHONY KNIGHT, *Administrative Patent Judges*.

STAICOVICI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Louis J. Castle II and Zhihao Zhang (“Appellants”) appeal under 35 U.S.C. § 134(a) from the Examiner’s decision in the Final Action (dated Apr. 30, 2015, hereafter “Final Act.”) rejecting claims 1–17, 20, 22–27, and 35–43 under 35 U.S.C. § 101 as being directed to ineligible subject matter.² We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

¹ Bally Gaming, Inc. is the applicant as provided in 37 C.F.R. § 1.46 and is identified as the real party in interest in Appellants’ Appeal Brief (filed Sept. 30, 2015, hereafter “Appeal Br.”). Appeal Br. 2.

² Claims 18, 19, 21, and 28–34 are canceled. Appeal Br. 43, 45 (Claims App.).

SUMMARY OF DECISION

We AFFIRM.

INVENTION

Appellants' invention relates to "methods and systems of administering wagering games conducted live and online." Spec. para. 2.

Claims 1 and 22 are independent. Claim 1 is illustrative of the claimed invention and reads as follows:

1. A method of administering a wagering game, comprising:
 - receiving, via one or more first electronic communications by one or more electronic gaming devices selectively operable to communicate via one or more computer networks with one or more game servers, information indicative of a first wager from a player;
 - incrementing a first pot in accordance with an amount of the first wager, wherein the first pot contains wagers from a single live or virtual table played by the player;
 - receiving, by the one or more electronic gaming devices via one or more second electronic communications sent over the one or more computer networks, information indicative of a second wager from the player;
 - incrementing a distinct second pot in accordance with an amount of the second wager, wherein the second pot accumulates wagers from two or more live or virtual tables;
 - initiating, by the one or more game servers or the one or more electronic gaming devices, dealing physical or virtual cards to each player;
 - resolving, by the one or more game servers, the first wager according to a set of game rules;
 - providing, by the one or more game servers via one or more third electronic communications sent over the one or more computer networks to at least one of the one or more electronic gaming devices and based at least in part on the resolving of the first wager, indication of a first payout from the first pot to a first group of

one or more players at the single live or virtual table at a conclusion of each round of play;

resolving, by the one or more game servers, the second wager according to the set of game rules;

providing, by the one or more game servers via one or more fourth electronic communications sent over the one or more computer networks to at least one of the one or more electronic gaming devices and based at least in part on the resolving of the second wager, a second payout to a second group of one or more players holding a predetermined premium hand combination at the conclusion of each round of play;

initiating, by the one or more game servers via one or more fifth electronic communications sent over the one or more computer networks to at least one of the one or more electronic gaming devices and in response to an occurrence of a predetermined event, an awarding of a third payout from the second pot to all players who contributed to the second pot, wherein the predetermined event comprises a non-gaming event that is not dependent upon any values of the physical or virtual cards dealt to each of the one or more players; and

taking, by the one or more game servers or the one or more electronic devices, a rake for a rake account.

Appeal Br. 40–41 (Claims App.).

ANALYSIS

Claims 1–5, 7–17, and 20

Appellants have not presented arguments for the patentability of claims 2–5, 7–17, and 20 apart from claim 1. *See* Appeal Br. 11, 26. Therefore, in accordance with 37 C.F.R. § 41.37(c)(1)(iv), we select claim 1 as the representative claim to decide the appeal of the rejection of these claims, with claims 2–5, 7–17, and 20 standing or falling with claim 1.

The Examiner considered factors from the 2014 Interim Guidance on Patent Subject Matter Eligibility (79 Fed. Reg. 74618 (December 16, 2014) (“2014 Interim Guidance”). *See* Final Act. 2; *see also* Appeal Br. 11. In making the rejection of claim 1, the Examiner finds that “the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more.” Final Act. 2. According to the Examiner, independent claim 1 is “directed to the steps of administering a wagering game, which is an abstract idea.” *Id.* (citing *Planet Bingo, LLC v. VKGS LLC*, 576 F. App’x 1005 (Fed. Cir. 2014)). The Examiner further finds that “the claim[] does . . . not include additional elements that are sufficient to amount to significantly more than the judicial exception because the additional elements (i.e., game servers & electronic devices) are generic computers.” *Id.*

Appellants argue that because the claim recites “varied and specific interactions,” the claim “cannot be reduced to merely ‘administering a wagering game.’” Appeal Br. 12. According to Appellants, the Examiner (1) has not “*unambiguously identified*” the abstract idea; (2) has failed to indicate how the claims are “*directed to*” an abstract idea, rather than merely “*involving*” the abstract idea; and (3) has failed to demonstrate that the concept to which the claims are directed is within the realm of abstract ideas. *Id.* at 14. Thus, Appellants contend that “the assertions of the Office are merely conclusory assertions which, standing alone, are not ‘evidence’ supportive of a *prima facie* showing.” *Id.* at 15.

Section 101 of the Patent Act defines patent-eligible subject matter: “Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and

requirements of this title.” 35 U.S.C. § 101. In interpreting this statutory provision, the Supreme Court has held that its broad language is subject to an implicit exception for “laws of nature, natural phenomena, and abstract ideas,” which are not patentable. *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014).

The Supreme Court has set forth “a framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 134 S. Ct. at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs, Inc.*, 566 U.S. 66, 75–78 (2012)). According to the Supreme Court’s framework, we must first determine whether the claims at issue are directed to one of those concepts (i.e., laws of nature, natural phenomena, and abstract ideas). *Id.* If so, we must secondly “consider the elements of each 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.” *Id.* The Supreme Court characterizes the second step of the analysis as “a search for an ‘inventive concept’ — i.e., 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.’” *Id.*

To that end, the first prong of the test requires us to determine whether the challenged claims are directed to an abstract idea. In particular, we agree with the Examiner that claim 1 is directed to “[a] method for administering a wagering game,” that includes, *inter alia*, the steps of receiving wagers, incrementing pots, dealing cards, and resolving wagers by providing payouts according to preset rules. Advisory Action 2–3 (dated July 15, 2015, hereinafter “Adv. Act.”); *see also* Ans.

3–4; Spec. paras. 41, 43, 51, 56, 58, 63. The Examiner is correct in that the method of claim 1 “involves nothing more than bookkeeping for a number of pots in a gambling game.” See Examiner’s Answer 4, 9–10 (dated Feb. 25, 2016, hereinafter “Ans.”). We also agree with the Examiner that the method of claim 1 “can . . . be accomplished by someone using a pen and paper,” and hence, such a method constitutes an abstract idea that “cannot be patentable without ‘significantly more.’” *Id.* at 4, 10 (citing *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1371 (Fed. Cir. 2011)).

As such, the Examiner is correct in that the limitations of claim 1 are drawn to the similar concept of managing a bingo game, which has been held by the court to be an abstract idea. See *id.* at 2, 9 (citing *Planet Bingo*, 576 F. App’x at 1008 (holding that methods of managing a game of bingo were abstract ideas)). A comparable situation is present in *In re Smith*, 815 F.3d 816, 817 (Fed. Cir. 2016), where the Court held that “[a] method of conducting a wagering game” including, *inter alia*, receiving wagers (step [b]), dealing cards (step [c]), and providing payouts according to preset rules (steps [h], [i]), is an abstract idea. We, thus, do not envision how Appellants’ “method of administering a wagering game” is different from *Smith*’s “method of conducting a wagering game,” such that *Smith*’s claim is within the realm of abstract ideas, but Appellants’ claim 1 is not. The only difference is that Appellants’ “method of administering a wagering game” employs a conventional computerized network system.

Furthermore, we agree with the Examiner that Appellants’ claimed method of “administering a wagering game” is similar to *Alice*’s issue of “organizing human activity.” Ans. 2, 9. Specifically, “administering a wagering game” “is drawn to an abstract idea much like *Alice*’s method of exchanging financial

obligations and *Bilski's* method of hedging risk,” which the Court held were fundamental economic practices. *See Smith*, 815 F.3d at 819 (citing *Bilski v. Kappos*, 561 U.S. 593, 611 (2010)); *see also* Ans. 8–9.

As such, in contrast to Appellants’ position, the Examiner has (1) “*unambiguously identified*” the abstract idea of managing a wagering game; (2) indicated how the claimed steps are “*directed to*” an abstract idea, rather than merely “*involving*” the abstract idea; and (3) demonstrated that the concept to which the claims are directed is within the realm of cases involving abstract ideas. *See* Appeal Br. 15–20. Accordingly, we find that the Examiner’s analysis was sufficient in this case to put Appellants on notice of the basis for the Examiner’s determination in order to allow Appellants to recognize and seek to counter the grounds for rejection. *In re Jung*, 637 F.3d 1356, 1362 (Fed. Cir. 2011).

Appellants further argue that because claim 1 recites a “specific and detailed process” it cannot “be characterized as merely ‘administering a wagering game’” because such “a characterization that disregards over 95% of the claim language.” Appeal Br. 25, 36.

We are not persuaded by Appellants’ argument because despite being specific claim 1 is still drawn to an abstract idea. In other words, a specific abstract idea is still an abstract idea. Other cases have denied patentability of claims as being directed towards ineligible subject matter even though they described specific methods, such as, an 11 step method in *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) that described “using advertising as an exchange or currency.” Ans. 12. “[C]ases have not distinguished among different laws of nature according to whether or not the principles they embody are

sufficiently narrow.” *Mayo*, 566 U.S. at 88–89 (citing *Parker v. Flook*, 437 U.S. 584 (1978) (holding narrow mathematical formula unpatentable)).

Appellants also assert that because the Examiner “has failed to identify any prior art that anticipates or renders obvious” the subject of claim 1, it is not clear how such a claim “can be both novel and non-obvious while simultaneously be[] considered ‘well-understood, routine, and conventional’.” Appeal Br. 26; *see also* Reply Br. 14–15 (filed Mar. 31, 2016, hereinafter “Reply Br.”).³

We do not agree with Appellants’ position that novelty should equate patentability because such an “approach . . . would make the ‘law of nature’ exception to § 101 patentability a dead letter.” *Mayo*, 566 U.S. at 89; *see also* Ans. 18. The same argument as Appellants’ was made in *Ultramercial*, but the court did not agree that “the addition of merely novel or non-routine components to the claimed idea necessarily turns an abstraction into something concrete.” *Ultramercial*, 772 F.3d at 715; *see also* Ans. 18. Moreover, the court stated that “any novelty in implementation of the [abstract] idea is a factor to be considered only in the second step of the *Alice* analysis.” *Ultramercial*, 772 F.3d at 715.

In conclusion, for the foregoing reasons, we find no error in the Examiner’s determination that the subject matter of claim 1 is directed to an abstract idea.

Turning to the second step of *Alice*, we find claim 1 does not contain an inventive concept sufficient to “‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 134 S. Ct. at 2355. The introduction of a computer into the claims does not alter the analysis here because

the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. Stating an

³ We note that *White* (US 2006/0068899 A1, pub. Mar. 30, 2006) is not part of the instant rejection.

abstract idea “while adding the words ‘apply it’” is not enough for patent eligibility. Nor is limiting the use of an abstract idea “to a particular technological environment.” Stating an abstract idea while adding the words “apply it with a computer” simply combines those two steps, with the same deficient result. Thus, if a patent’s recitation of a computer amounts to a mere instruction to “implement[t]” an abstract idea “on . . . a computer,” that addition cannot impart patent eligibility. This conclusion accords with the preemption concern that undergirds our § 101 jurisprudence. Given the ubiquity of computers, wholly 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.”

Id. at 2358 (citations omitted). The relevant question is whether the claim here does more than simply instruct the practitioner to implement the abstract idea on a generic computer. *Id.* at 2359. We conclude that it does not.

Here, the focus of claim 1 is not on a specific asserted improvement in computer capabilities; rather, it is on a process for which computers are involved merely as a tool. *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016). The Examiner properly identifies the additional features under *Alice*’s second prong. *See* Appeal Br. 34–35. In particular, we agree with the Examiner that the generically claimed electronic devices of “game servers,” “electronic gaming devices,” “electronic communications,” and “computer networks,” of claim 1, constitute “generic computers claimed at a high level of generality communicating [in] a generic network which is also claimed at a high level of generality.” Ans. 15–16. Moreover, we note that the generically claimed electronic devices perform generic computer functions at a high level of generality such as displaying, transmitting, storing, retrieving and processing data through the program that enables the operation of managing a wagering game.

We also do not agree with Appellants' contention that claim 1 recites significantly more than an abstract idea of "administering a wagering game" because the claim

addresses problems *specific* to electronic gaming, and recites a *specific* way of enabling one or more game servers and electronic gaming devices to receive and act on multiple electronic communications over one or more computer networks between servers and/or devices in order to resolve multiple wagers and distribute multiple pots between multiple players and multiple gaming tables.

Appeal Br. 38 (citing *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014)) (emphasis added). According to Appellants, as "any modern computer *without* special programming or construction *cannot* perform . . . [the recited functions]" "the recited one or more electronic devices is *not any* modern computer." Reply Br. 9.

In *DDR Holdings*, the Federal Circuit found that the challenged patent was valid because it "specif[ie]d how interactions with the Internet are manipulated to yield a desired result—a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink." *DDR Holdings*, 773 F.3d at 1258; *see also* Appeal Br. 37–38. In contrast, as noted above, in Appellants' claim 1, the claimed "game servers," "electronic gaming devices," "electronic communications," and "computer networks" receive, store, process, and transmit data that does not "override[] the routine and conventional sequence of events ordinarily triggered" by their use. Nonetheless, we appreciate that a computer program can reconfigure any general-purpose computer. However, claim 1, like the claims in *Planet Bingo*, does not claim a *specific* program that would make the functions performed by the claimed game servers

and gaming devices unconventional so as to remove the claim from the realm of an abstract idea. *See Planet Bingo*, 576 F. App'x at 1008–1009 (“The . . . patents do not claim the ‘accounting program,’ ‘ticket program,’ and ‘verification program’ that Planet Bingo identifies in its briefs. Instead, the claims recite a program that is used for the generic functions of storing, retrieving, and verifying.”). Rather, claim 1 merely alludes to a program used for the generic functions of receiving data (information regarding first and second wagers), storing data, processing data (incrementing first and second pots, taking a rake for a rake account, initiating dealing of cards, resolving first and second wagers according to payout rules), and transmitting data (providing payouts).

Appellants further argue that, like the claims in *DDR Holdings*, the invention of claim 1 is rooted in computer technology to overcome a problem arising specifically in the realm of computer networks. Reply Br. 2–3. Specifically, Appellants note, that due to the claimed electronic devices and their claimed interactions, the recited method claim 1 “allows live progressing gaming . . . across multiple properties in widely dispersed respective geographic locations” and “reduc[es] power consumptions and processing power requirements of . . . gaming devices.” *Id.* at 4–5. As such, according to Appellants, because in claim 1 the “game servers” and the “gaming devices” are operable to “cooperatively execute[] the wagering game” the recited method claim 1 overcomes problems arising in the realm of computer networks. *Id.* at 5.

We are not persuaded as Appellants’ attempt to analogize the claimed subject matter with the claims at issue in *DDR Holdings* is misplaced. Unlike the situation in *DDR Holdings*, in which the problem of retaining website visitors was a challenge particular to the Internet (*DDR Holdings*, 773 F.3d at 1257), the

problem of administering a wagering game is not a challenge particular to a computer environment. Here, the problem addressed by claim 1 is the “inherent house advantage” that is typical to many casino wagering games. *See* Spec. paras. 2–4. In other words, the problem addressed by claim 1 is that of administering (practicing or conducting) a wagering game, which is known from pre-electronic gaming practice, and represents the conventional business practice of exchanging financial obligations,⁴ and thus is not rooted in computer technology, as Appellants posit. Indeed, humans administering a wagering game can receive wagers from players, increment pots, take a rake for a rake account, deal cards, and resolve the wagers by providing payouts according to pre-established rules. *See also* Ans. 17. As such, the claimed invention is directed to human activity of administering a wagering game using conventional computer technology. “[I]f a patent’s recitation of a computer amounts to a mere instruction to ‘implemen[t]’ an abstract idea ‘on . . . a computer,’ . . . that addition cannot impart patent illegibility.” *Alice*, 134 S. Ct. at 2358 (quoting *Mayo*, 566 U.S. at 84). The fact that the claimed solution involves computer technology is not surprising considering that the challenge was to implement the pre-electronic wagering game practice on a computer. Hence, the recitation in claim 1 directed to “gaming servers” and “gaming devices” as being operable to “cooperatively execute[] the wagering game” amounts to nothing more than linking electronic devices to receive, process, and transmit data over a network, and thus is “not ‘enough’ to supply an ‘inventive concept.’” *Id.* at 2357 (quoting *Mayo*, 566 U.S. at 72, 77). As noted above, claim 1 does not claim a

⁴ “‘A wagering game is, effectively, a method of exchanging and resolving financial obligations based on probabilities created during the distribution of the cards.’” *Smith*, 815 F.3d at 818–9.

specific program that would make the function performed by the claimed game server and gaming devices unconventional to remove the claim from the realm of an abstract idea. The Examiner is correct in that “[t]he test is not whether the computer, server, or network can perform a ‘new’ function. It is whether the function allows the computer, server, or network to function better as a computer, network or server.” Ans. 16. Here, like in *Alice*, the generic computers are merely programmed to perform the task of administering a wagering game faster and more efficient than a human. However, as the Examiner states, “that does not make the invention patent-eligible.” *Id.* In other words, when the limitations of claim 1 are taken together as an ordered combination, claim 1 recites an invention directed to administering the wagering game using routine or conventional computer technology.

Moreover, we do not agree with Appellants’ contention that “no computer software executed on a computer without specialized hardware is eligible for patent protection.” *See* Appeal Br. 34 (underlining omitted). Rather, “some improvements in computer-related technology when appropriately claimed are undoubtedly not abstract” and that “[s]oftware can make non-abstract improvements to computer technology just as hardware improvements can.” *Enfish*, 822 F.3d at 1335. The court defined the question in “the first step [of] the *Alice* inquiry” as being “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.” *Id.* at 1335–1336. The court found that the “plain focus of the claims” in *Enfish* was “on an improvement to computer functionality itself, not on economic or other tasks for which a computer is used in its ordinary capacity.” *Id.* at 1336. In Appellants’

claim 1, the claimed “game servers,” “electronic gaming devices,” “electronic communications,” and “computer networks” do not affect an improvement to computer functionality itself, but instead, focus on the process of administering a wagering game that qualifies as an abstract idea, for which computer technology is invoked merely as a tool.

In conclusion, for the foregoing reasons, claim 1 is directed to the abstract idea of administering a wagering game and, when the claim elements are considered both individually and as an ordered combination, the claim does not recite significantly more than the abstract idea. Therefore, we sustain the rejection under 35 U.S.C. § 101 of claim 1 as being directed to patent ineligible subject matter. Claims 2–5, 7–17, and 20 fall with claim 1.

Claim 6

Appellants restate the limitations of claim 6 and further argues that claim 5 includes additional limitations that establishes that the claim “is not within the Court’s implicit exception to subject matter eligibility.” Appeal Br. 26–27.

We are not persuaded by Appellants’ argument because statements which merely point out what a claim recites will not be considered an argument for separate patentability of the claim. *See In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011). As dependent claim 6 further describes the step of providing a payout from the first pot of claim 1, claim 6 merely further describes the abstract idea. *See* Appeal Br. 41 (Claims App.). However, as noted above, a specific abstract idea is still an abstract idea. We further agree with the Examiner that the generally claimed electronic devices of “game servers” and “one or more additional electronic communications sent over the one or more networks,” of claim 6,

likewise perform generic functions of displaying, transmitting, storing, retrieving and processing data through the program that enables the operation of managing a wagering game. The Examiner is correct in that claim 6 merely implements the step of providing a first payout from a first pot “by generic computers specified at a high level of generality over a generic network also specified at a high level of generality.” Ans. 19.

We, thus, likewise sustain the rejection of claim 6.

Claims 22–27 and 35–42

In contrast to independent claim 1, independent claim 22 is drawn to “[a] gaming system.” Appeal Br. 43–44 (Claims App.).

Appellants rely on the arguments presented *supra* in the rejection of claim 1, which, as discussed above, we have found unpersuasive. *See* Appeal Br. 28–31.

Furthermore, we are not persuaded by Appellants’ arguments because the introduction of a generic element, such as a server or a processor or a storage medium that stores instructions, into an apparatus claim, has been deemed insufficient by the Supreme Court to transform a patent-ineligible claim into one that is patent-eligible, and it fails to do so here as well. *See Alice*, 134 S. Ct. at 2358. In this case, the system claim (claim 22) is no different in substance from the method claim (claim 1). As discussed *supra*, the method claim recites the abstract idea implemented on generic electronic devices and the system claim recites several generic electronic components configured to implement the same idea. *See Alice*, 134 S. Ct. at 2351. In other words, we find no meaningful distinction between independent claim 22 and independent method claim 1, as both claims are directed to the same underlying invention. As the Federal Circuit has

made clear “the basic character of a process claim drawn to an abstract idea is not changed by claiming only its performance by computers, or by claiming the process embodied in program instructions on a computer readable medium.” *See CyberSource*, 654 F.3d at 1375–76 (citing *In re Abele*, 684 F.2d 902 (CCPA 1982)). “Stating an abstract idea ‘while adding the words ‘apply it’ is not enough for patent eligibility.” *Alice*, 134 at 2358 (quoting *Mayo*, 566 U.S. at 72). Albeit the words “apply it” are not expressly recited in independent claim 22 that is in effect what the claimed subject matter would entail in practice.

With respect to the rejection of dependent claims 24 and 27, Appellants for the first time argue these claims separately. *See* Reply Br. 16–18. Such arguments are untimely and will not be considered because Appellants offer no reason why the argument was not raised in the Appeal Brief. *See* 37 C.F.R. § 41.41(b)(2) (“Any argument raised in the reply brief which was not raised in the appeal brief, or is not responsive to an argument raised in the examiner’s answer . . . will not be considered by the Board for purposes of the present appeal, unless good cause is shown.”); *In re Hyatt*, 211 F.3d 1367, 1373 (Fed. Cir. 2000).

Accordingly, for the foregoing reasons, we sustain the Examiner’s rejection of independent claim 22, and its dependent claims 23–27 and 35–42, under 35 U.S.C. § 101 as directed to non-statutory subject matter.

Claim 43

Appellants restate the limitations of claim 43 and further argues that claim 43 includes additional limitations that establishes that the claim “is not directed to an ineligible abstract idea.” Appeal Br. 31.

We are not persuaded by Appellants' argument because statements which merely point out what a claim recites will not be considered an argument for separate patentability of the claim. The Examiner is correct in that claim 43 further describes the claimed "predetermined event" of claim 22 for resolving a payout from the second pot. *See* Ans. 19; *see also* Appeal Br. 44. As such, claim 43 further describes the abstract idea. "Cases have not distinguished among different laws of nature according to whether or not the principles they embody are sufficiently narrow." *Mayo Collaborative Services, dba Mayo Medical Laboratories, et al. v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 88–89 (2012) (citing *Parker v. Flook*, 437 U.S. 584 (1978) (holding narrow mathematical formula unpatentable)). A specific abstract idea is still an abstract idea.

We, thus, likewise sustain the rejection of dependent claim 43.

SUMMARY

The Examiner's decision to reject claims 1–17, 20, 22–27, and 35–43 under 35 U.S.C. § 101 as directed to ineligible subject matter is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED