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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/345,336	01/06/2012	Madhavi Vemireddy	709409	4284
23460	7590	10/25/2017	EXAMINER	
LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6731			TOMASZEWSKI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3686	
			NOTIFICATION DATE	DELIVERY MODE
			10/25/2017	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* MADHAVI VEMIREDDY, NIK NANIS,  
KIMBERLY PAUL, KIRAN UBRIANI, DEREK JACKSON,  
and MUKESH KITAWAT

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Appeal 2016-006047  
Application 13/345,336  
Technology Center 3600

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Before JOHNNY A. KUMAR, JOHN P. PINKERTON, and  
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

KUMAR, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–9 and 15–21. Claims 10–14 are cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

*Representative Claim*

1. A method, comprising:
  - electronically querying, by a rules engine module included in a computer system, a set of clinical rules from available evidence-based medical standards stored in a database on a non-transitory computer readable medium;
  - interfacing, by a real-time application messaging module included in the computer system, with at least one network service for receiving medical care information relating to a plurality of patients, the at least one network service having real-time access to at least one source of data, including claims data containing clinical information relating to the plurality of patients;
  - prioritizing, by the rules engine module, at least one patient for care management from the plurality of patients based on the claims data containing clinical information relating to the patient and based on a product score for a care management program, wherein the product score quantifies an opportunity for outreach for the care management program;
  - compiling, by the rules engine module, a list of markers associated with the patient based on the claims data containing clinical information relating to the patient;
  - generating, by the rules engine module, a plurality of clinical alerts for the patient using the claims data containing clinical information relating to the patient;
  - receiving, by an alert payload filtering module included in the computer system, the plurality of clinical alerts;
  - eliminating, by the alert payload filtering module, from the plurality of clinical alerts, duplicate alerts generated as a result of applying the same clinical rule and duplicate alerts generated as a result of applying different clinical rules that are associated with the same alert; and
  - delivering, by a message transmit web service, at least one clinical alert to the patient.

*Rejection*

Claims 1–9 and 15–21 are rejected under 35 U.S.C. § 101 as being directed to a judicial exception.

*Grouping of Claims*

Based on Appellants' arguments (App. Br. 10–15), we decide the appeal on the basis of representative claim 1.

ANALYSIS

We have considered all of Appellants' arguments and any evidence presented. We disagree with Appellants' arguments, and we adopt as our own the findings, legal conclusions, and explanations, as set forth in the Ans. (3–7) in response to Appellants' arguments. (App. Br. 10–15; Reply Br. 2–7). We highlight and address specific findings and arguments for emphasis in our analysis below.

**Issue:** Under § 101, did the Examiner err in concluding claim 1 is directed to patent-ineligible subject matter?<sup>1</sup>

Under 35 U.S.C. § 101, an invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” The Supreme Court, however, has long interpreted § 101 to include an implicit exception: “[l]aws of nature, natural phenomena, and abstract ideas are not patentable.” *See, e.g., Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014) (quoting *Assoc. for Molecular Pathology v. Myriad Genetics, Inc.*, 133 S. Ct. 2107, 2116 (2013) (internal quotation marks omitted)). In *Alice*, the Supreme Court set forth an analytical “framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those

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<sup>1</sup> We consider the claims as a whole and give the claim limitations the broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

concepts.” *Id.* at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–79 (2012)).

The first step in our analysis is to determine whether the claims at issue are directed to a patent-ineligible concept, such as an abstract idea. *See Alice*, 134 S. Ct. at 2355.

If the claims are directed to a patent-ineligible concept, the second step in the analysis is to “consider the elements of each claim both individually and ‘as an ordered combination’ to determine whether [there are] additional elements [that] ‘transform the nature of the claim’ into a patent-eligible application.” *Id.* (quoting *Mayo*, 566 U.S. at 78–79).

In other words, the second step is to “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.* (brackets in original) (quoting *Mayo*, 566 U.S. at 72–73).

### ***Alice* — Step One**

Here, regarding the judicially created “abstract idea” exception (*Alice*, Step One), Appellants argue *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016) (hereinafter “*Enfish*”) “provides additional information and clarification on the inquiry for identifying abstract ideas” (Reply Br. 2) and contend, *inter alia*:

The present claims are directed to a specific implementation of a solution to a problem in the software arts, and not to general-purpose computer components that are added after the fact to a fundamental economic practice or mathematical equation. Looking to the specification, as the Federal Circuit did in *Enfish*, the present application describes at paragraph [0017] that “[t]o facilitate the real-time delivery of alerts, the alert

payload filtering module reduces the real-time alert payload by filtering the alert input to the real-time application messaging module by a plurality of conditions and categories . . . [i]n addition to ***improving the speed of real-time delivery of alerts***, alert filtering eliminates redundant alerts and helps to focus the recipient’s attention on the important alerts” (emphasis added). Similar to how the claims of *Enfish* increased flexibility and provided faster search times, the claims of the present application improve the speed of real-time delivery of alerts.

...

Rather, the claims are directed to an improvement in existing computer technology.

(Reply Br. 4–5).

We find Appellants’ arguments unpersuasive. We conclude claim 1 is directed to performing generic computer functions on certain data. We note the Supreme Court in *Alice* cautions that merely limiting the use of an abstract idea “to a particular technological environment” or implementing the abstract idea on a “wholly generic computer” is not sufficient as an additional feature to provide “practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.” *Alice*, 134 S. Ct. at 2358 (internal quotation marks and citations omitted).

Here, we conclude Appellants’ claim 1 is distinguishable from the type of claim considered by the court in *Enfish* because Appellants’ claim 1 is not “directed to an improvement in the functioning of a computer,” as was found by the court regarding the subject claim in *Enfish*, 822 F.3d at 1338.

The Examiner finds, and we agree:

The abstract idea is identified as: patient care plan management and processing information. Patient care plan management is an abstract idea because it includes certain methods of organizing human activities (e.g., providing healthcare by alerting patients regarding their care management program) and is a fundamental economic practice. Processing

information is an abstract idea because it uses categories to organize, store, and transmit information, etc.; collects and compares known information; obtains and compares intangible data; compares new and stored information (for example, claim 1 recites receiving medical care information, prioritizing (i.e., categorizing) patients based on clinical information, compiling markers based on clinical information, delivering alerts (i.e., transmitting data, etc.); and/or uses mathematical relationships/formulas (for example, claim 1 recites prioritizing based on scores, etc.), etc.

Ans. 4.

Thus, we conclude claim 1 is directed to an abstract idea because the claimed method uses mathematical relationships to manipulate data (e.g., prioritize based on a product score) to generate additional information (e.g., generate a clinical alert). *See Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1350–51 (Fed. Cir. 2014) (holding that “a process of organizing information through mathematical correlations . . . not tied to a specific structure or machine” is an abstract idea). *See also Enfish* (fundamental economic and conventional business practices are often found to be abstract ideas, even if performed on a computer). *See, e.g., OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015).

For at least these reasons, we conclude representative claim 1 is directed to an abstract idea. (*Alice* — Step One).

***Alice* — Step Two**

Proceeding to step two of the *Alice* test articulated by the Supreme Court, we further “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.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 78).

Regarding step two of the *Alice* analysis, Appellants contend, *inter alia*:

The fact that the claimed invention improves a technical field and does perform processing in a typical way to achieve a predictable result is evidenced by the lack of prior art teaching or suggesting such processing, as stated in the final Office action dated April 23, 2015 at page 2. Specifically, the Examiner stated that “claim 1-9 and 15-21 ... appear to include allowable subject matter” (final Office action dated April 23, 2015, p. 2).

(Reply Br. 6).

Although the second step in the *Alice/Mayo* analysis includes a search for an inventive concept, the analysis is not an evaluation of novelty or nonobviousness, but rather a search for “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.’” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 73). A novel and nonobvious claim directed to a purely abstract idea is, nonetheless, patent-ineligible. *See Mayo*, 566 U.S. at 90. Further, “under the *Mayo/Alice* framework, a claim directed to a newly discovered law of nature (or natural phenomenon or abstract idea) cannot rely on the novelty of that discovery for the inventive concept necessary for patent eligibility.” *Genetic Techs. Ltd. v. Merial L.L.C.*, 818 F.3d 1369, 1376 (Fed. Cir. 2016).

We agree with the Examiner’s findings and conclude the *nature* of Appellants’ claims is not *transformed* into a patent-eligible application of the abstract idea presented, because these claims do nothing more than



simply instruct the practitioner to implement an abstract idea “to perform generic computer functions.” Ans. 4.

Instead, we conclude Appellants’ claims are broadly directed to abstract general concepts of calculating numerical functions on certain data in the context of generating an alert. *See Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016). “[M]erely selecting information, by content or source, for collection [and] analysis . . . does nothing significant to differentiate a process from ordinary mental processes.” (*Id.*)

We conclude Appellants’ representative claim 1 is directed to a patent-ineligible abstract concept, and does not recite something “significantly more” under the second step of the *Alice* analysis. Accordingly, for the reasons discussed above, we sustain the Examiner’s rejection under 35 U.S.C. § 101 of representative claim 1, and grouped claims 2–9 and 15–21, as being directed to patent-ineligible subject matter in light of *Alice* and its progeny. *See Grouping of Claims, supra.*

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DECISION

We affirm the Examiner's rejection of claims 1–9 and 15–21 under 35 U.S.C. § 101.

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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED