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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/751,145	05/21/2007	Timothy Monroe Prescott	127210.00004	1467
34282	7590	03/19/2018	EXAMINER	
QUARLES & BRADY LLP (TUC)			WILLIAMS, TERESA S	
Attn: IP Docket			ART UNIT	
ONE SOUTH CHURCH AVENUE, SUITE 1700			PAPER NUMBER	
TUCSON, AZ 85701-1621			3686	
			NOTIFICATION DATE	
			DELIVERY MODE	
			03/19/2018	
			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* TIMOTHY MONROE PRESCOTT,  
DAVID MONROE PRESCOTT,  
and ANNA CLARE PRESCOTT

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Appeal 2016–008353  
Application 11/751,145  
Technology Center 3600

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Before ANTON W. FETTING, NINA L. MEDLOCK, and  
THOMAS F. SMEGAL, *Administrative Patent Judges*.  
FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE<sup>1</sup>

Timothy Monroe Prescott, David Monroe Prescott, and Anna Clare  
Prescott (Appellants) seek review under 35 U.S.C. § 134 of a final rejection

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<sup>1</sup> Our decision will make reference to the Appellants’ Appeal Brief (“App. Br.,” filed November 20, 2015) and Reply Brief (“Reply Br.,” filed August 30, 2016), and the Examiner’s Answer (“Ans.,” mailed July 1, 2016), and Final Action (“Final Act.,” mailed May 20, 2015).

of claims 1–21, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

The Appellants invented a way of checking and verifying blood screening data. Specification para. 1.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below (bracketed matter and some paragraphing added).

1. A computer–implemented method of verifying data from an electronic blood screen panel, comprising:

[1] extracting blood screening data from the electronic blood screen panel into a first data summary using a computer system,

the first data summary including a lot number and expiration date, a donor number, and a number of negative reactions in each row and column in the electronic blood screen panel;

[2] querying a user

to manually enter a second data summary of the blood screening data using the computer system,

the second data summary of the blood screening data including the lot number and expiration date, the donor number, and the number of negative reactions in each row and column in the panel;

[3] using the computer system to compare the first and second data summaries

to evaluate an accuracy of the blood screening data extracted from the electronic blood screen panel;

and

[4] using the computer system to generate a first security code according to an algorithm when the first and second data summaries match, the first security code being based on current blood screening data incorporated into the first data summary, and the first security code [being] appended to the electronic blood screen panel.

Claims 1–21 stand rejected under 35 U.S.C. § 101 as directed to non–statutory subject matter.

#### ISSUES

The issues of eligible subject matter turn primarily on whether the claims recite more than abstract conceptual advice of what a computer is to provide without implementation details.

#### ANALYSIS

Method claim 1 recites extracting blood screening data, querying a user to manually enter a second data summary, comparing data summaries, and generating and appending a code. Thus, claim 1 recites extracting, querying, entering, comparing, and generating data. None of the limitations recites implementation details for any of these steps, but instead recite functional results to be achieved by any and all possible means. Data reception, analysis and modification, and generation are all generic, conventional data processing operations to the point they are themselves concepts awaiting

implementation details. The independent claims do not functionally rely upon the appended code, so what it might be used for is of no moment. The sequence of data reception–analysis–generation is equally generic and conventional. The ordering of the steps is, therefore, ordinary and conventional. The remaining claims merely describe data parameters and mental interpretations of the generated code, with no implementation details.

### The Supreme Court

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. First, [] determine whether the claims at issue are directed to one of those patent–ineligible concepts. [] If so, we then ask, “[w]hat else is there in the claims before us? [] To answer that question, [] 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. [The Court] described step two of this 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.”

*Alice Corp., Pty. Ltd. v CLS Bank Intl*, 134 S.Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012)).

To perform this test, we must first determine whether the claims at issue are directed to a patent–ineligible concept. The Examiner finds the claims directed to

**gathering or extracting data from an electronic blood screen panel and organizing the data in a summary form**

**with groups forming rows and columns, containing lot numbers, expiration dates, donor numbers and number of negative reaction, then querying a user's blood screen panel data to compare it with the gathered and extracted data to determine if a match occurs to grant security access.**

Final Act. 2–3.

Although the Court in *Alice* made a determination as to what the claims were directed to, we find that this case's claims themselves and the Specification provide enough information to inform one as to what they are directed to.

The preamble to claim 1 recites that it is a method of verifying data from an electronic blood screen panel. The steps in claim 1 result in appending a code based on data accuracy and matching to blood panel data. The Specification at paragraph 1 recites that the invention relates to checking accuracy and verifying blood screening data. Thus, all this evidence shows that claim 1 is directed to analyzing and summarizing and testing medical data, i.e. data verification. This is consistent with the Examiner's finding.

It follows from prior Supreme Court cases, and *Bilski* (*Bilski v Kappos*, 561 U.S. 593 (2010)) in particular, that the claims at issue here are directed to an abstract idea. The use of data verification is a building block of ingenuity in data analysis. As in *Alice Corp. Pty. Ltd.*, we need not labor to delimit the precise contours of the “abstract ideas” category in this case. It is enough to recognize that there is no meaningful distinction in the level of abstraction between the concept of risk hedging in *Bilski* and the concept of data verification at issue here. Both are squarely within the realm of

“abstract ideas” as the Court has used that term. *See Alice Corp. Pty. Ltd.* at 2357.

Further, claims involving data collection, analysis, and display are directed to an abstract idea. *Elec. Power Grp. v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (holding that “collecting information, analyzing it, and displaying certain results of the collection and analysis” are “a familiar class of claims ‘directed to’ a patent ineligible concept”); *see also In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016). Claim 1, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data extraction, querying, entering, comparing, and generating and does not recite an improvement to a particular computer technology. *See, e.g., McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314–15 (Fed. Cir. 2016) (finding claims not abstract because they “focused on a specific asserted improvement in computer animation”). As such, claim 1 is directed to the abstract idea of extracting, querying, entering, comparing, and generating data.

The remaining claims merely describe data parameters and mental interpretations of the generated code. We conclude that the claims at issue are directed to a patent-ineligible concept.

The introduction of a computer into the claims does not alter the analysis at *Mayo* step two.

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

Stating an 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 feature[e]” that provides any “practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.”

*Alice Corp. Pty. Ltd.*, 134 S.Ct. at 2358 (citations omitted).

“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea [] on a generic computer.” *Alice Corp. Pty. Ltd.*, 134 S.Ct. at 2359. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer for extracting, querying, entering, comparing, and generating data amounts to electronic data query and retrieval—one of the most basic functions of a computer. All of these computer functions are well-understood, routine, conventional activities previously known to the industry. In short, each step does no more than require a generic computer to perform generic computer functions.



Considered as an ordered combination, the computer components of Appellants' method add nothing that is not already present when the steps are considered separately. Viewed as a whole, Appellants' method claims simply recite the concept of data verification as performed by a generic computer. To be sure, the claims recite doing so by advising one to compare two data sets and append a code to one set when the data sets match. But this is no more than abstract conceptual advice on the parameters for such data verification and the generic computer processes necessary to process those parameters, and do not recite any particular implementation.

The method claims do not, for example, purport to improve the functioning of the computer itself. Nor do they effect an improvement in any other technology or technical field. The 17 pages of specification spell out different generic equipment and parameters that might be applied using this concept and the particular steps such conventional processing would entail based on the concept of data verification under different scenarios. They do not describe any particular improvement in the manner a computer functions. Instead, the claims at issue amount to nothing significantly more than an instruction to apply the abstract idea of data verification using some unspecified, generic computer. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice Corp. Pty. Ltd.* at 2360.

As to the structural claims, they

are no different from the method claims in substance. The method claims recite the abstract idea implemented on a generic computer; the system claims recite a handful of generic

computer components configured to implement the same idea. This Court has long “warn[ed] ... against” interpreting § 101 “in ways that make patent eligibility ‘depend simply on the draftsman’s art.’

*Alice Corp. Pty. Ltd.* at 2360.

We are not persuaded by Appellants’ argument that the Examiner provides no evidence that the claimed limitations are “well-understood, routine, and conventional activities.” App. Br. 10. We find *supra* that data reception, analysis and modification, and generation are all generic, conventional data processing operations to the point they are themselves concepts awaiting implementation details.

We are not persuaded by Appellants’ argument that the claims were held to be patentable over the art applied in the prior appeal. *Id.* “A claim for a new abstract idea is still an abstract idea. The search for a § 101 inventive concept is thus distinct from demonstrating § 102 novelty.” *Synopsis, Inc. v. Mentor Graphics Corporation*, 839 F.3d 1138, 1151 (Fed. Cir. 2016).

We are not persuaded by Appellants’ argument that with regard to each independent claim, the recited invention addresses the technology-centric challenge of verifying the accuracy of blood screening data retrieved from an electronic blood screening panel. App. Br. 11. The issue is not whether the claims solve a technology centric problem, but whether the claims do more than implement the abstract idea with routine, conventional activity.

We conclude that the limitations of the ’545 claims do not transform the abstract idea that they recite into patent-eligible subject matter because the claims simply instruct the practitioner to implement the abstract idea with routine, conventional activity. . . . Adding routine additional steps such

as updating an activity log, requiring a request from the consumer to view the ad, restrictions on public access, and use of the Internet does not transform an otherwise abstract idea into patent-eligible subject matter. Instead, the claimed sequence of steps comprises only “conventional steps, specified at a high level of generality,” which is insufficient to supply an “inventive concept.”

*Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (2014). Further, that the claims recite the context of blood panel data is of no help.

To be sure, the ’379 patent claims the wireless delivery of regional broadcast content only to cellphones. In that sense, the claims are not as broad as the abstract idea underlying them, which could apply to the delivery of out-of-region content to any electronic device. That restriction, however, does not alter the result. All that limitation does is to confine the abstract idea to a particular technological environment—in this case, cellular telephones. The Supreme Court and this court have repeatedly made clear that merely limiting the field of use of the abstract idea to a particular existing technological environment does not render the claims any less abstract.

*Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1258 (Fed. Cir. 2016).

#### CONCLUSIONS OF LAW

The rejection of claims 1–21 under 35 U.S.C. § 101 as directed to non–statutory subject matter is proper.

#### DECISION

The rejection of claims 1–21 is affirmed.

Appeal 2016-008353

Application 11/751,145

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED