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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAVID LaVALLE

Appeal 2017-003013
Application 13/888,445
Technology Center 3600

Before ROBERT E. NAPPI, JOHNNY A. KUMAR, and
JOHN P. PINKERTON, *Administrative Patent Judges*.

PINKERTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Final Rejection of claims 1–8 and 36–41, which are all of the claims pending in this application. Claims 9–35 are cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellant identifies Nasdaq, Inc. as the real party in interest. App. Br. 3.

STATEMENT OF THE CASE

Introduction

According to Appellant, the “invention relate[s] to methods and arrangements such as automated exchanges, trading engines, computers and computer programs (software) for trading a financial instrument.” Spec. 1:5–8.² The Specification explains that the term ““financial instruments”” encompasses any tradable item—“securities, derivative or commodity, such as stocks, bonds, cash, swaps, futures, foreign exchange, options, gas[,] electricity and so forth, or group of items that is traded through matching of counterparty orders (bid, offer).” Spec. 1:19–23.

Claim 1 is representative and reproduced below:

1. A method of trading an Exchange Trade Product, ETP, the method comprising:

receiving, by an order processing device, a data message comprising an information element identifying an order to trade the ETP, said order including a value indicative of a peg order price,

receiving periodically at a predetermined interval, by an Intraday Net Asset Value, INAV, monitoring device, data messages from a data feed, the data messages comprising an information element identifying a current Intraday Net Asset Value, INAV;

reading, by the INAV monitoring device, said information element;

² Our Decision refers to the Final Office Action mailed Aug. 19, 2015 (“Final Act.”), Appellant’s Appeal Brief filed Feb. 12, 2016 (“App. Br.”) and Reply Brief filed Dec. 20, 2016 (“Reply Br.”), the Examiner’s Answer mailed Oct. 21, 2016 (“Ans.”), and the original Specification filed May 7, 2013 (“Spec.”).

comparing, by a comparator, the read information element including the current INAV to a previously read information element identifying a previous INAV to check whether the INAV has changed from a previous INAV;

transmitting, from the INAV monitoring device to the order processing module, a data message comprising the received and read information element, identifying the current INAV, in response to a determination that the INAV has changed;

determining, by the order processing device, that there is a need of adjustment of the peg order price, and in response thereto modifying, by the order processing device, the peg order price in accordance with the current INAV received in the data message comprising the information element identifying the current INAV.

App. Br. 22 (Claims App'x).

Rejection on Appeal

Claims 1–8 and 36–41 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter.

ANALYSIS

We have reviewed the Examiner's rejection of claims 1–8 and 36–41 under 35 U.S.C. § 101 in light of Appellant's arguments in the Briefs (App. Br. 7–20; Reply Br. 2–8). For the reasons discussed *infra*, we are not persuaded by Appellant's arguments that the Examiner erred in rejecting the claims under § 101. Instead, we agree with, and adopt as our own, the Examiner's findings of facts and conclusions as set forth in the Office Action from which this appeal is taken (Final Act. 2–3) and the Examiner's Answer (Ans. 2–8). We provide the following explanation for emphasis.

Applicable Law

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.” 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: “Laws 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) (citation omitted).

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 75–77 (2012), “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. The first step in the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* For example, abstract ideas include, but are not limited to, fundamental economic practices, methods of organizing human activities, an idea of itself, and mathematical formulas or relationships. *Id.* at 2355–57. The “directed to” inquiry asks not whether “the claims *involve* a patent-ineligible concept,” but instead whether, “considered in light of the specification, . . . ‘their character as a whole is directed to excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (citations omitted). In that regard, we determine whether the claims “focus on a specific means or method that improves the relevant technology” or are “directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.” *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016) (citation omitted).

If, at the first stage of the *Alice* analysis, we conclude that the claim is not directed to a patent-ineligible concept, it is considered patent-eligible under § 101 and the inquiry ends. *Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1047 (Fed. Cir. 2016).

If the claims are directed to a patent-ineligible concept, the second step in the analysis is to consider the elements of the claims “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.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 79, 78). 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). The prohibition against patenting an abstract idea “‘cannot be circumvented by attempting to limit the use of the formula to a particular technological environment’ or adding ‘insignificant postsolution activity.’” *Bilski v. Kappos*, 561 U.S. 593, 610–11 (2010) (internal citation omitted).

*Appellant’s Arguments*³

Appellant argues that the Supreme Court’s implicit exception to the broad scope of subject matter eligibility set forth in 35 U.S.C. §§ 101 and 100, as discussed in *Alice*, should be narrowly applied, but the Examiner’s rejection applies “an impermissibly broad ineligibility analysis.” App. Br.

³ Appellant argues claims 1–8 and 36–41 as a group. App. Br. 7–20; Reply Br. 2–8. We consider method claim 1 to be representative of the claimed subject matter on appeal and, therefore, we decide the § 101 rejection of claims 1–8 and 36–41 on the basis of representative claim 1. See 37 C.F.R. § 41.37(c)(1)(iv).

7–9. According to Appellant, the claims here are not directed to a patent-ineligible concept and, therefore, step two of *Alice* is moot; however, even assuming the claims are directed to a patent-ineligible abstract idea, the claims require features that transform the alleged abstract idea into a patent-eligible application. *Id.* at 10.

Regarding *Alice* step one, Appellant argues the Examiner’s rejection is (1) conclusory, (2) fails to take into account that an order processing device “receiving,” and an INAV monitoring device “transmitting,” are physical steps, (3) “so broad as to be meaningless,” (4) fails to consider the claim as a whole, and (5) fails to address “the detailed technical features recited in the claim.” *Id.* at 11; Reply Br. 3–5. Appellant also argues that “[i]gnoring over 98% of the words in claims 1 and 5 is a clear legal error.” Reply Br. 3. Appellant further argues the claims are more like those in *DDR Holdings*, which recognized that a claim directed to solving a business problem was patent-eligible because it was rooted in computer technology to solve a problem in the realm of computer networks. App. Br. 12. In that regard, Appellant argues the claims relate to a performance problem in automated trading exchanges—“a predominance of unfavorable or low quality ETP/ETF executions . . . because the executions varied significantly from the National Best Bid and Offer (NBBO)” —which was solved by a technological solution “by linking the INAV to the computer-implemented order entry/execution process.” *Id.* at 13. Appellant further argues claim 1 makes clear the claimed solution is technical and specific and “one that is necessarily rooted in computer technology.” *Id.* at 14.

Regarding *Alice* step two, Appellant argues, even if the claims are directed in some general way to “organization and comparison of data,” as

the Examiner finds (Final Act. 3), they set forth “significantly more than these generalized concepts.” App. Br. 15–16. In particular, Appellant argues claim 1 recites two receiving steps—one implemented by an order processing device and the other by an INAV monitoring device—that “cannot be viewed as simply or generically receiving information.” *Id.* at 16. Appellant also argues that the technical details of claim 1 “amount to significantly more than comparing and transmitting information” and that the Examiner “completely ignores the determining and modifying steps.” *Id.* at 16–17. According to Appellant, another factor demonstrating claim 1 amounts to significantly more is that the Examiner “withdrew all prior art rejections and found that the claims are not anticipated or obvious over the prior art.” *Id.* at 17. Appellant further argues that, although a claim is related to finance or economics, it can still be patent-eligible. *Id.* (citing *Trading Technologies Int’l, Inc. v. CQG, Inc.*, 2015 WL 774655, at *4 (N.D. Ill. Feb. 24, 2015)). Appellant challenges the Examiner’s finding that the method of claim 1 could be “performed mentally” by arguing that the Examiner does not explain how that could be done and that there is simply too much information that is changing in fractions of a second to achieve the result achieved by claim 1. *Id.* at 18. Appellant also argues the example of the “Transmission of[] Stock Quote Data” (example 21) in the July 2015 Interim Guideline “corroborates that the instant claims recite significantly more than the alleged abstract idea.” *Id.* at 18–19. Appellant additionally argues that the scope of the claimed subject matter is sufficiently specific “that the preemption concern that ‘undergirds’ 35 U.S.C. §101 jurisprudence is not an issue.” *Id.* at 19.

In the Reply Brief, Appellant cites *Bascom* as holding that “an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces.” Reply Br. 5–6 (citing *Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016)). Appellant argues that the Examiner fails to update the § 101 rejection in light of *Enfish*, *Bascom*, *McRO*, and *Amdocs*, all of which found patent-eligible subject matter. *Id.* at 7. According to Appellant, comparing the system claim in *Amdocs* with claims 1 and 5, it is apparent that claims 1 and 5 are significantly more detailed and describe “computer components that operate in an unconventional manner, as evidenced by the lack of a prior art rejection.” *Id.* at 8.

Alice Step One

The Examiner concludes claims 1–8 and 36–41 are directed to an abstract idea—trading an exchange trade product. In particular, the Examiner finds the claims

are directed to a method of trading an exchange trade product that includes the steps of receiving, reading, comparing, transmitting, etc. These steps are similar to the concepts of obtaining and comparing intangible data (*Cybersource*) and comparing new and stored information and using rules to identify options (*SmartGene*) that the courts have previously found to be abstract.

Final Act. 2 (emphasis added).

The preamble of claim 1 recites “[a] method of trading an Exchange Trade Product, ETP.” Claim 1 also recites the steps of: (1) “receiving, by an order processing device, a data message . . . identifying an order to trade the ETP, said order including a value indicative of a peg order price”; (2) “receiving . . . , by an Intraday Net Asset Value, INAV, monitoring device,

data messages . . . comprising an information element identifying a current . . . INAV;” (3) “reading, by the INAV monitoring device, said information element;” (4) “comparing, by a comparator, . . . the current INAV to . . . a previous INAV to check whether the INAV has changed . . .;” (5) “transmitting, from the INAV monitoring device to the order processing module, . . . the current INAV, in response to a determination that the INAV has changed;” (6) “determining, by the order processing device, that there is a need of adjustment of the peg order price, and in response thereto”; and, (7) “modifying, by the order processing device, the peg order price in accordance with the current INAV”

Considering the focus of claim 1 as a whole, we agree with the Examiner’s conclusion that claim 1 is directed to an abstract idea—the fundamental economic practice of trading an exchange trade product. We see no meaningful difference in claim 1 and similar or analogous claims in other cases that our reviewing court has concluded are directed to an abstract idea. *See, e.g., Alice*, 134 S. Ct. at 2356 (holding the concept of intermediated settlement is an abstract idea directed to a “fundamental economic practice long prevalent in our system of commerce” (citation omitted)); *see also buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1353–54 (Fed. Cir. 2014) (citing cases where contractual relations at issue constituted fundamental economic practices, and noting that forming or manipulating economic relations may involve an abstract idea); *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362 (Fed. Cir. 2015) (“automatic pricing method and apparatus for use in electronic commerce”); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (explaining that claims directed to “the mere

formation and manipulation of economic relations” and “the performance of certain financial transactions” have been held to involve abstract ideas).

Consistent with the Examiner’s conclusions, we conclude that steps (1) – (5) of claim 1 recite “receiving, reading, comparing, [and] transmitting trade information.” *See* Final Act. 3. Although the Examiner did not expressly state, as Appellant argues, that the “receiving” function was performed by “an order processing device” in step (1) and by “an INAV monitoring device” in step (2), we are not persuaded of reversible error because the function of “receiving” trade information is performed in both steps, regardless of the device receiving the information.⁴ It is well established that gathering, analyzing, manipulating, and presenting information of a specified content are within the realm of abstract ideas. *See Content Extraction*, 776 F.3d at 1347 (“The concept of data collection, recognition, and storage is undisputedly well-known.”); *Electric Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016) (claims focus on the abstract idea of collecting information, analyzing it, and displaying certain results of the collection and analysis); *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1341 (Fed. Cir. 2017) (holding that the claimed invention is directed “to the abstract concept of collecting, displaying, and manipulating data of particular documents”).

⁴ Although Appellant argues these two receiving steps “cannot be viewed as simply or generically receiving information” (*see* App. Br. 16), this argument is not persuasive because (1) claim 1 does not recite any particular technical details for performing the “receiving” functions and (2) Appellant does not explain why receiving information from an order processing device and an INAV monitoring device is anything other than simply or generically “receiving” information.

We also agree with the Examiner’s conclusion that the “comparing” step, is analogous to the abstract idea of comparing new and stored information and using rules to identify options. Final Act. 2 (citing *SmartGene*). In *SmartGene, Inc. v. Advanced Biological Laboratories, SA*, 555 F. App’x 950, 954 (Fed. Cir. 2014), the Federal Circuit concluded the claims were patent-ineligible because they did “no more than call on a ‘computing device,’ with basic functionality for comparing stored and input data and rules, to do what doctors do routinely.” Here, the comparator of claim 1 merely compares the current INAV to a previous INAV to determine whether the INAV has changed, in which event the current INAV is transmitted from the INAV monitoring device to the order processing module.

Although the Examiner did not specifically mention the “determining” and “modifying” steps of claim 1 in the Final Office Action (as Appellant argues (*see* App. Br. 17)), in the Answer, the Examiner finds that, in performing these steps, “[t]he order processing device is performing generic computer functions.” Ans. 6. We agree with the Examiner. In addition, we conclude that the steps of “determining” and “modifying” merely involve collecting and analyzing information. *See Electric Power*, 830 F.3d at 1353. In these steps, the order processing device receives the current INAV and “determines” there is a need to adjust the peg order price and in response thereto, “modifies” the peg order price in accordance with the current INAV. Claim 1 fails to recite any technical details for performing the “determining” and “modifying” functions. We also conclude that these steps could be performed by a human with pen and paper and involve mathematical calculations. In that regard, our reviewing court has held that “analyzing

information by steps people go through in their minds, or by mathematical algorithms, without more, [are] essentially mental processes within the abstract-idea category.” *See id.*; *see also Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1146 (Fed. Cir. 2016). We are not persuaded by Appellant’s argument there is “too much information” that is changing quickly to achieve the results of claim 1 mentally (*see* App. Br. 18) because “[u]sing a computer to accelerate an ineligible mental process does not make that process patent-eligible.” *Bancorp Servs., LLC v. Sun Life Assurance Co. of Can. (U.S.)*, 687 F.3d 1266, 1279 (Fed. Cir. 2012).

Merely combining several abstract ideas does not render the combination any less abstract. *RecogniCorp, LLC v. Nintendo Co., Ltd.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) (“Adding one abstract idea . . . to another abstract idea . . . does not render the claim non-abstract.”); *see also FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1094 (Fed. Cir. 2016) (determining the pending claims were directed to a combination of abstract ideas). Thus, the fact that claim 1 combines abstract ideas that are analogous to (1) collecting, analyzing, manipulating, and presenting information, (2) “comparing new and stored information and using rules to identify options,” and (3) “analyzing information by steps people go through in their minds, or by mathematical algorithms” does not render claim 1 any less abstract.

We are not persuaded by Appellant’ arguments attacking the Examiner’s rejection as conclusory, overly broad, failing to consider the claim as a whole, and using a “conclusory mantra” and “reductionist analysis.” *See* App. Br. 11; Reply Br. 3–7. As discussed *supra*, in concluding that claim 1 is directed to an abstract idea, the Examiner

analyzed claim 1 in accordance with established precedent of the Supreme Court and our reviewing court. In doing so, the Examiner considered the different functions recited in claim 1 and, in doing so, considered the related limitations of claim 1 as a whole.

We also are not persuaded by Appellant’s arguments that the claims here are more like those in *DDR Holdings* and that the claimed solution is technical and specific and “one that is necessarily rooted in computer technology.” App. Br. 12–14; Reply Br. 4–6. In *DDR Holdings*, the Federal Circuit explained that the patent-eligible claims specified “how interactions with the Internet are manipulated to yield a desired result . . . that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink.” *DDR Holdings, LLC v. Hotels.com L.P.*, 773 F.3d 1245, 1258 (Fed. Cir. 2014). The court reasoned that those claims recited a technological solution “necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.” *Id.* at 1257. That is not the case here.

Appellant argues the claims relate to a performance problem in automated trading exchanges, which was solved by a technological solution “by linking the INAV to the computer-implemented order entry/execution process.” App. Br. 13. This argument is not persuasive, however, because Appellant does not provide technical evidence or reasoning, including any citation to the Specification, explaining how “linking” the INAV to the order entry/execution process is implemented with a technological advance or improvement.⁵ Claim 1 does not recite “linking” the INAV, but merely

⁵ Similarly, Appellant’s arguments that the Examiner fails to address the technical features in the claims are unpersuasive because Appellant does not

recites receiving the current INAV, comparing the current INAV to a previous INAV to check whether the INAV has changed, transmitting the current INAV in response to a determination that the INAV has changed, and determining whether there is a need of adjustment of the peg order price, and in response thereto, modifying the peg order price in accordance with the current INAV. In other words, claim 1 recites routine processes performed with generic devices. Thus, contrary to Appellant's arguments, claim 1 does not recite a specific technical solution to the problem identified by Appellant or one that is rooted in computer technology. *See Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1345 (Fed. Cir. 2013) (admonishing that “the important inquiry for a § 101 analysis is to look to the claim”; “the complexity of the implementing software or the level of detail in the specification does not transform a claim reciting only an abstract concept into a patent-eligible system or method”).

We also are not persuaded by Appellant's argument that the scope of the claim is sufficiently specific that “the preemption concern . . . is not an issue.” App. Br. 19. “While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility. . . . Where a patent's claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *see also OIP Techs.*, 788 F.3d at 1362–63 (“that the claims do not preempt

identify any such technical features in the claims or refer to any descriptions of such features in the Specification. *See* App. Br. 11; Reply Br. 3–6.

all price optimization or may be limited to price optimization in the e-commerce setting do[es] not make them any less abstract”).

Thus, for these reasons, we conclude claim 1 is directed to the patent-ineligible abstract idea of trading an exchange trade product and, contrary to Appellant’s argument, step two of *Alice* is not moot. *See* App. Br. 10.

Alice Step Two

Regarding step two of the *Alice* analysis, the Examiner finds the claims do not “include additional elements that are sufficient to amount to significantly more than the judicial exception because the generically recited computer elements do not add a meaningful limitation to the abstract idea because they would be routine in any computer implementation.” Final Act. 2. For the reasons stated by the Examiner, we agree with the Examiner’s findings and conclusions.

Appellant argues that the “technical details” of claim 1 amount to “significantly more” than comparing and transmitting information and that the Examiner ignores the “determining” and “modifying” steps. *See* App. Br. 16–17. This argument is not persuasive because it is conclusory and fails to identify any “technical details” in claim 1 or any description in the Specification of how any claim element provides a technological advance or improvement over the generic functions recited in the claims, including the “determining” and “modifying” steps. Contrary to Appellant’s arguments, claim 1 does not “focus on a specific means or method that improves the relevant technology,” but is “directed to a result or effect that itself is the abstract idea and merely invoke[s] generic processes and machinery.” *McRO*, 837 F.3d at 1314 (citation omitted). This is not enough to transform an abstract idea into patent-eligible subject matter. *See, e.g., Alice*, 134 S.

Ct. at 2360 (explaining that claims that “amount to ‘nothing significantly more’ than an instruction to apply the abstract idea . . . using some unspecified, generic computer” “is not ‘*enough*’ to transform an abstract idea into a patent-eligible invention” (quoting *Mayo*, 566 U.S. at 77, 79)); *Intellectual Ventures*, 850 F.3d at 1342 (“[T]he claim language here provides only a result-oriented solution, with insufficient detail for how a computer accomplishes it. Our law demands more.”).

We also are not persuaded by Appellant’s arguments that a factor demonstrating claim 1 amounts to “significantly more” is that the Examiner finds the claims are not anticipated or obvious over the prior art. *See* App. Br. 17. A finding of novelty or non-obviousness does not automatically lead to the conclusion that the claimed subject matter is patent-eligible. Although the second step in the *Mayo/Alice* framework is termed a search for an “inventive concept,” the analysis is not an evaluation of novelty or non-obviousness, 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 Corp.*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 72–73). “Groundbreaking, innovative, or even brilliant discovery does not by itself satisfy the § 101 inquiry.” *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 591 (2013). A novel and non-obvious claim directed to a purely abstract idea is, nonetheless, patent-ineligible. *See Mayo*, 566 U.S. at 90; *see also Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981) (“The ‘novelty’ of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of

a claim falls within the § 101 categories of possibly patentable subject matter”).

We also are not we persuaded by Appellant’s references to *Trading Technology*, *Bascom*, *Enfish*, *McRO*, *Amdocs*, and example 21 (Transmission of Stock Quote Data) in the July 2015 Interim Guideline because Appellant has not demonstrated that the claims in any of those cases or example are similar or analogous to claim 1 or that the holding in any of such cases is controlling here. *See* App. Br. 17–19; Reply Br. 5–8. Instead, Appellant merely makes the conclusory statements that example 21 “corroborates” that the claims here recite “significantly more” (*see* App. Br. 18–19) and by comparing the system claim in *Amdocs* with claims 1 and 5, it is “apparent” the claims here are more detailed and operate in an unconventional manner (*see* Reply Br. 8) without comparing the claim elements and explaining why the claims are similar. We do not disagree with Appellant that the court in *Bascom* noted that “an inventive concept can be found in a non-conventional and non-generic arrangement of known, conventional pieces” (*see* Reply Br. 5–6). *See Bascom*, 827 F.3d at 1350. However, the claims here are distinguishable from those in *Bascom*. In *Bascom*, the system claims were directed to a “content filtering system for filtering content retrieved from an Internet computer network,” which the court held were directed to an abstract idea. *Id.* at 1348–49. The court further held the claims included an inventive concept in the ordered combination of system components, including a local client computer and a remote ISP server connected to the client computer and Internet computer network providing for “the installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features

specific to each end user.” *Id.* at 1350. Claim 1 does not involve a similar or analogous arrangement or “ordered combination” of components.

Thus, we see nothing in the limitations of claim 1, considered “both individually and as an ordered combination,” that transforms the claimed abstract idea of claim 1 into patent-eligible subject matter.

Accordingly, for the reasons discussed above, we sustain the Examiner’s rejection of claim 1, and grouped claims 2–8 and 36–41, under § 101.

DECISION

We affirm the Examiner’s decision rejecting claims 1–8 and 36–41 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. § 1.136(a)(1)(iv)(2016).

AFFIRMED