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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KENT F. IVANOFF, VINCENT MARTINO, NIKOLAUS TROTTA, and DAVID ARNETT

Appeal 2017-004177[1]
Application 14/971,618
Technology Center 3600

Before MURRIEL E. CRAWFORD, MICHAEL W. KIM, and PHILIP J. HOFFMANN, *Administrative Patent Judges*.

KIM, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal from the final rejection of claims 1 and 3–29. We have jurisdiction to review the case under 35 U.S.C. §§ 134 and 6.

The invention generally relates "to techniques to acquire or otherwise access data pertaining to healthcare transactions and to provide business intelligence functionality and/or information." Spec. ¶ 2.

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[1] The Appellants identify iVinci Partners, LLC as the real party in interest. Appeal Br. 2.

Claim 1 is illustrative:

1. A method for healthcare transaction data processing provided through a user-interactive graphical user interface, comprising electronic operations implemented with processor circuitry of a computing system, and the electronic operations comprising:

receiving a first set of healthcare transaction data records that represent a first healthcare transaction and receiving a second set of healthcare transaction data records that represent a second health care transaction, the first set of health care transaction data records and the second set of healthcare transaction data records originating from an electronic healthcare billing system, wherein the first set of health transaction data records are associated with a first encounter and the second set of health transaction data records are associated with a second encounter;

creating an aggregate set of healthcare transaction data records from the first set of health care transaction data records and the second set of health care transaction data records, wherein the aggregate set of healthcare transaction data records is associated with a user;

creating a payment due data record from the aggregate set of healthcare transaction data records, wherein the payment due data record is established at a time of generation of the graphical user interface, and wherein the payment due data record indicates an aggregated balance due for open charges of the first healthcare transaction and the second healthcare transaction that are tracked by the electronic healthcare billing system and held by an asset holder;

creating a dynamic financing data record for the user, wherein the dynamic financing data record is established at the time of generation of the graphical user interface, and wherein the dynamic financing data record is established from:

evaluating a set of asset holder requirement data records to determine current repayment requirements of the asset holder, wherein the

current repayment requirements are evaluated for the open charges that are held by the asset holder;

evaluating a set of user characteristic data records to determine current repayment characteristics of the user, wherein the current repayment characteristics are uniquely evaluated for the user for repayment of the aggregated balance due; and

generating a minimum amount due and financing repayment characteristics for a financed repayment of the aggregated balance due, wherein the minimum amount due and the financing repayment characteristics are constrained to the current repayment requirements of the asset holder indicated in the asset holder requirement data records and the current repayment characteristics of the user indicated in the user characteristic data records;

generating the graphical user interface, wherein the graphical user interface:

outputs the aggregated balance due and aggregated healthcare transaction information including data from the aggregate set of healthcare transaction data records;

outputs multiple available payment options that are uniquely generated to the user, wherein the multiple available payment options are associated with reduced financing payments that are customized to the minimum amount due, the financing repayment characteristics for the financed repayment of the aggregated balance due, and the current repayment characteristics of the user; and

outputs a customization interface to receive user selection of a selected payment option from among the multiple available payment options, wherein the customization interface receives a customized payment amount for the selected payment option;

receiving an indication of the selected payment option and the customized payment amount, in response to input by the user in the graphical user interface;

verifying that the customized payment amount complies with the financing repayment characteristics for the financed repayment of the aggregated balance due; and

in response to successful verification of the customized payment amount for the selected payment option, updating the graphical user interface to:

output updated payment terms for the selected payment option, wherein the customized payment amount for the selected payment option provides financed repayment of the aggregated balance due for the open charges of both of the first healthcare transaction and the second healthcare transaction that complies with the financing repayment characteristics according to the updated payment terms.

The Examiner rejected claims 1 and 3–29 under 35 U.S.C. § 112(a) as failing to comply with the written description requirement.

The Examiner rejected claims 1, 3, 5–16, and 18–29 under 35 U.S.C. § 102(a)(1) as anticipated by Pourfallah et al. (US 2012/0239417 A1, pub. Sept. 20, 2012) (hereinafter "Pourfallah").

The Examiner rejected claims 4 and 17 under 35 U.S.C. § 103 as unpatentable over Pourfallah and Yang (US 2005/0033609 A1, pub. Feb. 10, 2005).

The Examiner rejected claims 1 and 3–29 under 35 U.S.C. § 101 as directed to patent in-eligible subject matter.

We AFFIRM, but, pursuant to 37 C.F.R. § 41.50(b), denominate our affirmance as a NEW GROUND of rejection.

ANALYSIS

Rejection under 35 U.S.C. § 112

The Examiner found the "[S]pecification fails to provide an adequate written description for the '*creating a dynamic financing data record for the user*, wherein the *dynamic financing data record* is established . . . .'" Final Act. 3.

We are persuaded by the Appellants' argument that the Specification provides adequate support for the limitation. Appeal Br. 15–16 (citing Spec. ¶¶ 43, 50, 66, 101, 106, 110, 189, and 205). When an explicit limitation in a claim is not present in the written description, it must be shown that a person of ordinary skill would have understood that the description requires that limitation. *Hyatt v. Boone*, 146 F.3d 1348, 1353 (Fed. Cir. 1998). The Specification describes "triggered actions 514C corresponding to stage 2 (financing plan) may include a) creating a financing plan record 218 corresponding to the account record 212." Spec. ¶ 119. We are persuaded that the ordinary artisan would have understood that a data record, when read in light of the cited portions of the Specification, as a whole, can be changed, and is, thus, dynamic. Accordingly, we are persuaded that the above paragraph provides adequate written description support for the claim language about creating a dynamic data record concerning financing.

For this reason, we do not sustain the rejection of claims under 35 U.S.C. § 112.

Rejection under 35 U.S.C. § 102

Each of independent claims 1, 15, and 24 recite language substantially identical to "verifying that the customized payment amount complies with

the financing repayment characteristics for the financed repayment of the aggregated balance due."

We are persuaded by the Appellants' argument that the sections of Pourfallah cited by the Examiner as disclosing the "verifying" limitation describe "spending rules" that "are set by a consumer, and have no relation to financing repayment characteristics of a financing plan, or 'current repayment requirements of the asset holder' as claimed." Appeal Br. 20–21.

The claims recite "multiple available payment options are associated with reduced financing payments that are customized to the minimum amount due" are presented to a user (patient, guarantor), from which the user may select from, or modify, the options. The claim then verifies whether the user selection "complies with the financing repayment characteristics." However, according to earlier-recited claim language, "the financing repayment characteristics are constrained to the current repayment requirements of the asset holder."

The sections of Pourfallah cited by the Examiner as disclosing the "verifying" language, paragraphs 36, 66, 127, 128, 149, and 274 (Final Act. 13, Answer 7–8), do not address the "requirements of the asset holder." The "asset holder" is the provider, or an entity that holds the receivable. *See* Spec. ¶ 178 ("The authorized payment terms may be preconfigured by a provider or other asset holder with legal ability to collect a payment.").

Specification paragraph 36 addresses the user of a "payment device" for a user to make payment. Paragraphs 66, 127, and 128 address sources of payments, such as insurance, HSA accounts, and so on, which each have rules associated with their use. Paragraph 149 describes that "the H-Wallet may allow the patient to view specifics of the balance due billing."

Paragraph 274 describes the structure of a database table displayed in Figure 13B, identifying "financially responsible entity identifiers." *See* Spec. ¶¶ 36, 66, 127, 128, 149, and 274. None of these paragraphs concerns requirements a provider or asset holder has on the extension of financing to a user, as claimed.

The Examiner has therefore not supported adequately the finding that Pourfallah anticipates at least the "verifying" limitation of claims 1, 15, and 24. For this reason, we do not sustain the rejection of claims 1, 15, and 24, nor of dependent claims 3, 5–14, 16, 18–23, and 25–29 that were rejected along with claims 1, 15, and 24.

Rejection under 35 U.S.C. § 103

The Examiner has not established on the record that Yang remedies the shortcomings of Pourfallah as to "verifying that the customized payment amount complies with the financing repayment characteristics for the financed repayment of the aggregated balance due." For this reason, we do also not sustain the rejection of claims 4 and 17 under 35 U.S.C. § 103.

Rejection under 35 U.S.C. § 101

Principles of Law

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 implicit exceptions: "[l]aws of nature, natural phenomena, and abstract ideas" are not patentable. *E.g.*, *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014).

In determining whether a claim falls within the excluded category of abstract ideas, we are guided in our analysis by the Supreme Court's two-

step framework, described in *Mayo* and *Alice*. *Id.* at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–78 (2012)). In accordance with that framework, we first determine whether the claim is "directed to" a patent-ineligible abstract idea. *See Id.* at 2356 ("On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk."); *Bilski v. Kappos*, 561 U.S. 593, 611 (2010) ("Claims 1 and 4 in petitioners' application explain the basic concept of hedging, or protecting against risk."); *Diamond v. Diehr*, 450 U.S. 175, 184 (1981) ("Analyzing respondents' claims according to the above statements from our cases, we think that a physical and chemical process for molding precision synthetic rubber products falls within the § 101 categories of possibly patentable subject matter."); *Parker v. Flook*, 437 U.S. 584, 594–595 (1978) ("Respondent's application simply provides a new and presumably better method for calculating alarm limit values."); *Gottschalk v. Benson*, 409 U.S. 63, 64 (1972) ("They claimed a method for converting binary-coded decimal (BCD) numerals into pure binary numerals.").

The following method is then used to determine whether what the claim is "directed to" is an abstract idea:

> [T]he decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen—what prior cases were about, and which way they were decided. *See, e.g., Elec. Power Grp.*, 830 F.3d at 1353–54. That is the classic common law methodology for creating law when a single governing definitional context is not available. *See generally* Karl N. Llewellyn, The Common Law Tradition: Deciding Appeals (1960). This more flexible approach is also the approach employed by the Supreme Court. *See Alice*, 134 S. Ct. at 2355–57. We shall follow that approach here.

Amdocs (Israel) Limited v. Openet Telecom, Inc., 841 F.3d 1288, 1294 (Fed. Cir. 2016).

The patent-ineligible end of the spectrum includes fundamental economic practices, *Alice*, 134 S. Ct. at 2357; *Bilski*, 561 U.S. at 611; mathematical formulas, *Flook*, 437 U.S. at 594–95; and basic tools of scientific and technological work, *Benson*, 409 U.S. at 69. On the patent-eligible side of the spectrum are physical and chemical processes, such as curing rubber, *Diamond*, 450 U.S. at 184 n.7, "tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores," and a process for manufacturing flour, *Gottschalk*, 409 U.S. at 67.

If the claim is "directed to" a patent-ineligible abstract idea, we then consider the elements of the claim—both individually and as an ordered combination—to assess whether the additional elements transform the nature of the claim into a patent-eligible application of the abstract idea. *Alice*, 134 S. Ct. at 2355. This is a search for an "inventive concept"—an element or combination of elements sufficient to ensure that the claim amounts to "significantly more" than the abstract idea itself. *Id.*

Analysis

The Examiner finds the claims as a group "is/are directed to the abstract idea of healthcare transaction data processing including managing payments for services or products in the healthcare industry." Final Act. 3–4, Answer 10.

Independent method claim 1 recites limitations to receive and aggregate billing information, calculate a remaining balance due from the patient, establish a minimum amount due and payment options based on provider and patient factors, and present the periodic payment options to a

patient, receive a selection from the among the options including a new proposed periodic payment amount, evaluating the proposed periodic payment amount for compliance with provider terms, and updating the presentation to reflect the selected payment option and accepted periodic payment amount. The claim does not recite steps to take, except for offering periodic payment options, because it only offers "financing" of the balance due based on a "minimum" that is paid each period. The claim also does not recite steps to take if the patient-proposed periodic payment amount fails to be verified as complying with provider "financing repayment characteristics."

Therefore, for claim 1, we would reformulate the Examiner's finding to be that claim 1 is directed to consolidating billing information, offering to the user periodic payment options for the amount due, and permitting the user to alter the periodic payment amount the payments are based on.

This is similar to the claims the Federal Circuit held "are directed to the abstract idea of billing insurance companies and organizing patient health information." *In re Salwan*, 681 F. App'x 938, 941 (Fed. Cir.), *cert. denied sub nom. Salwan v. Matal*, 138 S. Ct. 278, 199 L. Ed. 2d 178 (2017), *reh'g denied*, 138 S. Ct. 496, 199 L. Ed. 2d 379 (2017). The Court explained "while these concepts may be directed to practical concepts, they are fundamental economic and conventional business practices." *Id.* Claim 1 in *Salwan* included, similar to claim 1 here, communicating

> information originated, entered and controlled by at least one or more first healthcare service providers affiliated with the one or more healthcare user groups, including at least accounts information confidential for the first healthcare user groups, the confidential information includes at least accounts information

> of one or more insurance companies, which is at least used by the billing software to calculate patient portion of the bill.

Claim 1 is also similar to claims held to be directed to abstract ideas that are directed to "a loan-application clearinghouse or, more simply, coordinating loans." *LendingTree, LLC v. Zillow, Inc.*, 656 F. App'x 991, 996 (Fed. Cir. 2016). Both claim 1 and *LendingTree* involve collecting information for the purpose of negotiating a loan. Claim 1 is additionally similar to claims that involve "processing an application for financing a purchase." *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1054 (Fed. Cir. 2017).

In addition, the steps of claim 1 can be performed mentally by a human with the use of pen and paper, except for the requirement that the claimed method be "implemented with processor circuitry of a computing system," and, arguably, that the method, which generates and updates a "graphical user interface," requires a computer to enable the use of a "graphical user interface." The "receiving" of data is merely insignificant extra-solution activity in the form of data gathering. *See Bilski v. Kappos*, 545 F.3d 943, 963 (Fed. Cir. 2008) (*en banc*), *aff'd sub nom Bilski v. Kappos*, 561 U.S. 593 (2010) (characterizing data gathering steps as insignificant extra-solution activity). The aggregating of information, creating of a balance due, evaluating, determining, and generating of minimum payment amount and financing options, and verifying steps can be done mentally by a person thinking about and making calculations from the data. The output of information also is merely insignificant extra-solution activity. The claim, outside of the call for a computer, encompasses only data gathering and output steps, as well as steps that can be performed mentally. *See CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366,

1373 (Fed. Cir. 2011) (noting, in the context of the claims in that case, that "a method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101.").

For these reasons, claim 1 is directed to an abstract idea. We turn to the second step of the analysis to examine the claims for an "inventive step" or "something more."

The receiving and aggregating of data is certainly within the capabilities of a general purpose computer, as is outputting data to a graphical user interface, since that just presents data. The creating of a payment due data record involves merely addition and subtraction operations on the data, which general purpose computers are easily capable of performing. We, thus, focus on the remainder of the claim language, which is directed to the two evaluating steps, language about "generating a minimum amount due," and the verifying step.

As to the "evaluating a set of asset holder requirement data records to determine current repayment requirements of the asset holder," the Specification describes "the system 100 can evaluate the open charges balance to determine an appropriate set of terms (e.g., pre-set financing tem1s and/or authorized financing terms) to offer for the open charges balance," but does not describe an algorithm for the evaluating. Spec. ¶¶ 71 (cited at Appeal Br. 5). We construe this broadly, therefore, as a step that looks up stored data, which general purpose computers routinely perform.

As to the language that "requirements are evaluated for the open charges," the Specification describes "terms that can be compared to provider-authorized terms." *Id.* ¶ 56 (cited at Appeal Br. 5). The Specification also describes the system can "compare authorized payment

terms with the specific characteristics of a given guarantor." *Id.* ¶ 178 (cited at Appeal Br. 5). This is a simple comparison of data elements that general purpose computers can perform.

As to "evaluating a set of user characteristic data records to determine current repayment characteristics of the user," cited paragraph 67 describes using propensity-to-pay scoring, "based on the specific historical payment behaviors of the guarantor being scored or a like guarantor," but does not describe or disclose an algorithm for the scoring. *Id.* ¶ 67 (cited at Appeal Br. 5), *see also* ¶ 211, 213 ("decisioning rules"). This, in the broadest reasonable construction, involves only seeing if any payment records exist. This is a step a general purpose computer can do by checking for the existence of data records.

As to "current repayment characteristics are uniquely evaluated," the Specification describes "assigning PTP scores" (Spec. ¶ 78, cited at Appeal Br. 6) and various types of bills (*id.* ¶ 98), but does not describe any evaluation algorithm, or process to ensure an evaluation is unique among users. This step, thus, may broadly, but reasonably, encompass determining if any repayment records are present. Checking for the existence of data is a simple data lookup step any general purpose computer may perform.

As to "generating a minimum amount due and financing repayment characteristics for a financed repayment of the aggregated balance due," the Specification describes that financing terms "may be based upon criteria of the guarantor at one or more of a provider level, a guarantor level, and/or a visit level." *Id.* ¶ 185 (cited at Appeal Br. 6). The Specification, however, does not describe how a minimum amount due is generated. *See also id.* ¶¶ 200, 205 (cited at Appeal Br. 6). This step may broadly, but reasonably,

involve only adding up the amount due and using that total as the minimum amount due, which involves mathematical operations any general purpose computer can perform.

As to constraining an amount due and "repayment characteristics … to the current repayment requirements of the asset holder," the Specification describes that the system "may provide allowable ranges into which guarantor-configured financing terms may fall." Spec. ¶ 226 (cited at Appeal Br. 6). This may involve only comparing data to see if it falls within a range, which is a task a general purpose computer can perform.

The claim recites "data processing provided through a user-interactive graphical user interface, comprising electronic operations implemented with processor circuitry of a computing system." The Specification describes that the computing system "includes a processor 1002 (or one or more processors), a memory 1004," and several engines, each of which "provides functionality." Spec. ¶ 171 (cited at Appeal Br. 4). The Specification, thus, only refers to general purpose computer components.

The method steps, individually and as a whole, involve data input or output, and steps that can be performed mentally, or by a general purpose computer, which is the only computer required by the claim language. Therefore, we do not find an "inventive concept" or "something more" in the claim that transforms the abstract idea, to which claim 1 is directed, into eligible subject matter.

We are not persuaded by the Appellants' argument that, according to the Appellants, the "claims are not directed to the performance or execution of some financial technique: they are directed to data processing (and technology) that is ancillary to the financial technique itself." Appeal

Br. 26–27; *see also id.* 28 ("The recited computer operations are performed exclusively in a computer, excluding any possibility that the claims are directed to human activities or ideas by themselves."). For the reasons set forth above, including that the claims can be performed by a human using pen and paper, the claims are not directed to data processing and technology.

Similarly, we are not persuaded by the Appellants' argument that "the present claims are directed to an improvement in data processing and graphical user interface functionality in a computer system for healthcare transaction data," for the same reason. Appeal Br. 28.

The Appellants argue claim 1 is "not directed to economic concepts like *buySafe*, *Bilski*, and *Alice* were." Appeal Br. 27. The argument is moot, since we find claim 1 is similar to claims in other cases the Federal Circuit has agreed are directed to ineligible subject matter, as we established above.

The Appellants next argue error on the part of the Examiner for "dissection of the claim to omit the novel operations performed by the computer," as evidenced by the Declaration filed along with the application by Mr. Ivanoff. Appeal Br. 29–30.

In considering the Declaration, the Examiner states the "affidavit filed on 12/16/2015 and 4/15/2016 have been considered and are not deemed persuasive." Final Act. 25–26. The Examiner, however, provides no further explanation of the reason the Declaration was considered unpersuasive.

The Declaration first assets the claimed invention "is the first and only fully integrated patient billing, payments and financing (referred to within the industry as 'revenue cycle management') platform in the US healthcare

market," which was designed to address a number of problems in existing systems. Decl. 1–2.[2]

The Declaration asserts the VisitPay product, was designed to "**automatically integrate data inputs from multiple billing systems into a** . . . single, universal data structure." Decl. 3. More than merely consolidating data, this implies a translation of data format. The only relevant claim, with respect to this assertion, is dependent claim 6, which recites translating data into a "normalized data format," but neither the alleged "universal data structure" nor the "normalized data format" are defined, described, or depicted in the written description. This means there is no way to know if the data structure utilized transforms the abstract idea into eligible subject matter. In addition, translation has been held to be directed to an abstract idea (s*ee Novo Transforma Technologies, LLC v. Sprint Spectrum L.P.,* 2015 WL 5156526 (D.Del. 2015), aff'd, 2016 WL 5335040 (Mem) (Fed. Cir. 2016)), and to be a mental process (s*ee Synopsys, Inc. v. Mentor Graphics Corporation,* 839 F.3d 1138 (Fed. Cir. 2016)).

The Declaration next assets "VisitPay's matching algorithm authenticates guarantors in a fashion that is configured differently for any given provider depending on that provider's unique data structure and data availability." Decl. 3. There is, however, no guarantor authentication claimed.

Next, the Declaration asserts "VisitPay tracks and collects the superset of data (contained only in VisitPay) to build a longitudinal and

[2] The only apparent difference between the Declaration filed along with the initial Disclosure, and the one filed in April 2016, is the reference in the later-filed version to the assigned application serial number.

comprehensive history of transactions and events" which is "stored in a CRM-like information system organized around the guarantor." *Id.* However, no history or "CRM-like" system is claimed, and the organization of data stored is not described in the Specification.

The Declaration describes that "VisitPay executes logic to determine the exact visit state at a point in time," and "can update a balance, close or return visits to the provider, suspend visits due to user dispute, classify visits as 'past due', etc." Decl. 4. However, no "state machine" or object is claimed or described in sufficient detail in the Specification to determine its nature, and the claims do not address the "state" of any "visit."

The Declaration additionally highlights more features that are not found in the claim language. Mr. Ivanoff asserts "VisitPay allows the user to choose a payment due date" (*id.*), but the claims do not recite any such function. Mr. Ivanoff also asserts that "only visits in billable statuses as defined for each associated billing system are included in the aggregate balance due" (*id.*), but, again, this function is not claimed. Further, the Declaration asserts users may be sent a notification that a bill is ready, and offered discounts, (*id.* 5), but no such notification or discount function is claimed. On pages 5–6, the Declaration asserts "a payment rules engine runs to determine how to allocate a single payment to visits and transactions, based on specific provider and creditor payment allocation rules," but no such allocation-rules-based allocation is claimed. *Id.* 5–6. Similarly, the Declaration describes several attributes of "Interest-Bearing Finance Plans" (*id.* 6), but the claims do not require interest charges. Additionally, the Declaration describes "where one user manages another user's account," but the claims only recite where the single user is a guarantor for a second user

(*see, e.g.,* claim 5), but the other described functions are not recited in the claim. Decl. 6.

Also, Mr. Ivanoff asserts a "patient can be billed through a single, monthly, online statement, regardless of the number or type of source billing systems, and can interact with all of the components of their bill through a common user interface." *Id.* 4. However, consolidating data can be done mentally by a human, and a user interface is merely a way to implement data input and output functions on a general purpose computer. *See also 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").

The Declaration describes a function that "splits the payment into a set of one to many sub-payment transactions that are routed." Decl. 6. However, this is similar to the claims in *Cyberfone Sys., LLC v. CNN Interactive Grp.*, 558 Fed. Appx. 988 (Fed. Cir. 2014). The Court said "the idea of collecting information in classified form, then separating and transmitting that information according to its classification, is an abstract idea that is not patent-eligible." *Id.* at 992.

Mr. Ivanoff describes functions such as the ability to "set absolute financing boundaries that are dynamically applied through the financing rules engine within VisitPay at the user level as a mathematical function of various independent variables." *Id.* 7. However, no algorithm or mathematical function is claimed or described in the Specification. Functions described in the affidavit include a "digital signature process," which is not claimed. *Id.* Similarly, the Declaration describes a customer

service portal, but no such portal is recited in the claims. *Id.* 8. Also, Mr. Ivanoff describes that "VisitPay also includes functionality to track and dynamically determine which System of Record (SOR) for each type of patient billing domain should serve as the master record, then ensure that each adjacent system honors that designation." *Id.* This set of functions also is not claimed. Nor is the function to "update adjacent billing system(s) and continuously synchronize information across all systems." *Id.* 9.

Mr. Ivanoff's Declaration, therefore, does not provide persuasive evidence that the claims are not abstract ideas, or that the claims include an inventive concept, or "something more," that transforms the abstract idea into eligible subject matter.

For these reasons, we sustain the rejection of claim 1 as directed to ineligible subject matter.

We see little meaningful difference between independent method claim 1 and independent medium claim 15, because both are directed to the same underlying invention. We also see little meaningful difference between independent method claim 1 and independent system claim 24, which recites a memory, processor, and medium including "engines" that are each recited as performing numerous functions. Although we do not address the specific algorithms in the Specification behind each software "engine," the claim on its face is directed to the same underlying invention as claim 1. 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)).

Dependent claims 3–5 limit the meaning of the data, such as requiring the charges are from two different medical care transactions, or that two people were patients. Claim 6 transforms data into a "normalized data format." Claims 7 and 8 recite that the charges come from different billing systems. Claim 9 recites receiving user input related to payment, determining a payment date, and sending a message to affect payment. Claims 10 and 11, each of which depends from claim 9, pay two different billing systems. Claim 12 recites that payment options presented to the user include "one-time payment, recurring payment, or payment-in-full," and multi-payment options "are customized to dynamic elements" that include at least one of a list of factors. Claim 13 recites that payment options are "based on decisioning rules configured by the asset holder and an eventual asset holder of the open charges." Claim 14 recites "wherein the selected payment option is defined by the current repayment characteristics of the user for one or more of: a minimum payment amount due, a maximum duration, a maximum credit limit, an interest-free period, an amount of interest to collect, or an interest rate for a given duration." The claims that depend from independent claims 14 and 24 recite substantially identical language.

The nature of the dependent claims does not alter the analysis or conclusion of being directed to abstract ideas, because they primarily recite changes in the nature of the data the system uses to present options to a user.

Therefore, we also sustain the rejection of claims 3–29 under 35 U.S.C. § 101 as directed to patent in-eligible subject matter.

DECISION

We REVERSE the rejection of claims 1 and 3–29 under 35 U.S.C. § 112(a).

We REVERSE the rejection of claims 1, 3, 5–16, and 18–29 under 35 U.S.C. § 102(a)(1).

We REVERSE the rejection of claims 4 and 17 under 35 U.S.C. § 103.

We AFFIRM the rejection of claims 1 and 3–29 under 35 U.S.C. § 101.

This decision contains new grounds of rejection pursuant to 37 C.F.R. § 41.50(b) (2008). 37 C.F.R. § 41.50(b) provides "[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review."

37 C.F.R. § 41.50(b) also provides that the Appellants, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of the appeal as to the rejected claims:

> (1) *Reopen prosecution.* Submit an appropriate amendment of the claims so rejected or new [e]vidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the prosecution will be remanded to the examiner. . . .
>
> (2) *Request rehearing.* Request that the proceeding be reheard under § 41.52 by the Board upon the same Record. . . .

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).

AFFIRMED; 37 C.F.R. § 41.50(b)