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CANTOR COLBURN LLP-BAKER HUGHES, A GE COMPANY, LLC 20 Church Street 22nd Floor Hartford, CT 06103			ADE, OGER GARCIA	
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* HAROLD BRANNON, BLAKE C. BURNETTE,  
RONNIE D. HUGHES, BRENT NAIZER, and TED REED

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Appeal 2017-006294  
Application 13/896,813  
Technology Center 3600

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Before LARRY J. HUME, JOYCE CRAIG, and  
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>1</sup> seek our review under 35 U.S.C. § 134(a) from a rejection of claims 1, 3–15, and 17–19, i.e., all pending claims. Because the claims have been twice rejected, we have jurisdiction under 35 U.S.C. §§ 6(b) and 134(a). *See Ex parte Lemoine*, 46 USPQ2d 1420, 1423 (BPAI 1994) (precedential).

We reverse.

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<sup>1</sup> Appellants identify the real party in interest as Baker Hughes Incorporated. App. Br. 2.

STATEMENT OF THE CASE

*The Invention*

According to the Specification, the invention concerns a “process of managing inventory and delivery logistics of one or more chemical additives used at a well treatment site” and an “automated additive inventory and delivery logistics control system.” Spec. ¶¶ 3–4, Abstract.<sup>2</sup>

*Exemplary Claim*

Independent claim 1 exemplifies the claims at issue and reads as follows:

1. A process of managing inventory and delivery logistics of one or more chemical additives used at a well treatment site, the process comprising:

placing one or more trailer-mounted ISO bulk containers at the well treatment site to maintain inventory capacity for one or more chemical additives on-site for a well treatment procedure;

connecting at least one of the trailer-mounted ISO bulk containers to a portion of a hydraulic fluid processing system;

monitoring chemical additive inventory within the one or more bulk containers;

making a determination, based on monitored chemical additive inventory, whether additional additive is needed in the one or more bulk containers;

generating, based on the determination, initiation of an order for delivery of additional additive;

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<sup>2</sup> This Decision uses the following abbreviations: “Spec.” for the Specification, filed May 17, 2013; “Non-Final Act.” for the Non-Final Office Action, mailed March 10, 2016; “App. Br.” for the Appeal Brief, filed August 9, 2016; “Ans.” for the Examiner’s Answer, mailed January 12, 2017; and “Reply Br.” for the Reply Brief, filed March 3, 2017.

delivering the additional additive in a delivery bulk container to the well treatment site;

and transferring the additional additive from the delivery bulk container to a respective one of the one or more trailer-mounted ISO bulk containers.

App. Br. 23 (Claims App.).

*The Rejection on Appeal*

Claims 1, 3–15, and 17–19 stand rejected under 35 U.S.C. § 101 as directed to patent-ineligible subject matter. Non-Final Act. 3–6.

ANALYSIS

We have reviewed the § 101 rejection in light of Appellants’ arguments that the Examiner erred. Based on the record before us and for the reasons explained below, we concur with Appellants’ contention that the Examiner erred in concluding that the claims fail to satisfy § 101.

*Introduction*

The Patent Act defines patent-eligible subject matter broadly: “Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.” 35 U.S.C. § 101. In *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 70 (2012), and *Alice Corp. v. CLS Bank International*, 134 S. Ct. 2347, 2354 (2014), the Supreme Court explained that § 101 “contains an important implicit exception” for laws of nature, natural phenomena, and abstract ideas. See *Diamond v. Diehr*, 450 U.S. 175, 185 (1981). In *Mayo* and *Alice*, the Court set forth a two-step analytical framework for evaluating patent-eligible subject matter.

First, “determine whether the claims at issue are directed to” a patent-ineligible concept, such as an abstract idea. *Alice*, 134 S. Ct. at 2355. If so, “consider the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements” add enough to transform the “nature of the claim” into “significantly more” than a patent-ineligible concept. *Id.* at 2355, 2357 (quoting *Mayo*, 566 U.S. at 79); see *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016).

Step one in the *Mayo/Alice* framework involves looking at the “focus” of the claims at issue and their “character as a whole.” *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016). Step two involves the search for an “inventive concept.” *Alice*, 134 S. Ct. at 2355; *Elec. Power*, 830 F.3d at 1353. An “inventive concept” requires more than “well-understood, routine, conventional activity already engaged in” by the relevant community. *Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1047 (Fed. Cir. 2016) (quoting *Mayo*, 566 U.S. at 79–80). But “an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces.” *BASCOM Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016).

#### *The Examiner’s Position*

For *Mayo/Alice* step one, the Examiner determines that the claims are directed to the abstract idea of “managing inventory and delivery logistics of chemical additives.” Non-Final Act. 3, 5; Ans. 2, 5. To support that determination, the Examiner cites various court decisions “that, if not directly relevant to the present claims, at least represent ‘methods of

organizing human activity’ that include similar concepts as the present claims.” Non-Final Act. 4–5; Ans. 3–5.

For *Mayo/Alice* step two, the Examiner determines that “the generically-recited computer elements . . . do not add a meaningful limitation to the abstract idea because the actions, functions, and/or steps performed by the generically-recited computer elements would be routine and conventional in any computer implementations.” Non-Final Act. 3, 6; Ans. 2–3, 6. Based on “the generically-recited computer elements,” the Examiner concludes that the claims lack an “inventive concept” sufficient to transform them into “significantly more” than a patent-ineligible abstract idea. Non-Final Act. 6; Ans. 6, 8.

#### *Appellants’ Position*

For *Mayo/Alice* step one, Appellants assert that the determination whether the claims are directed to an abstract idea was not made based on the claims “as a whole, and was instead, incorrectly, a determination of whether Claim 1 might ‘involve’ a patent-ineligible concept by a limited review of the preamble.” App. Br. 7; *see* Reply Br. 2. Appellants discuss and distinguish each case cited by the Examiner and then contend that “none of the . . . case law involves a set of claims resembling the claims on appeal.” App. Br. 8–11, 18; *see* Reply Br. 2–3. Among other things, Appellants argue that the claims include limitations that a computer cannot implement. App. Br. 8–11, 18.

For *Mayo/Alice* step two, Appellants assert that the following limitations in claim 1 and similar limitations in independent claim 14 “amount to ‘significantly more’ than an abstract idea”:

placing one or more trailer-mounted ISO bulk containers at the well treatment site to maintain inventory capacity for one or more chemical additives on-site for a well treatment procedure;

connecting at least one of the trailer-mounted ISO bulk containers to a portion of a hydraulic fluid processing system;

monitoring chemical additive inventory within the one or more bulk containers;

making a determination, based on monitored chemical additive inventory, whether additional additive is needed in the one or more bulk containers;

and transferring the additional additive from the delivery bulk container to a respective one of the one or more trailer-mounted ISO bulk containers.

App. Br. 12–13, 19–20; *see* Reply Br. 2–4.

Appellants argue that the identified limitations “are not ‘token or trivial’ limitations” and “are not conventional and not routine and thus amount to more than well-understood, routine, conventional activity previously engaged in by ‘researchers’ in the field.” App. Br. 15, 21; *see* Reply Br. 2–4. Appellants also argue that the claims do not “rely[] on the mere recitation of a generic computer to transform a patent ineligible abstract idea into a patent-eligible invention.” App. Br. 16, 21; *see* Reply Br. 2–4. Further, Appellants assert that the claims include “limitations [that] cannot possibly be run on a computer, and therefore the statement that generically-recited computer elements do not add meaningful limitation . . . is without merit.” App. Br. 16, 21. Appellants “note[] that neither Claim 1 nor Claim 14 specifically recite[s] a ‘computer’ yet the Examiner has alleged patent ineligibility due to the lack of improvements to a computer system.” Reply Br. 5.

*Discussion*

Based on the record before us, we agree with Appellants that the claims satisfy *Mayo/Alice* step two. The claims recite a particular arrangement of elements that when considered as an ordered combination include enough to provide a sufficient “inventive concept” for patent eligibility. Here, the specificity of the technical solution and the particular arrangement of elements required by the claims more closely resemble claims considered patent eligible by the Federal Circuit compared to the patent-ineligible claims in the decisions the Examiner cites. *See, e.g., Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121, 1123–24, 1126–28 (Fed. Cir. 2018); *Amdocs (Isr.) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1299–1306 (Fed. Cir. 2016); *BASCOM*, 827 F.3d at 1349–51.

For the reasons discussed above, Appellants’ arguments have persuaded us that the Examiner erred in rejecting claims 1, 3–15, and 17–19 under § 101. Hence, we do not sustain the § 101 rejection.

DECISION

We reverse the Examiner’s decision to reject claims 1, 3–15, and 17–19.

REVERSED