UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,354	11/08/2001	Matthew George Majikes	52493.000187	5302

21967   7590   12/19/2018
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EXAMINER
RINES, ROBERT D

ART UNIT	PAPER NUMBER
3624	

MAIL DATE	DELIVERY MODE
12/19/2018	PAPER

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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 MATTHEW GEORGE MAJIKES
and LAURA LOUISE STENGER

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Appeal 2017-007600
Application 09/986,354[1]
Technology Center 3600

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Before HUBERT C. LORIN, NINA L. MEDLOCK, and
BRADLEY B. BAYAT, Administrative Patent Judges.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Matthew George Majikes et al. (Appellants) seek our review under
35 U.S.C. § 134(a) of the Final Rejection of claims 1–21 and 23–30. We
have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF DECISION

We AFFIRM.

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THE INVENTION

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A computer implemented system that personalizes and delivers insurance content, via a communication network, to a user based on at least prior user historical electronic access pattern data and an IP address associated with the user, the computer implemented system in the form of a computer processor and interfacing with the user via a client station, the computer implemented system comprising:

a database containing (a) user historical data comprising user interaction data, user searches and user requests; (b) user identification data; (c) user authorization data identifying products and services a user is authorized to offer; and (d) insurance product data;

an interface that interfaces with a user via the client station, over a communication network, to select at least one item the user is interested in based at least in part on input received from the user, the at least one item comprising an insurance product;

a computer server comprising a filtering engine coupled to the database and the interface, the filtering engine programmed to:

(1) access the database to retrieve user profile information about the user that determines the user's historical access pattern to particular insurance products or policies, and which products and services the user is authorized to sell, wherein the user's historical access pattern to particular insurance products or polices comprises one or more insurance products or polices that the user expressed interest in during a previous access to the system;

(2) identify an IP address associated with the user and the client station;

(3) generate a list of available items that are available to the user, responsive to the user profile information;

(4) present the list of available items to the user via the client station;

(5) receive a selection from the user, via the client station, that identifies a selected at least one item from the list of available items;

(6) personalize the at least one item based on the user profile information about the user;

(7) modify the at least one item the user is authorized to sell;

(8) electronically transmit the at least one item to the user via the client station; and

an administration processor of the computer implemented system that inputs, updates and accesses user profile information about the user and the insurance content available to the user, the administration processor being accessible to an administrator of the computer implemented system via an administration interface; and

wherein authorizations for selling products are based on the user's IP address and identified products are determined and retrieved based on the user's IP address.

THE REJECTIONS

The following rejections are before us for review:

Claims 1–21 and 23–30 are rejected under 35 U.S.C. § 101 as being directed to judicially-excepted subject matter.

Claims 1, 2, 4–7, 9–21, 23–28, and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cullen et al. (US 6,272,528 B1, iss. Aug. 7, 2001) (hereinafter "Cullen"), Herz et al. (US 5,835,087, iss. Nov.

10, 1998) (hereinafter "Herz"), and Steuart et al. (US 2002/0116229 A1, pub. Aug. 22, 2002) (hereinafter "Steuart").[2]

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cullen, Herz, Steuart, and Quido et al. (US 2003/0093302 A1, pub. May 15, 2003) (hereinafter "Quido").

Claims 8 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cullen, Herz, Steuart, and Parker (US 2003/0182290 A1, pub. Sept. 25, 2003).

ISSUES

Did the Examiner err in rejecting claims 1–21 and 23–30 under 35 U.S.C. § 101 as being directed to judicially-excepted subject matter; claims 1, 2, 4–7, 9–21, 23–28, and 30 under 35 U.S.C. § 103 as being unpatentable over Cullen, Herz, and Steuart; claim 3 under 35 U.S.C. § 103 as being unpatentable over Cullen, Herz, Steuart, and Quido; and claims 8 and 29 under 35 U.S.C. § 103 as being unpatentable over Cullen, Herz, Steuart, and Parker?

ANALYSIS

The rejection of claims 1–21 and 23–30 under 35 U.S.C. § 101 as being directed to judicially-excepted subject matter.

The Appellants argued these claims as a group. *See* App. Br. 12–21. We select claim 1 as the representative claim for this group, and the

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[2] Although the statement of the rejection does not include claim 30, claim 30 is rejected as being unpatentable over Cullen, Herz, and Steuart. Final Act. 27. We note that in rejecting claim 15 (as well as claims 3 and 8), the Examiner additionally cites "Jinnett". Final Act. 23, 28, 29.

remaining claims 2–21 and 23–30 stand or fall with claim 1. 37 C.F.R.
§ 41.37(c)(1)(iv).

Alice Corp. v. CLS Bank International, 134 S. Ct. 2347 (2014),
identifies a two-step framework for determining whether claimed subject
matter is judicially-excepted from patent-eligibility under 35 U.S.C. § 101.

According to *Alice* step one, "[w]e must 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.

In that regard, the Examiner determined that the claims "are directed
to the abstract idea of personalizing and delivering insurance information
where the personalization relates to the selling authorizations associated with
the user." Final Act. 9. According to the Examiner:

> modifying insurance and financial products on the basis of
> authorizations for a sales person to sell the products and also
> coordinating the delivery of the authorized products based on
> user profile, e.g., jurisdiction, selling agreements etc., are
> reasonably considered to be both a method of organizing and
> directing actions and behaviors and long standing
> economic/commercial practice. Specifically, brokerage
> arrangements and the associated selling of insurance products as
> limited by brokerage authorizations have been present in our
> economic system as long as commercial entities have employed
> third party sellers. Further, and in specific reference to insurance
> products, jurisdictionally imposed requirements for selling
> specific insurance and financial products have been prevalent in
> our economic system for as long as nations and states have
> maintained unique laws and regulations concerning the sale of
> products within their defined territories. Accordingly, Examiner
> maintains that the claimed invention is directed to fundamental
> economic practice.

Id. at 9–10.

The Appellants reproduce the language of claim 1 and argue that "[t]he claims do not recite a mathematical algorithm, nor do they recite a fundamental economic or longstanding commercial practice." App. Br. 12–13. According to the Appellants, "[n]o idea similar to those previously found by the courts to be abstract has been identified in the claim." *Id.* at 13. The Appellants also argue that "the Office Action has not conducted a proper 35 U.S.C. § 101 analysis." *Id.* According to the Appellants, "[t]here is no explanation as to how or why the claims, or the claim elements, include an abstract idea." *Id.* at 14.

As set forth above, the Examiner fully analyzed the claims and applied the two-step *Alice* framework (*see* Final Act. 9–12). It is plainly evident that the Examiner considered all the limitations in the claim. *See, e.g., id.*; Ans. 6–16. The Appellants' argument does not apprise us of error in the Examiner's analysis at least because the Appellants have not explained how "personalizing and delivering insurance information where the personalization relates to the selling authorizations associated with the user" (Final Act. 9) is not an abstract idea.

We find the Examiner properly and reasonably found that claim 1 is directed to "personalizing and delivering insurance information where the personalization relates to the selling authorizations associated with the user" (*id.* at 9) and that this is an abstract idea.

The Appellants go to a much lower level of abstraction – wording what the claim is directed to so that it includes many of the terms recited in the claim. *See* App. Br. 12–13 where most of claim 1 is reproduced. But that does not make the claim any less directed to an abstract idea. That the

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claim includes more words than the Examiner relied upon to articulate the abstract idea is an insufficient reason to persuasively argue that claim 1 is not directed to an abstract idea.

The "directed to" inquiry applies a stage-one filter to the claims, considered in light of the Specification, based on whether "their character as a whole is directed to excluded subject matter." *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015); *see also Genetic Techs. Ltd. v. Merial L.L.C.*, 818 F.3d 1369, 1376 (Fed. Cir. 2016); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (Inquiring into "the focus of the claimed advance over the prior art.").

Claim 1 recites "[a] computer implemented system that personalizes and delivers insurance content, via a communication network, to a user based on at least prior user historical electronic access pattern data and an IP address associated with the user" the computer implemented system comprising (a) "a database" that contains various types of data, (b) "an interface that interfaces with a user," (c) "a computer server comprising a filtering engine," and (d) "an administration processor." Claim 1 further recites that the filtering engine is programmed to perform eight steps including "(1) access the database to retrieve user profile information," "(2) identify an IP address," "(3) generate" a list of items, "(4) present the list," "(5) receive a selection from the user" of an item from the list, "(6) personalize" the selected item, "(7) modify" the selected item, and "(8) electronically transmit" the item. Claim 1 also includes a "wherein" clause that further describes the information retrieval, namely "wherein authorizations for selling products are based on the user's IP address and

identified products are determined and retrieved based on the user's IP address."

The Appellants make various statements on the theme that the claimed subject matter is rooted in computer technology rather than an abstract idea. For example, the Appellants argue that "[t]he claims address a business challenge (e.g., facilitating interaction and delivering personalized insurance content to a user based on prior user historical electronic access pattern data and an IP address associated with the user) that is particular to personalization of content processing technology." App. Br. 13. According to the Appellants, "the claims are directed to a device with computer hardware, including a database, an interface, a communication network, a computer server and a filtering engine, which means that the claims are not directed to an abstract idea." *Id.* at 14 (citing *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014)).

The Examiner acknowledged that claim 1 is ostensibly directed to a system (Final Act. 9) and includes various computer components (*id.* at 10). But it is clear that the Examiner determined that these computer-implemented limitations were properly analyzed under step two of *Alice*. *See, e.g., id.* at 11 ("The non-technical functions of tailoring or personalizing insurance information based on selling authorizations and jurisdictional requirements benefit from the use of computer technology, but fail to improve the underlying technology.") The Appellants have not adequately explained how the Examiner's determination is erroneous. For example, the Appellants have not persuasively argued that the claimed invention is directed to an improvement to a database, an interface, a communication

network, a computer server, or a filtering engine. *See, e.g., Credit Acceptance Corp. v. Westlake Services, LLC*, 859 F.3d 1044, 1057 (Fed. Cir. 2017):

> Significantly, the claims do not provide details as to any non-conventional software for enhancing the financing process. *See Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017) (explaining that "[o]ur law demands more" than claim language that "provides only a result-oriented solution, with insufficient detail for how a computer accomplishes it"); *Elec. Power Grp.*, 830 F.3d at 1354 [*Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016)] (explaining that claims are directed to an abstract idea where they do not recite "any particular assertedly inventive technology for performing [conventional] functions").

The court in *Enfish* put the question as being "whether the focus of the claims is on [a] specific asserted improvement in computer capabilities . . . or, instead, on a process that qualifies as an 'abstract idea' for which computers are invoked merely as a tool." *Enfish*, 822 F.3d at 1335–36. The court found that the "plain focus of the claims" there was on "an improvement to computer functionality itself, not on economic or other tasks for which a computer is used in its ordinary capacity." *Id.* at 1336.

"In determining the eligibility of respondents' claimed process for patent protection under § 101, their claims must be considered as a whole." *Diamond v. Diehr*, 450 U.S. 175, 188 (1981). The question is whether the claims as a whole "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). In this case, we find that claim 1, as a whole, is focused on personalizing information based on information about the user. We do not see that claim 1 is focused on an improvement to any technology such as a computer server or an improved process for filtering data in a computer. Here, as in *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011), all of the steps performed by the filtering engine of claim 1 "can be performed in the human mind, or by a human using a pen and paper." As in *CyberSource*, the method of claim 1 "can be performed by a human who simply reads records [] from a preexisting database." *Id.* As in *CyberSource*, the claims use a computer's IP address to determine additional information. *Id.* at 1367–68 ("The '154 patent purports to solve this problem by using 'Internet address' information (IP addresses, MAC addresses, e-mail addresses, etc.) to determine whether an Internet address relating to a particular transaction 'is consistent with other Internet addresses [that have been] used in transactions utilizing [the same] credit card.'").

"The 'abstract idea' step of the inquiry calls upon us to look at the 'focus of the claimed advance over the prior art' to determine if the claim's 'character as a whole' is directed to excluded subject matter." *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016) (citing *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016)); *see also Enfish*, 822 F.3d at 1335, quoted in *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1241 (Fed. Cir. 2016).

In that regard, the Background section of the Specification discusses the problem, which is that "an insurance company representative taking requests from producers may not have immediate access to the sales

agreements, and, thus, may not be able to efficiently and reliably fulfill a producer or agency's request for information" and "sales agreements accessed by insurance company representatives may not be up to date resulting in the provision of erroneous information to a producer or agency or firm." Spec. 2, ll. 5–10. According to the Specification, the inventors solved the problem by providing "a system and method for personalizing and delivering insurance or financial services-related content to a user." (*id.* at ll. 12–13). In light of the Specification's description of the problem and solution, the advance over the prior art by the claimed invention is in personalizing and delivering insurance or financial services-related content to a user based on information about the user.

Given the focus of claim 1 as a whole, in light of the Specification, is on data gathering activities[3] in support of personalizing and delivering insurance or financial services-related content to a user, the claims are properly characterized as being "directed to" personalizing and delivering information to a user based on information about the user. Personalizing and delivering information to a user based on information about the user is an abstract idea. *Cf. Intellectual Ventures I LLC v. Capital One Bank (USA),* 792 F.3d 1363, 1369 (Fed. Cir. 2015) ("the claim relates to customizing information based on (1) information known about the user and (2) navigation data. [. . .] There is no dispute that newspaper inserts had often been tailored based on information known about the customer – for example,

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[3] *Cf. Elec. Power Grp., LLC,* 830 F.3d at 1353 (When "[t]he focus of the asserted claims" is "on collecting information, analyzing it, and displaying certain results of the collection and analysis," the claims are directed to an abstract idea.)

a newspaper might advertise based on the customer's location. Providing
this minimal tailoring – e.g., providing different newspaper inserts based
upon the location of the individual – is an abstract idea."); *Affinity Labs of
Tex., LLC v. Amazon.com, Inc.*, 838 F.3d 1266, 1271 (Fed. Cir. 2016)
("tailoring of content based on information about the user – such as where
the user lives or what time of day the user views the content – is an abstract
idea that is as old as providing different newspaper inserts for different
neighborhoods") (citing *Intellectual Ventures I*). *See also Personalized
Media Communications, LLC v. Amazon.Com, Inc.*, 161 F. Supp. 3d 325
(D. Del. 2015), *aff'd*, 671 F. App'x 777 (Mem) (Fed. Cir. 2016) ("providing
personalized recommendations" held to be an abstract idea).

     The Appellants further argue that the claimed "processing and
complex analysis is not possible without use of a computer – thus the claims
(as was the case in *DDR Holdings*) are not abstract as they were not subject
to a prior art process that was doing the same thing but outside a computing
environment." App. Br. 15; *see also id.* at 20 ("it is ***not possible*** for the
steps of the claims to be performed without a computer.").

     That argument is unpersuasive. Whether it would be practical for a
human to perform the method (e.g., using pen and paper) is immaterial
because "relying on a computer to perform routine tasks more quickly or
more accurately is insufficient to render a claim patent eligible." *OIP Techs.,
Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015) (citing *Alice*,
134 S. Ct. at 2359). "[T]he inability for the human mind to perform each
claim step does not alone confer patentability. As we have explained, 'the
fact that the required calculations could be performed more efficiently via a

computer does not materially alter the patent eligibility of the claimed subject matter.'" *FairWarning IP, LLC v. Iatric Systems, Inc.*, 839 F.3d 1089, 1098 (Fed. Cir. 2016).

The Appellants argue that "[t]here is no risk of preempting the abstract idea – as defined by the Examiner, because the claimed inventions are particularly defined and limited to a relatively specific scope." App. Br. 16–17.

It is true that the Supreme Court has characterized pre-emption as a driving concern for patent eligibility. *See Alice*, 134 S. Ct. at 2354. But characterizing pre-emption as a driving concern for patent eligibility is not the same as characterizing pre-emption as the sole test for patent eligibility. "The Supreme Court has made clear that the principle of preemption is the basis for the judicial exceptions to patentability" and "[f]or this reason, questions on preemption are inherent in and resolved by the § 101 analysis." *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (citing *Alice Corp.*, 134 S. Ct. at 2354). However, "[w]hile preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility." *Id.* at 1379. *Cf. OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) ("[T]hat the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract."). "What matters is whether a claim threatens to subsume the full scope of a fundamental concept, and when those concerns arise, we must look for meaningful limitations that prevent the claim as a whole from covering the concept's every practical application." *CLS Bank Int'l. v. Alice*

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Corp., 717 F.3d 1269, 1281 (Fed. Cir. 2013) (Lourie, J., concurring). Here, we find the claimed subject matter covers patent-ineligible subject matter. Accordingly, the pre-emption concern is necessarily addressed. "Where a patent's claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, [] preemption concerns are fully addressed and made moot." *Ariosa Diagnostics*, 788 F.3d at 1379.

In view of the above, we see no error in the Examiner's determination that claim 1 is directed to an abstract idea.

Step two of the *Alice/Mayo* framework is "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*, 134 S. Ct. at 2355 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 73 (2012)).

In that regard, the Examiner determined that:

> The claimed invention includes computer-implemented functions [and] steps. However, the claimed method directed to tailoring or personalizing insurance information based on selling authorizations and jurisdictional requirements, while utilizing a computer and the internet, is not rooted in computer technology nor does it improve the performance of the underlying computer technology. The computer-implemented features of the claimed invention are reasonably limited to receiving input data from a user (e.g., IP address and past interests), comparing the input data to stored data (e.g., user profile information) employing stored rules (e.g., filtering engine) outputting an option based on the analysis (e.g., an insurance product that the user is authorized to sell based on the stored profile information). In other words, the computer of the instant invention is accomplishing non-technical aims, i.e.,

> tailoring or personalizing insurance information based on
> selling authorizations and jurisdictional requirements, because
> it has been programmed to store and retrieve data and
> information and to perform calculations using the
> information/data, which is the express purpose of a calculating
> machine in a generic sense. The non-technical functions of
> tailoring or personalizing insurance information based on
> selling authorizations and jurisdictional requirements benefit
> from the use of computer technology, but fail to improve the
> underlying technology.

Final Act. 11.

The Appellants argue that the claims require "significantly more" than
an abstract idea. App. Br. 17–21. According to the Appellants, "[t]he
claimed invention addresses an Internet-centric challenge of facilitating
interaction via a communication link and personalizing and electronically
delivering insurance content to a user based on prior user historical
electronic access pattern data and an IP address associated with the user"
that "is addressed by the filtering engine, as claimed by Appellants." *Id.*
at 18.

However, computer-based "filtering" operations *per se* have not been
found sufficient to add significantly more. *See, e.g., Mortg. Grader, Inc. v.
First Choice Loan Servs. Inc.*, 811 F.3d 1314, 1317, 1324 (Fed. Cir. 2016)
(holding ineligible claims that required an interface that "provides
functionality for the borrower to search the database to identify a set of loan
packages for which the borrower qualifies" because "the claims 'add' only
generic computer components such as an 'interface,' 'network,' and
"database.'"); *LendingTree, LLC v. Zillow, Inc.*, 656 F. App'x 991, 993
(Fed. Cir. 2016) (non-precedential) (holding ineligible claims that required
"a filter comprising the plurality of selection criteria of the database to select

without manual intervention each one of said plurality of lending institutions associated with a match"); *Intellectual Ventures I LLC v. J. Crew Grp., Inc.*, No. 6:16-CV-196-JRG, 2016 WL 4591794, at *6 (E.D. Tex. Aug. 24, 2016), *aff'd sub nom Intellectual Ventures I LLC v. FTD Companies, Inc.*, 703 F. App'x 991 (Fed. Cir. 2017) (Mem) ("The computer components that adorn the preamble, such as a distributed network, an information processing system, and database storage, are inarguably generic."). *See also I/P Engine, Inc. v. AOL Inc.*, 576 F. App'x 982, 994–95 (Fed. Cir. 2014) (non-precedential) (Mayer, H., concurring):

> I/P Engine's claimed invention, which describes a system
> which filters information for relevance to a user's query using
> combined content and collaborative data [citations omitted],
> does not pass muster under section 101. The asserted claims do
> not meet subject matter eligibility requirements because they do
> not "improve the functioning of the computer itself" or "effect
> an improvement in any other technology or technical field."
> *Alice*, 134 S.Ct. at 2359. To the contrary, the use of search
> engines was well-established and the clear advantages of
> combining content-based and collaborative filtering were
> widely recognized at the time of the claimed invention.

Appellants' contention that the claims before us are similar to the claims held eligible in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014) is unpersuasive. App. Br. 13–15, 18. According to the Appellants, the claims are similar because "the claims are specific to personalizing and delivering insurance content to a user based on prior user historical electronic access pattern data and an IP address associated with the user – a result that overrides the routine and conventional use of a general computer" (*id.* at 17) and "solve an Internet-centric problem with a claimed

solution that is necessarily rooted in computer technology, similar to the additional elements of *DDR Holdings*" (*id.* at 18).

In *DDR Holdings*, the Federal Circuit determined that although the patent claims at issue involved conventional computers and the Internet, the claims nevertheless addressed the problem of retaining website visitors who, if adhering to the routine, conventional functioning of the Internet hyperlink protocol, would be transported instantly away from a host's website after "clicking" on an advertisement and activating a hyperlink. *DDR Holdings*, 773 F.3d at 1257. The court determined that those claims were directed to statutory subject matter because they claim a solution "necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks." *Id.*

No such technological advance is evident in the claimed invention. Unlike the situation in *DDR Holdings*, Appellants do not identify any problem particular to computer networks and/or the Internet that claim 1 allegedly overcomes. Here, the claimed computer components operate precisely in the expected manner of storing data in association with other data, and sending and receiving data via a conventional network. (*See* Spec. p. 6, l. 29 – p. 7, l. 20 ("The communications link 20 may be, include or interface to any one or more of, for instance, the Internet, an intranet, a Personal Area Network (PAN), a Local Area Network (LAN), a Wide Area Network (WAN) . . . ")) *Cf. buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) ("That a computer receives and sends the information over a network--with no further specification--is not even arguably inventive"). Nothing in the claim, understood in light of the Specification,

requires anything more than conventional computer implementation. "The [S]pecification fails to provide any technical details for the tangible components, but instead predominately describes the system and methods in purely functional terms." *In re TLI Comm. LLC Patent Litig.*, 823 F.3d 607, 612 (Fed. Cir. 2016). For example, with respect to the claimed "computer server," the Specification discloses that "server station 30 may host one or more applications that function to personalize and customize interaction between the insurance company and producers." Spec. p. 7, ll. 22–24. With respect to the claimed "database," the Specification discloses that "[t]he database 40 may include or interface to, for example, an Oracle™ relational database sold commercially by Oracle Corporation. Other databases, such as an Informix ™ database, Database 2 (DB2) database, a Sybase™ database or another data storage or query format, platform or resource . . ." *Id.* at 8, ll. 19–23. The "filtering engine" is described in purely functional terms. *See, e.g., id.* at 10, ll. 22–29 ("filter module 70 for determining information about a producer or agency or firm, and for personalizing and delivering insurance or financial services-related content to a user"; "filter module 70 automatically identifies the user based on the user's IP address, and thereafter accesses information stored in the database 40 based on the user's identification"). There is no detail as to how the filtering engine is programmed. *See* Figure 2 (depicting filter module 70 as an empty rectangle). There is no indication that the filtering engine improves over prior art filtering techniques. The claimed "computer server" that comprises the filtering engine may be a general purpose computer. *See* Spec. p. 7, l. 30 – p. 8, l. 6; Figures 1 and 2. "[A]fter *Alice*, there can remain no doubt:

recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible." *DDR Holdings*, 773 F.3d at 1256 (citation omitted). Here, "the method claims, which merely require generic computer implementation, fail to transform that abstract idea into a patent-eligible invention." *Alice*, 134 S. Ct. at 2357. And, as in *Alice*, "the system claims 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." *Id.* at 2360.

Appellants further seek to analogize the claims to the claims in *Bascom Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016). Reply Br. 5. According to the Appellants:

> Like the claims in *Bascom*, the claims here recite improvements to conventional systems and methods that require a very particular system that comprises a particular filtering engine programmed to perform a unique combination of tasks and routines. Thus, like the claims in *Bascom*, the novel and non-generic arrangements recited in the claim are patent-eligible.

Id. Appellants do not point to any portion of the claims or the Specification to support the assertion that claims require "novel and non-generic arrangements." For example, the Appellants have not argued that the claims require the installation of a filtering engine "at a specific location, remote from the end-users, with customizable filtering features specific to each end user," as was the case in *Bascom*. 827 F.3d at 1350. As discussed above, the Specification discloses that the invention can be performed on a generic arrangement of client stations and server station. Therefore, we do not find this argument persuasive.

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We have considered all of the Appellants' remaining arguments (including those made in the Reply Brief) and find them unpersuasive. Accordingly, because we are not persuaded as to error in the determinations that representative claim 1, and claims 2–21 and 23–30 that fall with claim 1, are directed to an abstract idea and do not present an "inventive concept," we sustain the Examiner's conclusion that they are directed to patent-ineligible subject matter for being judicially-excepted from 35 U.S.C. § 101. *Cf. LendingTree, LLC v. Zillow, Inc.*, 656 F. App'x 991, 997 (Fed. Cir. 2016) ("We have considered all of LendingTree's remaining arguments and have found them unpersuasive. Accordingly, because the asserted claims of the patents in suit are directed to an abstract idea and do not present an "inventive concept," we hold that they are directed to ineligible subject matter under 35 U.S.C. § 101.").

The rejection of claims 1, 2, 4–7, 9–21, 23–28, and 30 under 35 U.S.C.
§ 103 as being unpatentable over Cullen, Herz, and Steuart.

Claim 1 requires a filtering engine programmed to "access the database to retrieve user profile information about the user" including "which products and services the user is authorized to sell" and further recites "wherein authorizations for selling products are based on the user's IP address and identified products are determined and retrieved based on the user's IP address."

The Examiner found said limitations disclosed in Steuart in paragraphs 4, 37, and 63. Final Act. 17–18.

We agree with the Appellants that said limitations are not disclosed in Steuart in paragraphs 4, 37, and 63. App Br. 24–25.

It is the broker in Steuart – not the user – who is licensed (or not) to sell insurance in a particular state, which may or may not correspond to the user's state of residence. *See* Steuart para. 63 ("supplier system **210** may transmit the e-mail message to a first e-mail address of the broker if the user's state of residence corresponds to a state in which the broker is licensed to do business.") The user's state of residence is entered manually via "an information form," and does not necessarily have any relationship to the broker's network address discussed in paragraph 37. *See* Steuart para. 39 ("the information form may request that the user provide a state of residence of the user . . .").

Accordingly, a prima facie case of obviousness has not been made out in the first instance and, accordingly, the rejection of independent claim 1 and claims 2, 4–7, 9–14, and 30 which depend from it, is not sustained. [4]

Independent claims 15 and 25 contain similar limitations to that of claim 1 discussed above. The rejections rely on the same passages of Steuart (Final Act. 29–30) that we find do not disclose said limitations. Accordingly, we do not sustain the rejections of claims 15 and 25 and their dependent claims 16–21, 23, 24, and 26–28 for the same reason we do not sustain the rejection of claim 1.

The rejection of claim 3 under 35 U.S.C. § 103 as being unpatentable over Cullen, Herz, Steuart, and Quido.

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[4] We further note that the Examiner has not explained how the references disclose the claim 1 limitations related to the "administration processor." In the Non-Final Rejection mailed Oct. 6, 2014, the Examiner relied on Jinnett as disclosing these limitations, but we do not understand the rejection on appeal to rely on Jinnett. Final Act. 13.

Claim 3 depends from independent claim 1 whose rejection we do not sustain for the reasons above, and whose rejection relies on the position taken with respect to independent claim 1 (Final Act. 28), is not sustained for the same reasons.

The rejection of claims 8 and 29 under 35 U.S.C. § 103 as being unpatentable over Cullen, Herz, Steuart, and Parker.

Independent claim 29 contains a similar limitations to that of claim 1 discussed above. The rejection relies on the same passages of Steuart (Final Act. 29–30) that we find do not disclose said limitations. Accordingly, we do not sustain the rejection of claim 29 for the same reason we do not sustain the rejection of claim 1.

Dependent claim 8 depends from independent claim 1 whose rejection we do not sustain for the reasons above, and whose rejection relies on the position taken with respect to independent claim 1 (Final Act. 29) is not sustained for the same reasons.

DECISION

The decision of the Examiner to reject claims 1–21 and 23–30 under 35 U.S.C. § 101 is affirmed.

The decision of the Examiner to reject claims 1–21 and 23–30 under 35 U.S.C. § 103(a) is reversed.

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)(iv).

AFFIRMED