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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ALEC S. WILKINS, JENNIFER W. VANDERWALL, and  
SUSAN RISKOVOSKY

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Appeal 2017-008610  
Application 12/582,152<sup>1</sup>  
Technology Center 3600

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Before HUNG H. BUI, JOSEPH P. LENTIVECH, and ADAM J. PYONIN,  
*Administrative Patent Judges.*

BUI, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants seek our review under 35 U.S.C. § 134(a) from the Examiner’s final rejection of claims 1–9, 11, 12, and 14–28, which are all the claims pending in the application. Claims 10 and 13 are cancelled. App. Br. 24–33 (Claims App.). We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.<sup>2</sup>

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<sup>1</sup> According to Appellants, MasterCard International Incorporated is the real party in interest. App. Br. 3.

<sup>2</sup> Our Decision refers to Appellants’ Appeal Brief filed December 7, 2016 (“App. Br.”); Reply Brief filed May 22, 2017 (“Reply Br.”); Examiner’s Answer mailed March 22, 2017 (“Ans.”); Final Office Action mailed April 25, 2016 (“Final Act.”); and original Specification filed October 20, 2009 (“Spec.”).

## STATEMENT OF THE CASE

Appellants' invention relates to "electronic payment systems" in the context of healthcare services "for facilitating provider payment." Spec. 1:9–10; Abstract. According to Appellants, "techniques for facilitating provider payment" include

facilitating authorization, clearing and settlement for a pre-payment portion of a transaction conducted with a provider using a payment device having an account number; facilitating adjudication of a claim pertaining to the transaction, the adjudication resulting in [1] a payer portion and [2] a remaining patient portion; . . . facilitating storage of transaction information pertaining to the transaction, by an issuer of the payment device [and] . . . facilitating matching, by the issuer of the payment device, of: (i) a payment advice associated with the adjudication of the claim with (ii) the transaction information . . . and, responsive to the matching, facilitating the issuer controlling initiation of authorization, clearing, and settlement of [2] the remaining patient portion.

Spec. 2:8–19.

Claims 1, 11, 14, 23, and 28 are independent. Claim 1 is illustrative of the claimed subject matter, as reproduced below:

1. A method comprising the steps of:  
facilitating, by at least one hardware processor, authorization, clearing and settlement for a pre-payment portion of a transaction conducted with a provider using a payment device having an account number, said pre-payment portion of said transaction performed by an issuer of said payment device, and generating transaction information communicated by said provider to said issuer via a payment network;  
facilitating, by said at least one hardware processor, adjudication, by a payer, of a claim pertaining to said transaction, said adjudication resulting in [1] a payer portion and [2] a remaining patient portion and creation of a payment advice indicating [1] said payer portion and [2] said remaining patient

portion, wherein said payment advice is communicated to said issuer of said payment device via an on-line communications connection;

facilitating, by said at least one hardware processor, storage of said transaction information pertaining to said pre-payment portion of said transaction, by said issuer of said payment device;

facilitating, by said at least one hardware processor, matching, by said issuer of said payment device, of: (i) said payment advice, received via said on-line communications connection, with (ii) said transaction information communicated via said payment network and stored in said step of facilitating storage; and

responsive to said matching, facilitating, by said at least one hardware processor, said issuer controlling initiation of authorization, clearing, and settlement of [2] said remaining patient portion, including causing an amount including [2] said remaining patient portion to be debited, via said payment network, from an account of a holder of said payment device corresponding to said account number, said account being managed by said issuer of said payment device, and paying, via said payment network, an acquirer of said provider said amount including [2] said remaining patient portion.

App. Br. 24 (Claims App.) (bracketing added).

#### EXAMINER'S REJECTION

(1) Claims 1–9, 11, 12, and 14–28 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to an abstract idea without significantly more. Final Act. 2–4.

(2) Claims 1, 9, 11, 12, 14, 23, 26 and 27 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over Kennedy et al. (US 2007/0005403 A1; published Jan. 4, 2007; “Kennedy”) and Harrison et al. (US 7,922,083 B2; issued Apr. 12, 2011; “Harrison”). Final Act. 4–7.

(3) Claims 2, 7, 8, 15, 20, 21, and 25 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over Kennedy, Harrison, and Freeman Jr. et al. (US 6,012,035; issued Jan. 4, 2000; “Freeman”). Final Act. 7–9.

(4) Claims 3–6, 16–19, and 24 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over Kennedy, Harrison, Freeman, and Talker (US 2007/0185820 A1; published Aug. 9, 2007). Final Act. 9–13.

(5) Claim 28 stands rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over Kennedy, Harrison, and Talker. Final Act. 13–15.

## DISCUSSION

### *Patent-Eligible Subject Matter: Claims 1–9, 11, 12, and 14–28*

To determine whether claims are patent eligible under § 101, we apply the Supreme Court’s two-step framework articulated in *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208 (2014). First, we determine whether the claims are directed to a patent-ineligible concept: laws of nature, natural phenomena, and abstract ideas. *Id.* at 217. If so, we then proceed to the second step 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.” *Id.* 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.* at 217–18 (alteration in original) (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72–73 (2012)).

The Federal Circuit has described the *Alice* step-1 inquiry as looking at the “focus” of the claims, their “character as a whole,” and the *Alice* step-two inquiry as looking more precisely at what the claim elements add—whether they identify an “inventive concept” in the application of the ineligible matter to which the claim is directed. *See 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, 1335–36 (Fed. Cir. 2016); *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015).

Because there is no single definition of an “abstract idea” under *Alice* step 1, the PTO has recently synthesized, for purposes of clarity, predictability, and consistency, key concepts identified by the courts as abstract ideas to explain that the “abstract idea” exception includes the following three groupings:

- (1) Mathematical concepts—mathematical relationships, mathematical formulas or equations, mathematical calculations;
- (2) Mental processes—concepts performed in the human mind (including an observation, evaluation, judgment, opinion); and
- (3) Certain methods of organizing human activity—fundamental economic principles or practices (including hedging, insurance, mitigating risk); commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations); managing personal behavior or relationships or interactions between people (including social activities, teaching, and following rules or instructions).

*See* 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50, 52 (Jan. 7, 2019) (“PTO § 101 Memorandum”), which is effective on

January 7, 2019. According to the PTO § 101 Memorandum, “claims that do not recite [subject] matter that falls within these enumerated groupings of abstract ideas should not be treated as reciting abstract ideas,” except in rare circumstances. 84 Fed. Reg. at 53. Even if the claims recite any one of these three groupings of abstract ideas, these claims are still not “directed to” a judicial exception (abstract idea) and, thus, are “patent-eligible” if “the claim as a whole integrates the recited judicial exception into a practical application of that [judicial] exception.” 84 Fed. Reg. at 53. “Integration into a practical application” requires an additional element or a combination of additional elements in the claim to apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the exception. 84 Fed. Reg. at 53.

For example, limitations that are indicative of “integration into a practical application” include:

- 1) Improvements to the functioning of a computer, or to any other technology or technical field — *see* MPEP § 2106.05(a);
- 2) Applying the judicial exception with, or by use of, a particular machine — *see* MPEP § 2106.05(b);
- 3) Effecting a transformation or reduction of a particular article to a different state or thing — *see* MPEP § 2106.05(c); and
- 4) Applying or using the judicial exception in some other meaningful way beyond generally linking the use of the judicial exception to a particular technological environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception — *see* MPEP § 2106.05(e).

In contrast, limitations that are **not** indicative of “integration into a practical application” include:

- 1) Adding the words “apply it” (or an equivalent) with the judicial exception, or mere instructions to implement an abstract idea on a computer, or merely uses a computer as a tool to perform an abstract idea — *see* MPEP § 2106.05(f);
- 2) Adding insignificant extra-solution activity to the judicial exception — *see* MPEP § 2106.05(g); and
- 3) Generally linking the use of the judicial exception to a particular technological environment or field of use — *see* MPEP § 2106.05(h).

*See* PTO § 101 Memorandum, 84 Fed. Reg. at 54–55 (“Prong Two”).

#### *Examiner’s Determination of Patent-Ineligibility*

In rejecting claims 1–9, 11, 12, and 14–28 under 35 U.S.C. § 101, the Examiner determines these claims are directed to an abstract idea of “facilitating authorization, clearing, and settlement of a transaction,” which is a method of organizing human activity—a fundamental economic practice, and include limitations that are analogous or similar to (1) concepts of comparing new and stored information and using rules to identify options as discussed in *SmartGene*; (2) concepts of organizing information through mathematical correlations as discussed in *Digitech*; and (3) concepts of managing an insurance policy as discussed in *Bancorp. Ans. 2–4*; Final Act. 2–3; *see SmartGene, Inc. v. Advanced Biological Labs., SA*, 852 F. Supp. 2d 42 (D.D.C. 2012), *aff’d*, 555 F. App’x 950 (Fed. Cir. 2014) (holding that claims directed to “comparing new and stored information and using rules to identify medical options” are not patent-eligible); *Digitech Image Techs. LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344 (Fed. Cir. 2014) (holding

claims directed to “a process of organizing information through mathematical correlations” are not patent-eligible); *Bancorp Servs., LLC v. Sun Life Insur. Co. of Canada (U.S.)*, 687 F.3d 1266 (Fed. Cir. 2012) (holding claims directed to “managing a stable value protected life insurance policy by performing calculations and manipulating the results” are not patent-eligible); *see also CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011).

The Examiner also determines the claims fail to amount to “significantly more than the judicial exception” or contain an “inventive concept” because the additional elements recited (1) indicate “generic computer structure that serves to perform generic computer functions” that are “well-understood, routine, and conventional activities previously known to the pertinent industry” and (2) do not improve the functioning of a computer or improve any other technology. Final Act. 2–3; Ans. 4.

#### *Appellants’ Contentions of Patent-Eligibility & Analysis*

At the outset, Appellants contend the Examiner has not established a prima facie case of patent ineligibility under 35 U.S.C. § 101 because the Examiner has oversimplified and failed to provide evidence and rationale for determining that the claim is “directed to” an abstract idea. App. Br. 13–14; Reply Br. 13–15. This argument is not persuasive because (1) patent eligibility under 35 U.S.C. § 101 is a question of law that is reviewable *de novo* (*see Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012)); and (2) we are aware of no controlling authority that requires the Office to provide factual evidence to support a determination that a claim is directed

to an abstract idea.<sup>3</sup> Instead, the Federal Circuit has repeatedly noted that “the prima facie case is merely a procedural device that enables an appropriate shift of the burden of production.” *Hyatt v. Dudas*, 492 F.3d 1365, 1369 (Fed. Cir. 2007) (citing *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992)). The court has held that the USPTO carries its procedural burden of establishing a prima facie case when its rejection satisfies the requirements of 35 U.S.C. § 132 by notifying the applicant of the reasons for rejection, “together with such information and references as may be useful in judging of the propriety of continuing the prosecution of [the] application.” *In re Jung*, 637 F.3d 1356, 1362 (Fed. Cir. 2011) (alteration in original). Thus, all that is required of the Office is that it set forth the statutory basis of the rejection in a sufficiently articulate and informative manner as to meet the notice requirement of 35 U.S.C. § 132. *Id.*; see also *Chester v. Miller*, 906 F.2d 1574, 1578 (Fed. Cir. 1990) (“Section 132 is violated when [the] rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection.”). Appellants do not contend that the Examiner’s rejection under 35 U.S.C. § 101 cannot be understood or that the Examiner’s rejection, otherwise, fails to satisfy the notice requirements of 35 U.S.C. § 132. Indeed, Appellants’ understanding

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<sup>3</sup> *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1366 (Fed. Cir. 2018), holds that the question of whether certain claim limitations represent well-understood, routine, conventional activity under *Alice* step 2 may raise a disputed factual issue. That question, however, is not at issue in this case. As in *Berkheimer*, in determining that the claims are directed to an abstract idea, the Examiner compared the claims to claims held to be abstract in prior judicial decisions. *Compare* Ans. 4–5, *with Berkheimer*, 881 F.3d at 1366–67.

of the rejection is clearly manifested by their response as set forth in the briefs.

Moreover, the Examiner is required to review all claims at some level of generalization and determine whether those claims are directed to an abstract idea under *Alice* step 1. However, there is no single definition of “abstract idea.” As the Federal Circuit succinctly put it:

The problem with articulating a single, universal definition of “abstract idea” is that it is difficult to fashion a workable definition to be applied to as-yet-unknown cases with as-yet-unknown inventions.

*Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016). Because there is no single definition of an “abstract idea,” the Federal Circuit instructs us “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.” *Amdocs*, 841 F.3d at 1294 (citing *Elec. Power Grp.*, 830 F.3d at 1353–54; accord USPTO Memorandum, July 2015 Update: Subject Matter Eligibility, 3 (July 30, 2015), <https://www.uspto.gov/sites/default/files/documents/ieg-july-2015-update.pdf> (instructing examiners that “a claimed concept is not identified as an abstract idea unless it is similar to at least one concept that the courts have identified as an abstract idea”). In this case, the Examiner did just what he was required to do under the July 2015 USPTO Memorandum, i.e., analyzed the claims under *Alice* step 1 consistent with the guidance set forth in the USPTO’s “2014 Interim Guidance on Patent Subject Matter Eligibility,” 79 Fed. Reg. 74618 (Dec. 16, 2014), in effect at the time the rejection was made, i.e., on Apr. 25, 2016, and provided analogous claims as discussed in *SmartGene*, *Digitech*, and *Bancorp*.

With respect to Appellants’ argument regarding the “directed to” inquiry under *Alice* step 1, we address that argument separately in the context of *Alice* step-1 inquiry and the newly published PTO § 101 Memorandum, 84 Fed. Reg. at 53, herein below.

*Alice/Mayo—Step 1 (Abstract Idea)*

Turning to the first step of the *Alice* inquiry, Appellants argue independent claims 1, 11, 14, 23, and 28 are not directed to an abstract idea because (1) “[t]he claims do not recite a basic concept that is similar to any abstract idea previously identified by the courts”; (2) “the claimed methods are necessarily rooted in computer technology to overcome a problem specifically arising in payment networks” similarly to the claims in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014); and (3) “the claims are directed to a specific implementation of a solution (e.g., an issuer uniquely disposed and configured to perform the claimed matching) to a problem in the software arts (e.g., how to cause a remaining patient portion to be settled)” similar to the claims in *Enfish*, 822 F.3d at 1335–36. App. Br. 14–17; Reply Br. 17.

Appellants’ arguments are not persuasive. At the outset, we note the newly published PTO § 101 Memorandum governs all patent-eligibility analysis under *Alice* and § 101 effective as of January 7, 2019. In particular, the PTO has acknowledged that the Federal Circuit’s common law, analogy-driven approach (a.k.a. “analogous claim” test) was effective soon after *Alice* was decided by the Supreme Court, but that approach has since become impractical as the growing body of Federal Circuit precedent has become increasing more difficult for the Office and examiners to apply in a predictable manner. As a result, the PTO has synthesized, for purposes of

clarity, predictability, and consistency, the “abstract idea” exception to include three categories of abstract ideas: (1) mathematical concepts—mathematical relationships, mathematical formulas or equations, mathematical calculations; (2) mental processes—concepts performed in the human mind (including an observation, evaluation, judgment, opinion); and (3) certain methods of organizing human activity—fundamental economic principles or practices (including hedging, insurance, mitigating risk); commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations); managing personal behavior or relationships or interactions between people (including social activities, teaching, and following rules or instructions). *See* PTO § 101 Memorandum, 84 Fed. Reg. at 54–55.

Contrary to Appellants’ arguments, Appellants’ claims and Specification describe “electronic payment systems” in the context of healthcare services “for facilitating provider payment.” Spec. 1:9–10; Abstract. According to Appellants, “techniques for facilitating provider payment” include

facilitating authorization, clearing and settlement for a pre-payment portion of a transaction conducted with a provider using a payment device having an account number; facilitating adjudication of a claim pertaining to the transaction, the adjudication resulting in [1] a payer portion and [2] a remaining patient portion; . . . facilitating storage of transaction information pertaining to the transaction, by an issuer of the payment device [and] . . . facilitating matching, by the issuer of the payment device, of: (i) a payment advice associated with the adjudication of the claim with (ii) the transaction information . . . and, responsive to the matching, facilitating the issuer

controlling initiation of authorization, clearing, and settlement of [2] the remaining patient portion.

Spec. 2:8–19.

For example, Appellants’ independent claim 1 defines a method comprising

facilitating . . . authorization, clearing and settlement for a pre-payment portion of a transaction conducted with a provider using a payment device;

facilitating . . . adjudication, by a payer, of a claim pertaining to said transaction, said adjudication resulting in [1] a payer portion and [2] a remaining patient portion . . .

facilitating . . . matching, by said issuer of said payment device, of: (i) said payment advice . . . with (ii) said transaction information . . .

responsive to said matching, facilitating . . . said issuer controlling initiation of authorization, clearing, and settlement of said remaining patient portion, including causing an amount including said remaining patient portion to be debited.

App. Br. 24 (Claims App.) (bracketing added). Method claim 11 and system claims 14, 23, and 28 recite similar limitations.

As correctly recognized by the Examiner (Ans. 3–4), “facilitating authorization, clearing, and settlement of a transaction” between a health care provider and a patient as recited in Appellants’ claims 1, 11, 14, 23, and 28 is also plainly directed to a “fundamental economic practice”—a “certain method of organizing human activity”—and is thus a subject matter that falls within the three types of abstract ideas identified by the PTO § 101 Memorandum. Such activities are squarely within the realm of abstract ideas, like (1) the risk hedging in *Bilski v. Kappos*, 561 U.S. 593 (2010);

(2) the intermediated settlement in *Alice*, 573 U.S. at 220; (3) verifying credit card transactions in *CyberSource*, 654 F.3d at 1370; (4) guaranteeing transactions in *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1354 (Fed. Cir. 2014); (5) distributing products over the Internet in *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709 (Fed. Cir. 2014); (6) determining a price of a product offered to a purchasing organization in *Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306 (Fed. Cir. 2015); and (7) pricing a product for sale in *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359 (Fed. Cir. 2015). “Facilitating authorization, clearing, and settlement of a transaction” is also a building block of a market economy and, like risk hedging and intermediated settlement, is an “abstract idea” beyond the scope of § 101. *See Alice*, 573 U.S. at 220.

Alternatively, “facilitating authorization, clearing, and settlement of a transaction” between a healthcare provider and a patient as recited in Appellants’ claims 1, 11, 14, 23, and 28 is nothing more than “mental processes” that could be performed in the human mind or by a human using a pen and paper—a subject matter that falls within the three types of abstract ideas identified by the PTO § 101 Memorandum. *See CyberSource*, 654 F.3d at 1372–73 (“[A] method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101.”); *see also In re Comiskey*, 554 F.3d 967, 979 (Fed. Cir. 2009) (“[M]ental processes—or processes of human thinking—standing alone are not patentable even if they have practical application.”); *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972) (“Phenomena of nature, . . . *mental processes*, and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work.” (Emphasis added)). Additionally, mental

processes remain unpatentable even when automated to reduce the burden on the user of what once could have been done with pen and paper.

*CyberSource*, 654 F.3d at 1375 (“That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*.”).

For example, steps of “facilitating . . . authorization, clearing and settlement for a pre-payment portion of a transaction conducted with a provider” and “facilitating . . . adjudication, by a payer, of a claim pertaining to said transaction, said adjudication resulting in [1] a payer portion and [2] a remaining patient portion” recited in Appellants’ method claim 1 can be performed by a human patient who simply asks for an invoice for healthcare service rendered. Similarly, steps of “facilitating . . . matching” and “responsive to said matching, facilitating . . . said issuer controlling initiation of authorization, clearing, and settlement of said remaining patient portion, including causing an amount including said remaining patient portion to be debited” can be performed by a human patient who reviews the invoice and makes payment for the portion of the invoice that s/he is responsible under the insurance policy.

We discern no additional element (or combination of elements) recited in Appellants’ claims 1, 11, 14, 23, and 28 that integrate the judicial exception into a practical application. *See* PTO § 101 Memorandum, 84 Fed. Reg. at 54–55 (“Prong Two”). For example, Appellants’ claims 1, 11, 14, 23, and 28 do not (1) improve the functioning of a computer or other technology, (2) are not applied with any particular machine (except for a generic computer), (3) do not effect a transformation of a particular article to a different state, and (4) are not applied in any meaningful way beyond

generally linking the use of the judicial exception to a particular technological environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception. *See* MPEP §§ 2106.05(a)–(c), (e)–(h). As previously discussed, “facilitating authorization, clearing, and settlement of a transaction” between a healthcare provider and a patient does not improve the computer functionality as discussed in *Enfish*. Instead, generic computers are merely used as a tool to facilitate these transactions. *Enfish*, 822 F.3d at 1335–36, 1338.

For these reasons, we agree with the Examiner’s determination that Appellants’ claims 1, 11, 14, 23, and 28 are directed to an abstract idea that is not integrated into a practical application.

*Alice/Mayo—Step 2 (Inventive Concept)*

In the second step of the *Alice* inquiry, Appellants argue “the claimed limitations are tied to a specific structure of various components . . . arranges [sic] the components in a distributed architecture (e.g., with an issuer disposed to receive both transaction information and pre-payment portion to perform a matching) to achieve a technological solution to a technological problem specific to payment networks” similar to the claims in *Amdocs*. App. Br. 14–15.

Appellants’ argument is not persuasive. Under current Federal Circuit precedent, an “inventive concept” under *Alice* step 2 can be established by showing, for example, that the patent claims:

- (1) provide a technical solution to a technical problem unique to the Internet, e.g., a “solution . . . necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks” (*DDR Holdings*, 773 F.3d at 1257));

- (2) transform the abstract idea into “a particular, practical application of that abstract idea,” e.g., “installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user” (*BASCOM Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1352, 1350 (Fed. Cir. 2016)); or
- (3) “entail[] an unconventional technological solution ([e.g.,] enhancing data in a distributed fashion) to a technological problem ([e.g.,] massive record flows [that] previously required massive databases)” and “improve the performance of the system itself” (*Amdocs*, 841 F.3d at 1300, 1302).

Similarly, as recognized by the PTO § 101 Memorandum, an “inventive concept” under *Alice* step 2 can also be evaluated based on whether an additional element or combination of elements:

- (1) add a specific limitation or combination of limitations that are not well-understood, routine, conventional activity in the field, which is indicative that an inventive concept may be present (*see* MPEP § 2106.05(d)); or
- (2) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception, which is indicative that an inventive concept may not be present.

*See* PTO § 101 Memorandum, 84 Fed. Reg. at 56.

In this case, however, we find no element or combination of elements recited in Appellants’ claims 1, 11, 14, 23, and 28 that contains any “inventive concept” or adds anything “significantly more” to transform the abstract concept into a patent-eligible application. *Alice*, 573 U.S. at 221–22. For example, Appellants’ abstract idea of “facilitating authorization, clearing, and settlement of a transaction” between a health

care provider and a patient is not rooted in computer technology; nor does it (1) provide any technical solution to a technical problem as required by *DDR Holdings*; (2) provide any particular practical application as required by *Bascom*; or (3) entail an unconventional technological solution to a technological problem as required by *Amdocs*. Instead, Appellants' invention simply uses generic computer components to perform the abstract idea of "facilitating authorization, clearing, and settlement of a transaction" between a health care provider and a patient. In fact, the only "additional elements" recited in Appellants' claims merely implement the abstract idea on generic computing elements (i.e., hardware processor, memory, interface, server, payment device, payment network). *See* Fig. 1; Spec. 5–10, 18–20, 23–25. However, the use of a generic computer device does not alone transform an otherwise abstract idea into patent-eligible subject matter. As our reviewing court has observed, "after *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 (citing *Alice*, 573 U.S. at 223). Moreover, Appellants have not shown any specific limitation in claims 1, 11, 14, 23, and 28 beyond the judicial exception that is not "well-understood, routine, and conventional" in the field (*see* MPEP § 2106.05(d)).

Because Appellants' claims 1, 11, 14, 23, and 28 are directed to a patent-ineligible abstract concept and do not recite something "significantly more" under the second prong of the *Alice* analysis, we sustain the Examiner's rejection of claims 1–9, 11, 12, and 14–28 under 35 U.S.C. § 101.

*35 U.S.C. § 103: Claims 1–9, 11, 12, and 14–28*

Claim 1 recites, *inter alia*:

responsive to said matching . . . controlling initiation of authorization, clearing, and settlement of [2] said remaining patient portion, including causing an amount including [2] said remaining patient portion to be debited, via said payment network, from an account of a holder of said payment device corresponding to said account number, said account being managed by said issuer of said payment device, and paying, via said payment network, an acquirer of said provider said amount including [2] said remaining patient portion.

App. Br. 24 (Claims App.) (bracketing added). Method claim 11 and system claims 14, 23, and 28 recite similar limitations.

Appellants argue neither Kennedy nor Harrison teaches or suggests a method by which an issuer of a payment is “responsive to said matching . . . [for] controlling initiation of authorization, clearing, and settlement of said remaining patient portion, including causing an amount including said remaining patient portion to be debited, via said payment network, from an account of a holder of said payment device corresponding to said account number, said account being managed by said issuer of said payment device, and paying, via said payment network, an acquirer of said provider said amount including said remaining patient portion,” as recited in claim 1 and, similarly recited in claims 11, 14, 23, and 28. App. Br. 18–19. According to Appellants, Kennedy only teaches (1) “methods for permitting a healthcare provider to obtain real-time or right-time claim adjudication of a healthcare claim, and to obtain real-time payment processing of the patient’s portion of a healthcare charge at the time services”; and (2) does not teach “how the patient accomplishes that payment.” *Id.* at 18–19 (citing Kennedy ¶¶ 27,

29). Similarly, Harrison only teaches splitting the payment between two payment accounts, i.e., between (1) a taxable account and (2) a non-taxable account. *Id.* at 19 (citing Harrison 2:10–13, 11:27–34, 19:27–43, Fig. 1).

Appellants' arguments are not persuasive. Instead, we find the Examiner has provided a comprehensive response to Appellants' arguments supported by a preponderance of the evidence. Ans. 7–8. As such, we adopt the Examiner's findings and explanations provided therein. *Id.* For example, as correctly recognized by the Examiner, Kennedy's estimated explanation of benefits (EOB) information includes (1) a payer portion (to be paid by a healthcare provider such as HMO) and (2) a remaining patient portion (to be paid by a patient). Ans. 7 (citing Kennedy ¶ 7); *see also* Kennedy ¶¶ 27, 29, 50, 85, 88. Contrary to Appellants' arguments, Harrison is only cited for the settlement of the remaining patient portion. Final Act. 5 (citing Harrison 11:22–62, 21:48–51, 21:61–22:10, 26:4–22).

For these reasons, we are not persuaded of Examiner error. Accordingly, we sustain the Examiner's obviousness rejection of claims 1, 11, 14, and 23, and dependent claims 9, 12, 26, and 27, which Appellants do not argue separately. For the same reasons discussed, we also sustain the Examiner's obviousness rejection of (1) claims 2, 7, 8, 15, 20, 21, and 25 under 35 U.S.C. § 103(a) as being obvious over Kennedy, Harrison, and Freeman; (2) claims 3–6, 16–19, and 24 under 35 U.S.C. § 103(a) as being obvious over Kennedy, Harrison, Freeman, and Talker; and (3) claim 28 under 35 U.S.C. § 103(a) as being obvious over Kennedy, Harrison, and Talker.

CONCLUSION

On the record before us, we conclude Appellants have not demonstrated the Examiner erred in rejecting claims 1–9, 11, 12, and 14–28 under 35 U.S.C. §§ 101 and 103.

DECISION

As such, we AFFIRM the Examiner’s rejection of claims 1–9, 11, 12, and 14–28 under 35 U.S.C. §§ 101 and 103.

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