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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PRASAD MANIKARAO DESHPANDE and DINESH GARG

Appeal 2017-009529
Application 11/938,061
Technology Center 3600

Before BIBHU R. MOHANTY, NINA L. MEDLOCK, and
AMEE A. SHAH, *Administrative Patent Judges*.

SHAH, *Administrative Patent Judge*.

DECISION ON APPEAL¹

The Appellants² appeal under 35 U.S.C. § 134(a) from the Examiner's final decision rejecting claims 1–4, 7–13, and 16–26, which are all of the pending claims, under 35 U.S.C. § 101 as directed to non-statutory subject matter. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Throughout this decision, we refer to the Appellants' Reply Brief ("Reply Br.," filed June 26, 2017), Appeal Brief ("Appeal Br.," filed Jan. 31, 2017), and Specification ("Spec.," filed Nov. 9, 2007), and to the Examiner's Answer ("Ans.," mailed Apr. 26, 2017), and Final Office Action ("Final Act.," mailed July 29, 2016).

² According to the Appellants, the real party in interest is International Business Machines Corporation. Appeal Br. 3.

STATEMENT OF THE CASE

The Appellants' invention relates to "queuing systems for allocating scarce resources, and in particular, a reverse auction allocation system for applying resources to incoming service request calls." Spec. ¶ 1.

Claims 1, 10, and 19 are the independent claims on appeal. Claim 1 (Appeal Br. 36–37 (Claims App.)) is exemplary of the subject matter on appeal and is reproduced below (with bracketing added for reference).

1. A method of directing a telephone call to a winning agent among a plurality of agents, the method comprising:

[(a)] providing one or more storage drives configured to store an auction rules database that includes a plurality of auction rules;

[(b)] receiving, via the telephone call, an order at a call center from a customer for technical service, the technical service being described in a problem ticket;

[(c)] placing the order in a queue comprising received orders, wherein the queue and orders in the queue are monitored and allocated using an auction house application;

[(d)] calculating, using the auction house application, a first deadline for completing a bidding process to allocate the problem ticket to the winning agent;

[(e)] calculating, using the auction house application and said auction rules, a second deadline for completing the problem ticket based upon a complexity estimate for the problem ticket;

[(f)] inviting, using the auction house application, a bidder's list of potential agents from among the plurality of agents to bid on the problem ticket;

[(g)] receiving, at the auction house application, bids back from one or more of the potential agents;

[(h)] evaluating, using the auction house application, the bids to select a winning bid associated with the winning agent;
and

[(i)] allocating, using the auction house application, the problem ticket to the winning agent and directing the telephone call to said winning agent;

[(j)] wherein the bidder's list of the potential agents comprises those among at least one agent identified with relevant skills for solving the problem ticket, and scheduled to be present at work for the call center from at least an auction closing time until said second deadline for completing the problem ticket.

ANALYSIS

The Appellants argue the claims as a group. *See* Appeal Br. 22. We select claim 1 from the group; claims 2–4, 7–13, and 16–26 stand or fall therewith. *See* 37 C.F.R. § 41.37(c)(1)(iv).

An invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[I]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g.*, *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court's two-step framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 219 (“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.”); *see also 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 . . .”).

Concepts determined to be abstract ideas, and thus patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 192 (1981)); “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores” (*id.* at 1842 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1854))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (internal citation omitted) (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or

mathematical formula to a known structure or process may well be deserving of patent protection.”).

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an “inventive concept”” sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (citation omitted). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (alterations in original) (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

Preliminary Matter

Before turning to the *Mayo/Alice* framework, we address the Appellants’ contention that the Examiner’s rejection is in error because the Examiner fails to set forth a prima facie case of subject matter ineligibility. *See* Appeal Br. 22–24; Reply Br. 21–23. Specifically, the Appellants argue that the Examiner fails to: (1) “specifically point out the factors that are relied upon in making the determination that the claims are directed to an abstract idea” (Appeal Br. 22; Reply Br. 22); (2) “identif[y] the specific limitations considered or any rationale as to why these limitations are not enough to qualify as ‘significantly more’” (Appeal Br. 23; Reply Br. 22); and (3) “identif[y] any particular *abstract idea* allegedly claimed as corresponding to the *abstract idea* defined by the courts” (Appeal Br. 24 (citing the USPTO Memorandum, “Formulating a Subject Matter Eligibility Rejection and Evaluating the Applicant’s Response to a Subject Matter

Eligibility Rejection,” May 4, 2016 (“May 2016 Memo”)); Reply Br. 23.
We are not persuaded of Examiner error.

Here, in rejecting the claims under § 101, the Examiner analyzes the claims using the *Mayo/Alice* two-step framework. Specifically, the Examiner looks to the language of claim 1, as representative of all of the claims, identifies particular specific limitations of receiving an order, calculating deadlines, inviting bidders having relevant skills, receiving bids, evaluating and selecting winning bids, and allocating the order to the winner, and determines that all of the claims are directed to a reverse auction to best allocate tasks to workers, an “idea of itself” and “an essential task in commerce.” Final Act. 5 (citing the JULY 2015 UPDATE ON SUBJECT MATTER ELIGIBILITY (“July Update”), 80 Fed. Reg. 45429 (July 30, 2015)); Ans. 3. The Examiner further compares the claims to those in judicial decisions. *See* Final Act. 5; Ans. 4.³ The Examiner further determines that the additional elements of the claims, taken alone and as an ordered combination, do not ensure that the claims amount to significantly more than the abstract idea. Final Act. 3–5; Ans. 3–4. Although we agree with the Appellants that additional explanation is always helpful, the Examiner has clearly articulated the reasons for the rejection and has notified the Appellants of the reasons for the rejection “together with such information and references as may be useful in judging of the propriety of continuing the prosecution of [the] application.” 35 U.S.C. § 132. And, we find that, in

³ We note that under the 2019 REVISED PATENT SUBJECT MATTER ELIGIBILITY GUIDANCE, 84 Fed. Reg. 50, 52–54 (Jan. 7, 2019) (“2019 Revised Guidance”), there is no requirement that the Examiner must cite to judicial decisions as evidence that the claims are directed to an abstract idea.

doing so, the Examiner set forth a prima facie case of unpatentability. *See In re Jung*, 637 F.3d 1356, 1362 (Fed. Cir. 2011); *Chester v. Miller*, 906 F.2d 1574, 1578 (Fed. Cir. 1990) (“Section 132 is violated when a rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection.”).

The First Step

Under the first step of the *Mayo/Alice* framework, the Examiner determines that claim 1 is directed to the abstract idea of a reverse auction to best allocate tasks to workers, an idea of itself and an essential commercial task. Final Act. 5; Ans. 3. The Appellants disagree that the claim is directed to an abstract idea (*see* Appeal Br. 24–26) and contend that the claim is “directed to a technique for allocating workload in an IT service delivery industry by using a reverse auction method which subsequently results in the tickets being pulled from the queue as opposed to traditional techniques of pushing the tickets from the queue” (*id.* at 26).

The step-one analysis requires us to consider the claims “in their entirety to ascertain 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). The Court acknowledged in *Mayo*, that “all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Mayo*, 566 U.S. at 71. The question is whether the claim as a whole “focus[es] on a specific means or method that improves the relevant technology” or is “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). We, therefore, look to “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, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016).

The Specification provides evidence as to what the claimed invention is directed. Here, the Specification is titled “A Reverse Auction Based Pull Model Framework for Workload Allocation Problems in IT Service Delivery Industry.” The Field section of the Background section of the Specification provides that the invention relates “in particular, [to] a reverse auction allocation system for applying resources to incoming service request calls.” Spec. ¶ 1. In the Description of Related Art section, the Specification discusses the drawbacks of the push model of manually or automatically allocating tickets by a manager or computer program to agents (*see id.* ¶ 2) including: (1) the difficulty for the manager to keep track of individual agents’ proficiencies in a sizable/global/national team (*id.* ¶ 3); (2) the use of managers’ own intuition and/or judgment to estimate proficiencies can be inaccurate and outdated (*id.* ¶¶ 3, 15); (3) the use of records indicating expertise to allocate tickets “suffers from inefficiency since it is difficult to accurately capture and represent the skill of an agent” (*id.* ¶ 4); and (4) the lack of consideration of the complicity of the problem in measuring an agent’s performance provides little incentive for agents to fix or address complex tickets (*id.*). The claimed invention provides “an improved system for allocating problem tickets in a call center or service delivery organization responsible for incoming service request calls” (*id.* ¶ 5) by using a pull model that eliminates the need for a human manager (*id.* ¶ 18).

Claim 1 provides for “[a] method of directing a telephone call to a winning agent among a plurality of agents, the method comprising:”

- (a) providing a storage drive configured to store a database including rules;
- (b) receiving, via a telephone call, an order for a service described in a ticket;
- (c) placing the order in a queue and monitoring and allocating the order and queue using an application;
- (d) calculating, using the application, a first deadline;
- (e) calculating, using the application and rules, a second deadline;
- (f) inviting, using the application, a bidder’s list of potential agents;
- (g) receiving, at the application, bids back from the agents;
- (h) evaluating, using the application, the bids to select a winning bid;
- (i) allocating, using the application, the ticket to the winning agent and directing the call to that agent; and
- (j) wherein the bidder’s list comprises an agent with relevant skills and scheduled to be present at work during specific times.

See Appeal Br. 36–37 (Claims App.). We note that the steps are performed manually by using an application. To the extent the application performs any functions, the application may be “a software application program or other logic to control and perform various activities of the ticket auction house” (Spec. ¶ 18), a computer system that includes a processor, memory, storage drives, communication interfaces, and input/output devices, i.e., a generic compute system (*id.* ¶¶ 52–55), or “any sort of processing units, processors and controllers (e.g., processor 701 of FIG. 7) capable of executing a program of instructions for performing the stated functions and activities” (*id.* ¶ 57). The claim recites the functional results to be achieved by any and all possible means without details on how to accomplish those results.

The Specification, similarly, does not provide technological details for how to perform the steps of the method. The Appellants direct attention, generally, to paragraphs 6, 17, 18, and 22–27 of the Specification as support for all of the limitations. Appeal Br. 7–11. The portions provide for receiving an order at a call-in center (limitation (b)) (Spec. ¶ 6), pulling tickets by expressing an interest (*id.* ¶ 17), a ticket entering a queue (limitation (c)) (*id.* ¶ 18), implementing the pull model as a software application program or logic (*id.*), sending the ticket to a deadline calculator configured to compute deadlines based on service level agreement specified time durations (limitation (d)) (*id.* ¶ 22), and sending the ticket to a complexity estimator, which can be implemented as a machine-learning-based software program, configured to estimate the time required by a skilled agent to fix the problem based on one or more estimating factors (limitation (e)) (*id.* ¶ 23). Paragraph 24 describes developing a bid invitation using the output from the deadline calculator and complexity estimator (not claimed) and computing which agents have suitable characteristics (also not claimed). A bid invitation component sends a bid invitation message to all participating agents with an invitation to submit bids (limitation (f)) (*id.* ¶ 25), the bids given as input to a winner determination unit (limitation (g)) (*id.* ¶ 26). The Specification provides that the winner determination unit determines the winner based on rules stored in a database (*id.* ¶ 27), but does not provide the technological manner or algorithm how the unit makes this determination.

Considering the claim in light of the Specification and on its “character as a whole” (*Enfish*, 822 F.3d at 1335), we find supported the Examiner’s determination that claim 1 is directed to a reverse auction to best

allocate tasks to workers, a method of organizing human activity of a commercial interaction and fundamental economic practice. *Cf.* Appeal Br. 25. We note that this is not dissimilar to the Appellants' characterization of the claims as being directed to "allocating workload in an IT service delivery industry by using a reverse auction method." Appeal Br. 26. The claim here is akin to ones our reviewing court has deemed abstract in *In re Schrader*, 22 F.3d 290, 291, 293–94 (Fed. Cir. 1994) (bidding at an auction), and *Priceplay.com, Inc. v. AOL Advert., Inc.*, 83 F. Supp. 3d 577, 583 (D. Del. 2015) ("Auctions, competitive activities, and sales transactions are all abstract ideas, and do not become non-abstract when combined and conducted over the Internet."), *aff'd mem.*, 627 F. App'x 925 (Fed. Cir. 2016); *see also Advanced Auctions LLC v. eBay Inc.*, No. 13CV1612 BEN JLB, 2015 WL 1415265, at *4 (S.D. Cal. Mar. 27, 2015) ("Like hedging financial risk, intermediated settlement, or using advertising as currency, an auction is a 'fundamental economic practice long prevalent in our system of commerce.' *Alice Corp.*, [573 U.S. at 219].").

We disagree with the Appellants' contention that the claim is not directed to an abstract idea because it "represent[s] an improvement to the technical field of allocating workload in an IT service delivery industry by using a reverse auction method." Appeal Br. 24 *see also* Reply Br. 23. Rather, we determine that the claim does not "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 judicial exception," i.e., the claim does not integrate the abstract idea, i.e., judicial exception, into a practical application. *See* 2019 Revised Guidance, 84 Fed. Reg. at 54. As discussed above, there are no

technological details for implementing the method or further description of a particular technological manner for performing the steps. *See TDE Petroleum Data Sols., Inc., v. AKM Enter., Inc.*, 657 F. App'x 991, 993 (Fed. Cir. 2016) (“As we discussed at greater length in *Electric Power*, the claims of the '812 patent recite the *what* of the invention, but none of the *how* that is necessary to turn the abstract idea into a patent-eligible application.” (citing *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016))), *cert. denied*, 137 S. Ct. 1230 (2017); *see also Internet Patents*, 790 F.3d at 1348 (“As the district court observed, claim 1 contains no restriction on how the result is accomplished.”); *Enfish*, 822 F.3d at 1336 (focusing on whether the claim is “an improvement to [the] computer functionality itself, not on economic or other tasks for which a computer is used in its ordinary capacity”). And, allocating workload is a longstanding commercial practice, not a technical field. That the allocation is of IT tickets, i.e., in the area of technology, does not make the claim not abstract. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 716 (Fed. Cir. 2014) (limiting the use of the abstract idea “to a particular technological environment” does not make the abstract idea patent-eligible).

We are not persuaded by the Appellants' argument that “like the claims in DDR Holdings, the present claims are ‘necessarily rooted in computer technology,’ due to the fact that the problem is necessarily a computer problem (i.e., allocating specific computer problems (i.e., technical service requests) to an agent to fix the computer problem).” Appeal Br. 27 (internal citation omitted) (citing *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014)); *see also* Reply Br. 23–27. The problem of workload allocation existed prior to the Internet.

See Spec. ¶¶ 2, 3. And, the purported solution comprises the use of a generic computer application or system operating in its normal and ordinary capacity. See Spec. ¶¶ 18, 52–55, 57; see also *supra*. That the claim may require the computer to be specially programmed (Appeal Br. 27, 29; Reply Br. 26–27) does not claim 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). See *EON Corp. IP Holdings LLC v. AT & T Mobility LLC*, 785 F.3d 616, 623 (Fed. Cir. 2015) (“A general purpose computer is flexible—it can do anything it is programmed to do.”).

We find unpersuasive of error the Appellants’ argument that the claim is not directed to an abstract idea because it is “directed to a far more particular invention. Here, there is clearly no risk that the claims will ‘tie up’ the subject matter.” Appeal Br. 28; see also Reply Br. 27–28. Although the Supreme Court has described “the concern that drives this exclusionary principle [i.e., the exclusion of abstract ideas from patent eligible subject matter] as one of pre-emption,” see *Alice*, 573 U.S. at 216, 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*, 573 U.S. at 216). Although “preemption may signal patent ineligible subject matter, the absence of complete preemption does not

demonstrate patent eligibility.” *Id.* The aforementioned concept is not sufficiently limiting so as to fall clearly on the side of patent-eligibility.

We are also not persuaded by the Appellants’ argument that the claim is similar to those of *Enfish* and *McRO* in that it “represent[s] a software improvement to ticket allocation . . . an improvement *that is novel and non-obvious as compared to prior art techniques.*” Appeal Br. 30–31; *see also* Reply Br. 28–30. Unlike *Enfish*, where the court determined the claims were directed to a self-referential table for a computer database and were directed to “a specific improvement to the way computers operate” (*Enfish*, 822 F.3d at 1336), here, the claims are not directed to an improvement in the way computers operate. Rather, any purported improvement lies in the allocating process itself using the ordinary capabilities of a general purpose computer. *See Elec. Power*, 830 F.3d at 1354. The computer for performing the claimed functions comprises a generic computer. *See supra*. The Appellants do not point to anything in the claims that resembles the improvement to the technical field of computer animation that was not simply the use of a generic computer in *McRO*. The Specification, including the claims, does not discuss or claim how any technical aspect of the computer itself is improved. As discussed above, the Specification does not provide details on the technological manner in which the steps are performed.

In response to the Appellants’ argument that the claim is not abstract because it is novel and unobvious (Appeal Br. 30–31; Reply Br. 30), we note that an abstract idea does not transform into an inventive concept just because the prior art does not disclose or suggest it. *See Mayo*, 566 U.S. at 89–90. “Groundbreaking, innovative, or even brilliant discovery does not by

itself satisfy the § 101 inquiry.” *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 591 (2013). Indeed, “[t]he ‘novelty’ of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter.” *Diehr*, 450 U.S. at 188–89; *see also Mayo*, 566 U.S. at 91 (rejecting “the Government’s invitation to substitute §§ 102, 103, and 112 inquiries for the better established inquiry under § 101”).

The Second Step

The second step of the *Mayo/Alice* framework 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.’” *Alice*, 573 U.S. at 217–18 (alteration in original) (quoting *Mayo*, 566 U.S. at 72–73).

Under the second step, we agree with the Examiner’s determination that the elements of claim 1, individually or as an ordered combination, do not amount to significantly more than an abstract idea. We are not persuaded of Examiner error by the Appellants’ arguments that assert the opposite. *See* Appeal Br. 31–34; Reply Br. 30–33.

For the reasons discussed above, we find unpersuasive the Appellants’ arguments that claim 1 comprises elements that are significantly more than the abstract idea because it recites “specific technical improvements to problem ticket allocation in novel, non-obvious ways,” “do[es] not claim ‘generic’ components that are unimproved by the claimed embodiments,” is “delimited to a particular improvement, *i.e.*, a method for programming a computer to act as an auction house application,” and is limited “to a

specific technique.” Appeal Br. 32; *see also* Reply Br. 31. As discussed above, the claims do not purport to improve the functioning of the computer itself, nor do they effect an improvement in any other technology or technical field. *See Alice*, 573 U.S. at 225. As also noted above, the functions are claimed generically. And, there is no further description of a particular technological manner for performing the steps.

Unlike the claims found non-abstract in *McRO*, the claim here uses generic computer technology to perform data storage, gathering, sorting, calculating, evaluating, and transmitting and does not recite an improvement to a particular computer technology. *See McRO*, 837 F.3d at 1314–15 (finding claims not abstract because they “focused on a specific asserted improvement in computer animation”); *cf.* Appeal Br. 33; Reply Br. 32–33. The Appellants provide no further arguments how the claim is similar, such as why the claim’s particular arrangement and/or integration of elements is a technical improvement or is a “non-conventional and non-generic arrangement of known, conventional pieces.” *BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016); *cf.* Appeal Br. 33; Reply Br. 32.

The claimed generic computing system operates in its ordinary and conventional capacity to perform the well-understood, routine, and conventional functions of providing a database/storing data, receiving order data, placing/sorting the data, calculating deadlines, inviting bidders, receiving bid data, evaluating the bid data, and allocating/transmitting ticket data based on the evaluation. *See* Spec. ¶¶ 18, 52–55, 57; *see also supra* (describing a generic computer); *Elec. Power*, 830 F.3d at 1354–55 (gathering, sending, monitoring, analyzing, selecting, and presenting

information does not transform the abstract process into a patent-eligible invention); *Alice*, 573 U.S. at 226 (“Nearly every computer will include a ‘communications controller’ and ‘data storage unit’ capable of performing the basic calculation, storage, and transmission functions required by the method claims.”); *Priceplay.com*, 83 F. Supp. 3d at 582 (“The addition of an auction and a competitive activity to a sales transaction is nothing more than the addition of ‘well-understood, routine, conventional activity.’”). The introduction of a conventional computer to implement an abstract idea is not a patentable application of the abstract idea. *Alice*, 573 U.S. at 222.

Based on the foregoing, we sustain the Examiner’s rejection under 35 U.S.C. § 101 of independent claim 1 and of claims 2–4, 7–13, and 16–26, which fall with claim 1.

DECISION

The Examiner’s rejection of claims 1–4, 7–13, and 16–26 under 35 U.S.C. § 101 is AFFIRMED.

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