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MAHAMEDI IP LAW LLP
910 Campisi Way, Suite 1E
Suite 600
Campbell, CA 95008

EXAMINER
TIBLJAS, SHACOLE C

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JENNIFER LEUER and JOHN HOOD[1]

Appeal 2017-011221
Application 14/214,694
Technology Center 3600

Before JAMES R. HUGHES, JENIFFER S. BISK, and LINZY T. McCARTNEY, *Administrative Patent Judges*.

HUGHES, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant seeks our review under 35 U.S.C. § 134(a) of the Examiner's decision rejecting claims 1–6, 8–14, and 16–20. Claims 7 and 15 have been canceled. Final Act. 1–2; Appeal Br. 3.[2] We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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[1] Ten-X, LLC ("Appellant") is the applicant as provided in 37 C.F.R. § 1.46 and is identified as the real party in interest. Appeal Br. 3.

[2] We refer to Appellant's Specification ("Spec.") filed Mar. 15, 2014 (claiming benefit of 61/800,658 filed Mar. 15, 2013); Appeal Brief ("Appeal Br.") filed Mar. 21, 2017; and Reply Brief ("Reply Br.") filed Aug. 29, 2017. We also refer to the Examiner's Final Office Action ("Final Act.") mailed May 20, 2016; and Answer ("Ans.") mailed June 29, 2017.

Appellant's Invention

The invention relates generally "to a system and method for managing workflow for closing a real property asset transaction through use of computing devices" (Spec. ¶ 2). *See* Spec. ¶¶ 3, 10–12, 15, 16, 20–26, 30–32, 35–37, 39, 40, 42–44; Abstract.

Representative Claim

Independent claim 1, reproduced below, further illustrates the invention:

> 1. A computer-implemented method for managing closing of a real property asset transaction, the method being implemented by one or more processors and comprising:
>
> implementing, through network communications to computing devices used by multiple parties of the real property asset transaction, a dynamic workflow to manage tasks that are to be performed in connection with closing the real property asset transaction in which at least a portion of the workflow is determined after the workflow is initiated based on an occurrence of one or more contingencies, by:
>
> identifying parties involved in completing the transaction, the identified parties including at least a buyer and a seller;
>
> providing a scheduling interface to enable at least one of the identified parties to identify and schedule closing actions that are to be completed as part of the dynamic workflow for closing the real property asset transaction, each of the closing actions including one or more tasks that are to be performed by at least one of the identified parties of the transaction, wherein the scheduling interface determines a timeline for completing the dynamic workflow;
>
> monitoring for each of the identified parties of the transaction to perform the one or more tasks of each of the closing actions;

providing a party interface to indicate a status of each of the one or more tasks of each of the closing actions, the one or more tasks including generating documents for execution by one or more of the identified parties of the transaction;

determining a change to the timeline of the dynamic workflow as a result of the one or more contingencies, the one or more contingencies resulting in newly identified parties to perform the one or more tasks;

adjusting a closing date for closing of the real property asset transaction in response to the one or more contingencies; and

automatically notifying, through the network communications, each identified party of the change in the timeline.

Rejections on Appeal

1. The Examiner rejects claim 1 under pre-AIA 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. *See* Final Act. 3.

2. The Examiner rejects claims 1–6, 8–14, and 16–20 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. *See* Final Act. 3–4.

3. The Examiner rejects claims 1–6, 8–14, and 16–20 under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Petito et al. (US 7,707,153 B1, issued Apr. 27, 2010) ("Petito") and Baca (US 2014/0143129 A1, published May 22, 2014 (claiming benefit of US 61/721,357, filed Nov. 1, 2012)). *See* Final Act. 6–9.

ISSUES

Based upon our review of the record, Appellant's contentions, and the Examiner's findings and conclusions, the issues before us follow:

1. Did the Examiner err in concluding Appellant's claim 1 failed to comply with the written description requirement?

2. Did the Examiner err in finding Appellant's claims were directed to patent-ineligible subject matter under 35 U.S.C. § 101?

3. Did the Examiner err in determining that the combination of Petito and Baca would have collectively taught or suggested "determining a change to the timeline of the dynamic workflow as a result of the one or more contingencies" and "adjusting a closing date for closing of the real property asset transaction in response to the one or more contingencies" within the meaning of Appellant's claim 1 and the commensurate limitations of claims 9 and 17?

ANALYSIS

Patent-Ineligible Subject Matter Rejection

The Examiner rejects claims 1–6, 8–14, and 16–20 as a group based on claim 1 (*see* Final Act. 3–4) and concludes claim 1 is directed to patent-ineligible subject matter in that claim 1 is "directed to managing closing of a real property asset transaction which is a method of organizing human activity." Final Act 4 (quotations omitted). The Examiner also concludes:

> The additional element(s) (e.g. computing device, one or more processors, scheduling interface, and communications network) or combination of elements in the claim(s) other than the abstract idea per se amount(s) to no more than: (i) mere instructions to implement the idea on a computer, and/or (ii) recitation of generic computer structure that serves to perform generic computer functions that are well-understood, routine, and conventional activities previously known to the pertinent industry. Viewed as a whole, these additional claim element(s) do not provide meaningful limitation(s) to transform the abstract idea into a patent eligible application of the abstract idea such

> that the claim(s) amount to significantly more than the abstract idea itself.

Final Act. 4. The Examiner expands on these findings and conclusions in the Examiner's Answer. *See* Ans. 2–4.

Appellant contends the Examiner erred in rejecting the claims as being directed to patent-ineligible subject matter. *See* Appeal Br. 8–18; Reply Br. 3–4. Specifically, Appellant contends "the Examiner's rejection is unsupported by analysis or argument" (Appeal Br. 9; *see* Appeal Br. 9–10; Reply Br. 3); "the Examiner oversimplifies the claims and ignores large portions of the claim language" (Appeal Br. 10; *see* Appeal Br. 10–11; Reply Br. 3); "the pending claims raise no preemption issues" (Appeal Br. 11; *see* Appeal Br. 11–12; Reply Br. 3); "claim 1 is rooted in technology and represents a technological improvement over conventional systems or approaches" (Appeal Br. 12; *see* Appeal Br. 12–13; Reply Br. 3–4); "the Office Action fails to establish that claim 1 does not amount to 'significantly more' than an abstract idea" (Appeal Br. 13) and "the claim limitations are unconventional and non-generic, and embody patentable inventive concepts" (Appeal Br. 15; *see* Appeal Br. 13–16; Reply Br. 4). Appellant also contends "claim 1 recites a specific and discrete implementation that requires the implementation of a 'dynamic workflow[']to manage tasks and the use of a 'scheduling interface' and a 'party interface.'" Appeal Br. 15; *see* Appeal Br. 13–16; Reply Br. 4.

Under 35 U.S.C. § 101, a patent may be obtained for "any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof." The Supreme Court has "long held that this provision contains an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable *Alice Corp. Pty.*

Ltd. v. CLS Bank Int'l, 573 U.S. 208, 216 (2014) (quoting *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)).

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 77–80 (2012), "for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts." *Alice*, 573 U.S. at 217. Assuming that a claim nominally falls within one of the statutory categories of machine, manufacture, process, or composition of matter, the first step in the analysis is to "determine whether the claims at issue are directed to one of those patent-ineligible concepts" (*id.*), e.g., to an abstract idea. *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, but are not limited to, 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)).

If the claims are not directed to an abstract idea, the inquiry ends. Otherwise, the inquiry proceeds to the second step of the *Alice* and *Mayo* framework where the elements of the claims are considered "individually and 'as an ordered combination' to determine whether the additional elements 'transform the nature of the claim' into a patent-eligible

application." *Alice*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 78–79). This second step is described as "a search for an 'inventive concept'—*i.e.*, an element or combination of elements that is '. . . significantly more than . . . the [ineligible concept] itself.'" *Id.* at 217–218 (alteration in original) (quoting *Mayo*, 566 U.S. at 72–73). "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].'" *Alice*, 573 U.S. at 221 (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.*

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. We, therefore, look to whether the claims focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016).

The PTO recently published revised guidance on the application of § 101. USPTO's *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) (hereinafter "2019 Revised Guidance"). Under that guidance, we first look to whether the claim recites:

> (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes) (hereinafter "Step 2A, prong 1"); and
>
> (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)) (hereinafter "Step 2A, prong 2").

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look to whether the claim:

> (3) adds a specific limitation beyond the judicial exception that is not "well-understood, routine, conventional" in the field (*see* MPEP § 106.05(d)); or
>
> (4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.[3]

See 2019 Revised Guidance.

Eligibility Analysis—Revised Guidance Steps 1 and 2A, Prong 1

Turning to the first step of the eligibility analysis, "the first step in the *Alice* inquiry . . . asks whether the focus of the claims is on the 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 abstract idea exception prevents patenting a result where 'it matters not by what process or machinery the result is accomplished.'" *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016) (quoting *O'Reilly v. Morse*, 56 U.S. (15 How.) 62, 113 (1853)).

The Examiner determines independent claim 1 is directed to the abstract idea of "managing closing of a real property asset transaction which is a method of organizing human activity" (Final Act. 4 (quotations omitted); *see* Final Act. 3–4; Ans. 2–3), similar to cases involving "managing an insurance policy" and "managing a game of bingo." *See* Final

[3] Items (3) and (4) are collectively referred to as "Step 2B" hereinafter and in the 2019 Revised Guidance.

Act. 4. Here, in rejecting the claims (in particular claim 1) under 35 U.S.C. § 101, the Examiner analyzed the claims using the *Mayo/Alice* two-step framework, 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 May 20, 2016. We agree with the Examiner that Appellant's claim 1 (and the other pending claims) are directed to patent-ineligible abstract ideas or concepts. In view of the 2019 Revised Guidance, we clarify and expand the Examiner's reasoning as follows.

We begin our analysis by broadly but reasonably construing Appellant's claim 1. Claim 1 recites a computer implemented transaction processing method for "managing closing of a real property asset transaction" "implemented [using] one or more processors" (claim 1; *see* Spec. ¶ 2). Initially, the claim describes a computer implemented real property transaction processing method including the step of implementing a dynamic workflow—i.e., a dynamic transaction process[4]—to manage tasks (to be performed in the transaction process) where a portion of the process (workflow) is determined after the process (workflow) is initiated based on the occurrence of contingencies.

Implementing the dynamic transaction process (workflow) further includes: "identifying parties involved in completing the transaction . . . including at least a buyer and a seller" (claim 1) and "providing a scheduling

[4] Workflow is not explicitly defined by Appellant in the Specification. We find a "workflow" means a "[p]rogression of steps . . . that comprise a work process." BusinessDictionary.com (www.businessdictionary.com/definition/workflow.html), updated Jan. 27, 2010, last accessed Feb. 19, 2019.

interface" enabling one or more of the identified parties to "identify and schedule closing actions" that are part of the dynamic transaction process (workflow), where "each of the closing actions" includes "one or more tasks . . . to be performed by at least one of the identified parties," and wherein "the scheduling interface determines a timeline for completing" the dynamic transaction process (workflow) (claim 1; *see* Spec. ¶¶ 24–26). That is, implementing the dynamic transaction process (workflow) includes identifying parties involved in the transaction (including a buyer and a seller) as well as identifying and scheduling "closing actions" including "one or more tasks"—or simply tasks (*see* preamble, *supra*)—to be performed by the identified parties utilizing a scheduling interface, wherein the scheduling interface determines a timeline for completing the transaction process based on the identified actions/tasks.

Claim 1 also recites "monitoring for each of the identified parties . . . to perform the . . . tasks" and "providing a party interface" that indicates "a status of each of the . . . tasks . . . including generating documents for execution by one or more of the identified parties" (claim 1; *see* Spec. ¶¶ 21, 24–26, 39, 40). That is, implementing the dynamic transaction process (workflow) also includes monitoring the transaction process to determine performance of tasks by one of the identified parties and providing an additional interface (a party interface) capable of showing a status of each of the tasks. The tasks may include generating documents to be executed by the identified parties.

Claim 1 additionally recites "determining a change to the timeline" of the dynamic transaction process (workflow) "as a result of the one or more contingencies . . . resulting in newly identified parties to perform the one or

more tasks," "adjusting a closing date . . . in response to the one or more contingencies," and "automatically notifying . . . each identified party of the change in the timeline" (claim 1; *see* Spec. ¶¶ 22–24, 35–37, 42–44). That is, implementing the dynamic transaction process (workflow) also includes determining a change to the timeline based on the occurrence at least one contingency, where the occurrence of the contingency results in a newly identified party responsible for performing one of the tasks (in the process/timeline), adjusting the timeline responsive to the occurrence of the contingency, and notifying the parties of the timeline changes.

Claim 1 also includes additional features (elements) that are appurtenant to the dynamic transaction process (workflow) and do not further limit the recited process. These elements include: a processor or processors, network communications, computing devices, as well as the physical components and/or graphical arrangement of the interfaces (scheduling interface and party interface). Appellant's Specification does not define these additional elements or explain in any detail the structure of the elements.

In each instance the above-identified additional elements consist of structural elements that, while necessary to perform the functionality of the transaction processing method, do not limit how the functionality is actually performed. For example, the recited "scheduling interface" is described in the Specification as a scheduling module (software) that generates various information (required actions, responsible parties, deadlines, etc.) to create a workflow (transaction process) (*see* Spec. ¶¶ 24–26) that may be displayed in a graphical user interface (GUI) (*see* Spec. ¶ 26). Claim 1 recites the "scheduling interface" as capable of enabling ("to enable") "at least one of

the identified parties to identify and schedule closing actions that are to be completed as part of the dynamic workflow" and "the scheduling interface" determining "a timeline for completing the dynamic workflow" (claim 1). The transaction processing method recites "a scheduling interface" that enables an *identified party* "to identify and schedule" closing actions and tasks. The claim does not recite the scheduling interface affirmatively performing this functionality. Rather the claim merely recites the intended purpose of the scheduling interface—to allow a user to identify and schedule tasks/actions. Based on the user's input, the scheduling interface (the scheduling module and GUI) determine a timeline utilizing undisclosed processes and/or algorithms.

In summary, claim 1 recites a computer implemented transaction processing method for managing closing of a real property asset transaction, including the steps of: implementing the transaction process, which is dynamic, to manage tasks (to be performed in the transaction process) where a portion of the process is determined after the process is initiated based on the occurrence of contingencies; identifying parties involved in the transaction (including a buyer and a seller) as well as identifying and scheduling actions and tasks to be performed by the identified parties utilizing a scheduling interface, the scheduling interface determining a timeline for the transaction process based on the identified and scheduled actions/tasks; monitoring the transaction process to determine performance of tasks by one of the identified parties; providing a party interface capable of displaying a status of tasks (where the tasks may include generating documents to be executed by the identified parties); determining a change to the timeline based on the occurrence at least one contingency, where the

occurrence of the contingency results in a newly identified party responsible for performing one of the tasks (in the process/timeline); adjusting the timeline responsive to the occurrence of the contingency; and notifying the parties of the timeline changes. Hereinafter, we refer to this method as the "transaction processing method" or "method for managing the real estate transaction process."

We find that the claim recites a method (process) which is a statutory category of invention (subject matter) (USPTO's Step 1). Utilizing our interpretation of claim 1 (*supra*), we analyze whether the claim is directed to an abstract idea (USPTO's Step 2A). Here, Appellant's claims generally, and independent claim 1 in particular (as summarized, *supra*), relate to managing the transaction process for a real property asset transaction. This is consistent with how Appellant describes the claimed invention. *See* Spec. 2–3; Appeal Br. 3–5 (citing Spec. ¶¶ 10–12, 15, 16, 20–26, 30–32, 35–37, 39, 40, 42–44; Figs. 1–4).

Appellant's claim 1 recites a judicial exception (USPTO's Step 2A, Prong 1; *see* 2019 Revised Guidance). The transaction processing method is a method of organizing human activity, in particular, a fundamental economic practice.

Transaction processing is a well-known business practice that is not patent eligible. *See Smart Sys. Innovations, LLC v. Chicago Transit Auth.*, 873 F.3d 1364, 1371–72 (Fed. Cir. 2017) ("Taken together, the Asserted Claims are directed to the formation of financial transactions in a particular field . . . and data collection related to such transactions," which is "an abstract idea under *Alice* step one."); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014)

(summarizing precedent in which "claims directed to the performance of certain financial transactions" involve abstract ideas and holding that claims drawn to the abstract concept of financial transaction-related "data collection, recognition, and storage is undisputedly well-known.").

Similarly, claims utilizing computers to automate business practices involving real estate or real property have been found to be directed to patent-ineligible abstract concepts. *See Fort Properties., Inc. v. American. Master Lease LLC*, 671 F.3d 1317, 1322–23 (Fed. Cir. 2012) (The claims "recite an abstract real estate investment tool. When viewing the claimed invention as a whole, the physical activities involving the deeds, contracts, and real property are insufficient to render these claims patentable." *Id.* at 1323.).

Further, utilizing computers to perform scheduling and task management has been found to be abstract. In *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1344–45 (Fed. Cir. 2013), the Federal Circuit found the claims merely recited "generalized software components arranged to implement an abstract concept on a computer" (*id.* at 1345) the abstract concept being "generating tasks [based on] rules . . . to be completed upon the occurrence of an event" (*id.* at 1344).

Our conclusion, that the transaction processing method is a method of organizing human activity, or more particularly, a fundamental economic practice, is supported by the similarities between Appellant's claim 1 and the claims in precedent cases that "simply use computers to serve a conventional business purpose." *Affinity Labs of Tex., LLC v. DIRECTV*, LLC, 838 F.3d 1253, 1261 (Fed. Cir. 2016); *see Alice*, 573 U.S. at 219 (concluding that concept of intermediated settlement was "a fundamental economic practice

long prevalent in our system of commerce" and thus an abstract idea). As explained by the Federal Circuit, the claims at issue in *Affinity Labs* were not "directed to how to implement" the abstract concept (out-of-region broadcasting on a cellular telephone), but claimed the function itself instead of a particular way to perform the function. *Affinity Labs*, 838 F.3d at 1258.

Claim 1 is no different. It broadly recites the commercial practice of managing the transaction process for a real property asset transaction. While the claim limitations provide steps for using the computer to perform the process, and interfaces for identifying, scheduling and displaying tasks, parties, deadlines, and progress, the limitations contain no technical details or explanation of how to implement the claimed abstract idea using the computer. Absent such a disclosure, we cannot conclude that claim 1 covers anything more than the use of a computer for a conventional business purpose. *See* Affinity Labs, 838 F.3d at 1261.

Eligibility Analysis—Revised Guidance Step 2A, Prong 2

Appellant's claim 1 also recites additional elements beyond the abstract method of managing the real estate transaction process (transaction processing method) (the judicial exception) (*supra*). These elements include, as previously discussed (*supra*): processors, network communications, computing devices, and interfaces (scheduling interface and party interface).

We evaluate these additional elements to determine whether the additional elements integrate the method of managing the real estate transaction process (the judicial exception) into a practical application of the exception (USPTO's Step 2A, Prong 2; *see* 2019 Revised Guidance). Appellant contends (*supra*) that the claims are "rooted in technology and

represents a technological improvement over conventional systems or approaches" (Appeal Br. 12; *see* Appeal Br. 12–13; Reply Br. 3–4) and recite "a specific and discrete implementation . . . of a 'dynamic workflow[']to manage tasks" (Appeal Br. 15; *see* Appeal Br. 13–16; Reply Br. 4), similar to *DDR Holdings* (*DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014)) and *Bascom* (*Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016)). In other words, Appellant contends the claims recite meaningful limitations that sufficiently limit the practical application of the alleged abstract idea. We disagree. Appellant's additional elements (or the combination of the additional elements) do not apply or use the transaction processing method (the judicial exception) in a manner that imposes a meaningful limit on the judicial exception, such that it is more than a drafting effort designed to monopolize the exception. *See Alice*, 573 U.S. at 221–24 (citing Mayo, 566 U.S. at 78–85). Rather, Appellant's claims recite computers (the processors, network communications, computing devices, and interfaces) that are utilized as tools to perform transaction processing method (the abstract idea). Utilizing a computer as a tool to perform the abstract idea does not impose a meaningful limit on the abstract idea. *See* MPEP § 2106.05(f); *see also Alice*, 573 U.S. at 223 ("if [the] recitation of a computer amounts to a mere instruction to implement an abstract idea on a computer that addition cannot impart patent eligibility" (quotations and internal citations omitted)).

Appellant's claims can be distinguished from patent-eligible claims such as those in *McRO*, *Enfish*, *Bascom*, and *DDR Holdings* that are directed to "a specific means or method that improves the relevant technology" (*McRO*, 837 F.3d at 1314), or "a specific improvement to the way computers

operate" (*Enfish*, 822 F.3d at 1336), solving a technology-based problem (*BASCOM*, 827 F.3d at 1349–52), or a method "rooted in computer technology in order to overcome a problem specifically arising in the realm of computer [technology]" (*DDR Holdings*, 773 F.3d at 1257). Contrary to Appellant's arguments, claim 1 is not a specific technological improvement or an improvement in a technology. Appellant's claim 1 does not "improve the functioning of the computer itself" or "any other technology or technical field." *Alice*, 573 U.S. at 225. Nor, does it provide a technological solution to a technological problem. *See DDR Holdings*, 773 F.3d at 1257. *See* MPEP § 2106.05(a). Rather, Appellant's claims and, in particular, the above-identified additional elements are similar to the claims in *Alice* (*see Alice*, 573 U.S. at 225–26) and *Versata Dev. Group, Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1333–34 (Fed. Cir. 2015) in that the instant claims implement a known business practice utilizing a general purpose computer.

In summary, "the focus of the claims is not on such an improvement in computers as tools, but on certain independently abstract ideas that use computers as tools." *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016). Thus, we agree with the Examiner that the claims are directed to the abstract idea of performing "a series of steps for a travel-related financial transaction, which are a fundamental economic practice" (Final Act. 2), or as we clarify (*supra*) performing a transaction approval process utilizing a generic computer.

Eligibility Analysis—Step 2B ("Significantly More")

Having concluded Appellant's claims are directed to an abstract idea under the 2019 Revised Guidance Step 2A analysis, we next address whether the claims add significantly more to the alleged abstract idea. As

directed by our reviewing court, we search for an "'inventive concept' sufficient to 'transform the nature of the claim into a patent-eligible application.'" *McRO*, 837 F.3d at 1312 (quoting *Alice*, 573 U.S. at 217). The implementation of the abstract idea involved must be "more than performance of 'well-understood, routine, [and] conventional activities previously known to the industry.'" *Content Extraction*, 776 F.3d at 1347–48 (alteration in original) (quoting *Alice*, 573 U.S. at 225). The "inventive concept" "must be significantly more than the abstract idea itself, and cannot simply be an instruction to implement or apply the abstract idea on a computer." *Bascom*, 827 F.3d at 1349 (citation omitted).

Here, the Examiner determined that Appellant's claims do not add significantly more:

> The additional element(s) (e.g. computing device, one or more processors, scheduling interface, and communications network) or combination of elements in the claim(s) other than the abstract idea per se amount(s) to no more than: (i) mere instructions to implement the idea on a computer, and/or (ii) recitation of generic computer structure that serves to perform generic computer functions that are well-understood, routine, and conventional activities previously known to the pertinent industry. Viewed as a whole, these additional claim element(s) do not provide meaningful limitation(s) to transform the abstract idea into a patent eligible application of the abstract idea such that the claim(s) amount to significantly more than the abstract idea itself.

Final Act. 4; *see* Ans. 2–4. Appellant contends the claims constitute "'significantly more' than the alleged abstract idea" (Appeal Br. 15) and reiterate claim 1, explaining:

> [C]laim 1 recites a specific and discrete implementation that requires the implementation of a "dynamic workflow to manage tasks and the use of a 'scheduling interface' and a 'party

> interface.'" In addition, claim 1 requires non-generic steps of "monitoring for each of the identified parties of the transaction to perform the one or more tasks of each of the closing actions," "determining a change to the timeline of the dynamic workflow as a result of the one or more contingencies, the one or more contingencies resulting in newly identified parties to perform the one or more tasks," "adjusting a closing date for closing of the real property asset transaction in response to the one or more contingencies," and "automatically notifying, through the network communications, each identified party of the change in the timeline."

Appeal Br. 15; *see* Appeal Br. 13–16; Reply Br. 4. Appellant fails to persuade us of error in the Examiner's rejection with respect to the second *Alice* step. We agree with the Examiner that Appellant's claim 1 (and the other pending claims) does not evince an "inventive concept" that is significantly more than the abstract idea itself. In particular, Appellant fails to explain how the limitations (above) are not part and parcel of the abstract business practice—method for managing the real estate transaction process (transaction processing method). Nor does Appellant explain how the additional features (additional elements, *see supra*) (individually and in combination) are not routine or are unconventional.

As previously discussed, claim 1 merely recites additional non-abstract elements (above)—specifically computers (processors, network communications, computing devices, and interfaces), and utilizing computers, processors, networks, and interfaces (conventional computers and conventional computer processes) to receive, analyze, and display information, and to generate real estate transaction process information. Appellant's Specification describes the computers as conventional (generic) computers. *See, e.g.*, Spec. ¶¶ 17, 18 ("[O]ne or more examples described herein may be implemented, in whole or in part, on computing devices such

as servers, desktop computers, cellular or smartphones, personal digital assistants (e.g., PDAs), laptop computers, . . . network equipment (e.g., routers) and tablet devices" (¶ 17). "[T]he numerous machines shown with examples of the invention include processor(s) and various forms of memory for holding data and instructions." "Computers, terminals, network enabled devices (e.g., mobile devices, such as cell phones) are all examples of machines and devices that utilize processors, memory, and instructions stored on computer-readable mediums. Additionally, examples may be implemented in the form of computer-programs" (¶ 18)).

Accordingly, Appellant's Specification itself describes the additional elements as being well-understood, routine, and conventional. Such conventional computer processes operating on conventional computer hardware "do not alone transform an otherwise abstract idea into patent-eligible subject matter." *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1096 (Fed. Cir. 2016)(citing *DDR Holdings,* 773 F.3d at 1256).

For at least the reasons above, we are not persuaded of Examiner error in the rejection of claim 1 under 35 U.S.C. § 101. Thus, we sustain the Examiner's rejection under § 101 of independent claim 1, independent claims 9 and 17, and dependent claims 2–6, 8, 10–14, 16, and 18–20, which were not separately argued with specificity.

Obviousness Rejection of Claims 1–6, 8–14, and 16–20

The Examiner rejects independent claim 1 (as well as independent claims 9 and 17, and dependent claims 2–6, 8, 10–14, 16, and 18–20) as obvious in view of Petito and Baca. *See* Final Act. 5–7; *see also* Final Act. 7–9; Ans. 4–5. The Examiner finds that Petito describes a workflow management system for automating a real estate closing process and "a

closing officer [putting] the closing 'on hold' until [certain] conditions are met" (Ans. 4). *See* Final Act. 5–7; Ans. 4–5 (citing Petito col. 9, ll. 41–62; col. 24, l. 60–col. 25, l. 6). The Examiner further finds Baca describes a scheduling interface determining a timeline and adjusting a closing date for a real property transaction responsive to contingencies. *See* Final Act. 7; Ans. 4–5 (citing Baca ¶ 78).

Appellant contends that the combination of Petito and Baca does not teach the disputed features of claim 1. *See* Appeal Br. 16–19; Reply Br. 5–6. Specifically, Appellant contends, *inter alia*, that the combination of Petito and Baca does not teach the limitation of "determining a change to the timeline . . . as a result of the one or more contingencies" (claim 1) or the limitation of "adjusting a closing date . . . of the real property asset transaction in response to the one or more contingencies" (claim 1). *See* Appeal Br. 17–19; Reply Br. 5–6.

We agree with Appellant that the Examiner does not explain sufficiently how the cited portions of Petito and Baca describe the disputed features. The Examiner cited portions of Petito merely describe, in general terms, a person (closing officer) putting a closing on hold (*see supra*)—not a processor managing the closing process of a real property transaction utilizing a scheduling interface to determine a timeline and determine "a change to the timeline" "as a result of . . . contingencies" (claim 1). The Examiner cited portions of Baca are similarly deficient. The cited portions of Baca merely describe prompting a user to adjust a closing date based on conflicts (*see supra*)—not utilizing an interface to "adjusting a closing date . . . in response to the one or more contingencies" (claim 1). *See* Appeal Br. 17–19; Reply Br. 5–6.

Without further explanation, we are left to speculate on how Petito in combination with Baca teaches the disputed features of claim 1. Consequently, we are constrained by the record before us to find that the Examiner erred in concluding the combination of Petito and Baca renders obvious Appellant's claim 1. Independent claims 9 and 17 include limitations of commensurate scope. Dependent claims 2–6, 8, 10–14, 16, and 18–20 depend from and stand with claims 1, 9 and 17, respectively. Accordingly, we do not sustain the Examiner's obviousness rejection of claims 1–6, 8–14, and 16–20.

The Written Description Rejection

The Examiner rejects independent claim 1 as as failing to comply with the written description requirement. *See* Final Act. 3; Ans. 5. Appellant contends that the disputed features—"at least a portion of the workflow is determined after the workflow is initiated based on an occurrence of one or more contingencies" and "the one or more contingencies resulting in newly identified parties to perform the one or more tasks" (claim 1)—are supported by the Specification. *See* Appeal Br. 19–21; Reply Br. 6–7.

The test for sufficiency under the written description requirement "is whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date." *Ariad Pharmaceuticals, Inc. v. Eli Lilly and Company*, 598 F.3d 1336, 1351 (Fed. Cir. 2010).

The Examiner finds the subject matter of independent claim 1, which involves determining a portion of a workflow (process) after a dynamic workflow (process) has already (initially) been determined/initiated/ implemented, is not described in sufficient detail in the Specification to

show possession. *See* Ans. 5. Appellant contends proper written description support for the claims can be found in paragraphs 24, 26, 37, 42, and 44 of the Specification, as well as Figure 2. *See* Appeal Br. 19–21. We agree with Appellant.

Appellants' cited paragraphs describe regenerating a workflow based on the occurrence of a contingent event (*see* Spec. ¶ 26; Reply Br. 6–7) and contingencies resulting in newly identified parties (dynamically populating a party list as each party is identified) (*see* Spec. ¶ 42; Reply Br. 7). We find the above-described subject matter from Appellant's Specification provides sufficient written description support for the claimed features the Examiner found lacking in such support. In particular, the above description shows Appellant had possession of a system that regenerates a workflow based on contingent events and dynamically populates a party list (a system that is capable of identifying new parties based on the contingent events), as recited in claim 1.

We, therefore, find the Examiner erred in rejecting independent claim 1 as lacking sufficient written description support.

CONCLUSION

Appellant has not shown that the Examiner erred in rejecting claims 1–6, 8–14, and 16–20 under 35 U.S.C. § 101.

Appellant has shown that the Examiner erred in rejecting claims 1–6, 8–14, and 16–20 under 35 U.S.C. § 103(a).

Appellant has shown that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 112, first paragraph.

DECISION

We affirm the Examiner's rejection of claims 1–6, 8–14, and 16–20.

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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED