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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/062,403	05/03/2011	Rob A. Keenan	0076412-000025	3767
21839	7590	11/21/2019	EXAMINER	
BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			PRESTON, JOHN O	
			ART UNIT	PAPER NUMBER
			3691	
			NOTIFICATION DATE	DELIVERY MODE
			11/21/2019	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ROB A. KEENAN

Appeal 2017-011835
Application 13/062,403
Technology Center 3600

Before MURRIEL E. CRAWFORD, AMEE A. SHAH, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

SHAH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), the Appellant¹ appeals from the Examiner's final decision to reject claims 1–4, 7–10, 13–15, and 18–21. The Appellant's representative appeared for Oral Argument on October 24, 2019. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. The Appellant identifies the real party in interest as MasterCard International Incorporated. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The Appellant's invention:

relates to a method for payment cardholders to control and manage a payment card through usage parameters. More specifically, the method provides payment cardholders with the ability to select usage parameters and define rules for the usage parameters that allow the cardholder to manage and safeguard the payment card by providing messages and declining transactions based on the occurrence of predefined usage parameters and providing analysis of the payment cardholder's transactions.

Spec. ¶ 2.

Claims 1, 8, and 14 are the independent claims. Claim 1 is illustrative of the subject matter on appeal and is reproduced below (with added bracketing for reference):

1. A method for providing a payment cardholder with control over a payment card comprising:

[(a)] enabling, through the use of a managing platform, a card issuer to establish a set of predefined usage parameters for usage of the payment card from which the payment cardholder may select;

[(b)] associating, by a processing device of said managing platform, the payment card with said managing platform;

[(c)] allowing, via an interface of said managing platform, the payment cardholder to (i) select one or more of said usage parameters as defined by the card issuer and (ii) define rules for each selected usage parameter;

[(d)] storing, by the managing platform, as a set of cardholder parameters, the selected one or more usage parameters and their associated user-defined rules;

[(e)] associating, by the processing device of said managing platform, the set of cardholder parameters with the payment card such that said set of cardholder parameters

determine whether an attempted transaction using the payment card is acceptable or unacceptable;

[(f)] intercepting, by the processing device of said managing platform, authorizations for transactions of the payment card transmitted by a merchant to an issuer of the payment card, wherein said managing platform is an entity separate and distinct from both said issuer of said payment card and said merchant and functions as an intermediary between said issuer and said merchant;

[(g)] identifying, by the processing device of said managing platform, based on said set of cardholder parameters, each attempted transaction of said payment card as being an acceptable transaction or an unacceptable transaction; and

[(h)] when an attempted transaction is identified as being an unacceptable transaction, notifying the payment cardholder of said identified unacceptable transaction by delivering a message from said managing platform to said payment cardholder.

Appeal Br. 23–24 (Claims App’x.).

REJECTION

Claims 1–4, 7–10, 13–15, and 18–21 stand rejected under 35 U.S.C. § 101 as being directed to a judicial exception without significantly more.

OPINION

The Appellant argues the claims as a group. *See* Appeal Br. 8, 21. We select claim 1 as representative of the group with the remaining claims standing or falling therewith. *See* 37 C.F.R. 41.37(c)(1)(iv).

35 U.S.C. § 101 Framework

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: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *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, 67 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); “tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (185))); 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 176; *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.* (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.*

After the Appellant’s briefs were filed and the Examiner’s Answer mailed, the U.S. Patent and Trademark Office (“USPTO”) published revised guidance on the application of § 101. 2019 REVISED PATENT SUBJECT MATTER ELIGIBILITY GUIDANCE, 84 Fed. Reg. 50 (Jan. 7, 2019) (“2019

Revised Guidance”). That guidance revised the USPTO’s examination procedure with respect to the first step of the *Mayo/Alice* framework by (1) providing groupings of subject matter that is considered an abstract idea; and (2) clarifying that a claim is not “directed to” a judicial exception if the judicial exception is integrated into a practical application of that exception. *Id.* at 50. The 2019 Revised Guidance, by its terms, applies to all applications, and to all patents resulting from applications, filed before, on, or after January 7, 2019. *Id.*² Under the 2019 Revised 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); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* MANUAL OF PATENT EXAMINING PROCEDURE (MPEP) §§ 2106.05(a)–(c), (e)–(h) (9th Ed., Rev. 08.2017, Jan. 2018)).

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 § 2106.05(d)); or

² The 2019 Revised Guidance supersedes MANUAL OF PATENT EXAMINING PROCEDURE (“MPEP”) § 2106.04(II) and also supersedes all versions of the USPTO’s “Eligibility Quick Reference Sheet Identifying Abstract Ideas.” *See* 2019 Revised Guidance, 84 Fed. Reg. at 51 (“Eligibility-related guidance issued prior to the Ninth Edition, R-08.2017, of the MPEP (published Jan. 2018) should not be relied upon.”). Accordingly, Appellant’s arguments challenging the sufficiency of the Examiner’s rejection (*see, e.g.*, Appeal Br. 21; Reply Br. 8) will not be addressed to the extent those arguments are based on now superseded USPTO guidance.

(4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See 2019 Revised Guidance, 84 Fed Reg. at 54, 56.

Step One of the Mayo/Alice Framework

Under the first step of the *Mayo/Alice* framework, the Examiner determines that claim 1 is “directed to a method for providing a payment cardholder with control over a payment card,” which is “a concept involving human activity related to commercial practices, similar to the concept found in *Ultramercial[, Inc.] v. Hulu[, LLC]* . . . [772 F.3d 709 (Fed. Cir. 2014)].” Final Act. 6. When viewed through the lens of the 2019 Revised Guidance, the Examiner’s analysis depicts the claimed subject matter as a “[c]ertain method[] of organizing human activity—. . . commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations)” under Prong One of Revised Step 2A. 2019 Revised Guidance, 84 Fed. Reg. at 52.

The Appellant disagrees with the Examiner’s determinations. *See* Appeal Br. 8. The Appellant does not state to what the claim is directed, but contends “the Examiner does not characterize the Appellant's claims in a manner that adequately describes the subject matter to which the claims are directed and omits core features of the claims.” *Id.* at 10; *see also* Reply Br. 3–4.

Before determining whether the claims at issue are directed to an abstract idea, we first determine to what the claims are directed. The Federal Circuit has explained that “the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether ‘their

character as a whole is directed to excluded subject matter.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). It asks whether the focus of the claims is on a specific improvement in relevant technology or on a process that itself qualifies as an “abstract idea” for which computers are invoked merely as a tool. *See id.* at 1335–36. Here, it is clear from the Specification, including the claim language, that claim 1 focuses on an abstract idea, and not on any improvement to technology and/or a technical field.

The Specification provides for “A METHOD FOR A PAYMENT CARDHOLDER TO CONTROL AND MANAGE THE USE OF A PAYMENT CARD.” Spec., Title. In the “Field of the Invention” section, the Specification provides for a method that:

provides payment cardholders with the ability to select usage parameters and define rules for the usage parameters that allow the cardholder to manage and safeguard the payment card by providing messages and declining transactions based on the occurrence of predefined usage parameters and providing analysis of the payment cardholder’s transactions.

Id. ¶ 2. In the “Background” section, the Specification discusses that payment cardholders are reluctant to use a payment card because of fraud risks associated with usage (*id.* ¶ 3) and “a feeling of loss of control of spending” (*id.* ¶ 4). To address these issues, “it would be advantageous to provide a cardholder with the ability to control and manage spending and the usage of the payment card, by providing the payment cardholder with greater confidence when using the payment card and encouraging the payment cardholder to use the payment card for all transaction.” *Id.* ¶ 5.

Thus, the invention aims to:

provide[] a payment cardholder with additional reassurances and gives the payment cardholder extra peace of mind by allowing the payment cardholder to use a card protection plan with existing payment cards that provides protection from fraud or misuse, and allows the cardholder to use the payment card to manage and monitor spending habits.

Id. ¶ 14.

Consistent with the disclosure, claim 1 recites “[a] method for providing a payment cardholder with control over a payment card comprising:” the steps of: (a) “enabling, through the use of a managing platform, a card issuer to establish a set of predefined [selectable] usage parameters”; (b) “associating, by a processing device of said managing platform, the payment card with said managing platform;” (c) allowing, via an interface of said managing platform, the payment cardholder to (i) select” at least one of the usage parameters and “(ii) define rules for each selected usage parameter;” (d) “storing, by the managing platform,” a set of cardholder parameters comprising the selected usage parameter(s) and their associated user-defined rules; (e) “associating, by the processing device of said managing platform, the set of cardholder parameters with the payment card”; (f) “intercepting, by the processing device of said managing platform, authorizations for transactions of the payment card transmitted by a” separate merchant intermediary entity to an issuer of the payment card; (g) “identifying, by the processing device of said managing platform, based on said set of cardholder parameters, each attempted transaction of said payment card as being an acceptable transaction or an unacceptable transaction;” and (h) conditionally notifying by message the payment cardholder when the attempted transaction is identified as being an unacceptable transaction. Appeal Br. 22–23.

When considered collectively and under the broadest reasonable interpretation of the claim’s limitations, we agree with the Examiner that the claim recites a method for providing a payment cardholder with control over a payment card to reduce risk of unacceptable transactions.³ The limitations of enabling, associating, allowing, intercepting, and identifying (limitations (a), (b), (c), (e), (f), and (g)) are functionally recited without any detail regarding how the results are accomplished, i.e., in what way(s) technologically or by what algorithm, and thus can be done by any known method and/or mentally. Storing data (limitation (d)) is an extra-solution activity. *See Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014). Conditionally notifying of the results of the analysis (limitation (h)) is a post-solution activity. *See Flook*, 437 U.S. at 590.

The managing platform is not structurally defined in the claim or elsewhere in the Specification, but the Specification provides an example of the platform of “the service provided under the trademark ‘MasterCard inControl’ registered to MasterCard International, Inc.” (Spec. ¶ 17) that “may reside on one or more central processing units, which are networked and accessible through any known technique or interface” (*id.* ¶ 18), and thus, can comprise a generic computer. The “processing device of the managing platform” (Claim 1) is not described in the Specification and thus

³ We note that “[a]n abstract idea can generally be described at different levels of abstraction.” *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1240 (Fed. Cir. 2016). The Board’s “slight revision of its abstract idea analysis does not impact the patentability analysis.” *Id.* at 1241.

comprises a generic processing device. There is also no claimed or described structural elements of the merchant entity.

Providing a payment cardholder with control over a payment card to reduce risk of unacceptable transactions is similar to the concepts of collecting and analyzing information for the purpose of preventing improper access in *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016), of verifying the validity of a credit card transaction over the Internet in *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011), of identifying unwanted files in a computer network in *Intellectual Ventures I LLC v. Erie Indem. Co.*, 711 F. App'x 1012, 1015 (Fed. Cir. 2017)), and of using a third party to mitigate settlement risk in *Alice*, 573 U.S. at 219. Accordingly, we conclude the claim recites a way of providing a payment cardholder with control over a payment card to reduce risk of unacceptable transactions, which is a commercial interaction, one of the certain methods of organizing human activity as identified in the 2019 Revised Guidance, 84 Fed. Reg. at 52, and thus, an abstract idea. As such, we disagree that the Appellant's contentions that the Examiner's does not accurately summarize the subject matter (Appeal Br. 9–12; *see also* Reply Br. 3–4) and that “[t]he cited case law does not address claims directed to subject matter similar to Appellant's claimed subject matter” (Appeal Br. 13; *see also id.* at 14–17).

Under Step 2A, Prong 2 of the 2019 Revised Guidance, 84 Fed. Reg. at 54, we look to whether the claims “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., “integrates a judicial exception into a practical application.” Here, the Appellant contends:

The instant claims improve upon existing systems and provide an added level of security against fraud by improving security over the use of credit cards and enabling cardholders more control over how, when, where, etc. their credit cards are used. More specifically, Appellant’s claims [sic] to improve a manner in which financial transactions are processed by generating cardholder specific rules for application to received authorization requests to identify positive or negative responses.

Appeal Br. 11. Similarly, the Appellant contends:

The instant claims improve upon existing systems and methods by providing an intermediary managing platform that improves security over use of credit cards by enabling the creation of cardholder-specific controls on use and improving a manner in which financial transactions are processed by applying such cardholder-specific controls on use to received authorization requests to identify positive or negative responses.

Id. at 12 (citing *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016); *see also id.* at 14–17; Reply Br. 4–5. When viewed through the lens of the 2019 Revised Guidance, the Appellant contends that under Prong Two, the elements of the claim integrate the abstract idea into a practical application because the combination of the elements “reflects an improvement in the functioning of a computer, or an improvement to other technology or technical field.” 84 Fed. Reg. at 55 (citing *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014)). We disagree.

Specifically, the Appellant contends that the claim addresses “a problem which exists entirely within the realm of electronic transaction processing and define a new and useful technique by which a transaction authentication process is executed that results in further protection of

cardholders against unwanted spending and/or fraudulent use of his/her payment card” by “providing a managing platform that intercepts authorization requests transmitted from a merchant POS device to an issuer, analyzing the intercepted authorization requests and applying user-defined controls on use.” Appeal Br. 15, 16. However, the Appellant does not provide reasoning or evidence, and we do not see from the claim, how the limitations 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. The problems of unwanted spending and fraudulent use of payment cards existed prior to the Internet and are business and personal finance concerns. *See FairWarning*, 839 F.3d at 1094–95 (determining whether user accesses were authorized or fraudulent incorporated “the same questions (though perhaps phrased with different words) that humans in analogous situations detecting fraud have asked for decades, if not centuries”). Although here, the transactions are “electronic” (Appeal Br. 14), there is not a problem rooted in technology arising out of computer networks. Instead, the Specification, at paragraph 2, describes that the problems are related to payment cards and are not limited to Internet transactions.

Further, the purported solution of a management platform acting as an intermediary comprises the use of a generic processor operating in its ordinary and conventional capacity. *See supra*; *see also Alice*, 573 U.S. at 224–26. The Appellant does not, and cannot, claim to have invented the use of the management platform processor. The “focus” of the claim is not “on the specific asserted improvement in computer capabilities” (*Enfish*, 822 F.3d at 1335) or on the payment card itself (*see Smart Systems Innovations*,

LLC v. Chicago Transit Authority, 873 F.3d 1364, 1372 (Fed. Cir. 2017), but rather on using the processor component as a tool to implement the abstract idea in the particular field of payments/transactions. *See Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1259 (Fed. Cir. 2016) (“merely limiting the field of use of the abstract idea to a particular . . . environment does not render the claim any less abstract”).

In *McRO*, the claims were directed to a specific improvement in computer animation and used rules to automate a subjective task of humans to create a sequence of synchronized, animated characters. *See McRO*, 837 F.3d at 1314–15. Unlike *Flook*, *Bilski*, and *Alice*, it was not the use of the computer but the incorporation of the rules that improved an existing technological process. *Id.* at 1314. Here, as discussed above, there is no such improvement to technology or a technological process. The Appellant also does not direct our attention to anything in the Specification to indicate that the invention provides a technical improvement in enabling establishment of parameters, associating data, allowing selection of data, storing data, intercepting transmitted data, identifying data, and delivering data or that claim 1 incorporates rules to automate a subjective task of humans, as in *McRO*. *See FairWarning*, 839 F.3d at 1394–95.

Regarding the Appellant’s argument that claim 1 is not directed to an abstract idea because it “do[es] not ‘tie-up’ or pre-empt others from using an alleged abstract idea” (Appeal Br. 17; *see also id.* at 18; Reply Br. 9–10), 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. 208), characterizing preemption as a driving concern for patent eligibility is not

the same as characterizing preemption 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. 208); *cf.* Reply Br. 2–3. Although “preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Id.*

Thus, we are not persuaded of error in the Examiner’s determination that claim 1 is directed to an abstract idea.

Step Two of the Mayo/Alice Framework

Under the second step in the *Alice* framework (corresponding to Step 2B of the 2019 Revised Guidance), we find supported the Examiner’s determination that the claim’s limitations, taken individually or as an ordered combination, do not amount to significantly more than the judicial exception “because taken as a whole, the claims simply instruct the practitioner to implement the abstract idea with routine, conventional activity.” Final Act. 6.

The Appellant contends that “like the claims of *Bascom* (and *Intellectual Ventures [I LLC v. J. Crew Group, Inc.]*, Case No. 6: 16-CV-196-JRG, (E.D. Tex. 2016)), the present claims provide an inventive concept by virtue of the *non-conventional arrangement and configuration of devices.*” Appeal Br. 20; *see also* Reply Br. 6–7, 10–12. When viewed through the lens of the 2019 Revised Guidance, the Appellant argues that claim 1 “[a]dds a specific . . . combination of limitations that are not well-understood, routine, conventional activity in the field, which is indicative

that an inventive concept may be present.” 2019 Revised Guidance, 84 Fed. Reg. at 56.

The Appellant argues “the claim involves a very specific technological environment and communication with a very specific network, i.e., payment network.” Appeal Br. 20. However, “[t]he Supreme Court and [the Federal Circuit] have repeatedly made clear that merely limiting the field of use of the abstract idea to a particular existing technological environment does not render the claims any less abstract.” *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1259 (Fed. Cir. 2016) (citing cases). And, the Appellant’s statement that “an unspecified generic computer (e.g., standard desktop computer) performing routine and conventional activities is not capable of communicating with a payment/transaction system/network as communication with such a payment/transaction system requires the use of communication protocols and data formatting standards that are unavailable to unspecified, generic computers” (Appeal Br. 20) is unsupported attorney argument. Further, the claim does not address or recite an improvement in any formatting issues. *See FairWarning*, 839 F.3d at 1097.

With regard to the Appellant’s argument that “[s]uch a non-conventional arrangement and configuration is evidenced by the lack of application of prior art against Appellant’s claims” (Appeal Br. 20 (emphases omitted)), 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 78. “Ground-breaking, 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”).

Further, it is not clear how the features of the platform enabling, associating, allowing, storing, intercepting, identifying, and conditionally delivering data is similar to *BASCOM*’s “non-conventional and non-generic arrangement of known, conventional pieces.” *BASCOM*, 827 F.3d at 1350. In *BASCOM*, the Federal Circuit determined that “its particular arrangement of elements is a technical improvement over prior art ways of filtering such content.” *Id.* The patent at issue “claim[ed] a technology-based solution (not an abstract-idea-based solution implemented with generic technical components in a conventional way) to filter content on the Internet that overcomes existing problems with other Internet filtering systems.” *Id.* at 1351. The court determined that “[b]y taking a prior art filter solution (one-size-fits-all filter at the ISP server) and making it more dynamic and efficient (providing individualized filtering at the ISP server), the claimed invention represents a ‘software-based invention[] that improve[s] the performance of the computer system itself.’” *Id.* Here, there is no such improvement to the claimed computer component itself. And, the Appellant provides no further arguments how the claim’s particular arrangement and/or integration of elements is a technical improvement or is otherwise similar to *BASCOM*.

We note that, as discussed above, the claim simply recites the functional results to be achieved by a conventional computer. The claim “provides only a result-oriented solution[] with insufficient detail for how a computer accomplishes it. Our law demands more.” *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017) (“*Capital One*”). Taking the claimed elements separately, the functions performed by the computer are purely conventional. The claimed platform comprises a generic computing device (*see supra*) and operates in its ordinary and conventional capacities to perform the well-understood, routine, and conventional functions of enabling establishment of, associating, allowing selection of, storing, intercepting, identifying, and delivering data. *See Electric Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016) (gathering, sending, monitoring, analyzing, selecting, and presenting information does not transform the abstract process into a patent-eligible invention); *FairWarning*, 839 F.3d at 1095 (generating a rule related to accessing information, applying the rule, and storing and announcing the result did not transform the abstract idea 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.”). The only additional elements beyond the abstract idea are the managing platform and merchant entity, which are recited at a high level of generality.

Considered as an ordered combination, the components of the Appellant’s claim add nothing that is not already present when the steps are considered separately. The sequence of establishing, associating, selecting,

storing, intercepting, identifying, and delivering data, is equally generic and conventional or otherwise held to be abstract. *See Capital One*, 850 F.3d at 1341 (holding that the sequence of collecting, organizing, identifying, mapping, organizing, defining, and detecting was abstract); *Electric Power*, 830 F.3d at 1354–56 (holding that the sequence of gathering, analyzing, and displaying in real-time was abstract); *Fair Warning*, 839 F.3d at 1095 (holding that sequence of generating a rule related to accessing information, applying the rule, and storing and announcing was abstract).

Thus, we are not persuaded of error in the Examiner’s determination that the limitations of claim 1 do not transform the claims into significantly more than the abstract idea.

The Appellant also contends that the Examiner errs in not explaining each claim individually. Appeal Br. 21; Reply Br. 12. However, there is no specific requirement that each claim be examined individually by the Examiner in determining that the claims are directed to an abstract idea. *See Alice*, 573 U.S. 208 at 217–21 (addressing the claims together). The Examiner includes the dependent claims with the analysis of the independent claims and states that “each dependent claim inherited the ineligibility of the independent claims because no dependent claim added any limitations to overcome the deficiencies found in the independent claims.” Ans. 6; *see also* Final Act. 5–6. There is no indication that the Appellant was not put on notice of the Examiner’s rejection regarding claims 2–4, 7–10, 13–15, and 18–21. Moreover, the Appellant does not provide any argument against each independent or any individual dependent claim. *See* Appeal Br. 21–22.

For at least the reasons above, we sustain the Examiner's rejection under 35 U.S.C. § 101 of independent claim 1 and of claims 2-4, 7-10, 13-15, and 18-21, the rejection of which stands with claim 1.

CONCLUSION

The Examiner's decision to reject claims 1-4, 7-10, 13-15, and 18-21 under 35 U.S.C. § 101 is sustained.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-4, 7-10, 13-15, 18-21	101	Eligibility	1-4, 7-10, 13-15, 18-21	

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED