



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
12/830,025 07/02/2010 Kurt Bulawa 90945-785022 (016900US) 9678

20350 7590 04/25/2018
KILPATRICK TOWNSEND & STOCKTON LLP
Mailstop: IP Docketing - 22
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

EXAMINER

PUTTAIAH, ASHA

ART UNIT PAPER NUMBER

3695

NOTIFICATION DATE DELIVERY MODE

04/25/2018

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipefiling@kilpatricktownsend.com
KTSDocketing2@kilpatrick.foundationip.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* KURT BULAWA,  
MICHAEL MICHELSEN,  
MICHELE DEMARK,  
and DAVE OWEN

---

Appeal 2018–001273  
Application 12/830,025  
Technology Center 3600

---

Before ANTON W. FETTING, JOSEPH A. FISCHETTI, and  
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE<sup>1</sup>

Kurt Bulawa, Michael Michelsen, Michele Demark, and Dave Owen  
(Appellants) seek review under 35 U.S.C. § 134 of a final rejection of claims

---

<sup>1</sup> Our decision will make reference to the Appellants’ Appeal Brief (“Br.,” filed May 23, 2017) and the Examiner’s Answer (“Ans.,” mailed August 28, 2017), and Final Action (“Final Act.,” mailed December 23, 2016).

1–10, 21–30, and 32, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

The Appellants invented a system for receiving a payment for a financial obligation of a payer via a staged transaction, and for identifying an originator of the staged transaction after satisfaction of the staged transaction. Spec. para. 5.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below (bracketed matter and some paragraphing added).

1. A system

for receiving a payment for a pre-existing financial obligation of a payer to a payee via a staged transaction, and  
for identifying an originator of the staged transaction after satisfaction of the staged transaction, wherein the originator is a party other than the payer and the payee who initiated creation of the staged transaction,

and wherein the system comprises:

[1] a collection system comprising a first computer processor operably connected to a non-transitory memory, wherein the first computer processor is programmed to perform method steps comprising:

[a] associating the pre-existing financial obligation due from a payer to a payee with an identifier, wherein the identifier is unique to the pre-existing financial obligation and indicative of the originator, wherein the originator is a party other than the payer and the payee;

[b] associating the staged transaction with the identifier;

[c] providing the identifier for communication to the payer;

[d] receiving a third record from a provider system indicating payment has been received from the payer for the staged transaction,

wherein the third record includes the identifier;

[e] after receiving the third record indicating that payment has been received for the staged transaction, determining,

based at least on the identifier included in the third record,

who the originator is,

wherein the originator is responsible for initiating creation of a first record for the staged transaction to be paid by the payer;

and

[f] determining a collection success rate for the originator,

wherein the collection success rate is

based on a prior history of transactions staged by the originator,

and

indicative of a total number of transactions staged by the originator for different pairs of payers and payees for which payment has been received versus a total number of transactions staged by the originator for different pairs of payers and payees for which payment has not been received;

[2] the provider system comprising a second computer processor operably connected to a non-transitory memory, wherein the second computer processor is programmed to perform method steps comprising:

[a] receiving the first record related to the staged transaction from the collection system;

[b] receiving a second record related to the staged transaction,

wherein the second record indicates a payment has been received for the pre-existing financial obligation;

[c] sending the third record related to the staged transaction to the collection system, wherein the third record indicates a payment has been received for the pre-existing financial obligation;

and

[3] a provider subsystem comprising a third computer processor operably connected to a non-transitory memory, wherein the computer processor is programmed to perform method steps comprising:

receiving the identifier from the payer;

and

sending the second record related to the staged transaction to the provider system.

Br. 10–11 (Claims Appendix).

The Examiner relies upon the following prior art:

Brock US 2003/0126072 A1 July 3, 2003

Hansen US 2004/0030647 A1 Feb. 12, 2004

Claims 1–10, 21–30, and 32 stand rejected under 35 U.S.C. § 101 as directed to non–statutory subject matter.

Claims 1–10, 21–30, and 32 stand rejected under 35 U.S.C. § 112(a) as lacking a supporting written description within the original disclosure.

Claims 1–10, 21, 22, 25–30, and 32 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Hansen and Brock.

Claims 23 and 24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Hansen, Brock, and Applicant Admitted Prior Art.

## ISSUES

The issues of eligible subject matter turn primarily on whether the claims recite more than abstract conceptual advice of what a computer is to provide without implementation details.

The issues of written description turn primarily on whether the originally filed disclosure describes the limitations in the claims.

The issues of obviousness turn primarily on whether the references describe the limitations in the claims

## FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

### *Facts Related to Appellants' Disclosure*

01. At block 290, receipt of the payment is reported to collection system 120. The collection system may thereafter report the receipt of payment to receiver 115. At block 293, collection system 120 may correlate that a particular originator 105 is associated with the successful collection on the financial obligation by analyzing the identifier, which though unique to the transaction, may be indicative of the particular originator 105. Reports on successful rates of payer-interaction and collections can then be produced for any one of, or plurality of, a number of originators. Spec. para. 59.

*Facts Related to the Prior Art*

*Hansen*

02. Hansen is directed to accepting payments for goods and services provided by a goods or service provider. Hansen para. 8.
03. The methods can include associating consumers and merchants with a payment provider. The payment provider can receive payments destined for the merchant, associate the payments with one or more identifiers, and transfer at least portions of the received payments to the merchant. Further, the present invention provides systems and methods for enrolling consumers in such payment acceptance systems. The present invention still further includes systems and methods for staging transactions initiated by a merchant, a consumer, a beneficiary, or another third party. Hansen para. 8.
04. The systems can include a point-of-sale device configured to accept payments from consumers on behalf of merchants. In some cases, the systems include a plurality of such point-of-sale devices in communication with a payment provider control. The payment provider control can be in communication with one or more merchant controls. Using such systems, a consumer can enroll to make payments via a payment provider and make payments via the payment provider by accessing any of a number of point-of-sale devices associated with the payment provider control. The

consumer alternatively may be able to enroll through the merchant or other third party. Hansen para. 9.

05. In one embodiment of the present invention, a method for accepting payments from a consumer for a good or service provided by a merchant comprises receiving a transaction request from the merchant, receiving a payment from the consumer, associating the payment with the transaction request, and sending at least a portion of the payment to the merchant. In this manner, the merchant stages the transaction, and the consumer completes the transaction by making the payment. In one aspect, method is performed by a payment provider system. In another aspect, the method is performed by a point of service (POS) device. In still another aspect, the method is performed partly by the payment provider system and partly by the POS device. Hansen para. 10.
06. In one aspect, the method includes storing a record of the payment and the associated transaction request in a database. Typically, the merchant desires to know when payment has been made prior to rendering the service or shipping the goods. Hence, in one aspect, the method includes receiving an inquiry from the merchant as to whether the payment was made by the consumer, and sending a reply to the merchant in response to the inquiry. Alternatively, the method includes providing an indication to the merchant that the payment was made by the consumer. This may occur, for example, prior to being prompted by the merchant. The method further may include electronically sending at least a

portion of the payment to an account of the merchant. Another portion of the payment may include a fee or surcharge for the staged transaction service. Hansen para. 11.

07. The transaction request may take a variety of forms within the scope of the present invention. For example, in one aspect the transaction request includes a consumer profile. In this embodiment, the method may further include verifying a consumer identify against the consumer profile. Alternatively, the consumer may remain anonymous. In another aspect, the transaction request includes a time limit. In this embodiment, the payment may be accepted if received within the time limit, and optionally rejected if not received within the time limit. If the payment is rejected, in one embodiment the rejection is reported to the merchant to help ensure the service or goods are not provided to the customer. The transaction request also may include a short or detailed description of the good(s) and/or service(s) to be provided the consumer. The transaction request also includes, in some embodiments, the amount to be paid by the consumer.

Hansen para. 12.

08. In one aspect, the method includes providing the merchant with a transaction identifier that corresponds to the transaction request. The method may further include receiving the payment if the customer provides the transaction identifier that corresponds to the transaction request. The transaction identifier may include, in one

embodiment, an alpha-numeric string of characters. Hansen para. 13.

09. In some embodiments, it may be desirable to provide the customer with a confirmation that payment has been made. This confirmation may take many forms, including a confirmation number and/or a printed receipt. In one aspect, the confirmation includes a certificate. The certificate may comprise a wide range of certificates, including a gift certificate, an electronic ticket such as for use with a transportation company, an award, a redeemable coupon, and the like. Thus, in some embodiments, the good(s) and/or service(s) is rendered upon payment. Hansen para. 14.
10. In still other embodiments, the processor of the payment transfer, such as the payment provider, may guarantee the funds. This may be useful, for example, when the goods or services are to be provided to the consumer upon the consumer rendering payment to the payment provider, but prior to transfer of the funds from the payment provider to the merchant. Other uses and reasons for guaranteed funds also fall within the scope of the present invention. Hansen para. 15.
11. A merchant may choose to utilize a payment provider to collect payments and/or enroll consumers on its behalf. Thus, as used herein, a payment provider is any entity that is capable of accepting payments from consumers and/or enrolling consumers, and crediting the accepted payments to the appropriate merchant. In some cases, a payment provider is an entity that provides both

POS device 110 and payment provider control 130. In other cases, a payment provider is an entity that provides payment provider control 130, and accepts inputs from POS devices 110 operated by third parties. In yet other cases, a payment provider is an entity that provides POS device 110 that interacts directly with merchant controls 140 without utilizing payment provider control 130. Further, in some cases a payment provider can also be an enrollment provider, where the payment provider not only accepts payments destined for the merchant, but also enrolls consumers in the goods and/or services of the merchant. In yet other instances, a payment provider can provide only enrollment and not payment acceptance services. Hansen para. 36.

12. In some embodiments of the present invention, merchants 140 issue unique identifiers which are associated with a good or service that are electronically transmitted to payment provider 130, where they can be stored in database 135. These identifiers may be associated with specific consumers. For example, when requesting a good or service, the merchant may create an account, an identifier is then associated with the account and issued to the consumer. Alternatively, the identifiers may be associated with a good or service, but not to any given consumer. For example, the identifiers may be associated with some type of stored value, such as phone time, dollars and the like. This value may be redeemed simply by presenting the identifier to the merchant. The identifiers also may be associated with a particular transaction of

goods or services between a merchant, and a specific consumer.

Hansen para. 37.

13. Referring to FIG. 1B, a logical diagram of system 100 of FIG. 1A is illustrated. Central to system 100 is payment provider control 130. In particular embodiments, payment provider control 130 is comprised of a host computer capable of accessing one or more databases 135. Further, payment provider control 130 facilitates data transfer between one or more merchants 140 and one or more POS devices 110, or other computer terminals.  
Hansen para. 40.

14. POS devices 110 communicate with payment provider control 130 in order to facilitate transactions. For example, when ready to make a payment, a consumer may enter their consumer identifier or a transaction identifier into POS device 110. This information is transmitted to payment provider control 130 where any relevant information regarding the required payment is transmitted back to POS device 110. For instance, POS devices 110 may present a screen with the identifier and the amount of payment required to receive a good or service from merchant 140. In some cases, the consumer may not yet have an identifier and may simply request to purchase a good or service from a merchant 140. For instance, the consumer may wish to purchase phone time from a certain phone company. In such cases, the consumer makes a request to purchase phone time from a certain merchant 140. This information is entered into POS device 110. POS device 110 may

then display payment options for that provider as received from payment provider control 130. For example, payment in increments of \$5, \$10, \$25 and \$50 may be accepted. Upon receipt of payment, an identifier is issued to the consumer.

Hansen para. 41.

15. At the time of payment, other funds may also be collected. For example, the payment provider may charge and collect a fee for its services. As another example, applicable taxes may be calculated and collected. These taxes may be calculated by payment provider control 130 in combination with database 135 and may include tax tables for various locations throughout the country. When tendering payment, the consumer may provide information on his residential address, such as a zip code. This information is transmitted to payment provider control 130 that performs a look-up in database 135 to determine the appropriate tax rate. Payment provider control 130 then computes the tax and sends the tax information to POS 110. The payment amount, taxes, and any service fees may then be displayed to the consumer on a display screen. Hansen para. 42.

*Brock*

16. Brock is directed to facilitating the purchase of products on credit and a system for implementing such a method. Brock para. 1.

17. Brock describes a dealer's collection rate being determined at step S410. According to an embodiment of the invention, the collection rate is determined by calculating the percentage of the total amount of periodic payments collected for all of the dealer's transaction across all of the dealer's collateral pools for the previous nine months versus the total amount of periodic payments due for the same period. Once the calculation rate has been calculated, a determination is made at step S412 as to whether or not the collection rate exceeds a predefined performance threshold. Again, in an embodiment of the invention, the preferred performance threshold is a collection rate of 80% or higher. If the collection rate does not exceed the performance threshold, the dealer must choose whether or not to cap the collateral pool at step S414. Brock para. 52.

#### ANALYSIS

*Claims 1–10, 21–30, and 32 rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter*

Claim 1 recites a system that makes associations, provides and receives data and makes determinations based on the data, and two systems that each receives and sends data. None of the limitations recite implementation details for any of these steps, but instead recite functional results to be achieved by any and all possible means. Data reception, analysis and modification, and transmission are all generic, conventional data processing operations to the point they are themselves concepts awaiting

implementation details. The sequence of data reception-analysis-transmission is equally generic and conventional. The ordering of the steps is therefore ordinary and conventional. Although the performance of the steps are portioned among three processors, the steps do no more than send messages between those processors, so there is nothing inventive about how the steps are so apportioned. The remaining claims merely describe parameters among the data, system locations, and performance repetitions, with no implementation details.

#### The Supreme Court

set forth a framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts. First, determine whether the claims at issue are directed to one of those patent-ineligible concepts. If so, we then ask, “[w]hat else is there in the claims before us? To answer that question, consider the elements of each claim both individually and “as an ordered combination” to determine whether the additional elements “transform the nature of the claim” into a patent-eligible application. [The Court] described step two of this analysis as a search for an ““inventive concept””—i.e., an element or combination of elements that is “sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.”

*Alice Corp. Pty. Ltd. v CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014)

(citations omitted) (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012)).

To perform this test, we must first determine whether the claims at issue are directed to a patent-ineligible concept. The Examiner determines the claims are directed to a system of receiving a payment via a staged

transaction and identifying the originator of the staged transaction. Final Act. 12.

Although the Court in *Alice* made a determination as to what the claims were directed to, we determine that this case's claims themselves and the Specification provide enough information to inform one as to what they are directed to.

The preamble to claim 1 recites that it is a system for receiving a payment for a pre-existing financial obligation of a payer to a payee via a staged transaction, and for identifying an originator of the staged transaction after satisfaction of the staged transaction. Although claim 1 is nominally a system claim, the limitations are all process steps performed among three systems. Claim 1 is thus really a process claim with limitations as to which processor performs which steps. The steps in claim 1 result in receiving a payment for a pre-existing financial obligation of a payer to a payee via a staged transaction, and for identifying an originator of the staged transaction after satisfaction of the staged transaction. The Specification at paragraph 5 recites that the invention relates to a system for receiving a payment for a financial obligation of a payer via a staged transaction, and for identifying an originator of the staged transaction after satisfaction of the staged transaction. Thus, all this evidence shows that claim 1 is directed to receiving a payment for a financial obligation of a payer via a staged transaction, and for identifying an originator of the staged transaction after satisfaction of the staged transaction, i.e. transaction processing. This is consistent with the Examiner's determination.

It follows from prior Supreme Court cases, and *Bilski* (*Bilski v Kappos*, 561 U.S. 593 (2010)) in particular, that the claims at issue here are directed to an abstract idea. Like the risk hedging in *Bilski*, the concept of transaction processing is a fundamental business practice long prevalent in our system of commerce. The use of transaction processing is also a building block of ingenuity in sales and finance. Thus, transaction processing, like hedging, is an “abstract idea” beyond the scope of § 101. *See Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2356.

As in *Alice Corp. Pty. Ltd.*, we need not labor to delimit the precise contours of the “abstract ideas” category in this case. It is enough to recognize that there is no meaningful distinction in the level of abstraction between the concept of risk hedging in *Bilski* and the concept of transaction processing at issue here. Both are squarely within the realm of “abstract ideas” as the Court has used that term. *See Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2357.

Further, claims involving data collection, analysis, and display are directed to an abstract idea. *Elec. Power Grp. v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (holding that “collecting information, analyzing it, and displaying certain results of the collection and analysis” are “a familiar class of claims ‘directed to’ a patent ineligible concept”); *see also In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016). Claim 1, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data retrieval, analysis, and

transmission and does not recite an improvement to a particular computer technology. *See, e.g., McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314–15 (Fed. Cir. 2016) (determining claims not abstract because they “focused on a specific asserted improvement in computer animation”). As such, claim 1 is directed to the abstract idea of receiving, analyzing, and transmitting data.

The remaining claims merely describe parameters among the data, system locations, and performance repetitions. We conclude that the claims at issue are directed to a patent-ineligible concept.

The introduction of a computer into the claims does not alter the analysis at *Mayo* step two.

[T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. Stating an abstract idea “while adding the words ‘apply it’” is not enough for patent eligibility. Nor is limiting the use of an abstract idea “to a particular technological environment.” Stating an abstract idea while adding the words “apply it with a computer” simply combines those two steps, with the same deficient result. Thus, if a patent’s recitation of a computer amounts to a mere instruction to “implemen[t]” an abstract idea “on ... a computer,” that addition cannot impart patent eligibility. This conclusion accords with the preemption concern that undergirds our § 101 jurisprudence. Given the ubiquity of computers, wholly generic computer implementation is not generally the sort of “additional featur[e]” that provides any “practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.”

*Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2358 (citations omitted).

“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea . . . on a generic computer.” *Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2359. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer to receive, analyze, and transmit data amounts to electronic data query and retrieval—one of the most basic functions of a computer. All of these computer functions are well-understood, routine, conventional activities previously known to the industry. In short, each step does no more than require a generic computer to perform generic computer functions.

Considered as an ordered combination, the computer components of Appellants’ method add nothing that is not already present when the steps are considered separately. Viewed as a whole, Appellants’ method claims simply recite the concept of transaction processing as performed by a generic computer. To be sure, the claims recite doing so by advising one to identify a transaction, send and receive communications regarding payment by a third party, collect statistics on payment collection results, and send and receive messages among three subsystems. But, this is no more than abstract conceptual advice on the parameters for such transaction processing and the generic computer processes necessary to process those parameters, and do not recite any particular implementation. Although the performance of the steps are portioned among three processors, the steps do no more than send messages between those processors, so there is nothing inventive about how the steps are so apportioned.

The method claims do not, for example, purport to improve the functioning of the computer itself. Nor do they effect an improvement in any other technology or technical field. The Specification spells out different generic equipment and parameters that might be applied using this concept and the particular steps such conventional processing would entail based on the concept of transaction processing under different scenarios. They do not describe any particular improvement in the manner a computer functions. Instead, the claims at issue amount to nothing significantly more than an instruction to apply the abstract idea of transaction processing using some unspecified, generic computer. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2360.

Although all claims are nominally structural claims, they

are no different from [equivalent] method claims in substance. The [steps in the claims] recite the abstract idea implemented on a generic computer; the system claims recite a handful of generic computer components configured to implement the same idea. This Court has long “warn[ed] ... against” interpreting § 101 “in ways that make patent eligibility ‘depend simply on the draftsman’s art.’”

*Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2360.

We are not persuaded by Appellants’ argument that:

With regard to the first step of the *Alice* framework, the Office Action alleges that the claims are directed to the abstract idea of “a system of receiving a payment via a staged transaction and identifying the originator of the stage transaction.” Office Action, p. 12. Because a system is an apparatus, such cannot be an *abstract* idea. Therefore, step one of the *Alice* framework is

satisfied by the claims, as they are not directed in an *abstract* idea.

Br. 5. Although all claims are nominally structural claims, they are no different from method claims in substance. *Alice, supra* held that in such a case, the result does not depend on the draftsman's art.

We are not persuaded by Appellants' argument that:

With regard to the second step of the *Alice* framework, the Office Action alleges that "significantly" more is not present in the claims. First, contrary to the specific allegation in the Office Action at pp. 14-15 that the recitations of the claims are executed with generic computers, multiple particular non-generic machines are indeed used to execute the recitations of the claims. Specifically, claim 1 recites three particular non-generic machines: "a collection system," "a provider system," and "a provider subsystem." Each of these claims are particular non-generic machines because they are configured as specifically recited by the claims and as further detailed by the specification to perform particular functions as also recited by the claims and detailed by the specification. Therefore, these machines are not generic, as they have been configured for a special purpose. *See Ex Parte Ravenal*, Appeal 2016-003604, Application 12/506,921, April 1, 2016, Decision on Appeal at p. 6. This is one of the factors identified by the USPTO *Alice* guidance as constituting "significantly more."

Br. 5. Simply labelling generic equipment does not alter their nature.

Computing devices defined by the function they perform, where those functions are generic, remain generic computing devices.

Ameranth argues that the recited central processing unit is not a generic central processing unit, but is instead a particular processing unit which, with application software, provides synchronized second menus across different devices in the system. It urges that the term "central processing unit" must be construed to include the functions ascribed to that unit in the

claims, and that the central processing unit cannot be a generic processor. But, as noted above, construing a claim term to include features of that term that are already recited in the claims would make those expressly recited features redundant. argues that the recited central processing unit is not a generic central processing unit, but is instead a particular processing unit which, with application software, provides synchronized second menus across different devices in the system. It urges that the term “central processing unit” must be construed to include the functions ascribed to that unit in the claims, and that the central processing unit cannot be a generic processor. But, as noted above, construing a claim term to include features of that term that are already recited in the claims would make those expressly recited features redundant.

*Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1237–38 (Fed. Cir. 2016) (citation omitted).

We are not persuaded by Appellants’ argument that:

[W]hile the alleged abstract idea is “a system of receiving a payment via a staged transaction and identifying the originator of the staged transaction,” the above recitation limit the scope of the claim’s use of that alleged abstract idea to downstream analysis of collection success rates for such originators. The claim does not remotely appear to subsume the alleged abstract idea of identifying the originator of any staged transaction, but rather focuses on the more specific and particular purpose of determining and, by implication tracking, success rates of such originators. At least by inclusion of the above specific recitations which are not well-understood, routine, and conventional in the field, preemption of use of the alleged abstract idea is protected against, therefore further establishing “significantly more” under the USPTO’s *Alice* guidance, in addition to the aforementioned use of particular machines to implement the claims.

Br. 6. That the claims do not preempt all forms of the abstraction or may be limited to the abstract idea in a particular setting do not make them any less abstract. *See OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1360–61 (2015). “Where a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Mayo*[/*Alice*] framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015).

*Claims 1–10, 21–30, and 32 rejected under 35 U.S.C. § 112(a) as lacking a supporting written description within the original disclosure*

The Examiner finds three limitations to be unsupported by the originally filed disclosure. Final Act. 9. We are persuaded by Appellants’ arguments as to the first two limitations. Br. 3–4. As to the third limitation, which is limitation [1][f] in claim 1, we are not persuaded by Appellants’ argument that “Applicant believes the particular methodology recited in the claims would be the first and most immediate one contemplated by a person of ordinary skill in the art after reading the disclosure in paragraph 59.” Br. 5. As Examiner finds,

Applicant’s own arguments acquiesce that the disclosure of [0059] can be interpreted to disclose “multiple methods of calculating a ‘success rate’” and that no specific methodology has been disclosed. Appellant seems to generally assert that the claimed undisclosed method “would be the first and most immediate one contemplated by an person of ordinary skill in the art after reading the disclosure of paragraph 59.” (Appeal Brief pg. 5) This seems to be more of an opinion – a wish for fulfillment- rather than disclosure of an invention which Appellant was in possession of at the time of filing.

Ans. 6. Appellants contend one of ordinary skill would have found the particular formula in the limitation obvious, and produce no evidence to support this. This is insufficient to show possession.

[The written description] test requires an objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art. Based on that inquiry, the specification must describe an invention understandable to that skilled artisan and show that the inventor actually invented the invention claimed.

*Ariad Pharms., Inc. v. Eli Lilly and Co.*, 598 F. 3d 1336, 1351 (Fed. Cir. 2010) (*en banc*).

One shows that one is “in possession” of *the invention* by describing *the invention*, with all its claimed limitations, not that which makes it obvious. One does that by such descriptive means as words, structures, figures, diagrams, formulas, etc., that fully set forth the claimed invention. Although the exact terms need not be used *in haec verba*, the specification must contain an equivalent description of the claimed subject matter.

*Lockwood v. Am. Airlines, Inc.*, 107 F.3d 1565, 1572 (Fed. Cir. 1997) (citations omitted).

*Claims 1–10, 21, 22, 25–30, and 32 rejected under 35 U.S.C. § 103(a) as unpatentable over Hansen and Brock*

We adopt the Examiner’s findings from Final Action 16–39 and Answer 6–9 and reach similar legal conclusions. For example, we adopt and accept the Examiner’s construction of the meaning of “different pairs” to mean one party is different “across pairs” (Answer 7–8), thereby making unpersuasive Appellants’ argument that in Brock “the payee is a constant” (Br. 7).

Appeal 2018-001273

Application 12/830,025

*Claims 23 and 24 rejected under 35 U.S.C. § 103(a) as unpatentable over Hansen, Brock, and Applicant Admitted Prior Art*

We adopt the Examiner's findings from Final Action 16–39 and Answer 6–9 and reach similar legal conclusions.

#### CONCLUSIONS OF LAW

The rejection of claims 1–10, 21–30, and 32 under 35 U.S.C. § 101 as directed to non-statutory subject matter is proper.

The rejection of claims 1–10, 21–30, and 32 under 35 U.S.C. § 112(a) as lacking a supporting written description within the original disclosure is proper.

The rejection of claims 1–10, 21, 22, 25–30, and 32 under 35 U.S.C. § 103(a) as unpatentable over Hansen and Brock is proper.

The rejection of claims 23 and 24 under 35 U.S.C. § 103(a) as unpatentable over Hansen, Brock, and Applicant Admitted Prior Art is proper.

#### DECISION

The rejection of claims 1–10, 21–30, and 32 is affirmed.

Appeal 2018-001273

Application 12/830,025

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) (2011).

AFFIRMED