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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte WILLIAM P. TEMPLETON,
M. CHRISTOPHER WENNEMAN,
BENJAMIN ELLIOTT PEW,
JACOB FRANK LUCAS,
MICHAEL E. BUNDY,
MICHAEL THOMAS SEIFERT,
and JACOB A. KJELSTRUP

Appeal 2018-001310
Application 12/486,902[1]
Technology Center 3600

Before ANTON W. FETTING, MICHAEL W. KIM, and AMEE A. SHAH, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

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[1] According to Appellants, the real party in interest is Amazon Technologies, Inc. (Appeal Br. 2).

STATEMENT OF THE CASE[2]

William P. Templeton, M. Christopher Wenneman, Benjamin Elliott Pew, Jacob Frank Lucas, Michael E. Bundy, Michael Thomas Seifert, and Jacob A. Kjelstrup (Appellants) seek review under 35 U.S.C. § 134(a) of a final rejection of claims 1–28, 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 way of processing shipment status events that can obtain status events from multiple carriers, and map them to normalized status events, that may be used to describe status events from more than one carrier, and then implement one or more actions based on a normalized status event associated with a shipment. Specification, para. 8.

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 method, comprising:

[1] obtaining,

by a processor in at least one server,

an instance of at least one first event from a first one of a plurality of carriers,

the instance of the at least one first event being associated with a shipment in transit with the first one of the carriers,

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[2] Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed May 9, 2017) and Reply Brief ("Reply Br.," filed November 20, 2017), and the Examiner's Answer ("Ans.," mailed September 20, 2017), and Final Action ("Final Act.," mailed December 23, 2016).

the at least one first event being associated with a first one of a plurality of sets of first events used by at least one of the carriers to describe shipment status,

the first one of the sets of first events being associated with the one of the carriers;

[2] mapping,

by the processor in the at least one server,

the instance of the at least one first event to an instance of a second event,

the second event being associated with a set of second events,

each of the second events describing a shipment status and being normalized with respect to the sets of first events associated with the carriers;

[3] obtaining,

by the processor in the at least one server,

an instance of a subsequent first event from a second one of the carriers,

the instance of the subsequent first event being associated with a shipment in transit with the second one of the carriers,

the subsequent first event differing from the at least one first event and being associated with a second one of the sets of first events;

[4] mapping,

by the processor in the at least one server,

the instance of the subsequent first event to a subsequent instance of the second event;

and

[5] implementing,

by the processor in the at least one server,

at least one action based at least in part on the subsequent instance of the second event and order data associated with the shipment in transit with the second one of the carriers.

Claims 1–28 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

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.

ANALYSIS

STEP 1[3]

Claim 1, as a method claim, nominally recites one of the enumerated categories of eligible subject matter in 35 U.S.C. § 101. The issue before us is whether it is directed to a judicial exception without significantly more.

STEP 2

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

[3] For continuity of analysis, we adopt the steps nomenclature from 2019 Revised Patent Subject Matter Eligibility Guidance, 84 FR 50 (Jan. 7, 2019).

> 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. v. CLS Bank Intl, 573 U.S. 208, 217–18 (2014) (citations omitted) (*citing Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012)). To perform this test, we must first determine what the claims are directed to. This begins by determining whether the claims recite one of the judicial exceptions (a law of nature, a natural phenomenon, or an abstract idea). Then, if claims recite a judicial exception, determining whether the claims at issue are directed to the recited judicial exception, or whether the recited judicial exception is integrated into a practical application of that exception, i.e., that 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." 2019 Guidance at 53. If the claims are directed to a judicial exception, then finally determining whether the claims provide an inventive concept because the additional elements recited in the claims provide significantly more than the recited judicial exception.

STEP 2A Prong 1

While we perform a detailed evaluation of the specific limitations later in the analysis, at a very preliminary and high level, method claim 1 recites obtaining data representing an instance of an event from two carriers, mapping these to instances of second events, and implementing some unspecified action as a result. Data mapping is a rudimentary form of data analysis. Performing some unspecified action encompasses an action that is

no more than transmitting an instruction to do so, as the action may be no more than conveying data. Thus, claim 1 recites, preliminarily and at a high level, receiving, analyzing, and transmitting data. None of the limitations recite technological implementation details for any of these steps, but instead recite only results desired by any and all possible means.

From this, we see that claim 1 does not recite the judicial exceptions of either natural phenomena or laws of nature.

Under Supreme Court precedent, claims directed purely to an abstract idea are patent in-eligible. As set forth in the Revised Guidance, which extracts and synthesizes key concepts identified by the courts, abstract ideas include (1) mathematical concepts,[4] (2) certain methods of organizing human activity,[5] and (3) mental processes.[6] Among those certain methods of organizing human activity listed in the Revised Guidance are commercial or legal interactions. Like those concepts, claim 1 recites the concept of shipping management. Specifically, claim 1 recites operations that would ordinarily take place in advising one to obtain data representing an instance of an event from two carriers, map these to instances of second events, and

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[4] *See, e.g.*, *Gottschalk v. Benson*, 409 U.S. 63, 71–72 (1972); *Bilski v. Kappos*, 561 U.S. 593, 611 (2010); *Mackay Radio & Telegraph Co. v. Radio Corp. of Am.*, 306 U.S. 86, 94 (1939); *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1163 (Fed. Cir. 2018).

[5] *See, e.g.*, *Bilski*, 561 U.S. at 628; *Alice*, 573 U.S. at 219–20; *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014); *Smart Sys. Innovations, LLC v. Chicago Transit Auth.*, 873 F.3d 1364, 1383 (Fed. Cir. 2017); *In re Marco Guldenaar Holding B.V.*, 911 F.3d 1157, 1160–61 (Fed. Cir. 2018).

[6] *See, e.g.*, *Benson*, 409 U.S. at 67; *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1371–72 (Fed. Cir. 2011); *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016).

implement some unspecified action as a result. The advice to obtain data representing an instance of an event from two carriers, map these to instances of second events, and implement some unspecified action as a result involve getting data about carriers for shipments, which is an economic act, and taking action based upon events involving carriersis an act ordinarily performed in the stream of commerce. For example, claim 1 recites "obtaining . . . an instance of at least one first event from a first one of a plurality of carriers," which is an activity that would take place whenever one is researching carriers for use in commerce. Similarly, claim 1 recites "implementing . . . least one action based at least in part on the subsequent instance of the second event and order data" which is also characteristics of acting upon interactions with a carrier in commerce.

We next evaluate the Examiner's determination as to what the claims are directed to, in light of our determinations made above:

> a series of steps of obtaining an instance of a first event associated with a shipment, mapping the instance of the first event to an instance of a second event, obtaining an instance of a subsequent first event associated with a second shipment, mapping the instance of the subsequent first event to a subsequent instance of a second event, and implementing an action on the subsequent instance of the second event and order data, thus using categories to organize, store, and transmit information, and organizing information through mathematical correlations, thus an abstract idea. More, simply, the use of categories to organize instance and event information is deemed an abstract idea.

Final Act. 14.

The preamble to claim 1 does not recite what it is to achieve, but the steps in claim 1 result in deciding a shipping action based on event mappings

absent any technological mechanism other than a conventional computer for doing so.[7]

As to the specific limitations, limitations 1–4 recite generic receiving, analyzing, and transmitting of shipping data, which advise one to apply generic functions to get to these results. Limitation 5 is the only step associated with performing what the claim produces, and recites performing some unspecified action based on the data, which encompasses simply transmitting data advising one to do something. The limitations thus recite advice for obtaining data representing an instance of an event from two carriers, mapping these to instances of second events, and implementing some unspecified action as a result. And while this will be explained in more detail in a later portion of the analysis, in general, to advocate obtaining data representing an instance of an event from two carriers, mapping these to instances of second events, and implementing some unspecified action as a result are conceptual advice for results desired and not technological operations.

The Specification at paragraph 8 describes the invention as relating to processing shipment status events that can obtain status events from multiple carriers and map them to normalized status events that may be used to describe status events from more than one carrier and then implement one or more actions based on a normalized status event associated with a shipment. Thus, all this intrinsic evidence shows that claim 1 is directed to telling someone to perform some action based on analysis of events, i.e. shipping management. This is consistent with the Examiner's determination.

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[7] We also evaluate the computer later in the analysis.

This is in turn, and as noted above, an example of commercial or legal interactions as a certain method of organizing human activity because managing shipments is a commercial interaction among the parties responsible for a shipment in delivering a shipment to a destination party. The concept of shipping management as advised to be done by obtaining data representing an instance of an event from two carriers, mapping these to instances of second events, and implementing some unspecified action as a result is a way of managing a shipment by deciding on some action based on events. The steps recited in claim 1 are part of recitations of this advice.

Our reviewing court has found claims to be directed to abstract ideas when they recited similar subject matter. *Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1351 (2014) (analyzing and combining data sets); *buySAFE, Inc. v. Google, Inc.,* 765 F.3d 1350, 1355 (Fed. Cir. 2014) (creating a transaction performance guaranty for a commercial transaction on computer networks such as the Internet); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1347 (2014) (collecting data, recognizing certain data within the collected data set, and storing that recognized data in a memory).

From this, we conclude that at least to this degree, claim 1 is directed to shipping management by obtaining data representing an instance of an event from two carriers, mapping these to instances of second events, and implementing some unspecified action as a result.

STEP 2A Prong 2

The next issue is whether claim 1 not only recites, but is, more precisely, directed to this concept itself or whether it is instead directed to

some technological implementation or application of, or improvement to, this concept, i.e., integrated into a practical application.[8]

> At the same time, we tread carefully in construing this exclusionary principle lest it swallow all of patent law. At some level, "all inventions . . . embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas." Thus, an invention is not rendered ineligible for patent simply because it involves an abstract concept. "[A]pplication[s]" of such concepts " 'to a new and useful end,' " we have said, remain eligible for patent protection. Accordingly, in applying the § 101 exception, we must distinguish between patents that claim the " 'buildin[g] block[s]' " of human ingenuity and those that integrate the building blocks into something more.

Alice, 573 U.S. at 217 (citations omitted).

Taking the claim elements separately, the operation performed by the computer at each step of the process is expressed purely in terms of results, devoid of implementation details. Steps 1 and 3 are pure data gathering steps. Limitations describing the nature of the data do not alter this. Steps 2, 4, and 5 recite generic computer processing expressed in terms of results desired by any and all possible means and so present no more than conceptual advice. All purported inventive aspects reside in how the data are interpreted and the results desired, and not in how the process physically enforces such a data interpretation, or in how the processing technologically achieves those results.

Viewed as a whole, Appellants' claim 1 simply recites the concept of shipping management by obtaining data representing an instance of an event from two carriers, mapping these to instances of second events, and

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[8] *See, e.g.*, *Alice*, 573 U.S. at 223, discussing *Diamond v. Diehr*, 450 U.S. 175 (1981).

implementing some unspecified action as a result as performed by a generic computer. This is no more than conceptual advice on the parameters for this concept and the generic computer processes necessary to process those parameters, and do not recite any particular implementation.

Claim 1 does not, for example, purport to improve the functioning of the computer itself. Nor does it effect an improvement in any other technology or technical field. The 26 pages of Specification spell out different generic equipment[9] and parameters that might be applied using this concept and the particular steps such generic processing would entail, based on the concept of shipping management under different scenarios. They do not describe any particular improvement in the manner a computer functions. Instead, claim 1 at issue amounts to nothing significantly more than an instruction to apply shipping management by obtaining data representing an instance of an event from two carriers, mapping these to instances of second events, and implementing some unspecified action as a result using some unspecified, generic computer. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice*, 573 U.S. at 225–26.

None of the limitations reflect an improvement in the functioning of a computer, or an improvement to other technology or technical field, applies or uses a judicial exception to effect a particular treatment or prophylaxis for a disease or medical condition, implements a judicial exception with, or uses a judicial exception in conjunction with, a particular machine or manufacture that is integral to the claim, effects a transformation or reduction of a

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[9] The Specification describes a server computer and a desktop, laptop, or other computer system. Spec. paras. 51 and 14.

particular article to a different state or thing, or applies or uses the judicial exception in some other meaningful way beyond generally linking the use of the judicial exception to a particular technological environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception.

We conclude that claim 1 is directed to achieving the result of shipping management by advising one to obtaining data representing an instance of an event from two carriers, mapping these to instances of second events, and implementing some unspecified action as a result as distinguished from a technological improvement for achieving or applying that result. This amounts to commercial or legal interactions, which fall within certain methods of organizing human activity that constitute abstract ideas. The claim does not integrate the judicial exception into a practical application.

STEP 2B

The next issue is whether claim 1 provides an inventive concept because the additional elements recited in the claim provide significantly more than the recited judicial exception.

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

> the 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 "implement[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, 573 U.S. at 223–24 (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*, 573 U.S. at 225. 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 for receiving, analyzing, and transmitting data amounts to electronic data query and retrieval—one of the most basic functions of a computer. All of these computer functions are generic, routine, conventional computer activities that are performed only for their conventional uses. *See Elec. Power Grp. v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). Also s*ee In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1316 (Fed. Cir. 2011) ("Absent a possible narrower construction of the terms 'processing,' 'receiving,' and 'storing,' . . . those functions can be achieved by any general purpose computer without special programming"). None of these activities are used in some unconventional manner nor do any produce some unexpected result. Appellants do not contend they invented any of these activities. In short, each step does no more than require a generic computer to perform generic computer functions. As to the data operated upon, "even if a process of collecting and analyzing information is 'limited to particular content' or a particular 'source,' that limitation does not make

the collection and analysis other than abstract." *SAP America, Inc. v. InvestPic LLC*, 898 F.3d 1161, 1168 (Fed. Cir. 2018).

Considered as an ordered combination, the computer components of Appellants' claim 1 add nothing that is not already present when the steps are considered separately. The sequence of data reception-analysis-transmission is equally generic and conventional. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction), *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (sequence of data retrieval, analysis, modification, generation, display, and transmission), *Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) (sequence of processing, routing, controlling, and monitoring). The ordering of the steps is therefore ordinary and conventional.

We conclude that claim 1 does not provide an inventive concept because the additional elements recited in the claim do not provide significantly more than the recited judicial exception.

REMAINING CLAIMS

Claim 1 is representative. The remaining method claims merely describe process parameters. We conclude that the method claims at issue are directed to a patent-ineligible concept itself, and not to the practical application of that concept.

As to the structural claims, they

> are no different from the method claims in substance. The method 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, 573 U.S. at 226. As a corollary, the claims are not directed to any particular machine.

LEGAL CONCLUSION

From these determinations, we further determine that the claims do not recite an improvement to the functioning of the computer itself or to any other technology or technical field, a particular machine, a particular transformation, or other meaningful limitations. From this, we conclude the claims are directed to the judicial exception of the abstract idea of one of certain methods of organizing human activity in the form of commercial and legal interactions, as exemplified by shipping management by advising one to obtaining data representing an instance of an event from two carriers, mapping these to instances of second events, and implementing some unspecified action as a result, without significantly more.

APPELLANTS' ARGUMENTS

As to Appellants' Appeal Brief arguments, we adopt the Examiner's determinations and analysis from Final Action 14–16 and Answer 2–22 and reach similar legal conclusions. We now turn to the Reply Brief.

We are not persuaded by Appellants' argument that

> the summarization ignores computer hardware ("a processor in at least one server"), that the events are obtained from respective "carriers," that there are multiple sets of first events, where the sets of first events are used by a carrier to describe shipment status, that the "second events" are "normalized with respect to the sets of first events associated with the carriers," and so forth. For example, this summarization wholly ignores the concept of recognizing that different carriers use different

> sets of events to describe shipment status, and that different events from different carriers can be mapped to the same normalized event according to the claimed embodiments.

Reply Br. 5–6. As we determine *supra*, the recital of generic computer hardware that presents some abstract idea is generally insufficient and the recital of the content or source of data is likewise generally insufficient. Mapping, as claimed, is a generic data procedure that may be done in the human mind, and so is a conceptual idea. Whether the recited mapping is novel is not at issue. "A claim for a new abstract idea is still an abstract idea. The search for a § 101 inventive concept is thus distinct from demonstrating § 102 novelty." *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1151 (Fed. Cir. 2016).

We are not persuaded by Appellants' argument that "the Answer's characterization of the claims as being purely using categories to organize instance and event information ignores numerous claim terms, and particularly, the context of processing shipment status events." Reply Br. 6. As we determine *supra*, although a more precise characterization is shipping management by advising one to obtain data representing an instance of an event from two carriers, mapping these to instances of second events, and implement some unspecified action as a result, the general conclusion that the claims are directed to a commercial or legal interaction, which is one of certain methods of organizing human activity, and thus abstract idea, is undisturbed.

We are not persuaded by Appellants' argument that the claims have not been considered as a whole. Reply Br. 7–9. The analysis of the claims considered as a whole is laid out, *supra*.

We are not persuaded by Appellants' argument that "Appellants' specification is replete with references to problems relating to conventional computing systems involving shipping statuses that are solved by the claimed invention." Reply Br. 9. All of these references describe solving problems with multiple divergent computer systems. But this is simply the prior problem of dealing with multiple divergent shipping firms and their differing data formats. As claimed, the "solution" is simply what humans did in their minds before computers came along, viz, mentally mapping the terms from each firm to one's own conception of what each datum means. No technological mechanism for doing so is recited. The claims only recite the generic idea for doing so.

We are not persuaded by Appellants' argument that "claim 1 outlines a server-based process that communicates with systems of multiple carriers. Thus, concluding that the process is merely performed 'using a computer' overlooks important structural elements." Reply Br. 12. Again, reciting generic computers, even in conventional networked structures, is generally insufficient.

> The use and arrangement of conventional and generic computer components recited in the claims—such as a database, user terminal, and server— do not transform the claim, as a whole, into "significantly more" than a claim to the abstract idea itself. "We have repeatedly held that such invocations of computers and networks that are not even arguably inventive are 'insufficient to pass the test of an inventive concept in the application' of an abstract idea."

Credit Acceptance Corp. v. Westlake Servs., 859 F.3d 1044, 1056 (Fed. Cir. 2017) (citations omitted).

We are not persuaded by Appellants' argument that the claims are directed to a specific improvement and an inventive concept supported by

the recital of claim limitations and some Specification paragraphs. Reply Br. 12–15. Appellants do not adequately explain why these recitals support this argument.

We are not persuaded by Appellants' argument that the novelty and non-obviousness of the claims point toward an inventive concept and "significantly more." Reply Br. 15–16. *See Synopsys*, *supra.*

We are not persuaded by Appellants' argument that

> The entire concept of receiving shipment status events from multiple carriers is inextricably rooted in computer network technology. Without the advent of computer network technology to transmit and receive shipment status events from multiple carriers, the problem of integrating software to work with multiple carriers would not exist.

Reply Br. 17. As we determine *supra*, the problem is broader than integrating software. It is integrating communications from different carriers, which existed and was solved by the human mind well before the advent of computers. The claims only place this in the context of computers. "The Supreme Court and this court 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, 1258 (Fed. Cir. 2016).

Appellants further argue that the asserted claims are akin to the claims found patent-eligible in *DDR Holdings, LLC v. Hotels.com, L.P.* 773 F.3d 1245 (Fed. Cir. 2014). Reply Br. 18. In *DDR Holdings*, the Court evaluated the eligibility of claims "address[ing] the problem of retaining website visitors that, if adhering to the routine, conventional functioning of Internet hyperlink protocol, would be instantly

transported away from a host's website after 'clicking' on an advertisement and activating a hyperlink." *Id.* at 1257. There, the Court found that the claims were patent eligible, because they transformed the manner in which a hyperlink typically functions to resolve a problem that had no "pre-Internet analog." *Id.* at 1258. The Court cautioned, however, "that not all claims purporting to address Internet-centric challenges are eligible for patent." *Id.* For example, in *DDR Holdings* the Court distinguished the patent-eligible claims at issue from claims found patent-ineligible in *Ultramercial*. *See id.* at 1258–59 (citing *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715–16 (Fed. Cir. 2014)). As noted there, the *Ultramercial* claims were "directed to a specific method of advertising and content distribution that was previously unknown and never employed on the Internet before." *Id.* at 1258 (quoting *Ultramercial*, 772 F.3d at 715–16). Nevertheless, those claims were patent ineligible because they "merely recite[d] the abstract idea of 'offering media content in exchange for viewing an advertisement,' along with 'routine additional steps such as updating an activity log, requiring a request from the consumer to view the ad, restrictions on public access, and use of the Internet.'" *Id.*

Appellants' asserted claims are analogous to claims found ineligible in *Ultramercial* and distinct from claims found eligible in *DDR Holdings*. The ineligible claims in *Ultramercial* recited "providing [a] media product for sale at an Internet website;" "restricting general public access to said media product;" "receiving from the consumer a request to view [a] sponsor message;" and "if the sponsor message is an interactive message, presenting at least one query to the consumer and allowing said consumer

access to said media product after receiving a response to said at least one query." 772 F.3d at 712. Similarly, Appellants' asserted claims recite receiving, analyzing, and transmitting data. This is precisely the type of Internet activity found ineligible in *Ultramercial*.

CONCLUSIONS OF LAW

The rejection of claims 1–28 under 35 U.S.C. § 101 as directed to a judicial exception without significantly more is proper.

DECISION

The rejection of claims 1–28 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED