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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/199,476	03/06/2014	Lauren Van Heerden	11534.0005-00000	8538
22852	7590	03/21/2019	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			KLOBERG, PAUL R	
			ART UNIT	PAPER NUMBER
			3691	
			NOTIFICATION DATE	DELIVERY MODE
			03/21/2019	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LAUREN VAN HEERDEN, GUNALAN NADARAJAH,
ORIN DEL VECCHIO, MICHAEL D. CUMMINS and
PRABAHARAN SIVASHANMUGAM

Appeal 2018-002154
Application 14/199,476
Technology Center 3600

Before ALLEN R. MacDONALD, ADAM J. PYONIN, and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL¹

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1, 3, 5–9, 11, 13, and 15–28. App. Br., Claim Appendix ii–v. We have jurisdiction under 35 U.S.C. § 6(b). We AFFIRM.

¹ Appellants indicate the real party in interest is The Toronto-Dominion Bank, a corporation. App. Br. 3.

Illustrative Claims

Illustrative claims 1 and 3 under appeal read as follows (emphasis, formatting, and bracketed material added):

1. A computer-implemented method, comprising:

[A.] receiving, *by one or more processors*, transaction information *from a plurality of computing systems across a communications network*, the transaction information identifying one or more prior financial transactions;

[B.] establishing, *by the one or more processors*, an existence of a pattern within the collected transaction information, the established pattern comprising at least one of[:]

(i) a sequential relationship between at least a portion of the prior financial transactions or

(ii) a periodic characteristic exhibited by a portion of the prior financial transactions;

[C.] identifying, *by the one or more processors*, an event reflecting a deviation from the established pattern,

[(i)] the event being a nonoccurrence of a financial transaction consistent with the established pattern, and

[(ii)] the financial transaction being associated with an expected transaction time;

[D.] receiving, *by the one or more processors*, **application data from a first device**,

[(i)] **the application data being generated by one or more application programs executed by the first device**, and

[(ii)] the application data comprising calendar data associated with at least one temporal interval that includes the expected transaction time;

- [E.] determining, *by the one or more processors*, that the identified event represents an unanticipated deviation from the established pattern based on at least a portion of the calendar data; and
 - [F.] in response to the determination, transmitting, *by the one or more processors*, a negative event notification *to the first user device*,
 - [(i)] the negative event notification comprising data that identifies the event, and
 - [(ii)] the negative event notification **causing at least one of the executed application programs to present at least a portion of the data through a display unit.**
3. The method of claim 1, wherein identifying the event comprises determining whether the financial transaction occurs within a threshold time period of the expected transaction time.

Rejection²

The Examiner rejected claims 1, 3, 5–9, 11, 13, and 15–28 under 35 U.S.C. § 101 because “the claimed invention is directed to non-statutory subject matter,” i.e., because the claimed invention is directed to patent-ineligible subject matter. Final Act. 2.

We select independent claim 1 as representative. Separate patentability, in compliance with 37 C.F.R. § 41.37(c)(iv), is not argued for claims 2–6, 8–13, and 15–20 (“Under each heading identifying the ground of rejection being contested, any claim(s) argued separately or as a subgroup shall be argued under a separate subheading that identifies the claim(s) by

² All citations to the “Final Action” are to the Final Action mailed on January 11, 2017.

number.”). Except as they apply to representative claim 1, Appellants’ independent claim 11 and dependent claim argument(s) spanning at least Appeal Brief pages 15–18, 20, and 23 do not comply with the rule and have not been considered. Except for our ultimate decision, we do not discuss the § 101 rejection of claims 3, 5–9, 11, 13, and 15–28 further herein.

Issues on Appeal

Did the Examiner err in rejecting claim 1 as being directed to patent-ineligible subject matter?

ANALYSIS³

We have reviewed the Examiner’s rejections in light of Appellants’ Appeal Brief and Reply Brief arguments that the Examiner has erred.

A. Section 101

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. *E.g., Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus*

³ All Manual of Patent Examining Procedure (MPEP) citations herein are to MPEP Rev. 08.2017, January 2018.

Labs., Inc., 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 219 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk.”); *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk.”).

Concepts determined to be abstract ideas, and thus patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 192 (1981)); “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1854))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection

of our patent laws, . . . and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (citation omitted) (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (quotation marks 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.*

B. USPTO Section 101 Guidance

The United States Patent and Trademark Office (USPTO) recently published revised guidance on the application of § 101. USPTO’s January 7, 2019 Memorandum, *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (“Memorandum”). Under that guidance, we first look to whether the claim recites:

- (1) (*see* Memorandum Step 2A – Prong One) 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) (*see* Memorandum Step 2A – Prong Two) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)).⁴

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

(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 Memorandum Step 2B.

C. Examiner’s §101 Rejection - Alice/Mayo - Steps 1 and 2

C.1. Memorandum Step 2A – Prong One

Applying step 1 of the *Alice/Mayo* analysis, the Examiner concludes claim 1 is directed to an abstract idea.

Claim[1] recite[s] . . . a method directed to an abstract idea of processing data related to collecting **prior transaction information** associated with a user and determining a transaction pattern based on the collected transaction information. Processing data related to receiving transaction information identifying one or more **prior financial transactions**, establishing an existence of a pattern one of (i) a sequential relationship or (ii) a periodic characteristic, identifying an event

⁴ We acknowledge that some of these considerations may be properly evaluated under Step 2 of *Alice* (Step 2B of Office guidance). Solely for purposes of maintaining consistent treatment within the Office, we evaluate it under Step 1 of *Alice* (Step 2A of Office guidance). *See* USPTO’s January 7, 2019 Memorandum, “2019 Revised Patent Subject Matter Eligibility Guidance.”

reflecting a deviation associated with an expected transaction time, receiving application data comprising calendar data that includes the expected transaction time, determining that the identified event represents an unanticipated deviation and transmitting a negative event notification. ***The concepts*** of determining when an expected event does not (or will not) occur (e.g., a negative event), and for automatically providing alerts or performing responsive processes based on the determined negative event ***are similar to ideas found to abstract by the courts as in*** creating a contractual relationship (*buySafe*); using categories to organize, store and transmit information (*Cyberfone*); and comparing new and stored information and using rules to identify options (*SmartGene*). Additionally, the claim is directed to the abstract idea of the administration of financial accounts (*Intellectual Ventures I v. Capital One*) as similar to the recited claim limitations of receiving, establishing, identifying, receiving, determining and transmitting steps in [claim 1] as these relate to user transaction data.

Final Act. 4–5 (emphasis added).

C.2. Memorandum Step 2A – Prong Two

Applying step 2 of the *Alice/Mayo* analysis, the Examiner concludes:

[T]he additional limitations in the claims do not improve the functioning of the computer itself, or improve any other technology or technical field. Use of a generic computer does not transform an abstract idea into a patent-eligible invention.

Final Act. 7. Further, the Examiner determined:

The claims and the concept set forth in the specification are not directed to solving a technical or network based problem.

Final Act. 7. Rather, the Examiner concluded:

[T]he claims solve a business problem rather than [being] an improvement in computer related technology.

Final Act. 10.

C.3. *Memorandum Step 2B*

Further applying step 2 of the *Alice/Mayo* analysis, the Examiner concludes:

The claim does not include additional elements that are sufficient to amount to significantly more than the judicial exception because the additional elements when considered both individually and as an ordered combination do not amount to significantly more than the abstract idea. The “non-transitory computer readable medium”, “microprocessor”, “communications interface”, “network interface” and “computing device(s)” are *recited at a high level of generality* and are recited as performing generic computer functions routinely used in computer applications. Generic computer components recited as performing generic computer functions that are *well-understood, routine and conventional activities* amount to no more than implementing the abstract idea with a computerized system. The use of generic computer components to transmit information through an unspecified interface does not impose any meaningful limit on the computer implementation of the abstract idea. Thus, taken alone, the additional elements *do not amount to significantly* more than the above-identified judicial exception (the abstract idea). Looking at the limitations as an ordered combination adds nothing that is not already present when looking at the elements taken individually.

Final Act. 5–6 (emphasis added).

D. *Appellants’ § 101 Arguments*

D.1. *Step 2A, Prong 1*

D.1.a.

Appellants contend “the Examiner fails to provide sufficient reasoning as to why each element of Appellant’s independent and dependent claims is

directed to an alleged abstract idea.” App. Br. 14. Appellants particularly contend:

Even assuming, however, that the Examiner’s summary of the “claimed invention” accurately reflects any of Applicant’s claims, which [it] **does not**, the Final Office Action provides no analysis of the **actual language** recited by **any** of Appellant’s independent claims. Indeed, the quoted summary of the Applicant’s pending claims ignores certain elements recited by Applicant’s pending independent claims that extend beyond the steps of “determining . . . a negative event . . . [and] automatically providing alerts or performing responsive processes based on the determined negative event,” or the steps of “receiving, establishing, identifying, determining, and transmitting . . . user transaction data,” each of which the Examiner asserts correspond to ineligible concepts previously identified by the courts.

For instance, independent claim [1] recites . . ., among other things:

receiv[e] **application data** . . . generated by one or more **application programs executed by the first device**, and the application data comprising **calendar data** associated with at least one temporal interval that includes the expected transaction time;

determin[e] that the identified event represents an unanticipated deviation from the established pattern based on at least a portion of the **calendar data**; and

in response to the determination, transmit[] a negative event notification to the first device, . . . the **negative event notification causing at least one of the executed application programs to present at least a portion of the data through a display unit.**

App. Br. 15.

D.1.b.

Claim 1 recites the following limitations:

- (A) receiving . . . transaction information identifying one or more prior financial transactions;
- (B) establishing . . . an existence of a pattern within the collected transaction information, the established pattern comprising at least one of (i) a sequential relationship between at least a portion of the prior financial transactions or (ii) a periodic characteristic exhibited by a portion of the prior financial transactions;
- (C) identifying . . . an event reflecting a deviation associated with an expected transaction time, the event being a nonoccurrence of a financial transaction consistent with the established pattern, and the financial transaction being associated with an expected transaction time;
- (D) receiving . . . application data comprising calendar data that includes the expected transaction time;
- (E) determining . . . that the identified event represents an unanticipated deviation from the established pattern based on at least a portion of the calendar data; and
- (F) transmitting . . . a negative event notification.

In short, claim 1 recites a method of processing data related to collect prior transaction information associated with a user and determine a transaction pattern based on the collected transaction information. That is, we conclude that Appellants' claimed process is mitigating the risk of negative events in financial transactions.

Appellants acknowledge that as to financial transaction systems:

These systems may employ known prediction algorithms that predict a likelihood of an occurrence of an event based on stored patterns of prior activities and transactions, and provide alerts regarding the occurrence of the predicted event *to combat fraud*, for example, such predictive notifications can be used *to alert fraud monitors and ensure obstacles are in place to help prevent the occurrence of fraudulent activities*.

Spec. ¶ 3. By Appellants' acknowledgement, we conclude the identification of a deviation from established financial transaction pattern is a known fundamental economic practice to detect fraud (i.e. to manage risk) in financial transactions. Thus, like the concept of mitigating settlement risk in *Alice*, and the concept of hedging against risk in *Bilski*, the concept of identifying a deviation in a financial transaction pattern recited in Appellants' claims "is a fundamental economic practice long prevalent in our system of commerce." *Alice*, 573 U.S. at 216 (citations and internal quotation marks omitted).

Accordingly, we conclude that claim 1 recites a fundamental economic practice, which is one of certain methods of organizing human activity identified in the Revised Guidance (Memorandum), and thus an abstract idea.

D.1.c.

Contrary to Appellants' argument *supra* that "the Final Office Action provides no analysis of the **actual language** recited by **any** of Appellant's independent claims" (*id.*), we determine that the Examiner's analysis at page 4 of the Final Action explicitly recites the actual language of Appellants' independent claim 1. Further, we determine that the Examiner correctly points out that Appellants' claimed financial transaction data processing

claims are similar to the cited cases (*buySafe*, *Cyberfone*, *SmartGene*, and *Intellectual Ventures I v. Capital One*). Final Act. 4–5.

Appellants’ argument overlooks that the argued “application programs executed by the first device” and “causing at least one of the executed application programs to present at least a portion of the data through a display unit” specifics of claim 1 are not part of the judicial exception analysis. Rather, these specifics are part of determining whether, in addition to the judicial exception, the claim includes an inventive concept. *Alice*, 573 U.S. at 217 (“First, we 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?’” (Citations omitted)). Appellants also present the same arguments contending the claim amounts to significantly more than a patent upon the judicial exception itself. App. Br. 20. We address those arguments *infra*.

D.2. Step 2A, Prong 2

Appellants also contend:

[The claims] represent ***a specific, technological improvement to a prior-art problem*** that enhances a computer’s basic ability to interact with a client device within a networked computing environment.

App. Br. 19 (emphasis added).

The Examiner’s conclusion requires an impermissible generalization of Appellant’s claims, as it oversimplifies the actual language recited by the Appellant’s [sic] claims and ignores those elements of Appellant’s claims that, when taken as an “ordered combination,” extend beyond any well-understood, routine, conventional, or human-performable activities, and represent ***a specific, technological improvement to a prior-art problem*** that enhances a computer’s basic ability to interact with a user device within a networked computing environment.

Reply Br. 5–6 (emphasis added).

Appellants’ argument is not persuasive because we do not find any explanation by Appellants of what they consider to be either the specific “technological problem” or the “technological solution.” This consideration has also been referred to as the search for a technological solution to a technological problem. *See Amdocs (Israel), Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1300 (Fed. Cir. 2016)(“[T]his claim entails an unconventional technological solution . . . to a technological problem . . .”).

We agree with the Examiner that claim 1 “do[es] not include an improvement to another technology or technical field, an improvement to the functioning of the computer itself [*see* MPEP 2106.05(a)], or meaningful limitations beyond generally linking the use of an abstract idea to a particular technological environment [*see* MPEP 2106.05(h)].” In view of Appellants’ Specification, and consistent with the Examiner’s determinations, we conclude that claim 1 does not integrate the judicial exception into a practical application. We determine claim 1 does not recite:

- (i) an improvement to the functioning of a computer;
- (ii) an improvement to another technology or technical field;
- (iii) an application of the abstract idea with, or by use of, a particular machine;
- (iv) a transformation or reduction of a particular article to a different state or thing; or
- (v) other meaningful limitations beyond generally linking the use of the abstract idea to a particular technological environment.

See MPEP §§ 2106.05(a)–(c), (e)–(h). We agree with the Examiner that claim 1 is *directed to* a judicial exception.

D.3. *Step 2B*

As noted above, the Examiner also determined:

The “non-transitory computer readable medium”, “microprocessor”, “communications interface”, “network interface” and “computing device(s)” are *recited at a high level of generality* and are recited as performing generic computer functions routinely used in computer applications. Generic computer components recited as performing generic computer functions that are well-understood, routine and conventional activities amount to no more than implementing the abstract idea with a computerized system.

Final Act. 5 (emphasis added).

Appellants contend “the Examiner’s assertions are **not** based on a detailed analysis of the actual language recited by Appellant’s claims.” App.

Br. 9. Appellants particularly contend:

[T]hese assertions are supported by an impermissible mischaracterization and oversimplification of Appellant’s claims, which ignores certain claim elements that, when taken in combination, establish the statutory nature of Appellant’s claims.

For example, independent claim [1] . . . to: “receiv[e] **application data** . . . generated by one or more **application programs executed by the first device**, and the application data comprising **calendar data** associated with at least one temporal interval that includes the expected transaction time;” “determin[e] that the identified event represents an unanticipated deviation from the established pattern based on at least a portion of the **calendar data**,” and “in response to the determination, transmit[] a negative event notification to the first device, . . . the **negative event notification causing at least one of the executed application programs to present at least a portion of the data through a display unit.**” (Emphases added).

App. Br. 20.

Further, certain elements recited by Appellant’s [sic] independent and dependent claims, such as those quoted above, **represent meaningful limitations** that extend beyond a general linkage of any allegedly abstract idea When taken as an ordered combination, these quoted elements provide unconventional steps that confine the allegedly abstract idea to a **particular useful application** and further, extend beyond any allegedly performable manual or mental implementation.

App. Br. 23 (emphasis added).

We disagree with Appellants’ assertion that the recited “application programs executed by the first device” and “causing at least one of the executed application programs to present at least a portion of the data through a display unit” are not (as the Examiner determines) generic components recited at a high level of generality, but rather, are meaningful limitations that confine the judicial exception to a particular useful application.

Contrary to Appellants’ argument, we determine that the “first device” and “display unit” are the epitome of generic components. Further, the “application programs” repeatedly are described by Appellants as merely “software instructions” (Spec. ¶¶ 24, 33, 41, 51–55, 73, 75–77, 99, 116, and 117) to achieve a stated result without further elaboration. We determine that claim 1 does not “focus on a specific means or method that improves the relevant technology,” but is “directed to a result or effect that itself is the abstract idea and merely invoke[s] generic processes and machinery.” *McRO*, 837 F.3d at 1314. This is not enough to transform an abstract idea into patent-eligible subject matter. *See, e.g., Alice*, 573 U.S. at 225–26 (explaining that claims that “amount to ‘nothing significantly more’ than an instruction to apply the abstract idea . . . using some unspecified, generic computer” “is not ‘enough’ to transform an abstract idea into a patent-

eligible invention” (quoting *Mayo*, 566 U.S. at 77, 79)); *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017) (“[T]he claim language here provides only a result-oriented solution, with insufficient detail for how a computer accomplishes it”).

Although claim 1 recites “more” under step two of the *Alice/Mayo* analysis, we conclude the “more” is not patentably significant. Rather, the case law shows this “more” to be the epitome of a well-understood, routine, conventional element/combination previously known in the industry. See *Alice*, 573 U.S. at 227 (“[P]etitioner’s . . . media claims add nothing of substance to the underlying abstract idea.”); *Fairwarning IP, Inc. v. Iatric Sys., Inc.*, 839 F.3d 1089, 1096 (Fed. Cir. 2016) (“Claims 15–17 . . . add nothing more than similar nominal recitations of basic computer hardware, such as ‘a non-transitory computer-readable medium with computer-executable instructions’ and a microprocessor.”).

Because claim 1, in addition to the abstract idea, recites only a well-understood, routine, conventional element/combination previously known in the industry, we conclude the case law shows there is no genuine issue of material fact regarding step two of the Examiner’s *Alice/Mayo* analysis. Therefore, we are unpersuaded by Appellants’ argument that further evidence is required. In view of Appellants’ Specification, and consistent with the Examiner’s determinations, we determine the claims do not recite:

- (vi) a specific limitation other than what is well-understood, routine, conventional activity in the field or unconventional steps that confine the claim to a particular useful application.

See MPEP § 2106.05(d).

D.4. *Other 101 Arguments*

D.4.a.

Appellants contend:

Appellant’s [sic] claims are not directed to an abstract idea because they ***do not attempt to preempt*** every practical application of “processing data related to [collected] transaction information associated with a user and determining a transaction pattern based on the collected transaction information.”

App. Br. 20 (emphasis added).

Appellants’ argument is not persuasive because although “preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015). We are instructed that “[w]here a patent’s claims are deemed only to disclose patent ineligible subject matter under the [*Alice/Mayo*] framework . . . , preemption concerns are fully addressed and made moot.” *Id.*

D.4.b.

Further, Appellants contend:

In this case, and for at least those reasons outlined below, Appellant’s [sic] claims, ***recite elements that distinguishes the prior art of record***, and in particular, *Griffin, Clyne, Maskall, and Kingdon*. See Final Office Action, p. 10. Thus, Appellant’s claims involve an “inventive concept” under § 101 because the claims recite features that **exceed** “well-understood, routine, conventional activities” already known in the industry.

App. Br. 22 (additional emphasis added).

Appellants’ “distinguishes the prior art of record” argument lacks merit because, even though the Section 101 inquiry and the Section 102/103 inquiry might sometimes overlap, a novel and nonobvious claim directed to

a purely abstract idea is, nonetheless, patent-ineligible. *See Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. at 89 (rejecting the suggestion that Sections 102, 103, and 112 might perform the appropriate screening function and noting that in *Mayo* such an approach “would make the ‘law of nature’ exception . . . a dead letter”).

CONCLUSIONS

(1) The Examiner has not erred in rejecting claims 1, 3, 5–9, 11, 13, and 15–28 under 35 U.S.C. § 101, as being directed to patent-ineligible subject matter.

(2) Claims 1, 3, 5–9, 11, 13, and 15–28 are not patentable.

DECISION

The Examiner’s rejection of claims 1, 3, 5–9, 11, 13, and 15–28 under 35 U.S.C. § 101, as being directed to patent-ineligible subject matter, is **affirmed**.

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

AFFIRMED