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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SEAD DIZDAREVIC, ALEN S. DIZDAREVIC,
MIRJANA GARCIA, SANJIN KARABEGOVIC,
ANTHONY P. CHANGO, and STEPHANIE L. JACKSON

Appeal 2018-002813
Application 13/408,584¹
Technology Center 3600

Before CAROLYN D. THOMAS, HUNG H. BUI, and ADAM PYONIN,
Administrative Patent Judges.

BUI, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants seek our review under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 2, 4, 6, 8–12, 14, 18–20, 23, and 24, which are all the claims pending in the application. Claims 3, 5, 7, 15, and 21–22 are cancelled. App. Br. 26–32, Claims App'x. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.²

¹ According to Appellants, Jet Set Sport Holdings LP is the real party in interest. App. Br. 2.

² Our Decision refers to Appellants' Appeal Brief filed June 20, 2017 ("App. Br."); Reply Brief filed January 22, 2018 ("Reply Br."); Examiner's Answer mailed November 22, 2017 ("Ans."); Non-Final Office Action

STATEMENT OF THE CASE

Appellants' invention relates to "systems and methods for management of event attendance packages and event attendance inventory [for such packages]." Spec. ¶¶ 1, 7. Events may include "sporting events (e.g., the Olympics, the Super Bowl™, or other sporting event), nonsporting events (e.g., conventions, political events, awards ceremonies) or other events." Spec. ¶ 14. Event package information may include

a unique proposal number that is used to identify specific event packages, a unique account number used to identify a contract or proposal for a package . . . the identity and/or number of attendees for the package, requested inventory items (e.g., hotel, flights, food, ground transport, tickets, or other inventory items), or other information.

Spec. ¶ 17. According to Appellants, such methods may include gathering inventory items needed for facilitating event attendance for a particular event, and building one or more event attendance packages using virtual inventory items. "Once an event package is approved [from a customer], actual inventory items may be secured, and the [actual] inventory items may be allocated to a given package so that they are not available for use by other packages." Abstract. "In this manner, inventory cannot be allocated to two different packages." Spec. ¶ 8. "The systems and methods herein may utilize various graphical user interfaces [GUIs] that enable building of virtual inventory, event package construction, actual inventory acquisition, and inventory/package allocation." *Id.*

Claims 1 and 11 are independent. Claim 1 is illustrative of the claimed subject matter, as reproduced below:

mailed January 4, 2017 ("Non-Final Act."); and original Specification filed February 29, 2012 ("Spec.").

1. A method for managing event packages, the method being implemented on a computer system that includes one or more physical processors executing computer program instructions which, when executed, perform the method, the method comprising:

storing, by the computer system, package information relating to one or more event packages for attending an event, wherein the package information for each of the one or more event packages includes customer identification information for a customer associated with the event package and information regarding requested inventory items relating to attendance of the event;

generating, by the computer system, a predefined number of assets of a first type that are to be allocated to the one or more event packages, wherein the assets of the first type correspond to a plurality of third-party inventory items related to attendance of the event, the assets of the first type represent third-party inventory items that have not yet been acquired by an entity managing event packages for the event, and the assets of the first type include a first asset of the first type that corresponds to a first third-party inventory item and a second asset of the first type that corresponds to a second third-party inventory item, the first third-party inventory item including one of a flight reservation, a hotel reservation, an event ticket, a meal reservation, a meal voucher, or a ground transportation ticket, and the second third-party inventory item including a different one of the flight reservation, the hotel reservation, the event ticket, the meal reservation, the meal voucher, or the ground transportation ticket;

storing, by the computer system, inventory information regarding the assets of the first type and assets of a second type that correspond to the plurality of third-party inventory items, wherein the assets of the second type represent third-party inventory items that have been acquired by the managing entity, and the assets of the second type include a first asset of the second type that corresponds to the first third-party inventory item and a second asset of the second type that corresponds to the second third-party inventory item, and wherein allocation of each asset of the assets of the first type and the assets of the

second type is limited to one event package at a given time, and allocation of the assets of the first type is limited to the predefined number;

receiving, at the computer system, one or more first indications to allocate the first asset of the first type and the second asset of the first type to a first event package of the one or more event packages;

allocating, by the computer system, based on the received one or more first indications, the first asset of the first type and the second asset of the first type to the first event package;

providing, by the computer system, on a graphical user interface, based on the allocation of the first asset of the first type and the second asset of the first type, an indication that the first third-party inventory item and the second third-party inventory item have been allocated to the first event package;

receiving, at the computer system, one or more second-indications that at least one of the first third-party inventory item or the second third-party inventory item has been acquired by the managing entity;

updating, by the computer system, based on the received one or more second indications, the stored inventory information to reflect that at least one of the first third-party inventory item or the second third-party inventory item has been acquired;

allocating, by the computer system, based on the updated inventory information, at least one of the first asset of the second type or the second asset of the second type to the first event package; and

providing, by the computer system, on the graphical user interface, based on the allocation of at least one of the first asset of the second type or the second asset of the second type, an indication that at least one of the first third-party inventory item or the second third party inventory item has been acquired.

App. Br. 26–27 (Claims App'x).

EXAMINER'S REJECTION³

Claims 1, 2, 4, 6, 8–12, 14, 18–20, and 23–24 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to an abstract idea without significantly more. Non-Final Act. 3–4, 17.

DISCUSSION

In support of the rejection of claims 1, 2, 4, 6, 8–12, 14, 18–20, 23, and 24 under 35 U.S.C. § 101, the Examiner determines these claims are directed to “allocating inventory of assets that have not been and have been acquired by a managing entity,” which falls into multiple categories of abstract ideas, including (1) “certain methods of organizing human activity” because the claims are directed to “managing relationships or transactions between people and event activities” and (2) “mental steps” because the steps recited “can be performed in the human mind, or by a human using pen and paper.” Ans. 4; *see also* Final Act. 3.

The Examiner also determines the claims fail to amount to “significantly more” than the judicial exception” or contain an “inventive concept” because these additional claim elements (e.g., computer system, graphical user interface “GUI”) (1) are claimed at a high level and amount to nothing more than generic computer components (Non-Final Act. 17), and

³ The Examiner also rejected (1) claims 1, 2, 4, 6, 8, 9, 11, 12, 14, 18, 19, and 23–24 under 35 U.S.C. § 103 based on Awiszus et al. (US 2004/0138929 A1; published July 15, 2004), Allen et al. (US 2005/0203783 A1; published Sep. 15, 2005), and Bretenbach et al. (US 2002/0016729 A1; published Feb. 7, 2002); and (2) claims 10 and 20 under 35 U.S.C. § 103 based on Awiszus, Allen, Bretenbach, and Knapp et al. (US 6,829,583 B1; issued Dec. 7, 2004). Non-Final Act. 5–16. However, these rejections have been withdrawn and, as such, need not be reviewed on appeal. Ans. 3.

(2) “operate as generic computer components whose implementation would be routine in any computerized embodiment.” Ans. 5.

Legal Framework

To determine whether claims are patent eligible under § 101, we apply the Supreme Court’s two-step framework articulated in *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208 (2014). First, we determine whether the claims are directed to a patent-ineligible concept: laws of nature, natural phenomena, and abstract ideas. *Id.* at 216–18. If so, we then proceed to the second step to consider the elements of the claims “individually and ‘as an ordered combination’” to determine whether there are additional elements that “‘transform the nature of the claim’ into a patent-eligible application.” *Id.* at 217. In other words, the second step is to “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.’” *Id.*

The Federal Circuit has described the *Alice* step 1 inquiry as looking at the “focus” of the claims, their “character as a whole,” and the *Alice* step-two inquiry as looking more precisely at what the claim elements add—whether they identify an “inventive concept” in the application of the ineligible matter to which the claim is directed. *See Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016); *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015).

Because there is no single definition of an “abstract idea” under *Alice* step 1, the Federal Circuit has adopted the common law, analogy-driven approach (*i.e.*, the “analogous claim” test) to determine whether a claim is

directed to an abstract idea, and has instructed us “to examine earlier cases in which a similar or parallel descriptive nature can be seen—what prior cases were about, and which way they were decided.” *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016) (citing *Elec. Power Grp.*, 830 F.3d at 1353–54).

The Office sought to apply the Federal Circuit’s common law “analogous claim” test in the aftermath of *Alice* (see USPTO Memorandum, *July 2015 Update: Subject Matter Eligibility*, at 3 (July 30, 2015), <https://www.uspto.gov/sites/default/files/documents/ieg-july-2015-update.pdf> (“a claimed concept is not identified as an abstract idea unless it is similar to at least one concept that the courts have identified as an abstract idea”)). But recently, the Office concluded that having examiners seek analogous claims had since become impractical and unpredictable in light of the growing body of Federal Circuit precedent. Thus, the Office recently published revised guidance interpreting governing case law and establishing a framework to govern all patent-eligibility analysis under *Alice* and § 101 effective as of January 7, 2019. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50–57 (Jan. 7, 2019) (“Revised Guidance”).

Revised Guidance

Under the Revised Guidance, we first look under *Alice* step 1 or “Step 2A” to whether the claim recites:

- (1) Prong One: any judicial exceptions, including certain groupings of abstract ideas (i.e., [i] mathematical concepts, [ii] mental processes, or [iii] certain methods of organizing human activity such as a fundamental economic practice or managing personal behavior or relationships or interactions between people); and

- (2) Prong Two: additional elements that integrate the judicial exception into a practical application (*see* Manual of Patent Examining Procedure (“MPEP”) §§ 2106.05(a)–(c), (e)–(h)).⁴

See Revised Guidance, 84 Fed. Reg. at 51–52, 55, Revised Step 2A, Prong One (Abstract Idea) and Prong Two (Integration into A Practical Application).

A claim that integrates a judicial exception into a practical application applies, relies on, or uses 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. *See* Revised Guidance, 84 Fed. Reg. at 54. When the judicial exception is so integrated, then the claim is not directed to a judicial exception and is patent eligible under § 101. *Id.* “Integration into a practical application” requires an additional element or a combination of additional elements in the claim to 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 exception. *Id.* at 53, 55.

For example, additional elements that are indicative of “integration into a practical application” include:

- 1) Improvements to the functioning of a computer, or to any other technology or technical field—*see* MPEP § 2106.05(a);
- 2) Applying the judicial exception with, or by use of, a particular machine—*see* MPEP § 2106.05(b);

⁴ All references to the MPEP are to the Ninth Edition, Revision 08–2017 (rev. Jan. 2018).

- 3) Effecting a transformation or reduction of a particular article to a different state or thing—*see* MPEP § 2106.05(c); and
- 4) Applying or using 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—*see* MPEP § 2106.05(e).

In contrast, additional elements that are not indicative of “integration into a practical application” include:

- 1) Adding the words “apply it” (or an equivalent) with the judicial exception, or mere instructions to implement an abstract idea on a computer, or merely uses a computer as a tool to perform an abstract idea—*see* MPEP § 2106.05(f);
- 2) Adding insignificant extra-solution activity to the judicial exception—*see* MPEP § 2106.05(g); and
- 3) Generally linking the use of the judicial exception to a particular technological environment or field of use—*see* MPEP § 2106.05(h).

See Revised Guidance, 84 Fed. Reg. at 54–55 (“Prong Two”).

Only if a claim: (1) recites a judicial exception, and (2) does not integrate that exception into a practical application, do we then evaluate whether the claim provides an “inventive concept” under *Alice* step 2 and Revised Guidance “Step 2B.” *See* Revised Guidance at 56; *Alice*, 573 U.S. at 217–18. For example, we look to whether the claim:

- 1) adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or
- 2) simply appends well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

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

Alice/Mayo—Step 1 (Abstract Idea)
Step 2A—Prongs 1 and 2 identified in the PTO § 101 Memorandum

Step 2A, Prong One

Turning to the first step of the *Alice* inquiry, Appellants contend the Examiner erred in rejecting the claims under 35 U.S.C. § 101 as directed to non-statutory subject matter because (1) “the Examiner overgeneralized the claims as simply ‘allocating an inventory of asset’ by ignoring and stripping away features recited in the claims to arrive at the foregoing generalized concept” (App. Br. 14–17); and (2) “their character is not directed to an abstract idea” because

the claims as a whole recite at least a particular technical solution for facilitating improvement of third-party event management computer systems. For example, as indicated above, claim 1 involve a computer-implemented use of computer-generated assets of different types (specifically, one that represents inventory items that have not yet been acquired, and another that represents inventory items that have been acquired) that correspond to different types of third-party inventory items to allow for those third-party inventory items to be more effectively allocated to event packages (e.g., prior to those inventory items being acquired by a managing entity), for example, as compared to past computerized solutions in the same technical field.

App. Br. 19 (emphasis in original). According to Appellants,

like the claims at issue in *Thales* and *McRo*, the instant claims as a whole recite a particular ordered combination of operations to provide a particular useful application that improves another technology or technical field (e.g., third-party event management computer systems). For example, as discussed above, the claimed solution involves the use of two computer-generated assets of different types to represent the same third-party inventory item to facilitate a third-party event management system’s allocation of inventory items to event packages both

when the third-party inventory items have not yet been acquired and when the third-party inventory items have been acquired in a manner that avoids allocation of the same third-party inventory item to the more than one event package. Like the claims at issue in *Thales*, the combination of the claim features demonstrate their respective patent-eligibility at least because they provide an improvement to another technology or technical field (e.g., by increasing accuracy of third-party inventory item allocation by an event management computer system). *Compare Thales* (increase in accuracy of object position/orientation determination systems) and *pending claim 1* (increase in accuracy of third-party inventory item allocation by an event management computer system).

App. Br. 20 (citing *Thales Visionix Inc. v. U.S.*, 850 F.3d 1343, 1346 (Fed. Cir. 2017); and *McRO, Inc. v. Bandai Namco Games America, Inc.*, 837 F.3d 1299 (Fed. Cir. 2016)); Reply Br. 12–13.

Appellants’ arguments are not persuasive. First, we note the Examiner is required under *Alice* to review the claims at some level of generalization and determine whether those claims as a whole are directed to an abstract idea. However, we are mindful that “too broad an interpretation of this exclusionary principle could eviscerate patent law,” as “all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Alice*, 134 S. Ct. at 2355 and *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012).

Second, Appellants’ reliance on *McRO* and *Thales* is misplaced. For example, *McRO*’s U.S. Patent No. 6,307,576 B1 (“576 patent”) describes computer software for matching audio to a 3D animated mouth movement to provide lip-synched animation. *McRO*’s claims contain (i) specific limitations regarding a set of rules that “define[] a morph weight set stream

as a function of phoneme sequence and times associated with said phoneme sequence” to enable computers to produce “accurate and realistic lip synchronization and facial expressions in animated characters.” *McRO*, 837 F.3d at 1313 (internal quotation marks and citation omitted). The Federal Circuit concluded *McRO*’s claims, when viewed as a whole, are not “directed to” an abstract idea, but are rather directed to (ii) a “technological improvement over the existing, manual 3–D animation techniques” that uses “limited rules in a process specifically designed to achieve an improved technological result in conventional industry practice.” *Id.* at 1316.

Similarly, *Thales*’ claim recites “[a] system for tracking the motion of an object relative to a moving reference frame, comprising:

- [1] a first inertial sensor mounted on the tracked object;
- [2] a second inertial sensor mounted on the moving reference frame; and
- [3] an element adapted to receive signals from said first and second inertial sensors and configured to determine an orientation of the object relative to the moving reference frame based on the signals received from the first and second inertial sensors.

U.S. Patent No. 6,474,159 B1, 11:49–59 (bracketed numbering added). The Federal Circuit determined that *Thales*’ claims “are not merely directed to the abstract idea of using ‘mathematical equations for determining the relative position of a moving object to a moving reference frame,’” but rather “are directed to systems and methods that use inertial sensors in a non-conventional manner to reduce errors in measuring the relative position and orientation of a moving object on a moving reference frame.” *Thales*, 850 F.3d at 1349. As such, the Federal Circuit concluded that *Thales*’

claims are not directed to an “abstract idea” under *Alice* step 1 of the *Alice/Mayo* analysis. *Id.*

In contrast to the claims in *McRO* and *Thales*, Appellants’ claims and Specification describe “systems and methods for management of event attendance packages and event attendance inventory [for such packages].” Spec. ¶¶ 1, 7. Events may include “sporting events (e.g., the Olympics, the Super Bowl™, or other sporting event), nonsporting events (e.g., conventions, political events, awards ceremonies) or other events.” Spec. ¶ 14. Event package information may include

a unique proposal number that is used to identify specific event packages, a unique account number used to identify a contract or proposal for a package . . . the identity and/or number of attendees for the package, requested inventory items (e.g., hotel, flights, food, ground transport, tickets, or other inventory items), or other information.

Spec. ¶ 17. According to Appellants, such methods may include gathering inventory items needed for facilitating event attendance for a particular event, and building one or more event attendance packages using virtual inventory items. “Once an event package is approved [from a customer], actual inventory items may be secured, and the [actual] inventory items may be allocated to a given package so that they are not available for use by other packages.” Abstract. “In this manner, inventory cannot be allocated to two different packages.” Spec. ¶ 8.

For example, Appellants’ independent claim 1 defines a method for managing event packages . . . comprising:

storing . . . package information relating to one or more event packages for attending an event . . .

generating . . . a predefined number of assets of a first type that are to be allocated to the one or more event packages . . .

storing . . . inventory information regarding the assets of the first type and assets of a second type . . .

receiving . . . one or more first indications to allocate the first asset of the first type and the second asset of the first type to a first event package of the one or more event packages;

allocating . . . the first asset of the first type and the second asset of the first type to the first event package;

providing . . . on a graphical user interface . . . an indication that the first third-party inventory item and the second third-party inventory item have been allocated to the first event package;

receiving . . . one or more second-indications that at least one of the first third-party inventory item or the second third-party inventory item has been acquired by the managing entity;

updating . . . stored inventory information to reflect that at least one of the first third-party inventory item or the second third-party inventory item has been acquired;

allocating . . . based on the updated inventory information, at least one of the first asset of the second type or the second asset of the second type to the first event package; and

providing . . . on the graphical user interface . . . an indication that at least one of the first third-party inventory item or the second third party inventory item has been acquired.

App. Br. 26–28 (Claims App’x) (bracketing added). System claim 11 recites similar limitations.

Nowhere in Appellants’ claims and Specification is there any “technological improvement” in the underlying technology, as discussed in *McRO* and *Thales*. Instead, as recognized by the Examiner, Appellants’

invention “merely uses conventional computer architecture to carry out functions that a human can perform.” Ans. 8. “[T]he claimed solution merely modifies the economic and business strategy involved with managing event inventory items” Ans. 14.

As correctly recognized by the Examiner (Non-Final Act. 3; Ans. 4), “allocating inventory of assets” based on various criteria recited in Appellants’ claims 1 and 11 are nothing more than “mental processes” that could be performed in the human mind or by a human using a pen and paper—a subject matter that falls within the three types of abstract ideas identified by the Revised Guidance. *See CyberSource*, 654 F.3d at 1372–73 (“[A] method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under [§] 101.”); *see also In re Comiskey*, 554 F.3d 967, 979 (Fed. Cir. 2009) (“[M]ental processes—or processes of human thinking—standing alone are not patentable even if they have practical application.”); *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972) (“Phenomena of nature, . . . *mental processes*, and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work.” (Emphasis added)). Additionally, mental processes remain unpatentable even when automated to reduce the burden on the user of what once could have been done with pen and paper. *CyberSource*, 654 F.3d at 1375 (“That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*.”).

For example, steps of “storing . . . package information relating to one or more event packages for attending an event” and “inventory information regarding the assets of the first type and assets of a second type,” recited in

Appellants' claims 1 and 11 can be performed by a salesperson who simply records "package information" and "inventory information" on a database or paper. Steps of "receiving . . . one or more first indications to allocate the first asset of the first type and the second asset of the first type to a first event package" and "allocating . . . the first asset of the first type and the second asset of the first type to the first event package" can be performed by a salesperson who simply allocates these assets on a database or paper. Similarly, step of "providing . . . an indication that the first third-party inventory item and the second third-party inventory item have been allocated to the first event package" can be done by a salesperson who simply shows these assets on paper. Likewise, the steps of "updating . . . stored inventory information," "allocating . . . based on the updated inventory information" and providing . . . an indication that at least one of the first third-party inventory item or the second third party inventory item has been acquired" can be repeated by the same salesperson who completes and updates these tasks on paper.

Alternatively, "allocating inventory of assets that have not been and have been acquired by a managing entity," as recited in Appellants' claims 1 and 11 is also plainly directed to "managing relationships or transactions between people and event activities" which is a "certain method of organizing human activity" identified by the Revised Guidance because "allocating inventory assets," according to Appellants' Specification, is used to facilitate the transaction between the seller and the user (customer) (*see* Spec. ¶¶ 2–3, 58). Such activities are squarely within the realm of abstract ideas, like (1) the risk hedging in *Bilski v. Kappos*, 561 U.S. 593 (2010); (2) the intermediated settlement in *Alice*, 573 U.S. at 219–22; (3) verifying

credit card transactions in *CyberSource*, 654 F.3d at 1370; (4) guaranteeing transactions in *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1354 (Fed. Cir. 2014); (5) distributing products over the Internet in *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709 (Fed. Cir. 2014); (6) determining a price of a product offered to a purchasing organization in *Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306 (Fed. Cir. 2015); and (7) pricing a product for sale in *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359 (Fed. Cir. 2015). Allocating inventory of assets based on various criteria is also a building block of a market economy and, like risk hedging and intermediated settlement, is an “abstract idea” beyond the scope of § 101. *See Alice*, 573 U.S. at 219–20.

Thus, under Step 2A, Prong One, we agree with the Examiner that the claims 1 and 11 are directed to “allocating inventory of assets that have not been and have been acquired by a managing entity,” which is considered as (1) “a fundamental economic practice” identified as an “abstract idea” by the Supreme Court in *Bilski* and *Alice*, and (2) “mental processes” identified as an abstract idea by the Supreme Court in its earlier trilogy of *Gottschalk v. Benson*, 409 U.S. 63 (1972), *Parker v. Flook*, 437 U.S. 584 (1978), and *Diamond v. Diehr*, 450 U.S. 175 (1981).

Step 2A, Prong Two (Integration into a Practical Application)

Under Prong Two of the Revised Guidance, we must determine if the claims (i.e., additional limitations beyond the judicial exception) integrate the judicial exception into a practical application. However, we discern no additional element (or combination of elements) recited in Appellants’ claims 1 and 11 that integrates the judicial exception into a practical application. *See* 2019 Revised Guidance, *Revised Step 2A, Prong Two*.

For example, Appellants' claims 1 and 11's additional elements (e.g., "computer system" and "one or more physical processors" in claim 1, or "computer system," "at least one memory device" and "one or more physical processors" in claim 11) do not (1) improve the functioning of a computer or other technology, (2) are not applied with any particular machine (except for a generic computer), (3) do not effect a transformation of a particular article to a different state, and (4) are not applied in any 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. *See* MPEP §§ 2106.05(a)–(c), (e)–(h). Moreover, "the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention." *Alice*, 573 U.S. at 223; *see also* MPEP § 2106.05(f).

As previously discussed, Appellants' claims and Specification are directed to "allocating inventory of assets that have not been and have been acquired by a managing entity" based on various criteria that can be performed by a human using a pen and paper (*see CyberSource*, 654 F.3d at 1372–73) and does not improve the computer functionality discussed in *Enfish* or improve the computer-related technology discussed in *McRO*, as Appellants argue. App. Br. 20; Reply Br. 7–8.

For these reasons, we agree with the Examiner's determination that Appellants' claims 1 and 11 are directed to an abstract idea that is not integrated into a practical application under Step 2A, Prong Two, under the Revised Guidance.

Alice/Mayo—Step 2 (Inventive Concept)
Step 2B identified in the PTO § 101 Memorandum

In the second step of the *Alice* inquiry, Appellants do not argue their claims contain “an inventive concept” under Step 2 of *Alice*. See App. Br. 21. Instead, Appellants argue (1) the Examiner “provided no analysis of the ordered combination” and (2) “the claimed operations [even if generic] can, in an ordered combination, constitute an inventive concept” similar to the claims in *Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350, 1352 (Fed. Cir. 2016). App. Br. 17–18. Appellants also argue the Examiner provided “no evidence that the claims simply automate well-known, routine, conventional activity.” App. Br. 18–19; Reply Br. 12–14.

Appellants’ arguments are not persuasive. Under current Federal Circuit precedent, an “inventive concept” under *Alice* step 2 can be established by showing, for example, that the patent claims:

- (1) provide a technical solution to a technical problem unique to the Internet, e.g., a “solution . . . necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks” (see *DDR*, 773 F.3d at 1257));
- (2) transform the abstract idea into “a particular, practical application of that abstract idea,” e.g., “installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user” (see *Bascom*, 827 F.3d at 1352, 1350 (Fed. Cir. 2016); or
- (3) “entail[] an unconventional technological solution ([e.g.,] enhancing data in a distributed fashion) to a technological problem ([e.g.,] massive record flows [that] previously required massive databases)” and “improve the performance of the system itself” (see *Amdocs (Isr.) Ltd.*

v. Openet Telecom, Inc., 841 F.3d 1288, 1300–02 (Fed. Cir. 2016).

However, Appellants’ reliance on *BASCOM* is also misplaced. For example, the patent at issue in *Bascom* (U.S. Patent No. 5,987,606 (“*Bascom* ’606 patent”)) describes a particular arrangement of filtering software at a specific location, remote from the end-users, with customizable filtering features specific to each end user. The filtering software enables individually customizable filtering at the remote ISP server by taking advantage of the technical ability of the ISP server to identify individual accounts and associate a request for Internet content with a specific individual account. *Bascom* ’606 patent, 4:35–38.

The Federal Circuit recognized that *Bascom*’s installation of an Internet content filter at a particular network location is “a technical improvement over prior art ways of filtering such content” because such an arrangement advantageously allows the Internet content filter to have “both the benefits of a filter on a local computer and the benefits of a filter on the ISP server” and “give[s] users the ability to customize filtering for their individual network accounts.” *BASCOM*, 827 F.3d at 1350, 1352. According to the panel, *Bascom*’s claims “do not preempt the use of the abstract idea of filtering content on the Internet or on generic computer components performing conventional activities.” *Id.* Instead, *Bascom*’s claims “carve out a specific location for the filtering system (a remote ISP server) and require the filtering system to give users the ability to customize filtering for their individual network accounts.” *Id.* As such, “an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces.” *Id.* at 1350.

In contrast to *Bascom*, Appellants' claims and Specification are directed to "the abstract idea of allocating an inventory of assets, as shown by the 'generating', 'receiving', 'allocating', 'providing', 'receiving', 'updating', 'allocating' limitations." Ans. 18. There is no evidence in the record to support the contention that Appellants' claimed system is provided with any non-conventional and non-generic arrangement of known, conventional components similar to *Bascom*.

As further recognized by the PTO § 101 Memorandum, an "inventive concept" under *Alice* step 2 can also be evaluated based on whether an additional element or combination of elements:

- (1) "[a]dds a specific limitation or combination of limitations that are not well-understood, routine, conventional activity in the field, which is indicative that an inventive concept may be present" (*see* MPEP § 2106.05(d)); or
- (2) "simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception, which is indicative that an inventive concept may not be present."

See PTO § 101 Memorandum, 84 Fed. Reg. at 56.

In this case, we find no additional element or combination of elements recited in Appellants' claims 1 and 11 contains any "inventive concept" or adds anything "significantly more" to transform the abstract concept into a patent-eligible application. *Alice*, 573 U.S. at 221–22. For example, Appellants' abstract idea of "allocating inventory of assets that have not been and have been acquired by a managing entity" is not rooted in computer technology; nor does it (1) provide any technical solution to a technical problem as required by *DDR Holdings*; (2) provide any particular

practical application as required by *Bascom*; or (3) entail an unconventional technological solution to a technological problem as required by *Amdocs*. Instead, Appellants' invention simply uses generic computer components to perform the abstract idea of "ranking [inventory] items" of search results based on criteria such as pricing and user ratings (Spec. ¶¶ 3, 10, 12–13, 70, Fig. 1). As recognized by the Examiner, there is no indication that the claims provided any "specific improvement to the way computers operate." Ans. 9. In fact, the only "additional [] elements" recited merely implement the abstract idea on generic computing elements (i.e., computer system, memory device, processors, and graphical user interfaces shown in Figures 1–4). However, the use of a generic computer device does not alone transform an otherwise abstract idea into patent-eligible subject matter. As our reviewing court has observed, "after *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible." *DDR*, 773 F.3d at 1256 (citing *Alice*, 573 U.S. at 223). Moreover, Appellants have not shown any specific limitation in claims 1 and 11 beyond the judicial exception that is not "well-understood, routine, and conventional" in the field (*see* MPEP § 2106.05(d)). *See, e.g.*, Spec. ¶¶ 14–22, 59, 60.

With respect to dependent claims 4, 6, 14, 16, 23, and 24, Appellants argue "the Examiner is completely silent regarding how the following additional limitations . . . fail to recite patent-eligible subject matter." App. Br. 16–17. For example, claims 4 and 14 further recite:

wherein allocating at least one of the first asset of the second type or the second asset of the second type to the first event package comprises replacing the first asset of the first type with the first asset of the second type in the first event package and/or

replacing the second asset of the first type with the second asset of the second type in the first event package.

App. Br. 27–28 (Claims App’x).

However, like Appellants’ independent claims 1 and 11, the limitations recited in claims 4 and 14 can also be performed by a salesperson who simply replaces different types of asset allocated on a database or paper. As correctly recognized by the Examiner, “these steps are carried out by conventional architecture, and is therefore merely an abstract idea implemented in a computer environment.” Ans. 10.

Because Appellants’ claims, when considered as a whole, are directed to a patent-ineligible abstract idea that do not integrate into a practical application and do not recite an “inventive concept,” we sustain the Examiner’s rejection of claims 1, 2, 4, 6, 8–12, 14, 18–20, and 23–24 under 35 U.S.C. § 101.

CONCLUSION

On the record before us, we conclude Appellants have not demonstrated the Examiner erred in rejecting claims 1, 2, 4, 6, 8–12, 14, 18–20, and 23–24 under 35 U.S.C. § 101.

DECISION

As such, we AFFIRM the Examiner’s rejection of claims 1, 2, 4, 6, 8–12, 14, 18–20, and 23–24 under 35 U.S.C. § 101.

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