UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte DAVID GEFFEN, OFFER HASSIDI, and YOAV FREIBERGER

_____

Appeal 2018-003442
Application 12/485,180
Technology Center 3600

_____

Before JOSEPH L. DIXON, ST. JOHN COURTENAY III, and
LARRY J. HUME, *Administrative Patent Judges.*

DIXON, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant,[1] appeal from the
Examiner's decision to reject claims 1–4 and 6–22. (Non-Final Act. 1.) We
have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] We use the word "Appellant" to refer to "Applicants" as defined in 37
C.F.R. § 1.42(a). Appellant identifies the real party in interest as NICE
LTD. (Appeal Br. 1.)

CLAIMED SUBJECT MATTER

The claims are directed to a method and system for linking customer-agent interactions. Claim 1, reproduced below, is representative of the claimed subject matter:

l.   A computer-implemented method for identifying a breach in one or more key performance indicators (KPIs) related to customer-agent interactions in an interaction capturing system, the method comprising:

receiving, at a hardware data server, from the interaction capturing system, a plurality of distinct recorded customer-agent interactions from a plurality of individual human agents;

analyzing for a selected customer, by the hardware data server, the plurality of distinct recorded customer-agent interactions, the analysis based on data combined from a voice interaction repository, a screen data source, and a customer data source;

grouping, by the hardware data server, at least a portion of the recorded customer-agent interactions into a category upon identifying one or more predetermined common characteristics associated with the customer-agent interactions, the common characteristics based on a content analysis application, emotion detection, and one or more of: an Interactive Voice Response (IVR) application, and call flow information;

linking within said category, by the hardware data server, at least two of said distinct recorded customer-agent interactions grouped into said category to form a chain of linked customer-agent interactions, each customer-agent interaction linked to a preceding and/or subsequent customer-agent interaction, upon identifying a condition that matches a predetermined rule defining the chain, the predetermined rule being based on a period of time between interactions or common phrases within interactions;

determining, by a hardware application server, the one or more key performance indicators (KPIs) for the chain, wherein the key performance indicators comprise one or more rules

which the chain of interactions should comply with, and wherein one of the key performance indicators determines a desired time span between a first and a last interaction in the chain;

evaluating, by the hardware application server, the chain according to the key performance indicators;

displaying the interactions that were linked as a chain on a display showing linked interactions by time;

identifying, by the hardware application server, the breach of one of the key performance indicators; and

issuing, by the hardware application server, an alert upon identifying the breach.

REJECTION

Claims 1–4 and 6–22 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more.

OPINION

35 U.S.C. § 101

With respect to claims 1–4 and 6–22, Appellant argues the claims together and does not set forth separate arguments for patentability of independent claims 12 and 17, and dependent claims 2–4, 6–11, 8–16, and 18–22. (Appeal Br. 33.) Therefore, we select independent claim 1 as the representative claim for the group and address Appellant's arguments thereto. 37 C.F.R. § 41.37(c)(1)(iv).

Appellant further filed a Supplemental Appeal Brief on November 11, 2019 addressing the January 2019 Revised Guidance and the October 2019 Updated Revised Guidance.

Step 1

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

Step 2A(i): Does the Claim Recite a Judicial Exception?

The Examiner determined that claim 1 is directed to "recognized concepts of related to comparing data" which is a mental process. (Non-Final Act. 5.)

We conclude claim 1 does not recite the judicial exceptions of either natural phenomena or laws of nature. We evaluate whether claim 1 recites an abstract idea based upon the Revised Guidance. We conduct our review for abstractness *de novo*.

The Specification provides context as to what the claimed invention is directed to. In this case, the Specification discloses:

> customer relationship management (CRM) applications are targeted to increase customer satisfaction and deal with issues such as customer experience, customer relationship and process improvements and operational efficiency at contact centers CRM applications, however do not have control over the interactions themselves. Therefore, there are no management solutions that use the content of interactions and information extracted from interactions to improve customer experience and customer relationship.

Spec. ¶ 3 (emphasis added). Appellant's Abstract further describes the invention as:

> a system and method for linking interactions. The method includes grouping a plurality of customer-agent interactions into a category upon identifying one or more predetermined common

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characteristics in the customer-agent interactions and linking at least two of said customer-agent interactions to form a chain of interactions upon identifying a condition that matches a predetermined rule defining the chain.

(Spec. 19 (Abstract).)

Claim 1 recites, in pertinent part, "[a] computer-implemented method for identifying a breach in one or more key performance indicators (KPIs) related to customer-agent interactions in an interaction capturing system," that includes the steps of:

(1) *receiving*, at a hardware data server, from the interaction capturing system, a plurality of distinct recorded customer-agent interactions from a plurality of individual human agents;

(2) *analyzing for a selected customer*, by the hardware data server, *the plurality of distinct recorded customer-agent interactions, the analysis based on data combined from a voice interaction repository, a screen data source, and a customer data source*;

(3) *grouping*, by the hardware data server, *at least a portion of the recorded customer-agent interactions into a category upon identifying one or more predetermined common characteristics associated with the customer-agent interactions, the common characteristics based on a content analysis application, emotion detection, and one or more of: an Interactive Voice Response (IVR) application, and call flow information*;

(4) *linking within said category*, by the hardware data server, *at least two of said distinct recorded customer-agent interactions grouped into said category to form a chain of linked customer-agent interactions, each customer-agent interaction linked to a preceding and/or subsequent customer-agent interaction, upon identifying a condition that matches a predetermined rule defining the chain, the*

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> *predetermined rule being based on a period of time between interactions or common phrases within interactions*;
>
> (5) *determining*, by a hardware application server, *the one or more key performance indicators (KPIs) for the chain, wherein the key performance indicators comprise one or more rules which the chain of interactions should comply with, and wherein one of the key performance indicators determines a desired time span between a first and a last interaction in the chain;*
>
> (6) *evaluating*, by the hardware application server, *the chain according to the key performance indicators;*
>
> (7) displaying the interactions that were linked as a chain on a display showing linked interactions by time;
>
> (8) *identifying,* by the hardware application server, *the breach of one of the key performance indicators*; and
>
> (9) issuing, by the hardware application server, an alert upon identifying the breach.

(Claims App.; emphasis added.)

We also determine that claim 1 recites a mental process that may also be performed by pen and paper. This type of activity, i.e., receiving, analyzing, grouping, linking, determining, and evaluating as recited in each of limitations (1) through (6), for example, includes longstanding conduct that existed well before the advent of computers and the Internet, and could be carried out by a human with pen and paper. *See CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1375 (Fed. Cir. 2011) ("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* [409 U.S. 63 (1972)].").[2]

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[2] Our reviewing court recognizes that "[a]n abstract idea can generally be described at different levels of abstraction." *Apple, Inc. v. Ameranth, Inc.*,

Under the broadest reasonable interpretation standard,[3] we conclude limitations (1) through (6) and (8) recite steps that would ordinarily occur when customer-agent interactions are analyzed from an interaction capturing system [which is not claimed] to the extent that of the broader claim language. (*See* Final Act. 5.)[4] For example, receiving data is an operation that generally occurs in every mental process. Further, the steps (2)–(6) and (8) perform mere analysis of the "data" (customer-agent interactions) from various sources, whether initiated person-to-person, on paper, or using a computer.

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842 F.3d 1229, 1240 (Fed. Cir. 2016). That need not and, in this case does not, "impact the patentability analysis." *Id.* at 1241. Further, "[t]he Board's slight revision of its abstract idea analysis does not impact the patentability analysis." *Id.* Moreover, merely combining several abstract ideas does not render the combination any less abstract. *RecogniCorp, LLC v. Nintendo Co. Ltd.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) ("Adding one abstract idea (math) to another abstract idea . . . does not render the claim non-abstract."); *see also FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016) (determining the pending claims were directed to a combination of abstract ideas).

[3] During prosecution, claims must be given their broadest reasonable interpretation when reading claim language in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Under this standard, we interpret claim terms using "the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification." *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

[4] We also note that the language of independent claim 1 merely analyzes previously acquired data which is stored.

Under the broadest reasonable interpretation of the claimed invention, the claimed invention is not performed "automatically," and provides no express limitation thereto where the Specification states "exemplary system 100 *may* provide the infrastructure for automatic analysis and creation of links between different customer-agent interactions to enable delivery of automatic alerts (notifications) upon occurrence of triggering events related to the linked customer interactions." (Spec. ¶ 15 (emphasis added); *see also* Spec. ¶¶ 37("the method *may* include automatically linking at least two of the customer-agent interactions,"); 44 ("Embodiments of the invention may include evaluation of an action by analysis and investigation of interaction chains and breached indication automatically *or by a user or a system administrator*") (emphases added.).)

Moreover, the claim is drafted using alternative language of "one or more," "at least a portion," and "at least two." As a result, the claimed invention does not in fact "automatically" perform the steps and only two limited interactions are required within the scope of claim 1 to be analyzed, grouped, and linked, contrary to Appellant's arguments. Moreover, even if such automation was required, the "'mere automation of manual processes using generic computers' . . . 'does not constitute a patentable improvement in computer technology,'" *Trading Techs. Int'l v. IBG LLC*, 921 F.3d 1378, 1384 (Fed. Cir. 2019) (quoting *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1055 (Fed. Cir. 2017).

We address Appellant's arguments under *Step 2B and Step 2A(ii)*, infra.

Therefore, under the broadest reasonable interpretation, the claim starts an updating process that only requires display of data which is insignificant extra-solution activity.

Thus, under *Step 2A(i)*, we agree with the Examiner that claim 1's *method for* linking customer-agent interactions is a mental process that may also be performed by pen and paper. We conclude claim 1, as a whole, under our Revised Guidance, recites a judicial exception of linking customer-agent interactions, i.e., a mental process, and thus is an abstract idea.

Step 2A(ii): Judicial Exception Integrated into a Practical Application?

If the claims are directed to a patent-ineligible concept, as we conclude above, we proceed to the "practical application" *Step 2A(ii)* in which we determine whether the recited judicial exception is integrated into a practical application of that exception by: (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception(s); and (b) evaluating those additional elements individually and in combination to determine whether they integrate the exception into a practical application.

We find each of the limitations of claim 1 recite abstract ideas as identified in *Step 2A(i)*, *supra*, and none of the limitations "by the hardware application server," "from the interaction capturing system," and limitations (7) and (9) (displaying, issuing) integrate the judicial exception of linking customer-agent interactions into a practical application as determined under one or more of the MPEP sections cited above. Appellant's Specification identifies (*see* Spec. ¶¶ 26 ("Operations of the method may be implemented by, for example, data server 110 and application server 120 of Fig. 1, *and/or*

by other suitable units, devices, and/or systems;"); 61 ("Embodiments of the invention may include components such as, but not limited to, a plurality of central processing units (CPU) or *any other suitable* multi-purpose or specific processors or controllers") (Emphases added)) that the claim as a whole merely uses instructions to implement the abstract idea on a computer or, alternatively, merely uses a computer as a tool to perform the abstract idea.

Thus, on this record, Appellant has not shown under the guidance of Manual of Patent Examining Procedure section 2106.05(a) ("Improvements to the Functioning of a Computer or to Any Other Technology or Technical Field") or section 2106.05(e)("Other Meaningful Limitations"). Nor does Appellant advance any arguments in the Brief(s) that are directed to the *Bilski* machine-or-transformation test, which would only be applicable to the method (process) claims on appeal. *See* MPEP §§ 2106.05(b) (Particular Machine) and 2106.05(c) (Particular Transformation).

At the oral hearing Appellant's representative stated:

> You're analyzing all of this data and it's based on data . . . it's combined from a voice interaction repository, screen data source, and a customer data source.

> So, I think that this particular step is something that, in all practicality, is not something that a human would do. I mean, this is, you know, looking at data from these three distinct sources[.]

(Tr. 4:25–5:5.) Appellant's representative further stated:

> You know, as a practical matter if you look at the steps of this claim, I mean, it's not just reduced to the terms of analyzing, grouping, linking, determining. I mean, each claim element has four to five sentences after those words that require very specific things are performed.

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And I would argument [sic, argue] that these things can't be done in the human mind. And that the inquiring needs to end with Step 2A.

(Tr, 6:25–7:5.) Appellant's representative argued:

If you look at the linking steps, the linking steps requires that (inaudible) with the distinct recorded customer agent interactions group into the categories [sic, category] to form a chain of linked customer agent interactions.

Each [sic, at least two] customer agent interaction linked to a proceeding and or subsequent customer agent interactions upon identifying a condition that matches a predetermined rule defining the chain. The predetermined rule is based on a period of time between interactions or common phrases within the interactions.

So, what happens is the user goes into this system and they say, I would like to see all of the interactions associated with this particular topic. Or, all of the interactions associated with this particular agent. I mean, if you look at the [user] interface that shown (phonetic) in the specification.

(Tr. 7:12–23.) We note that the user interface is not claimed in independent claim 1. Appellant's representative also argued:

I mean, if you look at the rest of this claim language, the grouping — let's just use that as an example — there's a common characteristic. The common characteristic is based on a content analysis application, a motion detection, and one or more of an IVR response application and call flow information.

So, I think it would be practically impossible for a human to look at the grouping in a linking step -- and I'm just looking at those two in isolation.

We can keep going in this claim -- and say, okay, I'm going to remember, I'm going to select some recorded interaction information, and I'm going to group that into a category based on a predetermined characteristic, and I'm going to figure out what that characteristic is based on a content analysis application,

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and a motion detection, and either IVR response application or call flow information.

Then after I do all of that in my mind, then I'm going to link it with other distinct recorded customer agent interactions that meets the same category to form a chain of linked customer agent interactions.

And, not even going on with the rest of that claim limitation, then in the next step I'm going to determine a key performance indicator for this chain that I've created. I mean, this is one of the advantages of the invention. This is impractical for a human to do.

I mean, if you look at the specification and what it is that was described, one of the difficulties is, for example, if a customer has called a call center three times, or four times, or five times about a dispute over a particular week, without having the agent intervene and put all of the interaction information for each one of those phone calls into the system, there'd be no way to track this at a management level.

And so that same caller is going to call back and continue the (inaudible). And so, this really gets to the crux of the invention. That the invention is doing something a human is not capable of doing.

(Tr. 9:5–25.)

I mean, that's one outcome, if that's what's specified via the GUI.

I mean, there could be a different scenario where you say, if the customer has called five times in one week, that's a violation of a key performance indicator. And that's actually a poor example in the context of this entire conversation.

But, the reason why it has the flexibility of inputting key performance indicators, and grouping by different categories, is that each organization is going to have a different set of criteria that they want to analyze.

(Tr. 10:22–11:5.) Again, we note that the user interface is not claimed in independent claim 1. Therefore, we do not agree with Appellant's representative that the scope of independent claim 1 corresponds to the arguments set forth in the oral hearing. Arguments must be commensurate in scope with the actual claim language. *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982); *see In re Hiniker Co.*, 150 F.3d 1362, 1369 (Fed. Cir. 1998) ("[The] proffered facts . . . are not commensurate with the claim scope and are therefore unpersuasive."). Therefore, we conclude the abstract idea is not integrated into a practical application, and thus the claim is directed to the judicial exception.

Step 2B – "Inventive Concept" or "Significantly More"

If the claims are directed to a patent-ineligible concept, as we conclude above, we proceed to the "inventive concept" step. For *Step 2B* we must "look with more specificity at what the claim elements add, in order to determine 'whether they identify an "inventive concept" in the application of the ineligible subject matter' to which the claim is directed." *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1258 (Fed. Cir. 2016) (quoting *Elec. Power Grp. LLC, v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016).

In applying step two of the *Alice Corp. v. CLS Bank Int'l,* 573 U.S. 208 (2014) analysis, our reviewing court guides that we must "determine whether the claims do significantly more than simply describe [the] abstract method" and thus, transform the abstract idea into patentable subject matter. *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014). We look to see whether there are any "additional features" in the claims that constitute an "inventive concept," thereby rendering the claims eligible for

patenting even if they are directed to an abstract idea. *Alice*, 573 U.S. at 221. Those "additional features" must be more than "well-understood, routine, conventional activity." *Mayo Collaborative Servs. v. Prometheus Labs., Inc*., 566 U.S. 66, 79 (2012).

Limitations referenced in *Alice* that are not enough to qualify as "significantly more" when recited in a claim with an abstract idea include, as non-limiting or non-exclusive examples: adding the words "apply it" (or an equivalent) with an abstract idea;[5] mere instructions to implement an abstract idea on a computer;[6] or requiring no more than a generic computer to perform generic computer functions that are well-understood, routine and conventional activities previously known to the industry.[7]

Evaluating representative claim 1 under step 2 of the *Alice* analysis, we conclude it lacks an inventive concept that transforms the abstract idea of transferring funds into a patent-eligible application of that abstract idea.

The patent eligibility inquiry may contain underlying issues of fact. *Mortg. Grader, Inc. v. First Choice Loan Servs. Inc*., 811 F.3d 1314 1325 (Fed. Cir. 2016). In particular, "[t]he question of whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field is a question of fact." *Berkheimer v. HP Inc*., 881 F.3d 1360, 1368 (Fed. Cir. 2018).

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[5] *Id*. at 221–23.

[6] *Id*. at 221, *e.g*., simply implementing a mathematical principle on a physical machine, namely a computer (citing *Mayo*, 566 U.S. at 84–85).

[7] *Id*. at 225, *e.g*., using a computer to obtain data, adjust account balances, and issue automated instructions.

As evidence of the conventional nature of the recited "hardware data server" in method claim 1; in system claim 12; and in the article claim 17, the Specification discloses: the server may be "any other suitable multi-purpose or specific processors." Spec. ¶ 61.

Thus, because the Specification describes the additional elements in general terms, without describing the particulars, we conclude the claim limitations may be broadly but reasonably construed as reciting conventional computer components and techniques, particularly in light of Appellant's Specification, as quoted above.[8]

The Manual of Patent Examining Procedure, based upon our precedential guidance, provides additional considerations with respect to analysis of the well-understood, routine, and conventional nature of the claimed computer-related components.

> Another consideration when determining whether a claim recites significantly more than a judicial exception is whether the additional elements amount to more than a recitation of the words "apply it" (or an equivalent) or are more than mere instructions to implement an abstract idea or other exception on a computer. As explained by the Supreme Court, in order to transform a judicial exception into a patent-eligible application, the additional element or combination of elements must do "'more than simply stat[e] the [judicial exception] while adding the words 'apply it'". *Alice Corp. v. CLS Bank*, 573 U.S. __, 134 S. Ct. 2347, 2357, 110 USPQ2d 1976, 1982-83 (2014) (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72, 101 USPQ2d 1961, 1965). Thus, for example, claims that amount to nothing more than an instruction to apply the abstract

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[8] Claim terms are to be given their broadest reasonable interpretation, as understood by those of ordinary skill in the art and taking into account whatever enlightenment may be had from the Specification. *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

idea using a generic computer do not render an abstract idea eligible. *Alice Corp.*, 134 S. Ct. at 2358, 110 USPQ2d at 1983. *See also* 134 S. Ct. at 2389, 110 USPQ2d at 1984 (warning against a § 101 analysis that turns on "the draftsman's art").

In *Alice Corp.*, the claim recited the concept of intermediated settlement as performed by a generic computer. The Court found that the recitation of the computer in the claim amounted to mere instructions to apply the abstract idea on a generic computer. 134 S. Ct. at 2359-60, 110 USPQ2d at 1984. The Supreme Court also discussed this concept in an earlier case, *Gottschalk v. Benson*, 409 U.S. 63, 70, 175 USPQ 673, 676 (1972), where the claim recited a process for converting binary-coded decimal (BCD) numerals into pure binary numbers. The Court found that the claimed process had no substantial practical application except in connection with a computer. *Benson*, 409 U.S. at 71-72, 175 USPQ at 676. The claim simply stated a judicial exception (e.g., law of nature or abstract idea) while effectively adding words that "apply it" in a computer. *Id.*

MPEP § 2106.05(f) ("Mere Instructions To Apply An Exception").

With respect to the *Step 2B* analysis, we conclude, similar to *Alice*, the recitation of a method for identifying a breach in one or more key performance indicators related to customer-agent interactions that includes a "hardware data server" (claim 1) as argued by Appellant, and similarly for claims 12 and 17, is simply not enough to transform the patent-ineligible abstract idea here into a patent-eligible invention under *Step 2B*. *See Alice*, 573 U.S. at 221 (2014) ("[C]laims, which merely require generic computer implementation, fail to transform [an] abstract idea into a patent-eligible invention.").

We conclude the claims fail the *Step 2B* analysis because claim 1, in essence, merely recites various computer-based elements along with no

more than mere instructions to implement the identified abstract idea using the computer-based elements.

Therefore, because the claims fail under both the *Step 2A* and *Step 2B* analyses, we sustain the Examiner's § 101 rejection of independent claim 1 and independent claims 12 and 17, and grouped claims 2–4, 6–11, 13–16, and 18–22, not argued separately, and which fall therewith. 37 C.F.R. § 41.37(c)(1)(iv).

Appellant provides an array of arguments regarding patent- eligibility to which we respond below. (Appeal Br. 6–33.)

Appellant' contends that the claims are directed to a computer-automated analysis of customer-agent interactions which is performed differently than prior manual methods and that "[t]he claims require a specific, structured graphical user interface paired with a prescribed narrow functionality directly related to the graphical user interface's structure. (Appeal Br. 6.)

We find Appellant's argument unavailing because Appellant does not cite to the Specification to support this argument, and does not identify any express claim language to support Appellant's contention. As noted above, the Specification identifies that the method "may" have automatic steps, but they are not required and the data is recited as "distinct recorded customer-agent interactions" where data acquisition is not part of the claimed method. Although the claims are interpreted in light of the Specification, limitations from the Specification are not read into the claims. (Appeal Br. 4–5.) *See In re Van Geuns*, 988 F.2d 1181 (Fed. Cir. 1993). Therefore, Appellant's arguments are not commensurate in scope with the express claim language

and are unpersuasive of error in the Examiner's finding of a lack of patent eligible subject matter of independent claim 1.

Appellant further contends the claimed computer-automated process is not carried out by that humans in the same way. (Appeal Br. 9.) Appellant also contends that claim l is directed to an improvement in the technology for communication and interaction capturing systems by automatically analyzing customer-agent interactions to automatically determine the type of customer-agent interaction, and to automatically detect potentially unsatisfied customers, and the claimed method is not performed in the same way as prior manual methods. (Appeal Br. 9–10.)

Again, we note that the language of independent claim 1 does not support Appellant's arguments concerning the automatic nature.

Appellant argues claim 1 allows a computer to automatically link customer-agent interactions into chains, automatically identify a breach of a rule which the chain of interactions should comply with, and automatically issue an alert upon identifying the breach where the automatic identification and alerting based on that identification go beyond merely organizing, classifying and storing information because identifying and alerting actually utilizes the information to create new information or a real-world effect, such as the alert, rather than merely moving the information around. (Appeal Br. 11.)

Again, we find Appellant's arguments are not commensurate in scope with the express claim language and therefore is unpersuasive of error. We find Appellant's arguments are based on the Specification rather than the express claim language under the broadest reasonable interpretation.

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Appellant also argues that "a processor capable of automatic analysis of customer-agent interactions to detect and manage potentially unsatisfied customers did not exist prior to the present invention, and has no conventional or generic analog." (Appeal Br. 11.)

We find Appellant's arguments are not commensurate in scope with the express language of independent claim 1, and Appellant has not identified what corresponding language supports Appellant's contention. Therefore, Appellant's argument is not persuasive of error in the Examiner's conclusion of a lack of patent eligible subject matter.

Appellant contends that:

> Rather, conventional manual techniques required a user to subjectively group customer-agent interactions, and identify potentially unsatisfied customers. Those convention manual techniques do not use the grouping and linking operations as claimed.
>
> A human would not perform the statistical analysis of the time or common phrase linking of multiple interactions as it is done in claim 1 ("linking . . . interactions . . . based on a period of time between interactions or common phrases within interactions") due to its typical complex mathematical nature: a human would do it differently.

(Appeal Br. 12.) Appellant argues "the claims do not involve a mathematical concept" (Supp. Appeal Br. 2), but also contends, "due to its typical complex mathematical nature: a human would do it differently" (Appeal Br. 12.) Appellant is inconsistent in their arguments and therefore unpersuasive. Appellant contends the claims require a specific structured graphical user interface paired with a prescribed functionality directly related to the graphical user interface's structure, but Appellant does not identify a graphical user interface in the claimed invention. (Appeal Br. 12–

25.) Therefore, Appellant's argument is not commensurate in scope with the claimed invention and is unpersuasive. Appellant also argues that the claims contain additional elements which transform the nature of the claim into a patent eligible application under *Alice* step 2, but Appellant does not specifically identify any additional limitations beyond the "hardware data server" which we determined above to be insufficient. (Appeal Br. 25–28.)

Appellant further argues the particular arrangement of elements in independent claim 1 is a technical improvement over prior art ways of managing and displaying data relating to customer-agent interactions, and, thus, claim l improves existing technology related to this functionality. (Appeal Br. 27.) Appellant also argues:

> [c]onventional methods of managing customer-agent interactions do not utilize a hardware data server analyzing data combined form a voice interaction repository, a screen data source, and a customer data source, and utilizing content analysis application, emotion detection, and one or more of: an Interactive Voice Response (IVR) application, and call flow information to automate managing customer-agent interactions.

(Appeal Br. 28.) Appellant further contends the Examiner has not set forth a prima facie case of a lack of patent eligible subject matter, and the Examiner has oversimplified the claims by failing to discuss each of the claimed limitations. (Appeal Br. 28–29.) Appellant further contends the Examiner's analysis of the claimed invention does not address the character of the claims as a whole, and does not take into account other limitations. (Appeal Br. 29–32.)

We disagree with Appellant and find Appellant's arguments merely repeat the language of the claim without presenting substantive arguments as

to why the claimed limitations make the claimed invention patent-eligible subject matter.

Appellant addresses the Revised Guidance and the OCT. 2019 UPDATED REVISED GUIDANCE. (Supp. Appeal Br. 2.)

We note Appellant's arguments directed to the Revised Guidance do not substantively address the October 2019 Updated Revised Guidance. We further note that Appellant does not set forth a good reason for the delay in presenting arguments addressing the January 2019 Revised Guidance, but we have considered Appellant's arguments.

Appellant contends the claimed procedures are not "mental steps." Appellant argues:

> [The] claims on appeal could not as a *practical* matter be performed in the human mind, at least because the statistical analysis of time or common phrase linking as required in claim 1 would not be performed by a human due to its typical complex mathematical nature. Practically speaking, a human would likely do it different in their mind.

(Supp. Appeal Br. 3.) We note Appellant speculates that a human would likely do the method differently, but does not specifically address the language of independent claim 1. We note independent claim 1 requires processing with an unstated number of data entries which may be as little as two, and linking of as few as two customer-agent interactions. Consequently, Appellant's argument does not address the invention that is recited in the language of independent claim 1. Therefore, Appellant's argument is not persuasive of error in the Examiner's conclusion of lack of patent eligible subject matter.

Appellant argues "the process produces a practical, real-world result: a computer issuing an alert identifying a breach of a key performance

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indicator during for a chain of interactions." (Supp. Appeal Br. 4.)
Appellant further argues the claims integrate any alleged judicial exception
into a practical application because they apply, rely on, and use any judicial
exception in a manner that imposes a "meaningful limit" on the judicial
exception. Jan. 2019 Revised Guidance at 14. The claims are not merely an
expression of a complex algorithm but a specific use of the algorithm, when
other limitations are viewed in combination. (Supp. Appeal Br. 4.)

As discussed above, we find these arguments to be unpersuasive.

DECISION

The Examiner's patent eligibility rejection is affirmed.

Because we have affirmed at least one ground of rejection with
respect to each claim on appeal, we affirm the Examiner's decision. *See* 37
C.F.R. § 41.50(a)(1).

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–4, 6–22	101	Patent eligibility	1–4, 6–22	

FINALITY AND RESPONSE

No time period for taking any subsequent action in connection with
this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R.
§ 1.136(a)(1)(iv). *See* 37 C.F.R. § 41.50(f).

AFFIRMED