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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARWAN SHABAN and LESLIE A. CULPEPPER

Appeal 2018-004042
Application 12/683,269
Technology Center 3600

Before JOSEPH A. FISCHETTI, AMEE A. SHAH, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

SHAH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals under from the Examiner's final decision to reject claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as “iHeartMedia Management Services, Inc.” Appeal Br. 4.

CLAIMED SUBJECT MATTER

Appellant's invention "generally relates to information analysis, and more specifically to a method of aggregating, organizing and presenting data pertaining to radio stations, particularly ratings information." Spec. 1, ll. 6-8.

Claims 1, 7, and 13 are the independent claims on appeal. Claim 1 is exemplary of the subject matter on appeal and is reproduced below (bracketing added for reference):

1. A computer-implemented method of analyzing markets, comprising:

enabling a computer system to:

[a] obtain location information from a first source; wherein the first source includes a geographic information system, and wherein the location information includes information indicating a physical location of the plurality of media stations;

[b] obtain book information from a second source different from the first source, wherein the book information comprises ratings data for a specified period of time, and wherein the second source includes a media station ratings service;

[c] display at least a portion of a template on a display device of a computer system, the template having a plurality of entries, each entry in the template corresponding to a media station, and each entry in the template has associated therewith a unique station identifier associated with a media station and multiple fields that provide attributes of the media station, wherein the attributes comprise location attributes based on the location information and ratings attributes indicated by the book information;

[d] accept a user selection of one or more filter attributes;

[e] filter the template to display filtered media stations satisfying the one or more filter attributes;

[f] accept user input selecting a subset of the filtered media stations;

[g] tag the subset of the filtered media stations to generate tagged media stations;

[h] accept user input indicating a user-specified map category; and

[i] create and display, on the display device, a geographic map having a plurality of markers, each of the plurality of markers corresponding to a physical location of a tagged media station that matches the user-specified map category.

Appeal Br. 23 (Claims App.).

THE REJECTION

Claims 1–20 stand rejected under 35 U.S.C. § 101 as being directed to a judicial exception without significantly more.

OPINION

Appellant argues claims 1–20 as a group. *See* Appeal Br. 9, 21. We select claim 1 from the group with the remaining claims standing or falling therewith. *See* 37 C.F.R. 41.37(c)(1)(iv).

35 U.S.C. § 101 Framework

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. *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 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, 67 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); “tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (185))); 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 176; *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.* (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 (citation 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.*

After Appellant’s briefs were filed and the Examiner’s Answer mailed, the U.S. Patent and Trademark Office (“USPTO”) published revised guidance on the application of § 101. 2019 REVISED PATENT SUBJECT MATTER ELIGIBILITY GUIDANCE, 84 Fed. Reg. 50 (Jan. 7, 2019) (“2019 Revised Guidance”). Under the 2019 Revised Guidance, we first look to whether the claim recites:

(1) 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) additional elements that integrate the judicial exception into a practical application (*see* MANUAL OF PATENT EXAMINING PROCEDURE (MPEP) §§ 2106.05(a)–(c), (e)–(h) (9th Ed., Rev. 08.2017, Jan. 2018)).

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 2019 Revised Guidance, 84 Fed. Reg. at 54, 56.

Step One of the Mayo/Alice Framework

Under the first step of the *Mayo/Alice* framework, the Examiner determines that claim 1 is “directed to a process” (Final Act. 3) and “directed to the abstract idea of analyzing markets” (*id.*). The Examiner contends:

This abstract idea, including the obtaining, displaying, accepting, filtering, tagging, and creating steps are similar to concepts involving an idea of itself, and human activity relating to concepts involving delivering user-selected media content to portable device (e.g., Affinity Labs), concepts involving organizing information (e.g., Digitech Image Tech, LLC v. Electronics for Imaging, Inc., and Ultramercial v. Hulu), and concepts involving data recognition, collection, storage and management (e.g., Content Extraction, TLI Communications,

and Electric Power Group), all of which have been found by the courts to be abstract ideas.

Id. at 4. When viewed through the lens of the 2019 Revised Guidance, the Examiner’s analysis depicts the claimed subject matter as “[c]ertain methods of organizing human activity” including “commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations)” under Prong One of Revised Step 2A. 2019 Revised Guidance, 84 Fed. Reg. at 52.

Appellant disagrees with the Examiner’s characterization and contends that, when considered in its entirety, the claim is “directed to a specific implementation of a tool, which creates a map, that can be displayed to assist a user in analyzing various markets.” Appeal Br. 13. Appellant contends that “the claimed implementation of a map creation tool, which creates a map have [sic] detailed and specific characteristics, is not an abstract concept.” *Id.*

Before determining whether the claims at issue are directed to an abstract idea, we first determine to what the claims are directed. “[T]he ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether “their character as a whole is directed to excluded subject matter.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). The question is whether the claims as a whole “focus on a specific means or method that improves the relevant technology” or are “directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.” *McRO*,

Inc. v. Bandai Namco Games America Inc., 837 F.3d 1299, 1314 (Fed. Cir. 2016).

The Specification provides for “a method of aggregating, organizing and presenting data pertaining to radio stations, particularly ratings information.” Spec. 1, ll. 8–9. In the “Description of the Related Art” section, the Specification discusses that advertising and marketing groups, business managers, executives, and directors depend on statistical type of information to make decisions about when, where, and how to advertise and other management decisions. *See id.* at 1, ll. 11–14. In particular, prior “information sources can give a market researcher a sizable amount of information about radio stations. However, the actual process of obtaining, aggregating, and processing the vast information from a number of different sources is very cumbersome . . . [and] time consuming.” *Id.* at 2, l. 2–3, l. 2. According to the Specification, this could make it so that “programmers and executives to be limited in their understanding of their own products, or be ill-informed of trends and not able to respond accordingly” and make it “difficult or impossible for the marketer to have a meaningful review of the data due not only to the sheer volume but also due to the fact that it is coming from disparate sources which provide no relationship between the various statistics.” *Id.* at 3, ll. 3–10. Spec. 1, l. 11. The purported invention addresses these issues by providing “an improved method of collecting radio station information from multiple sources in a timely manner . . . [and that] could present the information in a comprehensive manner which would allow the marketer to build unique marketing strategies for delivering optimum results based on customer needs.” *Id.* at 3, ll. 11–15.

Consistent with the disclosure, claim 1 recites “[a] computer-implemented method of analyzing markets, comprising:” the step of enabling a computer system to perform the functions of: (a) obtaining physical location information for a plurality of media stations from a geographic information system; (b) obtaining ratings data from a separate ratings service; (c) displaying, on a computer system’s display device, a portion of a template having entries corresponding to a station and associated with a unique number and having fields with attributes based on location and ratings information; (d) accepting a user selection of a filter attribute; (e) filtering the template to display the filtered stations satisfying the filter attribute; (f) accepting user input selecting a subset of the filtered stations; (g) tagging the subset of stations; (h) accepting user input indicating a specified map category; and (i) creating and displaying a map having markers corresponding to a physical location of a tagged stations matching the specified category. The computer system that performs the functions is a generic “symmetric multiprocessor (SMP) system having a plurality of processors” (Spec. 7, ll. 4–5) and connected to a system bus and a combined memory controller/host bridge connected to input and output devices (*see id.* at 4, ll. 5–15, Fig. 1). The results of the functions of obtaining information, displaying a template, accepting user input, filtering data, tagging data, and creating and displaying a map are recited without any details regarding how they are performed/implemented.

When considered collectively and under the broadest reasonable interpretation of the claim’s limitations, claim 1 recites a method for analyzing markets by obtaining, displaying, filtering, and tagging information and creating and displaying map data based on the obtained,

filtered, and tagged information.² Obtaining data and accepting user input are extra-solution activities. *See In re Bilski*, 545 F.3d 943, 963 (Fed. Cir. 2008) (en banc), *aff'd sub nom Bilski v. Kappos*, 561 U.S. 593 (2010) (characterizing data gathering steps as insignificant extra-solution activity). Displaying information, such as a template or map, is an insignificant post-solution activity. *See Bilski*, 561 U.S. at 610–11 (“*Flook* stands for the proposition that the prohibition against patenting abstract ideas ‘cannot be circumvented by attempting to limit the use of the formula to a particular technological environment’ or adding ‘insignificant postsolution activity.’”) (quoting *Diehr*, at 191–92). Filtering information is “a longstanding, well-known method of organizing human behavior.” *BASCOM Glob. Internet Svcs., Inc. v. AY&T Mobility LLC*, 827 F.3d 1341, 1348 (Fed. Cir. 2016).

The elements of tagging a subset of data and creating a map corresponding to the tagged data are functionally recited without any detail regarding how the results are accomplished, i.e., in what way(s) technologically or by what algorithm. Based on the portion of the Specification indicated as support for tagging (*see* Appeal Br. 5), tagging comprises selecting data (*see* Spec. 12, ll. 7–22). Selecting data is, like obtaining data, an extra-solution activity. Similarly, based on the portion of the Specification indicated as support for creating a map (*see* Appeal Br. 5), creating a map comprises “automatically and responsively display[ing] only the selected stations in the map” (Spec. 12, ll. 16–17; *see also id.* at 12,

² We note that “[a]n abstract idea can generally be described at different levels of abstraction.” *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1240 (Fed. Cir. 2016). The Board’s “slight revision of its abstract idea analysis does not impact the patentability analysis.” *Id.* at 1241.

ll. 7–22). Presenting selected information is, like displaying information, a post-solution activity. *See Move, Inc. v. Real Estate Alliance Ltd.*, 721 Fed. Appx. 950, 954–55 (Fed. Cir. 2018).

Analyzing markets by obtaining, displaying, filtering, and tagging information and creating and displaying map data based on the obtained, filtered, and tagged information is similar to the concepts of “selecting certain information, analyzing it using mathematical techniques, and reporting or displaying the results of the analysis” in *SAP America, Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1167 (Fed. Cir. 2018), of collecting, analyzing, manipulating, and processing data and displaying the results of the analysis, manipulation, and processing in *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017), and of “collecting and organizing information about real estate properties and displaying this information on a digital map that can be manipulated by the user” in *Move, Inc.*, 721 Fed. Appx. at 954. Accordingly, we conclude the claim recites a way of analyzing information by obtaining, filtering, and selecting data using generic computer systems, concepts that can be performed in the human mind, i.e., mental processes identified in the 2019 Revised Guidance (84 Fed. Reg. at 52), and displaying information based on the selections using generic computer components, “a commercial or legal interaction[] (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations),” which is one of the “[c]ertain methods of organizing human activity” identified in the 2019 Revised Guidance (*id.*), and thus recites an abstract idea. As such, we find unpersuasive Appellant’s argument that the

claim is not similar to claims courts have held ineligible. *See* Appeal Br. 16–19; Reply Br. 4–5.

Appellant contends that “the claim should be evaluated to determine the claimed advance over the prior art. *Enfish*, 822 F.3d at 1335” and that, here, “the claimed advance over the prior art is not the analyzing itself, but instead is the creation of a map that allows users to more easily perform a market analysis.” Appeal Br. 13; *see also* Reply Br. 3–4. However, as discussed above, the court in *Enfish* stated that the question is whether the character of the claim “as a whole is directed to excluded subject matter.” 822 F.3d at 1335. Even if the advance over the prior art is to “allow[] users to more easily perform a market analysis” (*id.*), that purported advance is an abstract idea itself, i.e., performing a market analysis, a fundamental economic process or practice similar to hedging against financial risk in *Bilksi*, 561 U.S. at 609, and collecting and analyzing investment data in *SAP America*, 898 F.3d at 1167–68, using conventional technology. The alleged improvement lies in the abstract idea itself, not to any technological improvement. *See BSG Tech LLC v. Buyseasons, Inc.*, 899 F.3d 1281, 1287–88 (Fed. Cir. 2018).

Under Step 2A, Prong 2 of the 2019 Revised Guidance, 84 Fed. Reg. at 54, we look to whether the claims “apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception,” i.e., “integrates a judicial exception into a practical application.” Here, Appellant contends that “the technique recited by the claim[] is not simply a technique formerly performed by humans, and therefore cannot be simply instructions to a computer to

perform a task previously performed by humans” (Appeal Br. 14 (citing *McRO*)), and that “the claim[] provide[s] a technical solution to a technical problem, similar to the claims in *DDR*” (*id.* at 14, 20–21 (citing *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1258–59 (Fed. Cir. 2014) and *BASCOM*); *see also* Reply Br. 5–6.³ When viewed through the lens of the 2019 Revised Guidance, Appellant contends that the elements of the claim integrate the abstract idea into a practical application by “reflect[ing] an improvement in the functioning of a computer.” 84 Fed. Reg. at 55 (citing *DDR Holdings*). We disagree.

In *McRO*, the claims were directed to a specific improvement in computer animation and used rules to automate a subjective task of humans to create a sequence of synchronized, animated characters. *See McRO*, 837 F.3d at 1314–15. Unlike *Flook*, *Bilski*, and *Alice*, it was not the use of the computer but the incorporation of the rules that improved an existing technological process. *Id.* at 1314.

In *DDR Holdings*, the Federal Circuit determined that the claims addressed the problem of retaining website visitors who, if adhering to the routine, conventional functioning of Internet hyperlink protocol, would be transported instantly away from a host’s website after clicking on an advertisement and activating a hyperlink. *DDR Holdings*, 773 F.3d at 1257. The Federal Circuit, thus, held that the claims were directed to statutory subject matter because they claim a solution “necessarily rooted in computer

³ 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 them under Step 1 of *Alice* (Step 2A of Office guidance). *See* 2019 Revised Guidance at 55.

technology in order to overcome a problem specifically arising in the realm of computer networks.” *Id.* The court cautioned that “not all claims purporting to address Internet-centric challenges are eligible for patent.” *Id.* at 1258. And the court contrasted the claims to those at issue in *Ulramercial, Inc. v. Hulu, LLC*, 772 F.3d 709 (Fed. Cir. 2014), in that, in *DDR Holdings*, the computer network was not operating in its “normal, expected manner” and the claims did not “recite an invention that is [] merely the routine or conventional use of the Internet.” *Id.* at 1258–59.

Here, Appellant contends that “[a]t least one technical problem solved by the applicant’s claims is the inability of currently available map generation tools to take into account location information and book information from disparate sources, and put that information into a map based on user-specified category filtering criteria.” Appeal Br. 14. However, as discussed above, the Specification discusses prior art problems of the cumbersome and time-consuming “process of obtaining, aggregating, and processing the vast information from a number of different sources” (Spec. 2, l. 2–3, l. 2), making those that want to use the information to be limited in their understanding, ill-informed, not able to respond properly, and not able to easily have a meaningful review of data (*id.* at 3, ll. 3–10). These problems with gathering the appropriate data to make meaningful reviews are not technological problems or problems rooted in technology arising out of computer networks, but rather problems that existed prior to the Internet and computers. *See BSG Tech*, 889 F.3d at 1286 (describing that having users consider summarized data is not rooted in technology and is abstract).

Also, unlike *DDR Holdings*, here, the purported solution of “obtain[ing] the information from multiple different computer systems, integrat[ing] the information, and generat[ing] a map” (Appeal Br. 14) involves the use of a conventional computing system operating in its ordinary capacity (*see supra*) to obtain, select, filter, and tag data and display a map based on the selected and tagged data. As discussed above, the elements of obtaining, filtering, tagging, and creating, i.e., the purported integrating and generating, are recited functionally without any implementation details. That the claimed technique “functions only within a computer environment” (Appeal Br. 15) simply limits the use of the abstract idea to a particular technological environment. “The Supreme Court and [the Federal Circuit] have repeatedly made clear that merely limiting the field of use of the abstract idea to a particular existing technological environment does not render the claims any less abstract.” *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1259 (Fed. Cir. 2016) (“*DIRECTV*”), citing *Alice*, 573 U.S. at 222; *Mayo*, 566 U.S. at 71; *Bilski*, 561 U.S. at 612, *Content Extraction*, 776 F.3d at 1348, *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014); *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 716 (Fed. Cir. 2014). Appellant does not direct our attention to, and we do not see, where the Specification describes the computer systems acting in an unconventional manner to further the desired solution of obtaining and integrating information, and generating a map based on that information. Appellant also does not direct our attention to anything in the Specification to indicate that the invention provides a technical improvement in obtaining, selecting, filtering, and tagging data and displaying a map based on the selected and tagged data or that the invention

incorporates rules to automate a subjective task of humans, as in *McRO*. The benefit of the invention is not a technical or technological improvement, but rather, any benefit lies in the ability “to take into account location information and book information from disparate sources, and put that information into a map based on user-specified category filtering criteria.” Appeal Br. 14. This alleged improvement lies in the abstract idea itself, not to any technological improvement. *See BSG Tech*, 899 F.3d at 1287–88; *Move, Inc.*, 721 Fed. Appx at 957.

Thus, we are not persuaded of error in the Examiner’s determination that claim 1 is directed to an abstract idea.

Step Two of the Mayo/Alice Framework

Under the second step in the *Alice* framework (corresponding to Step 2B of the 2019 Revised Guidance), we find supported the Examiner’s determination that the claim’s limitations, taken individually or as an ordered combination, do not amount to significantly more than the judicial exception and “that no more than a general purpose computer, performing generic computer functions that are well-understood, routine, and conventional activities previously, known to the pertinent industry, is required by the claim[.]” Final Act. 5.

Appellant argues “the claim elements, in combination, do not perform ‘functions that are well-understood, routine, and conventional activities previously, known to the pertinent industry.’” Reply Br. 6. Specifically, Appellant argues “[t]he advancement of [A]ppellant’s claims over the prior art can be found in the combination of claim elements, and the combination of claim elements, taken together, recite significantly more than ‘analyzing

markets” (Appeal Br. 15) and “the recited combination of elements provides a tool that creates a map having specific markers, where display of particular markers is conditioned upon the markers ‘corresponding to a physical location of a tagged media station that matches the user-specified map category’” (Reply Br. 7). We disagree.

Above, we cited the Specification to show that it discloses that the claimed computing system is conventional.⁴ It is clear, from the Specification, including the claim’s language, that the “limitations require no improved computer resources [Appellant] claims to have invented, just already available computers, with their already available basic functions, to use as tools in executing the claimed process” performed by the claimed system. *SAP America*, 898 F.3d at 1169–70. Appellant does not contest this finding. *See* Appeal Br. 15; Reply Br. 6–7. And, Appellant does not contest that, taking the claimed elements separately, the function performed by the computer at each step of the process is recited at a high level of generality and is purely conventional. *See Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016) (gathering, sending, monitoring, analyzing, selecting, and presenting information does not transform the abstract process into a patent-eligible invention); *BASCOM*, 827 F.3d at 1349 (filtering, generally, is not inventive); *Move, Inc.*, 72 Fed. Appx. at 956–57 (creating a database, displaying a map, selecting areas, zooming on the areas, displaying points in the area, and identifying properties, recited without the particular

⁴ In doing so, we have followed “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP Inc.*), 881 F.3d 1360 (Fed. Cir. 2018),” USPTO Memorandum, Robert W. Bahr, Deputy Commissioner For Patent Examination Policy, April 19, 2018 (the “Berkheimer Memo”).

ways of performing the functions, involved nothing more than the use of a computer for a conventional business purpose). We note that, as discussed above, the claim simply recites the functional results to be achieved by a conventional computer. The claim “provides only a result-oriented solution[] with insufficient detail for how a computer accomplishes it. Our law demands more.” *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017).

We disagree with Appellant’s argument that “like the claims in *Bascom*, the inventive concept in the appellant's claims can be found in the non-conventional arrangement of individual claim elements.” Appeal Br. 20. Considered as an ordered combination, the components of Appellant’s claims add nothing that is not already present when the steps are considered separately. The sequence of data gathering (obtaining and accepting input), filtering and tagging/selecting data, and displaying selected results of the filtering and tagging is equally generic and conventional or otherwise held to be abstract. See *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1354–56 (Fed. Cir. 2016) (holding that the sequence of gathering, analyzing, and displaying in real-time was abstract); *Move, Inc.*, 72 Fed. Appx. at 956–57 (holding that creating a database, displaying a map, selecting areas, zooming on the areas, displaying points in the area, and identifying properties was abstract); *SAP America*, 898 F.3d at 1170 (holding that the sequence of storing, receiving, analyzing, and generating data was abstract). The ordering of the steps is, therefore, ordinary and conventional.

It is not clear how the features of obtaining information from different sources, combining the information in a template, “so that the user can see

station identifiers along with book and location attributes associated with each particular station,” filtering and tagging media stations, accepting a category, and conditionally displaying markers to “provide a visual aid that makes market analysis easier” (Appeal Br. 20–21) is similar to *BASCOM*’s “non-conventional and non-generic arrangement of known, conventional pieces.” *BASCOM*, 827 F.3d at 1350. In *BASCOM*, the Federal Circuit determined that “its particular arrangement of elements is a technical improvement over prior art ways of filtering such content.” *Id.* The patent at issue “claim[ed] a technology-based solution (not an abstract-idea-based solution implemented with generic technical components in a conventional way) to filter content on the Internet that overcomes existing problems with other Internet filtering systems.” *Id.* at 1351. The court determined that “[b]y taking a prior art filter solution (one-size-fits-all filter at the ISP server) and making it more dynamic and efficient (providing individualized filtering at the ISP server), the claimed invention represents a ‘software-based invention[] that improve[s] the performance of the computer system itself.’” *Id.* Here, there is no such improvement to the claimed computer component itself. And, Appellant provides no further arguments how the claim’s particular arrangement and/or integration of elements is a technical improvement or is otherwise similar to *BASCOM*.

To the extent Appellant argues that the claim presents an “advancement” over the prior art and is thus not well-understood, routine, and conventional (*see* Appeal Br. 15; Reply Br. 4), an abstract idea does not transform into an inventive concept just because the prior art does not disclose or suggest it. *See Mayo*, 566 U.S. at 78. The creation of a map displaying particular markers corresponding to physical locations of a tagged

stations is part of the abstract idea. “It has been clear since *Alice* that a claimed invention’s use of the ineligible concept to which it is directed cannot supply the inventive concept that renders the invention ‘significantly more’ than that ineligible concept.” *BSG Tech*, 899 F.3d at 1290.

Thus, we are not persuaded of error in the Examiner’s determination that the limitations of claim 1 do not transform the claims into significantly more than the abstract idea.

For at least the reasons above, we sustain the Examiner’s rejection under 35 U.S.C. § 101 of independent claim 1 and of claims 2–20, the rejection of which stands with claim 1.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1–20	101	Judicial exception	1–20	

TIME PERIOD FOR 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).

AFFIRMED