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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BENJAMIN T. WALLACH

Appeal 2018-004608
Application 12/437,205
Technology Center 3600

Before JENNIFER S. BISK, LARRY J. HUME, and
JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

HUME, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant,¹ Benjamin T. Wallach, appeals from the Examiner's decision rejecting claims 1–37, which are all claims pending in the application. 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(a). Appellant identifies the real party in interest as Regions Financial Corporation, the assignee of the above captioned application. Appeal Br. 3.

CLAIMED SUBJECT MATTER²

The claims are directed to a method and system for transferring funds. *See* Title. In particular, Appellant’s disclosed embodiments and claimed “invention relate[] to a system and method of transferring funds from one payment mechanism to another.” Spec. 1, ll. 7–8.

Claim 20, reproduced below, is representative of the subject matter on appeal:

20. A method of transferring funds comprising:
- providing a user or automated process with an option of setting up an automatic fund transfer from a first payment channel to a second payment channel;
 - providing a processor that receives an access parameter from an input module from an entity authorized to provide the access parameter;
 - the access parameter that locates specific information at a first database, wherein the information is stored electronically or magnetically on a medium capable of holding data including an optical storage medium, a magnetic storage medium, a temporary electronic storage medium, or microcircuitry;
 - the access parameter associated with a second payment channel and being received from an entity including the owner of information or one or more authorized surrogate, the authorized surrogate acting on behalf of or at the behest of the owner of the information,

² Our decision relies upon Appellant’s Appeal Brief (“Br.,” filed Nov. 28, 2017); Examiner’s Answer (“Ans.,” mailed Feb. 1, 2018); Final Office Action (“Final Act.,” mailed May 19, 2017); and the original Specification (“Spec.,” filed May 7, 2009) (claiming benefit of US 61/054,607, filed May 20, 2008). Appellant did not file a Reply Brief in response to the factual findings and legal conclusions in the Examiner’s Answer.

and the access parameter configured to traverse a security system guarding the information in the first database;

providing an implementation module that automatically transfers funds; and transferring funds automatically from the first payment channel to the second payment channel through an implementation module that automatically transfers funds through the communication module, the automatic transfer through the communication module, reflecting the consent and knowledge of the owner of the information, either directly or indirectly through one or more authorized surrogate, the authorized surrogate acting on behalf of or at the behest of the owner of the information, the funds implemented to perform an authorized function after the funds are transferred to the second payment channel,

allowing new or existing online bill payments to be converted to card transactions via single entry or mass conversion and

providing an input module, wherein the input module includes a device capable of storing an access parameter for retrieval including a keyboard, mouse, wired transmission, or wireless transmission, and wherein the input module includes a device configured to receive the access parameter for retrieval including a configured port, antenna, or scanner, and

providing a filter module that filters data based on content by identifying which . . . funds or data are sensitive, encrypting information associated with funds for safe transfer and removing data that is irrelevant to the authorized function, wherein the authorized function is to be performed after the funds are transferred to the second payment channel set by the user when security of funds is a concern.

*Rejections on Appeal*³

R1. Claims 1–37 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 5.

R2. Claims 1, 20, and 28 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Final Act. 8.⁴

R3. Claims 1, 20, and 28 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Final Act. 10.

CLAIM GROUPING

Based on Appellant’s arguments (Br. 8–12) and our discretion under 37 C.F.R. § 41.37(c)(1)(iv), we decide the appeal of patent-ineligible subject matter Rejection R1 of claims 1–37 on the basis of representative claim 20; and we decide the appeal of written description and indefiniteness

³ We note the Examiner objects to claim 8 (“The system of claim 1 wherein the user has an access parameter associated with a second payment channel”) “under 37 CFR 1.75 as being a substantial duplicate thereof.” Final Act. 5. This claim objection is not before us on Appeal, and we do not further address this objection in our Decision.

⁴ We are unsure as to why the written description and indefiniteness Rejections R2 and R3 under § 112 have not been applied by the Examiner to all pending claims in the application because all dependent claims variously and ultimately depend from rejected independent claims 1, 20, and 28. In the event of further prosecution, we leave it to the Examiner to extend affirmed Rejection R3 under 35 U.S.C. § 112, second paragraph, to all pending claims. Although the Board is authorized to reject claims under 37 C.F.R. § 41.50(b), no inference should be drawn when the Board elects not to do so. *See* Manual of Patent Examining Procedure (MPEP) § 1213.02.

Rejections R2 and R3 of claims 1, 20, and 28 on the basis of representative claim 1.⁵

ISSUES AND ANALYSIS

In reaching this decision, we consider all evidence presented and all arguments actually made by Appellant. To the extent Appellant has not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. 37 C.F.R. § 41.37(c)(1)(iv).

We agree with particular arguments presented by Appellant with respect to written description Rejection R2 of claims 1, 20, and 28.

However, we disagree with Appellant's arguments with respect to subject matter eligibility Rejection R1 of claims 1–37, and indefiniteness Rejection R3 of claims 1, 20, and 28 and, unless otherwise noted, we incorporate by reference herein and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken, and (2) the reasons and rebuttals set forth in the Examiner's Answer in response to Appellant's arguments. We highlight and address specific findings and arguments regarding claim 20 for emphasis as follows.

⁵ “Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.” 37 C.F.R. § 41.37(c)(1)(iv). In addition, when Appellant does not separately argue the patentability of dependent claims, the claims stand or fall with the claims from which they depend. *In re King*, 801 F.2d 1324, 1325 (Fed. Cir. 1986).

1. § 101 Rejection R1 of Claims 1–37

Issue 1

Appellant argues (Br. 8–11) the Examiner’s rejection of claim 20 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter is in error. These contentions present us with the following issue:

Under the USPTO’s Revised Guidance, informed by our governing case law concerning 35 U.S.C. § 101, is claim 1 patent-ineligible under § 101?

Principles of Law

A. 35 U.S.C. § 101

An invention is patent-eligible if it is a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101.⁶ 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. *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 70 (2012) (brackets in original) (citing *Diamond v. Diehr*, 450 U.S. 175, 185 (1981)).

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*. *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 217–18 (2014) (citing *Mayo*, 566 U.S. at 75–77). In accordance with that

⁶ This threshold analysis of whether a claim is directed to one of the four statutory categories of invention, i.e., a process, machine, manufacture, or composition of matter, is referred to as “*Step 1*” in the USPTO’s patent-eligibility analysis under § 101. MPEP § 2106.

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” (*Diehr*, 450 U.S. at 191); “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 (1854))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

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

attempting to limit the use of the formula to a particular technological environment.” *Id.* (citation omitted) (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

Abstract ideas may include, but are not limited to, fundamental economic practices, methods of organizing human activities, and mathematical formulas or relationships. *Alice*, 573 U.S. at 217–21. Under this guidance, we must therefore ensure at step one that we articulate what the claims are directed to with enough specificity to ensure the step one inquiry is meaningful. *Id.* at 217 (“[W]e tread carefully in construing this exclusionary principle lest it swallow all of patent law.”).

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.*

B. USPTO Revised Guidance

The PTO recently published revised guidance in the Federal Register concerning the application of § 101. *2019 Revised Patent Subject Matter*

Eligibility Guidance, 84 Fed. Reg. 50 (January 7, 2019) (hereinafter “Revised Guidance”) (<https://www.govinfo.gov/content/pkg/FR-2019-01-07/pdf/2018-28282.pdf>).

Under the 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);⁷ and

(2) additional elements that integrate the judicial exception into a practical application (*see* Manual for Patent Examining Procedure (“MPEP”) §§ 2106.05(a)–(c), (e)–(h)).⁸

See Revised Guidance 52–53.

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.⁹

See Revised Guidance 56.

⁷ Referred to as “*Revised Step 2A, Prong 1*” in the Revised Guidance (hereinafter “*Step 2A(i)*”).

⁸ Referred to as “*Revised Step 2A, Prong 2*” in the Revised Guidance (hereinafter “*Step 2A(ii)*”).

⁹ Items (3) and (4) continue to be collectively referred to as “*Step 2B*” of the Supreme Court’s two-step framework, described in *Mayo* and *Alice*.

Step 2A(i) – Abstract Idea

Informed by our judicial precedent, the Revised Guidance extracts and synthesizes key concepts identified by the courts as abstract ideas to explain that the abstract idea exception includes the following groupings of subject matter, when recited as such in a claim limitation:

(a) Mathematical concepts—mathematical relationships, mathematical formulas or equations, mathematical calculations;

(b) Certain methods of organizing human activity — fundamental economic principles or practices (including hedging, insurance, mitigating risk); commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations); managing personal behavior or relationships or interactions between people (including social activities, teaching, and following rules or instructions); and

(c) Mental processes—concepts performed in the human mind (including an observation, evaluation, judgment, opinion).

Revised Guidance 52 (footnotes omitted).

Under the Revised Guidance, if the claim does not recite a judicial exception (a law of nature, natural phenomenon, or subject matter within the enumerated groupings of abstract ideas above), then the claim is patent-eligible at *Step 2A(i)*. This determination concludes the eligibility analysis, except in situations identified in the Revised Guidance.¹⁰

¹⁰ In the rare circumstance in which an Examiner believes a claim limitation that does not fall within the enumerated groupings of abstract ideas should nonetheless be treated as reciting an abstract idea, the procedure described in the Guidance for analyzing the claim should be followed. *See* Revised Guidance, Section III.C.

However, if the claim recites a judicial exception (i.e., an abstract idea enumerated above, a law of nature, or a natural phenomenon), the claim requires further analysis for a practical application of the judicial exception in *Step 2A(ii)*.

Step 2A(ii) – Practical Application

If a claim recites a judicial exception in *Step 2A(i)*, we determine whether the recited judicial exception is integrated into a practical application of that exception in *Step 2A(ii)* 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.

The seven identified “practical application” sections of the MPEP,¹¹ cited in the Revised Guidance under *Step 2A(ii)*, are:

- (1) MPEP § 2106.05(a) Improvements to the Functioning of a Computer or To Any Other Technology or Technical Field
- (2) MPEP § 2106.05(b) Particular Machine
- (3) MPEP § 2106.05(c) Particular Transformation
- (4) MPEP § 2106.05(e) Other Meaningful Limitations
- (5) MPEP § 2106.05(f) Mere Instructions To Apply An Exception

¹¹ See MPEP §§ 2106.05(a)–(c), (e)–(h). Citations to the MPEP herein refer to revision [R-08.2017]. Sections 2106.05(a), (b), (c), and (e) are indicative of integration into a practical application, while §§ 2106.05(f), (g), and (h) relate to limitations that are not indicative of integration into a practical application.

- (6) MPEP § 2106.05(g) Insignificant Extra-Solution Activity
- (7) MPEP § 2106.05(h) Field of Use and Technological Environment.

See Revised Guidance 55.

If the recited judicial exception is integrated into a practical application as determined under one or more of the MPEP sections cited above, then the claim is not directed to the judicial exception, and the patent-eligibility inquiry ends. *See Revised Guidance 54.* If not, then analysis proceeds to *Step 2B*.

Step 2B – “Inventive Concept” or “Significantly More”

Under our reviewing courts’ precedent, it is possible that a claim that does not “integrate” a recited judicial exception under *Step 2A(ii)* is nonetheless patent eligible. For example, the claim may recite additional elements that render the claim patent eligible even though one or more claim elements may recite a judicial exception.¹² The Federal Circuit has held claims eligible at the second step of the *Alice/Mayo* test (USPTO *Step 2B*) because the additional elements recited in the claims provided “significantly more” than the recited judicial exception (e.g., because the additional elements were unconventional in combination).¹³ Therefore, if a claim has been determined to be directed to a judicial exception under *Revised Step 2A*, we must also evaluate the additional elements individually and in

¹² *See, e.g., Diehr*, 450 U.S. at 187.

¹³ *See, e.g., Amdocs (Israel), Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1300, 1304 (Fed. Cir. 2016); *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349–52 (Fed. Cir. 2016); *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257–59 (Fed. Cir. 2014).

combination under *Step 2B* to determine whether they provide an inventive concept (i.e., whether the additional elements amount to significantly more than the exception itself).¹⁴

Under the Revised Guidance, we must consider in *Step 2B* whether an additional element or combination of elements: (1) “Adds 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;” 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* Revised Guidance, Section III.B.¹⁵

¹⁴ 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).

¹⁵ In accordance with existing *Step 2B* guidance, an Examiner’s finding that an additional element (or combination of elements) is well understood, routine, conventional activity must be supported with at least one of the four specific types of evidence required by the USPTO *Berkheimer* Memorandum, as shown above. For more information concerning evaluation of well-understood, routine, conventional activity, *see* MPEP § 2106.05(d), as modified by the USPTO *Berkheimer* Memorandum (USPTO Commissioner for Patents Memorandum dated Apr. 19, 2018, “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*)” (hereinafter “*Berkheimer Memo*”).

In the *Step 2B* analysis, an additional element (or combination of elements) is not well-understood, routine, or conventional unless the examiner finds an evidentiary basis, and expressly supports a rejection in writing with, one or more of the following:

1. A citation to an express statement in the specification or to a statement made by an applicant during prosecution that demonstrates the well-understood, routine, conventional nature of the additional element(s). . . .
2. A citation to one or more of the court decisions discussed in MPEP § 2106.05(d)(II) as noting the well-understood, routine, conventional nature of the additional element(s).
3. A citation to a publication that demonstrates the well-understood, routine, conventional nature of the additional element(s). . . .
4. A statement that the examiner is taking official notice of the well-understood, routine, conventional nature of the additional element(s). . . .

See Berkheimer Memo, 3–4.

If the Examiner or the Board determines under *Step 2B* that the element (or combination of elements) amounts to significantly more than the exception itself, the claim is eligible, thereby concluding the eligibility analysis.

However, if a determination is made that the element and combination of elements do not amount to significantly more than the exception itself, the claim is ineligible under *Step 2B*, and the claim should be rejected for lack of subject matter eligibility.

Analysis

Step 1 – Statutory Category

Claim 20, 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 the abstract idea of transferring funds from a first payment channel to a second payment channel” (Final Act. 5), and elaborated by determining “[t]he claims . . . are similar to concepts found by the court to be abstract such as fundamental economic practices of intermediated settlement and hedging (*Alice* and *Bilski*).” Ans. 7.

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

First, we look to the Specification to provide context as to what the claimed invention is directed to. In this case, the Specification discloses that “[t]he invention relates to a system and method of transferring funds from one payment mechanism to another.” Spec. 1, ll. 7–8. The Specification provides further explanation:

A method of transferring funds can include providing a user or automated process with an option of setting up an automatic fund transfer from a first payment channel to a second payment channel, providing an input module configured to receive an access parameter from an entity authorized to

provide the access parameter, providing an implementation module configured to automatically transfer funds through the card service, and transferring funds automatically from the first payment channel to the second payment channel through an implementation module configured to automatically transfer funds through the card service.

Spec. 2, l. 29 – 3, l. 3.

Appellant’s Abstract describes the invention as “[a] system and method of transferring funds includes a communication module configured to provide a user or automated process with an option of setting up an automatic fund transfer from a first payment channel to a second payment channel.” Spec. 17 (Abstract).

In TABLE 1 below, we identify in *italics* the specific claim limitations that we conclude recite an abstract idea. We additionally identify in **bold** the additional (non-abstract) claim limitations that represent generic computer components and techniques:

TABLE 1

Independent Claim 20	Revised Guidance
A method of transferring funds comprising:	A process (method) is a statutory subject matter class. <i>See</i> 35 U.S.C. § 101.
[1] <i>providing a user or automated process with an option of setting up an automatic fund transfer from a first payment channel to a second payment channel;</i>	Providing an option for funds transfer from a first payment channel to a second payment channel is an abstract idea, i.e., “Certain methods of organizing human activity . . . including . . . commercial interactions” or, alternatively, it is a fundamental economic practice. <i>See</i> Revised Guidance 52.
[2] providing a processor that receives an access parameter from an input module from	A processor is a generic computer component, and receiving an access parameter, e.g., a password, can be

Independent Claim 20	Revised Guidance
<p>an entity authorized to provide the access parameter;</p>	<p>considered as extra-solution data gathering, and also is considered to be well-understood, routine and conventionally used in computing.</p>
<p>[3] the access parameter that locates specific information at a first database, wherein the information is stored electronically or magnetically on a medium capable of holding data including an optical storage medium, a magnetic storage medium, a temporary electronic storage medium, or microcircuitry;</p>	<p>Storing data on a storage medium is a generic computer function.</p>
<p>[4] the access parameter associated with a second payment channel and being received from an entity including the owner of information or one or more authorized surrogate, the authorized surrogate acting on behalf of or at the behest of the owner of the information, and the access parameter configured to traverse a security system guarding the information in the first database;</p>	<p>An access parameter, e.g., a password, is well-understood, routine and conventionally known in computing.</p>
<p>[5] providing an implementation module that automatically transfers funds; and</p>	<p>The claimed implementation module represents well-understood, routine, and conventional computer elements and techniques. For example, the Specification describes that “the system for transferring funds can include a</p>

Independent Claim 20	Revised Guidance
	<p>processor. The processor can direct or coordinate one or more modules. The system can include an implementation module configured to transfer funds independent of bill presentment. The implementation module can include software-coded instructions. The implementation module can also include hardware-coded instructions.” Spec. p. 2, ll. 19–23.</p>
<p>[6] <i>transferring funds</i> automatically from the first payment channel to the second payment channel through an implementation module that automatically transfers funds through the communication module, the automatic transfer through the communication module, reflecting the consent and knowledge of the owner of the information, either directly or indirectly through one or more authorized surrogate, the authorized surrogate acting on behalf of or at the behest of the owner of the information, the funds implemented to perform an authorized function after the funds are transferred to the second payment channel,</p>	<p>Transferring funds from a first payment channel to a second payment channel is an abstract idea, i.e., “Certain methods of organizing human activity . . . including . . . commercial interactions” or, alternatively, transferring funds is a fundamental economic practice. <i>See</i> Revised Guidance 52. <i>See also Smart Sys. Innovation, Inc. v. Chicago Transit Auth.</i>, 873 F.3d 1364, 1371–72 (Fed. Cir. 2017) (forming and collecting data for financial transactions in a certain field); <i>Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.</i>, 876 F.3d 1372, 1378–79 (Fed. Cir. 2017) (“local processing of payments for remotely purchased goods”) (citation omitted), and <i>CyberSource Corp. v. Retail Decisions, Inc.</i>, 654 F.3d 1366, 1372–73 (Fed. Cir. 2011) (verifying the validity of credit card transactions over the Internet). Here, the claim involves nothing more than transferring data, i.e., funds data for payment processing, without any particular inventive technology — an abstract idea. <i>See</i></p>

Independent Claim 20	Revised Guidance
	<i>Elec. Power Grp., LLC v. Alstom S.A.</i> , 830 F.3d 1350, 1354 (Fed. Cir. 2016).
[7] <i>allowing</i> new or existing online bill payments <i>to be converted</i> to card transactions via single entry or mass conversion and	Converting one form of payment to another form of payment is an abstract idea that is otherwise well-understood, routine, and conventional in financial payment systems.
[8] providing an input module , wherein the input module includes a device capable of storing an access parameter for retrieval including a keyboard, mouse, wired transmission, or wireless transmission , and wherein the input module includes a device configured to receive the access parameter for retrieval including a configured port, antenna, or scanner , and	These claimed elements represent generic computer devices and functions that are well-understood, routine, and conventional.
[9] providing a filter module that filters data based on content by identifying which [] funds or data are sensitive,	These claimed elements represent generic computer devices and functions that are well-understood, routine, and conventional.
[10] <i>encrypting information</i> associated with funds for safe transfer and removing data that is irrelevant to the authorized function, wherein the authorized function is to be performed after the funds are transferred to the second payment channel set by the user when security of funds is a concern.	Encrypting data is an abstract idea that uses mathematical formulas or equations. Revised Guidance 52, n.12. Additionally, encryption is well-understood, routine, and conventionally known in the computing arts, particularly in the area of funds transfer.

Claims App.

McRO

In the Brief, Appellant argues the claims are similar to those held patent-eligible in *McRO*. Br. 9 (“[In *McRO*, t]he Court reasoned that ‘the claimed improvement here is allowing computers to produce accurate and realistic lip synchronization and facial expressions in animated characters that previously could only be produced by human animators’ [And t]he same principles apply here. The claimed subject matter allows for example, an automatic funds transfer from a first payment channel to a second payment channel. . . .”) (generally citing *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016)).

However, we note the claims in *McRO* recited a “specific . . . improvement in computer animation” using “unconventional rules that relate[d] sub-sequences of phonemes, timings, and morph weight sets.” *McRO*, 837 F.3d at 1302–03, 1307–08, 1314–15. In *McRO*, “the incorporation of the claimed rules, not the use of the computer,” improved an existing technological process. *Id.* at 1314. Appellant does not, however, identify how claim 20 improves an existing technological process. *See Alice*, 573 U.S. at 223 (explaining that “the claims in *Diehr* were patent eligible because they improved an existing technological process”). Rather, claim 20 concerns “[a] method of transferring funds.” Br. 16. In addition, Appellant does not direct us to any evidence that the claimed “transferring funds automatically from the first payment channel to the second payment channel through an implementation module that automatically transfers

funds through the communication module” or other limitations of claim 20 correspond to unconventional rules.

Bancorp

Appellant further argues, “[a] computer is integral to this method. This claimed feature cannot exist but for a computer programmed to filters data based on content and encrypt information. Applicants respectfully submit that in this case, just as in *Bancorp Services, L.L.C. v. Sun Life Assur. Co. of Canada (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012), the computer is integral to the claimed invention. This is in contrast to previous methods susceptible that were not computer based and were susceptible to human error.” Br. 9. We are not persuaded by Appellant’s reliance upon the overall holding in *Bancorp*, which does not appear to support Appellant’s contention.

We are not persuaded because, in *Bancorp*, the Federal Circuit held:

To salvage an otherwise patent-ineligible process, a computer must be integral to the claimed invention, facilitating the process in a way that a person making calculations or computations could not. See *SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319, 1333 (Fed.Cir.2010) (“In order for the addition of a machine to impose a meaningful limit on the scope of a claim, it must play a significant part in permitting the claimed method to be performed, rather than function solely as an obvious mechanism for permitting a solution to be achieved more quickly, i.e., through the utilization of a computer for performing calculations.”). Thus, as we held in *Fort Properties, Inc. v. American Master Lease LLC*, the limitation “using a computer” in an otherwise abstract concept did not “ ‘play a significant part in permitting the claimed method to be performed,’ ” 671 F.3d 1317, 1323 (Fed.Cir.2012) (quoting *Dealertrack*, 674 F.3d at 1333), and thus did not “impose

meaningful limits on the claim’s scope,” *id.* (quoting *CyberSource*, 654 F.3d at 1375). The computer required by some of Bancorp’s claims is employed only for its most basic function, the performance of repetitive calculations, and as such does not impose meaningful limits on the scope of those claims. *See Benson*, 409 U.S. at 67, 93 S.Ct. 253 (invalidating as patent-ineligible claimed processes that “can be carried out in existing computers long in use, no new machinery being necessary,” and “can also be performed without a computer”).

We agree with the district court that for purposes of § 101 there is no material difference between the claims invalidated in *Bilski* and those at issue here. *Bancorp*, 771 F.Supp.2d at 1066. In *Bilski*, the patent applicant “attempt[ed] to patent the use of the abstract idea of hedging risk in the energy market and then instruct[ed] the use of well-known random analysis techniques to help establish some of the inputs into the equation.” 130 S.Ct. at 3231. Here, Bancorp’s patents “attempt to patent the use of the abstract idea of [managing a stable value protected life insurance policy] and then instruct the use of well-known [calculations] to help establish some of the inputs into the equation.” *Id.* As in *Bilski*, the claims do not effect a transformation, and the fact that the required calculations could be performed more efficiently via a computer does not materially alter the patent eligibility of the claimed subject matter. We discern no fault in the conclusion of the district court, *Bancorp*, 771 F.Supp.2d at 1066, that the asserted claims do not meet either prong of the machine-or-transformation test—which, while “not the sole test for deciding whether an invention is a patent-eligible ‘process,’ ” remains “a useful and important clue, an investigative tool, for determining whether some claimed inventions are processes under § 101,” *Bilski*, 130 S.Ct. at 3227.

Bancorp Servs, 687 F.3d at 1277 (Fed. Cir. 2012).

Bascom

Appellant further relies upon the holding in *BASCOM* to confer patentability.

The claims are directed to significantly more than a fundamental economic practice. They are directed to a specific system and methods in the field of data processing and computer networks with a particular combination of steps and elements that permit filtering and encryption to take place. The claimed systems and methods overcome a problem in an inventive way by taking advantage of the technical capabilities of servers and computer technology in the specific claimed order and combination. *See, e.g., BASCOM Global Internet Services v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016) (a filtering tool with customizable filtering features, was deemed an inventive concept). . . .

As the Federal Circuit has held, even if elements of the claim are known or generic, the specific combination or order may provide an inventive concept.

Br. 10. We disagree with Appellant's assertion.

We disagree because, in *BASCOM*, the claims were directed to the inventive concept of providing customizable Internet-content filtering which, under Step 2 of the *Alice* analysis, was found to transform the abstract idea of filtering content into a patent-eligible invention. Although the underlying idea of filtering Internet content was deemed too abstract, under step 2 of the *Alice* analysis, the claims carved out a specific location for the filtering system, namely a remote Internet service provider (ISP) server, and required the filtering system to give users the ability to customize filtering for their individual network accounts. *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349 (Fed. Cir. 2016).

In response to Appellant's reliance upon *BASCOM*, *supra*, there is no evidence of record to substantiate the assertion that the claims recite non-conventional and non-generic arrangement of known, conventional elements, as in *BASCOM*. Moreover, we find no analogy between

Appellant's claimed method for transferring funds and the Internet content filtering claims in *BASCOM*.

Under the broadest reasonable interpretation standard,¹⁶ we conclude limitations [1] through [9] of claim 20 recite limitations that would, in one form or another, occur when securely transferring funds. *See* Final Act. 6 *et seq.* For example, limitation [1], “providing . . . an option of setting up an automatic fund transfer from a first payment channel to a second payment channel” and [6] “transferring funds” are abstract steps that generally occur in funds transfer operations.

We determine that claim 20, overall, recites certain methods of organizing human activity such as commercial interactions or, alternatively, it recites a fundamental economic practice. This type of activity, i.e., funds transfer, as recited overall in limitations [1] through [10], for example, includes longstanding conduct that existed well before the advent of computers and the Internet and, aside from the computer-related aspects,

¹⁶ 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).

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).¹⁷

Thus, under *Step 2A(i)*, we agree with the Examiner that claim 1’s method of transferring funds recites a judicial exception. We conclude claim 20, under our Revised Guidance, recites a judicial exception of funds transfer, i.e., certain methods of organizing human activity in the form of either commercial interactions or a fundamental economic practice, and thus is an abstract idea.

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

If the claims are directed to a judicial exception, 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.

¹⁷ Our reviewing court recognizes 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). 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.*, 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).

As to the specific limitations, we find limitation [2], “receiv[ing] an access parameter from an input module from an entity authorized to provide the access parameter” recites insignificant data gathering. *See* MPEP § 2106.05(g). Data gathering, as performed by this step or function in Appellant’s claim 1, is a classic example of insignificant extra-solution activity. *See, e.g., 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).

With respect to this step of the analysis, Appellant argues, “[t]hese improvements enhance the functioning of the computer itself with the claimed methods and systems that improve the computer software’s abilities to both assess, integrate and improve the speed and accuracy of data flow.” Br. 11. Further, “the claims are specific and detailed. They contain both additional limitations and meaningful limitations, which together make clear that the field of data processing is not being tied up. Rather, the claims are directed to a specific system and a particular method that applies the claimed computer system and methods.” *Id.*¹⁸

However, on this record, we are not persuaded that Appellant’s claims operate the recited generic computer components (*e.g., see* limitations [3]–

¹⁸ Regarding preemption, “[w]hile preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility. . . . Where a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (“that the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract”).

[5] and [8]–[10]) in an unconventional manner to achieve an improvement in computer functionality. *See* MPEP § 2106.05(a).

We find each of the limitations of claim 20 either recite abstract ideas, extra-solution activity, or generic computer elements and/or functionality as discussed above, and none of the limitations integrate the judicial exception of funds transfer into a practical application as determined under one or more of the MPEP sections cited above.

Under analogous circumstances, the Federal Circuit has held that “[t]his is a quintessential ‘do it on a computer’ patent: it acknowledges that [such] data . . . was previously collected, analyzed, manipulated, and displayed manually, and it simply proposes doing so with a computer. We have held such claims are directed to abstract ideas.” *Univ. of Fla. Research Found., Inc. v. Gen. Elec. Co.*, 916 F.3d 1363, 1367 (Fed. Cir. 2019); *see also Elec. Power Grp.*, 830 F.3d at 1351 (“Though lengthy and numerous, the claims do not go beyond requiring the collection, analysis, and display of available information in a particular field, stating those functions in general terms, without limiting them to technical means for performing the functions that are arguably an advance over conventional computer and network technology.”).

Therefore, 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 an improvement or practical application under the guidance of MPEP 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 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).

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 judicial exception, and not integrated into a practical application, 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 Tx., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1258 (Fed. Cir. 2016).

In applying step two of the *Alice* analysis, 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. *Ulramercial, 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*, 566 U.S. at 79.

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 idea¹⁹; mere instructions to implement an abstract idea on a computer²⁰; 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.²¹

With respect to this step of the analysis, Appellant argues:

The claims are directed to significantly more than a fundamental economic practice. They are directed to a specific system and methods in the field of data processing and computer networks with a particular combination of steps and elements that permit filtering and encryption to take place. The claimed systems and methods overcome a problem in an inventive way by taking advantage of the technical capabilities of servers and computer technology in the specific claimed order and combination.

Br. 10.

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

The patent eligibility inquiry may contain underlying issues of fact. *Mortg. Grader*, 811 F.3d at 1325. In particular, “[t]he question of whether a claim element or combination of elements is well-understood, routine and

¹⁹ *Alice*, 573 U.S. at 221–23.

²⁰ *Alice*, 573 U.S. at 222–23, *e.g.*, simply implementing a mathematical principle on a physical machine, namely a computer.

²¹ *Alice*, 573 U.S. at 225 (explaining using a computer to obtain data, adjust account balances, and issue automated instructions involves computer functions that are well-understood, routine, conventional activities).

conventional to a skilled artisan in the relevant field is a question of fact.”
Berkheimer, 881 F.3d at 1368.

As evidence of the conventional nature of the recited “processor,” “input module,” “medium capable of holding data,” “implementation module,” “communication module,” “input device,” “device capable of storing an access parameter,” “keyboard, mouse, wired transmission . . . or wireless transmission,” “device configured to receive the access parameter for retrieval including a configured port, antenna, or scanner,” and “filter module” recited in the “method of transferring funds” of claim 20, the Specification discloses, with respect to the “medium capable of holding data”:

For example, the funds corresponding to funds to be transferred can be stored electronically, magnetically, optically, on paper, or through any medium capable of holding data. The funds can be electronically stored using an optical storage medium, a magnetic storage medium, a temporary electronic storage medium such as random access memory (RAM), microcircuitry, and other electronic media. Examples of electronic media for storing funds are flash disk drives, magnetic disk drives, optical disk drives, magnetic tapes, and any surface into or upon which funds can be etched, or soldered. The funds can also be stored optically, for example, in holographic media. Non-electronic funds storage is a well known form of storage and includes such traditional devices as paper and human memory. It is not necessary for the funds to be confined to one storage location.

Spec. 6, 1. 25–7, 1. 2. Further, concerning the access parameter, input device, and input module:

Examples of access parameters that can traverse such security are a password that can be alphanumeric, fingerprint data, retinal data, biometric data such as DNA recognition, or any

other funds capable of hindering unauthorized access to the funds.

The access parameters can be introduced through an input module. An input module can be anything capable of receiving the access parameter from the owner of the funds or the owner's authorized surrogate. An authorized surrogate can be a natural person, organization, device, or document, for example, a will. Examples of an input device are a keyboard, mouse, wired transmission, wireless transmission, or any medium capable of storing an access parameter for retrieval by an input module. In some embodiments, the input module can include properly configured ports, antennas, scanners, or other device configured to receive the access parameter.

Spec. 8, ll. 11–21.

With respect to the “input module,” “filter module,” and “communication module,” the Specification further describes their functions as follows:

Input module 1210 is configured to receive access parameter 1100 and can then pass access parameters 1100 to access module 1220. Access module 1220 can then use access parameter 1100 to access first payment channel 1500. In this example, collection module 1250 can retrieve the funds from first payment channel 1500. If desired, filter module 1260 can ensure that only certain funds is communicated to second payment channel 1600 by and can be configured to separate the unwanted funds and block the unwanted funds from being transferred to second payment channel 1600. Communication module 1230 can be configured to transfer the funds to second payment channel 1600 and implementation module 1240 can configure the funds to perform a function authorized by the owner of the funds. Communication module 1230 can include paper or electronic forms, natural persons or a computer executing instructions and can be configured to communicated, for example, by wired connection, wireless connection,

verbally, or through written word. Communication module can be configured to transfer funds independent of bill presentment. Spec. 9, ll. 11–25.

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.²²

The MPEP, based upon our precedential guidance, provides additional considerations with respect to analysis of the well-understood, routine, and conventional nature of the recited 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 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

²² 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).

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”).

Therefore, in light of the foregoing, we conclude, under the Revised Guidance, that each of Appellant’s claims 1–37, considered as a whole, is directed to a patent-ineligible abstract idea that is not integrated into a practical application and does not include an inventive concept.

Accordingly, we sustain the Examiner’s § 101 rejection of independent claim 20, and grouped claims 1–19 and 21–37 which fall therewith. *See* Claim Grouping, *supra*.

2. § 112, ¶ 1 Written Description Rejection R2 of Claims 1, 20, and 28

Issue 2

Appellant argues (Br. 11) the Examiner’s rejection of claim 1 (and similarly for claims 20 and 28) under 35 U.S.C. § 112, first paragraph, as

lacking written description support is in error. These contentions present us with the following issue:

Did the Examiner err in finding the recitation of “a filter module to filter data based on content, including determining which funds or data are sensitive, encrypting information associated with funds for safe transfer and removing data that is irrelevant to the authorized function” lacks written description support?

Principles of Law

The test for compliance with the written description requirement is “whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.” *Ariad Pharm., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc). “[T]he level of detail required to satisfy the written description requirement varies depending on the nature and scope of the claims and on the complexity and predictability of the relevant technology.” *Id.*; cf. *U.S. v. Telectronics, Inc.*, 857 F.2d 778, 785 (Fed. Cir. 1988) (“The test of *enablement* is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation.”) (emphasis added).

Analysis

The Examiner found:

The claims recite a filter module to filter data based on content, including determining which funds or data are sensitive, encrypting information associated with funds for safe transfer and removing data that is irrelevant to the authorized

function. The specification provides no detail for regarding how data is filtered based on content, determining which funds or data are sensitive, encrypting information associated with funds for safe transfer and removing data that is irrelevant to the authorized function. The specification at 0051 merely substantially mirrors the claim language and provides no additional guidance as to how one may perform the recited steps associated with the filter module.

Final Act. 8–9.

Appellant contends “there is a presumption that an adequate written description of the claimed invention is present in the specification as filed, MPEP 2163. Thus the examiner has the initial burden, after a thorough reading and evaluation of the content of the application, of presenting evidence or reasons why a person skilled in the art would not recognize that the written description of the invention provides support for the claims.”

Br. 11.

We disagree with the Examiner’s findings, and further note it appears that the Examiner has conflated the requirements for *enablement* with those for *written description* support under 35 U.S.C. § 112, first paragraph, by requiring detail as to how data is filtered based on content, determining which funds or data are sensitive, etc. That is not the standard for written description.

Therefore, based upon the findings above, on this record, we are persuaded of at least one error in the Examiner’s finding that the independent claims lack adequate written description support, such that we do not sustain the written description rejection of claims 1, 20, and 28.

3. § 112, ¶ 2 Rejection R3 of Claims 1, 20, and 28

Issue 3

In view of the lack of *any* substantive or separate arguments directed to indefiniteness Rejection R3 of claims 1, 20, and 28 under § 112, second paragraph, (*see* Br. 11–12), we sustain the Examiner’s rejection of these claims. Arguments not made are waived.

CONCLUSIONS

(1) Under our Revised Guidance, governed by relevant case law, claims 1–37 are patent-ineligible under 35 U.S.C. § 101, and we sustain the rejection.

(2) The Examiner erred with respect to written description Rejection R2 of claims 1, 20, and 28 under 35 U.S.C. § 112, first paragraph, and we do not sustain the rejection.

(2) The Examiner did not err with respect to indefiniteness Rejection R3 of claims 1, 20, and 28 under 35 U.S.C. § 112, second paragraph, and we sustain the rejection.

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

We affirm the Examiner's decision rejecting claims 1–37.

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1–37	101	Subject Matter Eligibility	1–37	
1, 20, 28	112, ¶ 1	Written Description		1, 20, 28
1, 20, 28	112, ¶ 2	Indefiniteness	1, 20, 28	
Overall Outcome			1–37	

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)(1)(iv). *See* 37 C.F.R. § 41.50(f).

AFFIRMED