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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* DANIEL ROSSKAMM, JOSEPH BRENNY,  
STEVEN ORZEL, and STEPHEN L. EASTMAN

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Appeal 2018-005203  
Application 13/932,354  
Technology Center 3600

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Before JEAN R. HOMERE, ERIC B. CHEN, and  
JAMES B. ARPIN, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE<sup>1</sup>

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>2</sup> appeals from the Examiner’s decision to reject claims 1–4, 6, 14, 16, and 18. Claims App. Claims 5, 15, 17, 19, and 20 are canceled. *Id.* Claims 7–13 are withdrawn. *Id.* We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> We refer to the Specification, filed July 1, 2013 (“Spec.”); Final Office Action, mailed June 26, 2017 (“Final Act.”); Appeal Brief, filed November 7, 2017 (“Appeal Br.”); Examiner’s Answer, mailed March 9, 2018 (“Ans.”), and Reply Brief, filed April 20, 2018 (“Reply Br.”).

<sup>2</sup> 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 Target Brands, Inc. Appeal Br. 3.

## II. CLAIMED SUBJECT MATTER

According to Appellant, the claimed subject matter relates to a method and system for automatically enrolling an eligible primary product in a service plan product. Spec. ¶ 6. In particular, the service plan product (10) includes a tag (14) referencing information linking the primary product to the service plan product at a single point of sale (POS) during purchase of the primary product. *Id.* ¶¶ 6, 20, Fig. 4.

Claims 1 and 14 are independent. Claim 1, reproduced below with disputed limitations emphasized in *italics*, is illustrative of the claimed subject matter:

1. A method of enrolling a primary product in a service plan, the method comprising:
  - processing the primary product for purchase at a point-of-sale (POS) terminal;
    - processing a separate, tangible service plan product associated with the service plan for purchase at said POS terminal while conducting the processing of the primary product for purchase, wherein the service plan product includes a tag having account identification means, the tag being configured to be attached to the primary product, wherein the POS terminal automatically stores information relating to the primary product linked to the account identification means from the tag in a database and automatically activates a service plan account corresponding to the account identification means for a predefined term, thereby linking the service plan product with the primary product; and*
    - displaying the service plan product as one of a plurality of service plan products as part of a retail display readily accessible by consumers and spaced from the POS terminal, each of the plurality of service plan products is associated with one of a first service plan price tier and a second service plan price tier, each service plan product associated with the first service plan price tier being at least partially a first color and each service plan product associated with the second service

plan price tier being at least partially a second color to visually differentiate the service plan products associated with the first and second service plan price tiers, wherein displaying the service plan product occurs prior to processing the primary product and processing the separate service plan product.

### III. REFERENCES

The Examiner relies upon the following references:

Name <sup>3</sup>	Number	Published	Filed
Pederson	US 2002/0133425 A1	Sept. 19, 2002	Mar. 19, 2002
Frangiosa	US 2005/0228724 A1	Oct. 13, 2005	Jan. 7, 2005
Ehling	US 2008/0040176 A1	Feb. 14, 2008	July 31, 2006

### IV. REJECTIONS<sup>4</sup>

The Examiner rejects the claims as follows:

1. Claims 1–4, 6, 14, 16, and 18 are rejected under 35 U.S.C. § 101 as not directed to patent eligible subject matter. Final Act. 2–8.
2. Claims 1–4, 6, 14, 16, and 18 are rejected under 35 U.S.C. § 103 as unpatentable over the combination of Ehling, Frangiosa, Official Notice, and Pederson. *Id.* at 8–14.

### V. ANALYSIS

#### 1. Patent Eligibility Rejection

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 U.S. Supreme Court has long interpreted 35 U.S.C. § 101 to

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<sup>3</sup> All reference citations are to the first named inventor only.

<sup>4</sup> The Examiner withdrew the §112, second paragraph rejections. Ans. 3.

include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g.*, *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Court’s two-step framework, described in *Mayo* and *Alice*. *Alice*, 573 U.S. 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” (*Diehr*, 450 U.S. 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 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 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*), *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. “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.* (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.*

The Office published revised guidance on the application of Section 101. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50–57 (Jan. 7, 2019) (“2019 PEG”). Recently, the Office published an update to that guidance. *October 2019 Patent Eligibility*

*Guidance Update*, 84 Fed. Reg. 55,942 (hereinafter “PEG Update”). Under the 2019 PEG and PEG Update, 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* MPEP § 2106.05(a)–(c), (e)–(h)).<sup>5</sup>

*See* 2019 PEG, 52, and 55–56. Only if a claim: (1) recites a judicial exception; and (2) does not integrate that exception into a practical application, does the office 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 PEG 56.

We analyze the patent-eligibility rejection with the principles identified above in mind.

#### *Examiner’s Findings and Conclusions*

In the first part of the *Alice* inquiry, the Examiner determines claims 1–4, 6, 14, 16, and 18 are directed to the abstract idea of “selling and activating an extended service/warranty for a purchased product,” which is a fundamental economic practice long prevalent in our system of commerce. Final Act. 2–3. According to the Examiner, the underlying steps of

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<sup>5</sup> All references to the MPEP are to Rev. 08.2017 (Jan. 2018).

processing a primary product for a purchase at a POS terminal, processing a separate service plan associated with the purchased product to display a service product plan associated with a service plan price tier are all steps, which are tantamount to organizing human behavior. *Id.* at 3–5. Further, the Examiner determines that the claims are not directed to an improvement of computer technology, but to the abstract idea itself. *Id.* In particular, the Examiner analogizes the claimed limitations to the following:

[A] cashier gathering these items so that they can be sold to a customer, or a cashier looking for a price for these items at the cash register, or a customer purchasing both of these products at the POS. The steps directed to displaying the service plan product, could be interpreted as a human setting up a shelf with these products. . . .

[I]t is respectfully submitted that Appellant admits that the problem the present invention attempts to solve is not rooted in technology (e.g., “existing retail extended warranty or other service plan products are not consumer friendly as consumers are subjected to high-pressure sales of such plans, and consumers are often confused as to the terms and/or hidden fees of such plans” Brief, page 11) as required in *Enfish*; and unlike *Diehr*, there is no abstract idea with limitations that are “significantly more.” The present case requires routine computer elements to perform routine functions: i.e., gather, store and retrieve data. Unlike *Enfish*, there is nothing in the Specification of the present application that states or explains that a technology is being improved. Instead, similar to *Electric Power Group* (830 F.3d 1350, 119 U.S.P.Q.2d 1739 (Fed. Cir. 2016)).

Ans. 3–4.

In the second part of the *Alice* inquiry, the Examiner determines the claims do not recite additional elements sufficient to amount to significantly more than the abstract idea of “selling and activating an extended service/warranty for a purchased product.” Final Act. 2. The Examiner

determines that the recitation of using a computer at a POS to link information obtained from a database is directed to using a generic computer to perform functions that are routine, conventional, and well-understood to one of ordinary skill in the art. *Id.* at 6–7.

### *Appellant’s Contentions*

Appellant argues while the claims may be related to the idea of “enrolling a primary product in a service plan,” the recited features or the combination of the POS terminal, tangible service plan product, service plan product tag and retail display defined in the claims provide “significantly more than the alleged abstract idea of ‘selling an extended warranty for a product.’” Appeal Br. 11. Further, Appellant argues that the methodology of processing the primary product and service plan at the POS terminal to automatically activate the service plan account thereby linking the service plan product with the primary product, as defined in the claims, provides a technological solution that confines the claims to a particular useful application. *Id.* at 11–12. According to Appellant, the claims are patent eligible not because they are implemented on a computer, but because they improve the processing and administration of service plan/warranty products. *Id.* at 12.

### *Our Review*

Applying the guidance set forth in the 2019 PEG, we determine whether the Examiner has erred in rejecting the claims as directed to patent ineligible subject matter.

In revised step 1 of 2019 PEG, we consider whether the claimed subject matter falls within the four statutory categories of patent-eligible

subject matter identified by 35 U.S.C. § 101: process, machine, manufacture, or composition of matter. Because independent claims 1 and 14 recite a “method” including a number of steps, claims 1 and 14 fall within the “process” category of patent-eligible subject matter.

In prong 1 of revised step 2A of the 2019 PEG, we determine whether any judicial exception to patent eligibility is recited in the claims. The guidance identifies three judicially-excepted groupings of abstract ideas: (1) mathematical concepts; (2) certain methods of organizing human activity, such as fundamental economic practices; and (3) mental processes. Independent claim 1 recites, *inter alia*, the following claim steps performed by a computer:

- (1) Processing at a POS terminal a primary product for purchase;
- (2) Displaying a tangible service plan associated with the primary product having an identification tag linking in a database the service plan and the primary product;  
and
- (3) Processing to activate automatically the service plan at purchase of primary product.

At the outset, we note Appellant does not dispute the Examiner’s determination that these limitations relate to the idea of “selling and activating an extended service/warranty for a purchased product,” which is a fundamental economic practice long prevalent in commerce. Appeal Br. 11. Instead, Appellant merely asserts that the recited claim steps are significantly more than the asserted abstract idea. *Id.* Therefore, we find un rebutted the Examiner’s determination that the cited limitations are steps

of “managing personal behavior or relationships or interactions between people (including social activities, teaching, and following rules or instructions),” which the 2019 PEG provides are directed to “[c]ertain methods of organizing human activity.” 84 Fed. Reg. 52. Accordingly, we agree with the Examiner that independent claims 1 and 14 recite the judicial exception of a method of organizing human activity.

Having determined that the claims recite a judicial exception, our analysis under the 2019 PEG turns now to determining whether there are “additional elements that integrate the judicial exception into a practical application.” *See* MPEP § 2106.05(a)–(c), (e)–(h).<sup>6</sup> “Integration into a practical application” requires an additional element or a combination of additional elements in the claim to apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the exception. 84 Fed. Reg. at 53.

Appellant’s claims 1 and 14 recite computer-related limitations (e.g., a POS terminal, a database). Appellant argues the following:

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<sup>6</sup> Specifically, we determine whether the claims recite:

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

*Id.*

The methodology defined in the claims thus provides a physical technological solution (i.e., by processing the primary product and service plan product at the POS terminal, automatically activating the service plan account and linking the service plan product with the primary product) to address the shortcomings in the existing systems. Indeed, the claimed limitations are not simply an attempt to generally link the alleged abstract idea to the technological environment of a computer system; rather, the claims define meaningful limitations that confine the claims to a particular useful application. Like the claims in *Diehr*, Appellants submit that the claims are patent eligible because they improve an existing technological process (a process for processing and administering service plan/warranty products), not because they are implemented on a computer. With reference to the Federal Circuit's *Enfish* decision, claim 1 focuses on a specific means or method that improves the relevant technology rather than being directed merely to a result or effect that itself is the abstract idea invoking generic processes and machinery.

Appeal Br. 11–12.

We do not find the computer-related limitations are sufficient to integrate the judicial exception into a practical application. The Specification does not provide additional details about the POS terminal or the database that would distinguish them from any generic processing device with storage in a stand-alone or network environment. Spec. ¶ 18. Although we do not dispute that the POS terminal includes specific instructions for performing the recited steps, Appellant has not explained persuasively how the claimed data structures and thresholds improve the way the computer stores and retrieves data in memory. *See* MPEP § 2106.05(a). Rather, the claims merely adapt the method of organizing the human activity of selling and activating an extended service/warranty for a purchased product in a series of steps performed by the POS terminal and the database. *See Credit*

*Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1055 (Fed. Cir. 2017) (“Our prior cases have made clear that mere automation of manual processes using generic computers does not constitute a patentable improvement in computer technology.”); *see also Bancorp Services, L.L.C. v. Sun Life Assurance Co. of Canada (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012) (A computer “employed only for its most basic function . . . does not impose meaningful limits on the scope of those claims.”). Further, Appellant’s identified improvements are improvements to the abstract idea, not improvements to a technology or computer functionality. Thus, on the record before us, the cited claim limitations do not improve the functionality of the computer system by performing operations to sell and activate an extended service/warranty for a purchased product, nor do they achieve an improved technological result in conventional industry practice. *McRO, Inc. v. Bandai Namco Games Am., Inc.*, 837 F.3d 1299, 1316 (Fed. Cir. 2016).

Because claim steps 1–3, outlined above, do not (1) provide any technical solution to a technical problem as required by *DDR Holdings*;<sup>7</sup> (2) provide any particular practical application as required by *BASCOM*;<sup>8</sup> or

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<sup>7</sup> *See DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014). The Federal Circuit found *DDR*’s claims are patent-eligible under 35 U.S.C. § 101 because *DDR*’s claims: (1) do not merely recite “the performance of some business practice known from the pre-Internet world” previously disclosed in *Bilski* and *Alice*; but instead (2) provide a technical solution to a technical problem unique to the Internet, i.e., a “solution . . . necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.” *DDR*, 773 F.3d at 1257.

<sup>8</sup> *See BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016).

(3) entail an unconventional technological solution to a technological problem as required by *Amdocs*,<sup>9</sup> we agree with the Examiner's determination that Appellant's claims 1 and 14 are directed to an abstract idea that is not integrated into a practical application.

*Alice/Mayo—Step 2B (Inventive Concept)*

Turning to step 2B of the 2019 PEG, we look to whether the claim: (a) recites a specific limitation or combination of limitations that are not well-understood, routine, conventional activity in the field; or (b) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception. 84 Fed. Reg. 56; *see Alice*, 573 U.S. at 217 (“[W]e consider the elements of each claim both individually and ‘as an ordered combination’” to determine whether the claim includes “significantly more” than the ineligible concept); *see also BASCOM*, 827 F.3d at 1350 (“[A]n inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces.”).

Appellant argues the following:

[T]he POS terminal, tangible service plan product, service plan product tag and retail display in combination similarly provide significantly more than the alleged abstract idea. As described in the specification, existing retail extended warranty or other service plan products are not consumer friendly as consumers are subjected to high-pressure sales of such plans, and consumers are often confused as to the terms and/or hidden fees of such plans. As such, instead of evaluating the benefits offered by service plans, many consumers categorically refuse such service plans to avoid the associated record-keeping burden, possible hidden fees, and/or possible hidden service

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<sup>9</sup> *See Amdocs Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288 (Fed. Cir. 2016).

plan terms. Still further, typical service plans require the consumer to provide personal profile information, product information, purchase date, store information, receipt information, etc., which can be time-consuming and which further contributes to consumer frustration. The record keeping requirements along with the existing service plan and warranty administration are often sufficient to discourage a consumer from purchasing the product.

Appeal Br. 11.

We discern no additional element or combination of elements recited in Appellant's independent claims 1 and 14 that contain any "inventive concept" or add anything "significantly more" to transform the abstract concept into a patent-eligible application. *Alice*, 573 U.S. at 221. We are not persuaded by Appellant's remarks, noted above, alleging the claims are directed to a non-conventional method because they involve automated evaluation and selection of a service plan associated with a customer's purchase of a primary product. These comments overlook the analogue method proffered by the Examiner wherein a cashier at a POS terminal in a retail store looks up available service contracts suitable for a product being purchased by a customer. Ans. 4. We agree with the Examiner that a sale and activation of a service contract associated with a product purchased in the manner suggested is a routine and conventional approach to selling and activating such service contracts. *Id.* Appellant does not direct our attention to any portion of the Specification indicating that the claimed processor performs anything other than well-understood, routine, and conventional functions, such as receiving and processing. *See Elec. Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016) ("Nothing in the claims, understood in light of the [S]pecification, requires anything other than off-the-shelf, conventional computer, network, and display technology for

gathering, sending, and presenting the desired information.”); *see also buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (“That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive.”); *Alice*, 573 U.S. at 224–26 (receiving, storing, sending information over networks insufficient to add an inventive concept). Instead, Appellant’s claimed subject matter simply uses generic computer components (computer system) to perform the abstract idea of selling and activating an extended service/warranty for a purchased product. Appeal Br. 11; *see also* Spec. ¶ 18. As noted above, the use of a generic computer does not alone transform an otherwise abstract idea into patent-eligible subject matter. As our reviewing court has observed, “after *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.” *DDR*, 773 F.3d at 1256 (citing *Alice*, 573 U.S. at 223).

Because the discussed claim elements only recite generic computer functions that are well-understood, routine, and conventional, the claim is devoid of an inventive concept. *See Alice*, 573 U.S. at 217. Appellant is reminded that “the ‘inventive concept’ [under the second part of the *Mayo/Alice* test] cannot be the abstract idea itself” and “*Berkheimer* . . . leave[s] untouched the numerous cases from this court which have held claims ineligible because the only alleged ‘inventive concept’ is the abstract idea.” *Berkheimer v. HP Inc.*, 890 F.3d 1369, 1374 (Fed. Cir. 2018) (Moore, J., concurring). “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 LLC v. Buyseasons, Inc.*, 899 F.3d 1281, 1290 (Fed.

Cir. 2018). We, therefore, agree with the Examiner that the computer functions recited in the claims were, in fact, generic, and are met by numerous precedent establishing that using a generic computer to expedite and automate processes traditionally performed manually, or that are otherwise abstract, is a well-understood, routine, and conventional use of such computers. Final Act. 10; *see also, e.g., Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1321 (Fed. Cir. 2016) (utilizing an intermediary computer to forward information); *Bancorp Services, L.L.C.*, 687 F.3d at 1278 (“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.”). Therefore, we conclude that claim 1’s elements, both individually and as an ordered combination, do not provide an inventive concept. *See* 84 Fed. Reg. 56; *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1370 (Fed. Cir. 2018) (“The limitations amount to no more than performing the abstract idea of parsing and comparing data with conventional computer components.”); *Bancorp*, 687 F.3d at 1278 (“[T]he use of a computer in an otherwise patent-ineligible process for no more than its most basic function—making calculations or computations—fails to circumvent the prohibition against patenting abstract ideas and mental processes.”).

To the extent Appellant argues the claims necessarily contain an “inventive concept” based on their alleged novelty or non-obviousness over the cited references, Appellant misapprehends the controlling precedent. Although the second part in the *Alice/Mayo* framework is termed a search for an “inventive concept,” the analysis is not an evaluation of novelty or

non-obviousness, but, rather, a search for “an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Alice*, 573 U.S. at 217–218 (quoting *Mayo* 566 U.S. 72–73). A novel and nonobvious claim directed to a purely abstract idea is, nonetheless, patent-ineligible. *See Mayo*, 566 U.S. at 90.

Appellant is further reminded that, in many cases, “relying on a computer to perform routine tasks more quickly or more accurately is insufficient to render a claim patent eligible.” *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015) (citing *Alice*, 573 U.S. at 224) (“[U]se of a computer to create electronic records, track multiple transactions, and issue simultaneous instructions” is not an inventive concept.); *see also, e.g., Intellectual Ventures I LLC v. Capital One Bank*, 792 F.3d at 1370 (“[M]erely adding computer functionality to increase the speed or efficiency of the process does not confer patent eligibility on an otherwise abstract idea.”). Therefore, the functions recited in independent claims 1 and 14 do not add meaningful limitations beyond generally linking the abstract idea to the particular technological environment. *See* Final Act 6–7.

Because Appellant’s claims 1 and 14 are directed to a patent-ineligible abstract concept and do not recite something “significantly more” under the second part of the *Alice* analysis, we sustain the Examiner’s rejection of independent claims 1 and 14 under 35 U.S.C. § 101.

Appellant does not present additional arguments for dependent claims 2–4, 6, 16, and 18. Accordingly, for the same reasons as set forth for

independent claims 1 and 14, we sustain the Examiner's 35 U.S.C. § 101 rejection of dependent claims 2–4, 6, 16, and 18.

## 2. *Obviousness Rejection*

Appellant argues that the Examiner erred in finding that the combination of Ehling, Frangiosa, Official Notice, and Pederson teaches or suggests processing a separate and tangible service plan including a tag configured to be attached to a primary product purchased at a POS terminal that stores information linking the primary product with the protection plan, as recited independent claim 1. Appeal Br. 14. In particular, Appellant argues that Ehling's disclosure of using code 121 enables a consumer to access online supplemental services associated with a protection plan, as opposed to a tag linking a purchased product with a protection plan. *Id.* Further, Appellant argues that Pederson's disclosure of associating in a database the serial number of a product with the purchase date thereof to facilitate processing customer's returns and warranty claims does not teach a storing in the database information linking a primary product with a purchasable service contract. *Id.* at 14–15 (citing Pederson ¶¶ 26, 30–32).

These arguments are not persuasive of reversible Examiner error because they are tantamount to an individual attack against the references as opposed to the combination thereof. One cannot show non-obviousness by attacking the references individually where the rejections are based on combinations of references. *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986); *see also In re Keller*, 642 F.2d 413, 425 (CCPA 1981). In this case, the Examiner relies upon Ehling for its teaching of a customer using a unique code (e.g., planID, PlanCode, PlanName, WarrantyProgramID) obtained from a furniture retailer to look up/register at a POS terminal

connected to a database a protection plan suitable for a uniquely identified product purchased by the customer. Final Act. 8– 9 (citing Ehling ¶¶ 31, 32, 38, 40, 52, 62 and 64); Ans. 8. Further, the Examiner relies upon Pederson’s disclosure of an electronic registration (ER) system storing in a database the unique identification collected from a tag affixed on a purchased product, as well as registration information (e.g. purchase date, price paid) along with applicable warranty policies associated with the purchased product. Final Act. 10–11 (citing Pederson ¶¶ 4, 32); Ans. 8–10. Furthermore, the Examiner concludes the following:

[I]t would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the invention as disclosed by Ehling and include the teachings of Pederson in order to facilitate product and service registration and since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Final Act. 10–11. Additionally, the Examiner finds the following:

Frangiosa was cited as disclosing the feature of “*the tag being configured to be attached to the primary product.*” The Final Action specifically states on page 10 that “Frangiosa teaches selling service plan products at a POS [0036] and using different colors to indicate different types and prices of service plan products ([0031]), well as **a tag being configured to be attached to the primary product** (Figure 1A).” (emphasis added). Although this recitation has been addressed with prior art, it is only to evidence the breadth of knowledge in the art, and not as a tacit agreement that the recitation further limits the claimed structure.

Ans. 6.

We agree with the Examiner that the proposed combination of the cited references would predictably result in a POS terminal at a furniture

retailer storing in a database unique identification information regarding a product purchased by the customer, as well as uniquely identifiable purchasable protection plans and warranty policies associated with the purchased product to thereby facilitate the registration of the product along with the protection plan. Final Act. 10–11. We find the Examiner’s proposed combination of the cited teachings of Ehling, Frangiosa, Official Notice, and Pederson is no more than a simple arrangement of old elements with each performing the same function it had been known to perform, yielding no more than one would expect from such an arrangement. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). Therefore, the ordinarily skilled artisan, being “a person of ordinary creativity, not an automaton,” would be able to fit the teachings of the cited references together like pieces of a puzzle to predictably result in a POS terminal at a furniture retailer that stores a database unique identification information regarding a product purchased by the customer, uniquely identifiable purchasable protection plans and warranty policies associated with the purchased product to thereby facilitate the registration of the product as well as the protection plan. *Id.* at 420–21. Because Appellant has not demonstrated that the Examiner’s proffered combination would have been “uniquely challenging or difficult for one of ordinary skill in the art,” we agree with the Examiner that the proposed modification would have been within the purview of the ordinarily skilled artisan. *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418). Consequently, we are satisfied that, on the record before us, the Examiner has established by a preponderance of the evidence that the combination of Ehling, Frangiosa, Official Notice, and Pederson renders claim 1 unpatentable. Accordingly,

we are not persuaded of error in the Examiner's obviousness rejection of claim 1.

Regarding the rejection of claims 2–4, 6, 14, 16, and 18, Appellant has not presented separate patentability arguments or reiterated substantially the same arguments as those previously discussed for patentability of claim 1. As such, claims 2–4, 6, 14, 16, and 18 fall therewith. *See* 37 C.F.R. § 41.37(c)(1)(iv).

## VI. CONCLUSION

We affirm the Examiner's patent eligibility rejections of claims 1–4, 6, 14, 16, and 18 under 35 U.S.C. § 101. We likewise affirm the Examiner's obviousness rejection of claims 1–4, 6, 14, 16, and 18 under 35 U.S.C. § 103(a).

## DECISION SUMMARY

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–4, 6, 14, 16, 18	101	Eligibility	1–4, 6, 14, 16, 18	
1–4, 6, 14, 16, 18	103(a)	Ehling, Official Notice, Frangiosa, Pederson	1–4, 6, 14, 16, 18	
<b>Overall Outcome</b>			1–4, 6, 14, 16, 18	

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). *See* 37 C.F.R. § 1.136(a)(1)(iv).

**AFFIRMED**