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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CONOR McGOVERN

Appeal 2018-005255
Application 13/838,355
Technology Center 3600

Before JOSEPH P. LENTIVECH, MICHAEL M. BARRY, and
SCOTT RAEVSKY, *Administrative Patent Judges*.

LENTIVECH, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–10 and 12–20. Claim 11 has been canceled. *See* App. Br. 39–49 (Claims Appendix). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Accenture Global Services Limited. App. Br. 4.

STATEMENT OF THE CASE

Appellant's Invention

Appellant's invention generally relates to "multi-channel customer attribution analytics utiliz[ing] data from multiple sources at a micro-segment granularity (e.g., individual, household, set of like households or like individuals) and apply[ing] a range of analytics techniques to give a low granularity view on mass and targeted media exposure and marketing return on investment (ROI)." Spec. ¶ 16. Claims 1 and 13, which are illustrative, read as follows:

1. A system comprising:

a mixed marketing channel modeling module executable by at least one processor to determine, from data received from data sources, a mixed marketing channel model for households in a macro level geographic area,

wherein the data is associated with advertising performed in the macro level geographic area through a plurality of marketing channels, including an Internet marketing channel, a television marketing channel, and a print marketing channel, and

wherein the macro level geographic area includes a plurality of microsegments comprising geographic areas that are each smaller than the macro level geographic area and that are each within the macro level geographic area;

an attribution analysis module executable by the at least one processor to determine values for variables associated with a microsegment of the plurality of microsegments, wherein the values include attributes of a household in the microsegment, and indications of whether the household in the microsegment viewed advertising provided by at least one of the marketing channels to the microsegment; and

a marketing analytics engine executable by the at least one processor to apply the mixed marketing channel model and the values for the variables to identify other microsegments that are estimated to be similar to the microsegment,

wherein the data from the data sources comprises data for the households, and the data is made anonymous through a blind matching process that is executed to anonymously match the data for the households at a data platform;

wherein to execute the blind matching process, a syndicated data provider sends, to a neutral data service provider, subscriber profile data including personally identifiable information for each of the households comprising name and address, and cross reference data for each of the households including a set top box identifier for the television marketing channel, a cookie-level identifier for the Internet marketing channel, and a mailing address for the print marketing channel, and

an audience demographic dataset comprised of anonymous subscriber profiles for the households created by matching the names and addresses to household demographic information for the households, wherein the anonymous subscriber profiles in the audience demographic dataset includes, for each household, the cross reference data and the household demographics and does not include the personally identifiable information, and sending the audience demographic dataset to the data platform,

wherein the syndicated data provider collects consumption events regarding viewing of the advertising in the macro level geographic area, and the consumption events include the cross reference data, wherein each consumption event is tagged with one of: a set top box identifier from the cross reference data if the consumption event is in the television marketing channel, a cookie-level identifier from the cross reference data if the consumption event is in the Internet marketing channel, and a mailing addresses if the consumption event is in the print

marketing channel, and sends the consumption events tagged with the cross reference data to the data platform, and

the data platform receives the cross reference dataset and associates each consumption event with an anonymous subscriber profile in the audience demographic dataset based on the cross reference data in each consumption event, the cross reference data in each anonymous subscriber profile, and the cross reference data in the cross reference dataset,

wherein each consumption event associated with the anonymous subscriber profile is provided to the attribution analysis module to iteratively determine the values for the variables for the microsegment.

13. A method comprising:

determining, from data received from data sources, a mixed marketing channel model for households in a macro level geographic area,

wherein the data is associated with advertising performed in the macro level geographic area through a plurality of marketing channels, including an Internet marketing channel, a television marketing channel, and a print marketing channel, and

wherein the macro level geographic area includes a plurality of microsegments comprising geographic areas that are each smaller than the macro level geographic area and that are each within the macro level geographic area;

determining, by at least one processor, values for variables associated with a microsegment of the plurality of microsegments, wherein the values include attributes of a household in the microsegment, and indications of whether the household in the microsegment viewed advertising provided by at least one of the marketing channels to the microsegment;

identifying other microsegments that are estimated to be similar to the microsegment based on the mixed marketing channel model and the values for the variables,

wherein the data from the data sources comprises data for the households, and the data is made anonymous through a blind matching process that is executed to anonymously match the data for the households at a data platform, wherein the blind matching process includes:

 sending subscriber profile information to a neutral data service provider, wherein the subscriber profile data includes personally identifiable information for each of the households comprising name and address, and cross reference data for each of the households including a set top box identifier for the television marketing channel, a cookie-level identifier for the Internet marketing channel, and a mailing address for the print marketing channel;

 creating an audience demographic dataset comprised of anonymous subscriber profiles for the households by matching the names and addresses to household demographic information for the households, wherein the anonymous subscriber profiles in the audience demographic dataset includes, for each household, the cross reference data and the household demographics and does not include the personally identifiable information;

 sending the audience demographic dataset to the data platform;

 collecting consumption events regarding viewing of the advertising in the macro level geographic area, wherein the consumption events include the cross reference data;

 tagging each consumption event with one of: a set top box identifier from the cross reference data if the consumption event is in the television marketing channel, a cookie-level identifier from the cross reference data if the consumption event is in the Internet marketing channel, and a mailing addresses if the consumption event is in the print marketing channel;

sending a cross reference dataset to the data platform; and

sending the consumption events tagged with the cross reference data to the data platform;

associating each consumption event with an anonymous subscriber profile in the audience demographic dataset via the cross reference data for the consumption events based on the cross reference data in each consumption event, cross reference data in each anonymous subscriber profile of a plurality of anonymous subscriber profiles determined for the households from the subscriber profile data, and the cross reference data in the cross reference dataset; and

re-determining the values for the variables for the microsegment based on each consumption event associated with the anonymous subscriber profile.

Rejections

Claims 1–10 and 12–20 stand rejected under 35 U.S.C. § 101 because the claimed subject matter is judicially-excepted from patent eligibility.

Final Act. 2–6.

Claims 1–3, 8–10, 12–14, and 17–20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hunt et al. (US 2008/0319829 A1; published Dec. 25, 2008) (“Hunt”), *Addressable TV and the 30-Second Spot, The CMO’s Guide to Addressable TV Advertising: Accountability and Performance for TV Ad Spend*, An Experian White Paper (Experian Marketing Services 2011) (“Experian”), and Woda et al. (US 2009/0119151 A1; published May 7, 2009) (“Woda”). Final Act. 7–23.

Claims 4–6, 15, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hunt, Experian, Woda, Kasravi

(US 2006/0136293 A1; published June 22, 2006), and Gershkoff (US 2010/0057534 A1; published Mar. 4, 2010). Final Act. 23–26.

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hunt, Experian, Woda, and Fairfield et al. (US 8,214,238 B1; issued July 3, 2012) (“Fairfield”). Final Act. 26.

ANALYSIS

Rejection under 35 U.S.C. § 101

Regarding the rejection of claims 1–10 and 12–20 under 35 U.S.C. § 101, Appellants do not substantively argue the claims separately, but instead, rely on the same arguments for all claims. *See* App. Br. 13–27. In accordance with 37 C.F.R. § 41.37(c)(1)(iv), we select independent claim 13 as the representative claim. Remaining claims 1–10, 12, and 14–20 stand or fall together with claim 13.

PRINCIPLES OF LAW

An invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g.*, *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014) (internal quotation marks and citation omitted).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012) and *Alice*. *Alice*, 573 U.S. at 217–18 (citing *Mayo*, 566 U.S. at 75–77). 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*, 130 S. Ct. 3218 (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*, 130 S. Ct. 3218 (2010)); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); “tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores” (*id.* at 184 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1853))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 176; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, . . . and this principle cannot be circumvented by

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

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (internal 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.* (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.*

PTO GUIDANCE

The PTO recently published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Memorandum”). Under that guidance, we first look to whether the claim recites:

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* MANUAL OF PATENT EXAMINING

PROCEDURE (MPEP) § 2106.05(a)–(c), (e)–(h) (9th Ed., Rev. 08.2017, Jan. 2018)).

See Memorandum, 84 Fed. Reg. at 52, 54–55. Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look to whether the claim:

(3) adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or

(4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See Memorandum, 84 Fed. Reg. at 56.

OUR REVIEW

STEP 1

Under “Step 1” of the analysis, we determine whether the claimed subject matter falls within the four categories of patentable subject matter identified by 35 U.S.C. § 101. Memorandum, 84 Fed. Reg. at 53–54. Claim 13 is directed to a method and, therefore, falls within the four categories of patentable subject matter—a process.

Alice/Mayo—Step 1 (Abstract Idea) *Step 2A—Prongs 1 and 2 identified in the Revised Guidance*

Step 2A, Prong 1 (Does the Claim Recite a Judicial Exception?)

Under “Step 2A, Prong One” of the analysis, we determine whether the claim recites a judicial exception. Memorandum, 84 Fed. Reg. at 54. Claim 13 recites, among other things, the limitation “determining, from data

received from data sources, a mixed marketing channel model for households in a macro level geographic area.” This limitation, as drafted, is a process that, under its broadest reasonable interpretation, could be performed in the human mind or by a person using pen and paper. The Specification provides “[t]he mixed model may be determined from logistic regression or other modeling techniques.” Spec. ¶ 22. As such, this step encompasses a user manually performing the claimed process. Thus, this limitation recites a mental process—an abstract idea. Memorandum, 84 Fed. Reg. at 52.

The Specification further provides that logistic regression “is a powerful and well-established statistical technique that estimates probabilities of the target categories” and “[l]ogistic regression results are in the form of continuous functions that estimate the probability of membership in each target outcome.” Spec. Fig. 9. Thus, this limitation, as drafted, is a process that, under its broadest reasonable interpretation, determines a mathematical formula or equation for performing a mathematical calculation. As such, this limitation also recites a mathematical concept—an abstract idea. Memorandum, 84 Fed. Reg. at 52.

Claim 13 further recites:

determining, by at least one processor, values for variables associated with a microsegment of the plurality of microsegments, wherein the values include attributes of a household in the microsegment, and indications of whether the household in the microsegment viewed advertising provided by at least one of the marketing channels to the microsegment;

identifying other microsegments that are estimated to be similar to the microsegment based on the mixed marketing channel model and the values for the variables,

...

creating an audience demographic dataset comprised of anonymous subscriber profiles for the households by matching the names and addresses to household demographic information for the households, wherein the anonymous subscriber profiles in the audience demographic dataset includes, for each household, the cross reference data and the household demographics and does not include the personally identifiable information;

...

collecting consumption events regarding viewing of the advertising in the macro level geographic area, wherein the consumption events include the cross reference data;

tagging each consumption event with one of: a set top box identifier from the cross reference data if the consumption event is in the television marketing channel, a cookie-level identifier from the cross reference data if the consumption event is in the Internet marketing channel, and a mailing addresses if the consumption event is in the print marketing channel;

...

associating each consumption event with an anonymous subscriber profile in the audience demographic dataset via the cross reference data for the consumption events based on the cross reference data in each consumption event, cross reference data in each anonymous subscriber profile of a plurality of anonymous subscriber profiles determined for the households from the subscriber profile data, and the cross reference data in the cross reference dataset; and

re-determining the values for the variables for the microsegment based on each consumption event associated with the anonymous subscriber profile.

These limitations, as drafted, are processes that, under their broadest reasonable interpretation, could be performed in the human mind or by a

person using pen and paper but for the recitation of generic computer components. That is, other than reciting that values for variables associated with a microsegment of the plurality of microsegments are determined “by at least one processor,” nothing in the claim precludes these steps from practically being performed in the mind. For example, but for the “by at least one processor” language, the claim encompasses a user manually performing the claimed processes. Thus, these limitations recite mental processes—an abstract idea. Memorandum, 84 Fed. Reg. at 52.

We are not persuaded by Appellant’s argument that these limitations do not recite an abstract idea because the limitations:

[D]escribe: determining attributes of a household in the microsegment viewed advertising; identifying other microsegments that are estimated to be similar to the microsegment based on the mixed marketing channel model and the household attributes and the indications; and re-determining the household attributes and the indications based on consumption events. These features are neither directed to collecting data nor comparing data but instead refer to a non-abstract, iterative approach to determining microsegment information from macro-level data.

App. Br. 17–18. Each of these limitations can be performed in the human mind or by a person using pen and paper. For example, a person could: determine values that include attributes of a household in the microsegment and indications of whether the household in the microsegment viewed advertising provided by at least one of the marketing channels to the microsegment for variables associated with a microsegment of the plurality of microsegments; identify other microsegments that are estimated to be similar to the microsegment based on the mixed marketing channel model and the values for the variables; match the names and addresses to

household demographic information for the households to create an audience demographic dataset comprised of anonymous subscriber profiles for the households; collect consumption events regarding viewing of the advertising in the macro level geographic area; tag each consumption event with one of: a set top box identifier from the cross reference data if the consumption event is in the television marketing channel, a cookie-level identifier from the cross reference data if the consumption event is in the Internet marketing channel, and a mailing addresses if the consumption event is in the print marketing channel; associate each consumption event with an anonymous subscriber profile in the audience demographic dataset via the cross reference data for the consumption events based on the cross reference data in each consumption event; and re-determine the values for the variables for the microsegment based on each consumption event associated with the anonymous subscriber profile.

For the foregoing reasons, we find the claim recites an abstract idea.

Step 2A—Prong 2 (integration into Practical Application)²

Under “Step 2A, Prong Two,” we determine whether the claim as a whole integrates the recited judicial exception into a practical application of the exception. Memorandum, 84 Fed. Reg. at 54. Claim 1 recites various hardware components such as “at least one processor” and “a data platform” and

² We acknowledge that some of the considerations at Step 2A, Prong 2, properly may be evaluated under Step 2 of *Alice* (Step 2B of the Office guidance). For purposes of maintaining consistent treatment within the Office, we evaluate them under Step 1 of *Alice* (Step 2A of the Office guidance). See Memorandum, 84 Fed. Reg. at 55 n.25, 27–32.

wherein the data is associated with advertising performed in the macro level geographic area through a plurality of marketing channels, including an Internet marketing channel, a television marketing channel, and a print marketing channel,

wherein the macro level geographic area includes a plurality of microsegments comprising geographic areas that are each smaller than the macro level geographic area and that are each within the macro level geographic area;

...

wherein the data from the data sources comprises data for the households, and the data is made anonymous through a blind matching process that is executed to anonymously match the data for the households at a data platform, . . .

sending subscriber profile information to a neutral data service provider, wherein the subscriber profile data includes personally identifiable information for each of the households comprising name and address, and cross reference data for each of the households including a set top box identifier for the television marketing channel, a cookie-level identifier for the Internet marketing channel, and a mailing address for the print marketing channel;

...

sending the audience demographic dataset to the data platform;

...

sending a cross reference dataset to the data platform; and

sending the consumption events tagged with the cross reference data to the data platform;

App. Br. 39–41 (Claims Appendix).

We find these additional limitations fail to integrate the judicial exception into a practical application. For example, the claims do not (1) improve the functioning of a computer or other technology, (2) are not

applied with any particular machine (except for a generic computer), (3) do not effect a transformation of a particular article to a different state, and (4) are not applied in any meaningful way beyond generally linking the use of the judicial exception to a particular technological environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception. *See* Memorandum, 84 Fed. Reg. at 54–55; MPEP §§ 2106.05(a)–(c), (e)–(h).

The Specification describes the claimed “at least one processor” as “a central processing unit, ASIC or other type of processing circuit.” Spec. ¶ 24. The Specification fails to provide any meaningful description of the claimed “data platform.” As such, the claimed processor is merely used as a generic computer for automating the claimed process. This component, therefore, fails to cause the recited abstract idea to be integrated into a practical application. *See Alice*, 573 U.S. at 212 (explaining that “requiring generic computer implementation fails to transform that abstract idea into a patent-eligible invention”).

The additional limitations:

wherein the data is associated with advertising performed in the macro level geographic area through a plurality of marketing channels, including an Internet marketing channel, a television marketing channel, and a print marketing channel,

wherein the macro level geographic area includes a plurality of microsegments comprising geographic areas that are each smaller than the macro level geographic area and that are each within the macro level geographic area;

...

wherein the data from the data sources comprises data for the households, and the data is made anonymous through a blind

matching process that is executed to anonymously match the data for the households at a data platform,

...

wherein the subscriber profile data includes personally identifiable information for each of the households comprising name and address, and cross reference data for each of the households including a set top box identifier for the television marketing channel, a cookie-level identifier for the Internet marketing channel, and a mailing address for the print marketing channel;

fail to integrate the recited abstract ideas into a practical application because they merely narrow the recited abstract ideas by more particularly describing the data received from the data sources, the macro level geographic area, and the subscriber profile data. *See Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (holding that “collecting information, analyzing it, and displaying certain results of the collection and analysis” are “a familiar class of claims ‘directed to’ a patent-ineligible concept”); *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017) (claims directed to “collecting, displaying, and manipulating data” are abstract).

Further additional limitations:

sending subscriber profile information to a neutral data service provider,

...

sending the audience demographic dataset to the data platform;

...

sending a cross reference dataset to the data platform; and

sending the consumption events tagged with the cross reference data to the data platform;

also fail to integrate the recited abstract ideas into a practical application because they merely recite insignificant extra-solution activity. *See 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.”); MPEP § 2106.05(g) “Insignificant Extra-Solution Activity.”

Appellant argues the claims provide “an improvement in computer-related technology, and the claims recite detailed steps and features describing how the improvement is achieved rather than merely claiming the outcome.” App. Br. 21. Appellant further argues “to analyze behavior at lower granularities, personal identifiable information (PII) of specific individuals may be discoverable” and, therefore, “the technical problem addressed by the present application is how to enable anonymously analyzing electronically-captured data at lower granularities.” App. Br. 21 (citing Spec. Fig. 10; ¶ 45); *see also* Reply Br. 9–10. Appellant argues the claims are like the claims in *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016) because:

In the present application, the improvement is in the computer-related technology for enforcing data privacy, and the claims recite a particular way to achieve the desired outcome of data privacy through a specific, detailed blind matching process that makes data anonymous for a particular application. Thus, like *McRO*, the claims are directed to an improvement in computer technology and are not directed to an abstract idea.

App. Br. 22.

We find Appellant’s arguments unpersuasive. In *McRO*, the Federal Circuit concluded that the claim, when considered as a whole, was directed to a “technological improvement over the existing, manual 3-D animation techniques” through the “use[of] limited rules . . . specifically designed to achieve an improved technological result in conventional industry practice.” *McRO*, 837 F.3d at 1316. Specifically, the Federal Circuit found that the claimed rules allow computers to produce accurate and realistic lip synchronization and facial expressions in animated characters that previously could only be produced by human animators; and the rules are limiting because they define morph weight sets as a function of phoneme sub-sequences. *Id.* at 1313 (internal citations omitted).

The present situation is unlike that in *McRO*, where computers were unable to make certain subjective determinations, i.e., regarding morph weight and phoneme timings, which could only be made prior to the claimed invention by human animators. Although enforcing data privacy through a blind matching process, which makes data anonymous for a particular application, may improve a business process, i.e., targeted ad campaigns, it does not achieve an improved technological result such as, for example, improving the efficiency of the processing system itself. Simply using a computer to gain efficiency over a manual process is not sufficient to distinguish a claim from a patent-ineligible abstract idea. *See OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015) (“[R]elying on a computer to perform routine tasks more quickly or more accurately is insufficient to render a claim patent eligible.”).

Because the additional elements fail to integrate the recited abstract ideas into a practical application thereof, claim 13 is directed to the recited

abstract ideas. Memorandum, 84 Fed. Reg. at 54 (“If, however, the additional elements do not integrate the exception into a practical application, then the claim is directed to the recited judicial exception, and requires further analysis under Step 2B (where it may still be eligible if it amounts to an ‘inventive concept’).”).

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

Turning to the second step of the *Alice* inquiry, we now look to whether claim 13 contains any “inventive concept” or adds anything “significantly more” to transform the abstract concept into a patent-eligible application. *Alice*, 573 U.S. at 216; Memorandum, 84 Fed. Reg. at 56.

When viewed as a whole, nothing in the claim adds significantly more (i.e., an inventive concept) to the abstract idea. Similarly, the additional elements in the claim (e.g., “at least one processor,” data platform) amount to no more than mere instructions to apply the exception using generic computer components, which is insufficient to provide an inventive concept. *See* Spec. ¶ 24. Moreover, Appellant does not direct our attention to anything in the Specification that indicates the claimed computer components perform anything other than well-understood, routine, and conventional processing functions, such as receiving, processing, and storing data. *See Elec. Power Grp., LLC v. Alstom SA*, 830 F.3d 1350, 1355 (Fed. Cir. 2016) (“Nothing in the claims, understood in light of the specification, requires anything other than off-the-shelf, conventional computer, network, and display technology for gathering, sending, and presenting the desired information”); *buySAFE*, 765 F.3d at 1355 (“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). In short, the claims do no more than require a generic computer to perform generic computer functions.

Appellant argues the claimed “blind matching process” does not “describe functions that are normally or typically performed by a computer, nor has the Examiner provided any explanation or evidence that such functions are generic computer functions.” App. Br. 25.

As discussed above, the recited steps of the claimed “blind matching process” include steps that recite an abstract idea (e.g., the claimed “creating an audience demographic data set,” “collecting consumer consumption events,” and “tagging each consumer event”) and steps that recite insignificant extra-solution activity (e.g., the claimed “sending” steps). The recited functions do not go beyond generic functions, and the claim does not adequately identify technical means for performing the claimed steps that are arguably an advance over conventional computer technology. *See Elec. Power Grp.*, 830 F.3d at 1351. The steps of the claimed “blind matching process” are described and claimed generically rather than with the specificity necessary to show how the steps provide a concrete solution to a technical problem addressed by the claims. That is, the claims at issue do not require any nonconventional computer components, or even a “non-conventional and non-generic arrangement of known, conventional pieces” (*BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016)); rather, they merely call for performance of the claimed “blind matching process” on a set of generic computer components.

For the foregoing reasons, we find claim 13 is directed to a patent-ineligible abstract concept and does not recite something “significantly more” under the second prong of the *Alice* analysis. Accordingly, we sustain the Examiner’s rejection of claim 13, and claims 1–10, 12, and 14–20, which fall with claim 13, under 35 U.S.C. § 101.

Rejections under 35 U.S.C. § 103(a)

Appellant contends the combination of Hunt, Experian, and Woda fails to teach or suggest:

wherein to execute the blind matching process, a syndicated data provider sends, to a neutral data service provider, subscriber profile data including personally identifiable information for each of the households comprising name and address, and cross reference data for each of the households including a set top box identifier for the television marketing channel, a cookie-level identifier for the Internet marketing channel, and a mailing address for the print marketing channel, and

an audience demographic dataset comprised of anonymous subscriber profiles for the households created by matching the names and addresses to household demographic information for the households, wherein the anonymous subscriber profiles in the audience demographic dataset includes, for each household, the cross reference data and the household demographics and does not include the personally identifiable information, and sending the audience demographic dataset to the data platform,

as recited in claim 1. App. Br. 32–34; Reply Br. 15–17. Appellant argues the cited references fail to teach or suggest sending both subscriber profile data including personally identifiable information and an audience demographic dataset comprised of anonymous subscriber profiles for the

households to a neutral data service provider, as required by claim 1. App. Br. 32–33; Reply Br. 16–17.

The Examiner relies on Hunt for teaching the claimed subscriber profile data and audience demographic dataset. Ans. 13–14 (citing Hunt ¶¶ 146, 148, 359, 1627). In particular, the Examiner finds:

Hunt discloses in paragraph 1627 that the data analytic system may be associated with tracking personally identifiable information associated with a household by using a scheduler process which can provide on-demand or published reports relating to groups and users and date and time stamps. Paragraph 359 of Hunt describes Hunt uses timestamps such as for transactions to track particular users. Paragraph 148 of Hunt discloses that analytic data platform 100 may provide shopper insights, consumer tracking, loyalty insights and neighborhood insights.

Ans. 13–14. The Examiner reasons, “the above-referenced sections of Hunt describe that consumption events associated with anonymous subscriber profiles are tracked to iteratively determine values for the variable for a microsegment but still personally identifiable information is sent to a neutral data service provider.” Ans. 14. We disagree.

Hunt describes a data loading facility that may be used to extract data from available data sources. Hunt ¶ 146. Hunt teaches that the data may include “consumer or customer data (e.g. household, individual, demographics, household groupings, etc.)” *Id.* We agree with the Examiner (Ans. 14) that Hunt teaches that the analytic platform may use the data to provide shopper insights, consumer tracking and targeting, loyalty insights and neighborhood insights. Hunt ¶ 148. We also agree with the Examiner (Ans. 14), that Hunt teaches the use of timestamps. Hunt ¶ 359. However, consistent with Appellant’s arguments (App. Br. 32–33; Reply

Br. 16–17), we disagree that Hunt teaches that the timestamps are used to track particular users. Instead, Hunt teaches that “[s]ynchronization 170 may comprise controlling access to a resource” and that “synchronization 170 may be embodied as . . . a totally ordered global timestamp.” Hunt ¶ 359. The Examiner’s findings fail to explain how using a global timestamp to control access to a resource, as taught by Hunt, teaches or suggests “an audience demographic dataset comprised of anonymous subscriber profiles,” as recited in claim 1.

Accordingly, we do not sustain the Examiner’s rejection of claim 1; independent claims 13 and 20, which recite corresponding limitations; and claims 2, 3, 8–10, 12, 14, 17–19, which depend from claims 1 and 13.

Claims 4–7, 15, and 16 stand rejected under 35 U.S.C. § 103(a) based on Hunt, Experian, Wade, and various additional references. *See* Final Act. 23–26. The Examiner does not find that the additional references cures the deficiencies in the rejection of claim 1, discussed above. Accordingly, we also do not sustain the obviousness rejections of claims 4–7, 15, and 16.

We do not reach Appellant’s further allegations of error because we find the issue discussed above to be dispositive as to the rejection of all the pending claims under 35 U.S.C. § 103(a).

CONCLUSION

In summary:

Claims Rejected	Basis	Affirmed	Reversed
1–10 and 12–20	§ 101	1–10 and 12–20	

Claims Rejected	Basis	Affirmed	Reversed
1-3, 8-10, 12-14, 17-20	§ 103(a) Hunt, Experian, Woda		1-3, 8-10, 12-14, 17-20
4-6, 15, 16	§ 103(a) Hunt, Experian, Woda, Kasravi, Gershkoff		4-6, 15, 16
7	§ 103(a) Hunt, Experian, Woda, Fairfield		7
Overall Outcome		1-10 and 12-20	

DECISION

We affirm the Examiner’s rejection of claims 1-10 and 12-20 under 35 U.S.C. § 101.

We reverse the Examiner’s rejections of claims 1-10 and 12-20 under 35 U.S.C. § 103(a).

Since at least one rejection encompassing all claims on appeal is affirmed, the decision of the Examiner is affirmed.

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

AFFIRMED