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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GREGORY BADROS,
RAJAT RAINA,
HONG GE,
DING ZHOU,
NUWAN SENARATNA,
and TUDOR A. ALEXANDRESCU

Appeal 2018-006455
Application 13/095,899
Technology Center 3600

Before ANTON W. FETTING, PHILIP J. HOFFMANN, and
AMEE A. SHAH, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE¹

Gregory Badros, Rajat Raina, Hong Ge, Ding Zhou, Nuwan Senaratna, and Tudor A. Alexandrescu (Appellant²) seeks review under 35 U.S.C. § 134 of a non-final rejection of claims 1–9 and 11–26, the only claims pending in the application on appeal. This is the second time this Application has come before us. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

The Appellant invented a way of providing information items, including advertisements, to users of a social networking system based on the inferred temporal relevance of that information to the users. Specification para. 1.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below (bracketed matter and some paragraphing added).

1. A method comprising:

[1] logging a plurality of actions of a user of a social networking system;

[2] determining a plurality of interests for user based on one or more of the plurality of actions of the user;

¹ Our decision will make reference to the Appellant’s Appeal Brief (“Appeal Br.,” filed March 13, 2018) and Reply Brief (“Reply Br.,” filed June 5, 2018), and the Examiner’s Answer (“Ans.,” mailed April 5, 2018), and Non-Final Action (“Non-Final Act.,” mailed October 4, 2017).

² 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 Facebook, Inc. (Appeal Br. 2).

[3] discounting the plurality of interests based at least in part on an amount of time since the performance of the action from which the plurality of interests were determined;

[4] receiving a plurality of newsfeed stories for display to the user of the social networking system;

[5] determining a plurality of concepts associated with each of a plurality of newsfeed stories;

[6] matching,

by a processor,

the discounted interests for the user with the concepts determined for each of the newsfeed stories;

[7] selecting one or more of the newsfeed stories to display to the user,

the selecting based at least in part on the matching of the discounted interests with the concepts;

[8] generating an updated newsfeed interface comprising the selected newsfeed stories;

and

[9] sending the updated newsfeed interface for display to the user.

Claims 1–9 and 11–26 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

ISSUES

The issues of eligible subject matter turn primarily on whether the claims recite more than abstract conceptual advice of results desired.

FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

Facts Related to Claim Construction

01. The disclosure uses the term “discount” as a verb as an alternative to “weight.” Spec. paras. 4 and 6

Facts Related to Appellant’s Disclosure

02. The only description of an interface in the Specification is “the third party application 204 may interact with the social networking system 200 via a system-provided application programming interface.” Spec. para. 28.

ANALYSIS

Initially we construe the limitations of “discounting the plurality of interests” and “generating an updated newsfeed interface comprising the selected newsfeed stories.” The disclosure uses the term “discount” as a verb as an alternative to “weight.” FF 01. We construe the first limitation as “weighting the data representing the plurality of interests.” The only description of an interface in the Specification is that of a system provided interface. FF 02. None of paragraphs 24, 49, nor 51 Appellant cites (Appeal Br. 3) as support for this limitation describe generating an interface. Thus, the invention does not generate a new interface, but only uses a system provided interface, and it is only in the sense of invocation that the interface is generated. We construe the second limitation as “invoking a system provided interface as a newsfeed interface comprising the selected newsfeed stories.”

STEP 1³

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

STEP 2

The Supreme Court

set forth a framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts. First, . . . determine whether the claims at issue are directed to one of those patent-ineligible concepts. If so, we then ask, “[w]hat else is there in the claims before us? To answer that question, . . . consider the elements of each claim both individually and “as an ordered combination” to determine whether the additional elements “transform the nature of the claim” into a patent-eligible application. [The Court] described step two of this analysis as a search for an “inventive concept”—i.e., 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 Corp., Pty. Ltd. v. CLS Bank Intl, 573 U.S. 208, 217–18 (2014)

(citations omitted) (*citing Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012)). To perform this test, we must first determine what the claims are directed to. This begins by determining whether the claims recite one of the judicial exceptions (a law of nature, a natural phenomenon, or an abstract idea). Then, if claims recite a judicial exception, determining whether the claims at issue are directed to the recited judicial exception, or whether the recited judicial exception is integrated into

³ For continuity of analysis, we adopt the steps nomenclature from *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Revised Guidance”).

a practical application of that exception, i.e., that the claims “apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” Revised Guidance at 54. If the claims are directed to a judicial exception, then finally determining whether the claims provide an inventive concept because the additional elements recited in the claims provide significantly more than the recited judicial exception.

STEP 2A Prong 1

At a high level, and for our preliminary analysis, we note that method claim 1 recites logging user actions, determining and discounting (i.e., weighting) user interests, receiving newsfeeds, determining concepts associated with the newsfeeds, matching user interests and concepts, selecting a newsfeed, generating an interface comprising newsfeeds, and sending the interface for display. Logging data is data reception. Determining, discounting, matching, and selecting are rudimentary forms of data analysis. An interface is just something between other things, so generating an interface comprising newsfeeds is updating a dataset for presentation between a computer and a user, the dataset comprising newsfeeds. To the extent it also invokes a system provided interface, as construed, supra, this is only a conventional generic computer operation (because the interface is system supplied) to apply the instruction. Sending data is data transmission. Thus, claim 1 recites receiving, analyzing, updating, and transmitting data. None of the limitations recites technological implementation details for any of these steps, but instead recites only results desired by any and all possible means.

From this we see that claim 1 does not recite the judicial exceptions of either natural phenomena or laws of nature.

Under Supreme Court precedent, claims directed purely to an abstract idea are patent in-eligible. As set forth in the Revised Guidance, which extracts and synthesizes key concepts identified by the courts, abstract ideas include (1) mathematical concepts⁴, (2) certain methods of organizing human activity⁵, and (3) mental processes⁶. Among those certain methods of organizing human activity listed in the Revised Guidance are managing personal behavior or relationships or interactions between people. Like those concepts, claim 1 recites the concept of sending news to other people. Specifically, claim 1 recites operations that would ordinarily take place in advising one to send news selected by matching concepts to weighted user interests to other people. The advice to send news selected by matching concepts to weighted user interests to other people involves sending news to other people, which is a social act, and collecting such news, which is an act ordinarily performed in the stream of interactions among people. For example, claim 1 recites “sending the updated newsfeed interface for

⁴ See, e.g., *Gottschalk v. Benson*, 409 U.S. 63, 71–72 (1972); *Bilski v. Kappos*, 561 U.S. 593, 611 (2010); *Mackay Radio & Telegraph Co. v. Radio Corp. of Am.*, 306 U.S. 86, 94 (1939); *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1163 (Fed. Cir. 2018).

⁵ See, e.g., *Bilski*, 561 U.S. at 628; *Alice*, 573 U.S. at 219–20; *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014); *Smart Sys. Innovations, LLC v. Chicago Transit Auth.*, 873 F.3d 1364, 1383 (Fed. Cir. 2017); *In re Marco Guldenaar Holding B.V.*, 911 F.3d 1157, 1160–61 (Fed. Cir. 2018).

⁶ See, e.g., *Benson*, 409 U.S. at 67; *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1371–72 (Fed. Cir. 2011); *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016).

display,” which is an activity that would take place whenever one is sending news to another person. Similarly, claim 1 recites “selecting one or more of the newsfeed stories to display to the user” which is also characteristic of preparing for social interaction.

The Examiner determines the claims to be directed to sending and receiving data to select and send targeted information. Non-Final Act. 3.

The preamble to claim 1 does not recite what it is to achieve, but the steps in claim 1 result in sending an updated newsfeed formatted for some interface absent any technological mechanism other than a conventional computer for doing so.

As to the specific limitations, limitations 1 and 4 recite data reception. Limitations 8 and 9 recite insignificant updating and transmitting of newsfeed data, which advise one to apply generic functions to get to these results. Limitations 2, 3, and 5–7 recite generic data analysis, such as determining, weighting, matching and selecting data, absent any technological implementation details. The limitations thus recite advice for sending news selected by matching concepts to weighted user interests to other people. To advocate sending news selected by matching concepts to weighted user interests to other people is conceptual advice for results desired and not technological operations.

The Specification at paragraph 1 describes the invention as relating to providing information items, including advertisements, to users of a social networking system based on the inferred temporal relevance of that information to the users. Thus, all this intrinsic evidence shows that claim 1 recites sending newsfeed stories to other users, i.e., sending news to other people. This is consistent with the Examiner’s determination.

This in turn is an example of managing personal behavior or relationships or interactions between people as a certain method of organizing human activity because sending news to other people is a way of managing interaction between people. The concept of sending news to other people by sending news selected by matching concepts to weighted user interests to other people is one idea for how to send news. The steps recited in claim 1 are part of how this might conceptually be premised.

Our reviewing court has found claims to be directed to abstract ideas when they recited similar subject matter. *Affinity Labs of Texas, LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1271 (2016) (Tailoring content); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1369 (2015) (Tailoring content).

From this we conclude that at least to this degree, claim 1 recites sending news to other people by sending news selected by matching concepts to weighted user interests to other people, which is a way of managing personal behavior or relationships or interactions between people, one of certain methods of organizing human activity identified in the Revised Guidance, and, thus, an abstract idea.

STEP 2A Prong 2

The next issue is whether claim 1 not only recites, but is more precisely directed to this concept itself or whether it is instead directed to some technological implementation or application of, or improvement to, this concept, i.e., integrated into a practical application.⁷

⁷ See, e.g., *Alice*, 573 U.S. at 223, discussing *Diamond v. Diehr*, 450 U.S. 175 (1981).

At the same time, we tread carefully in construing this exclusionary principle lest it swallow all of patent law. At some level, “all inventions ... embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” Thus, an invention is not rendered ineligible for patent simply because it involves an abstract concept. “[A]pplication[s]” of such concepts “ ‘to a new and useful end,’ ” we have said, remain eligible for patent protection. Accordingly, in applying the § 101 exception, we must distinguish between patents that claim the “ ‘buildin[g] block[s]’ ” of human ingenuity and those that integrate the building blocks into something more.

Alice, 573 U.S. at 217 (citations omitted).

Taking the claim elements separately, the operation performed by the computer at each step of the process is expressed purely in terms of results, devoid of implementation details. Steps 1 and 4 are pure data gathering steps. Limitations describing the nature of the data do not alter this. Steps 8 and 9 are insignificant post solution activity, such as storing, transmitting, or displaying the results. Steps 2, 3, and 5–7 recite generic computer processing expressed in terms of results desired by any and all possible means and so present no more than conceptual advice. All purported inventive aspects reside in how the data is interpreted and the results desired, and not in how the process physically enforces such a data interpretation or in how the processing technologically achieves those results.

Viewed as a whole, the Appellant’s claim 1 simply recites the concept of sending news to other people by sending news selected by matching concepts to weighted user interests to other people as performed by a generic computer. This is no more than conceptual advice on the parameters for this concept and the generic computer processes necessary to process those parameters, and does not recite any particular implementation.

Claim 1 does not, for example, purport to improve the functioning of the computer itself. Nor does it effect an improvement in any other technology or technical field. The 20 pages of specification spell out different generic equipment⁸ and parameters that might be applied using this concept and the particular steps such conventional processing would entail based on the concept of sending news to other people by sending news selected by matching concepts to weighted user interests to other people under different scenarios. They do not describe any particular improvement in the manner a computer functions. Instead, claim 1 at issue amounts to nothing significantly more than an instruction to apply sending news to other people by sending news selected by matching concepts to weighted user interests to other people using some unspecified, generic computer. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice*, 573 U.S. at 225–26.

None of the limitations reflects an improvement in the functioning of a computer, or an improvement to other technology or technical field, applies or uses a judicial exception to effect a particular treatment or prophylaxis for a disease or medical condition, implements a judicial exception with, or uses a judicial exception in conjunction with, a particular machine or manufacture that is integral to the claim, effects a transformation or reduction of a particular article to a different state or thing, or applies or uses the judicial exception in some other meaningful way beyond generally linking the use of the judicial exception to a particular technological

⁸ The Specification describes personal computer or a mobile phone. Spec. para. 27.

environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception.

We conclude that claim 1 is directed to achieving the result of sending news to other people by advising one to send news selected by matching concepts to weighted user interests to other people, as distinguished from a technological improvement for achieving or applying that result. This amounts to managing personal behavior or relationships or interactions between people, which fall within certain methods of organizing human activity that constitute abstract ideas. The claim does not integrate the judicial exception into a practical application.

STEP 2B

The next issue is whether claim 1 provides an inventive concept because the additional elements recited in the claim provide significantly more than the recited judicial exception.

The introduction of a computer into the claims does not generally alter the analysis at *Mayo* step two.

[T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. Stating an abstract idea “while adding the words ‘apply it’” is not enough for patent eligibility. Nor is limiting the use of an abstract idea “to a particular technological environment.” Stating an abstract idea while adding the words “apply it with a computer” simply combines those two steps, with the same deficient result. Thus, if a patent’s recitation of a computer amounts to a mere instruction to “implement[t]” an abstract idea “on . . . a computer,” that addition cannot impart patent eligibility. This conclusion accords with the preemption concern that undergirds our § 101 jurisprudence. Given the ubiquity of computers, wholly generic computer implementation is not generally the sort of “additional feature[e]” that provides any “practical assurance that the

process is more than a drafting effort designed to monopolize the [abstract idea] itself.”

Alice, 573 U.S. at 223–24 (citations omitted).

“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea [] on a generic computer.” *Alice*, 573 U.S. at 225. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer for receiving, analyzing, updating, and transmitting data amounts to electronic data query and retrieval—one of the most basic functions of a computer. All of these computer functions are generic, routine, conventional computer activities that are performed only for their conventional uses. *See Elec. Power Grp. v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). Also *see In re Katz Interactive Call Processing Patent Litigation*, 639 F.3d 1303, 1316 (Fed. Cir. 2011) (“Absent a possible narrower construction of the terms ‘processing,’ ‘receiving,’ and ‘storing,’ . . . those functions can be achieved by any general purpose computer without special programming”). None of these activities is used in some unconventional manner nor does any produce some unexpected result. The Appellant does not contend they invented any of these activities. In short, each step does no more than require a generic computer to perform generic computer functions. As to the data operated upon, “even if a process of collecting and analyzing information is ‘limited to particular content’ or a particular ‘source,’ that limitation does not make the collection and analysis other than abstract.” *SAP America, Inc. v. InvestPic LLC*, 898 F.3d 1161, 1168 (Fed. Cir. 2018).

Considered as an ordered combination, the computer components of the Appellant’s claim 1 add nothing that is not already present when the

steps are considered separately. The sequence of data reception-analysis-update-transmission is equally generic and conventional. See *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction), *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (sequence of data retrieval, analysis, modification, generation, display, and transmission), *Two-Way Media Ltd. v. Comcast Cable Communications, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) (sequence of processing, routing, controlling, and monitoring). The ordering of the steps is therefore ordinary and conventional.

We conclude that claim 1 does not provide an inventive concept because the additional elements recited in the claim do not provide significantly more than the recited judicial exception.

REMAINING CLAIMS

Claim 1 is representative. The other independent method claim 23 is substantially similar at least as regards this analysis. The remaining method claims merely describe process parameters. We conclude that the method claims at issue are directed to a patent-ineligible concept itself, and not to the practical application of that concept.

As to the structural claims, they are no different from the method claims in substance. The method claims recite the abstract idea implemented on a generic computer; the system claims recite a handful of generic computer components configured to implement the same idea. This Court has long “warn[ed] ... against” interpreting § 101 “in ways that make patent eligibility ‘depend simply on the draftsman’s art.’”

Alice, 573 U.S. at 226. As a corollary, the claims are not directed to any particular machine.

LEGAL CONCLUSION

From these determinations we further determine that the claims do not recite an improvement to the functioning of the computer itself or to any other technology or technical field, a particular machine, a particular transformation, or other meaningful limitations. From this we conclude the claims are directed to the judicial exception of the abstract idea of certain methods of organizing human activity as exemplified by the managing personal behavior or relationships or interactions between people of sending news to other people by sending news selected by matching concepts to weighted user interests to other people, without significantly more.

APPELLANT'S ARGUMENTS

We are not persuaded by the Appellant's argument that

Independent claims 1, 14, and 23 are directed to "select[ing] information for display to the user based on the inferred temporal relevance of that information to the user." See Specification, [0004]. This solves the problem stated in the Specification of "a user's actual current interests may change over time much more quickly compared to the information used to select the relevant information items to display." Specification, [0003]. In particular, the claims recite such "information" displayed to the user as "newsfeed stories" (claims 1, 14) displayed in a "newsfeed interface" (claims 1, 14, and 23). The specification defines a "newsfeed story" as story that is an update about an action of a user's connection. See Specification, [0002].

App. Br. 9. This argument is instead consistent with our determination *supra* that the claims are directed to achieving the result of sending news to other people by advising one to send news selected by matching concepts to

weighted user interests to other people, as distinguished from a technological improvement for achieving or applying that result. This amounts to managing personal behavior or relationships or interactions between people, which fall within certain methods of organizing human activity that constitute abstract ideas.

We are not persuaded by the Appellant’s argument that

The claimed invention is not “a method of organizing human activities.” According to Guidelines issued by the USPTO on July 30, 2015 (“July Update”), certain methods of organizing human activity “describes concepts relating to interpersonal and intrapersonal activities . . .” See July Update, p. 4. Here, the claims are not directed to organizing activities between two or more people (interpersonal). The claimed invention receives input from a user but does not seek to organize the activity of that individual (intrapersonal). In fact, the claims describe a method for generating a user interface comprising selected time-relevant newsfeed stories. Thus, the claims are not correctly classified as involving certain methods of organizing human activities.

App. Br. 11–12. The analysis *supra* supports our determination that the claims are directed to a method of organizing human activities. Sending news between people is as old as the concept of gossip. The Appellant argues no more than that a computer process used to assist in sending news isolates receiver from sender. This does not negate the overall intent and effect to send new between people, and more importantly fails to show a technological application or implementation.

The Appellant also attempts to analogize the claims to those involved in *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299 (Fed. Cir. 2016). Appeal Br. 12. In *McRO*, the court held that, although the processes were previously performed by humans, “the traditional process

and newly claimed method . . . produced . . . results in fundamentally different ways.” *FairWarning v. Iatric Systems*, 839 F.3d 1089, 1094 (Fed. Cir. 2016) (differentiating the claims at issue from those in *McRO*). In *McRO*, “it was the incorporation of the claimed rules not the use of the computer, that improved the existing technology process,” because the prior process performed by humans “was driven by subjective determinations rather than specific, limited mathematical rules.” 837 F.3d at 1314 (internal quotation marks, citation, and alterations omitted). In contrast, the claims of the instant application merely implement an old practice of using decision criteria in making content decisions in a new environment. The Appellant has not argued that the claimed processes of selecting content apply rules of selection in a manner technologically different from those which humans used, albeit with less efficiency, before the invention was claimed. Merely pigeon-holing the objects of decision making to aid decision making is both old and itself abstract.

The claims in *McRO* were not directed to “a specific asserted improvement in computer animation, i.e., the automatic use of rules of a particular type.” We explained that “the claimed improvement [was] allowing computers to produce ‘accurate and realistic lip synchronization and facial expressions in animated characters’ that previously could only be produced by human animators.” The claimed rules in *McRO* transformed a traditionally subjective process performed by human artists into a mathematically automated process executed on computers.

FairWarning, 839 F.3d at 1094.

We are not persuaded by the Appellant’s argument that the claims contain an inventive concept that is also found in the specific ordered combination of the limitations, similar to the Federal Circuit’s findings in *BASCOM (BASCOM Global Internet v. AT&T Mobility LLC)*, 827 F.3d 1341

(Fed. Cir. 2016)). Appeal Br. 13. Initially, we remind the Appellant that *BASCOM* did not find claims eligible on the substance, but rather that the Appellees did not provide sufficient evidence to support a 12(b)(6) motion to dismiss in which facts are presumed in the non-movant's favor.

The key fact in *BASCOM* was the presence of a structural change in “installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user. This design gives the filtering tool both the benefits of a filter on a local computer and the benefits of a filter on the ISP server.” *BASCOM*, 827 F.3d at 1350. The instant claims have no analogous structural benefit.

We are not persuaded by the Appellant's argument that “a genuine issue of material fact exists because the claims include limitations that incorporate the stated improvement to computer functionality described in the specification.” App. Br. 14. As we determined *supra*, using a computer for receiving, analyzing, updating, and transmitting data amounts to electronic data query and retrieval—one of the most basic functions of a computer. All of these computer functions are generic, routine, conventional computer activities that are performed only for their conventional uses. Data content does not make the collection and analysis other than abstract. The sequence of data reception-analysis-update-transmission is equally generic and conventional.

We are not persuaded by the Appellant's argument that “the claims have been found to be patentably distinguishable over the art.” “A claim for a new abstract idea is still an abstract idea. The search for a § 101 inventive concept is thus distinct from demonstrating § 102 novelty.” *Synopsys, Inc. v. Mentor Graphics Corporation*, 839 F.3d 1138, 1151 (Fed. Cir. 2016).

As to separately argued claim 23, the Appellant does no more than recite the additional elements. Reply Br. 4. This is insufficient to act as a separate argument under 37 C.F.R. § 41.37. As our reviewing court held, “we hold that the Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art.” *In re Lovin*, 652 F.3d 1349, 1357 (Fed Cir 2011).

CONCLUSIONS OF LAW

The rejection of claims 1–9 and 11–26 under 35 U.S.C. § 101 as directed to a judicial exception without significantly more is proper.

CONCLUSION

The rejection of claims 1–9 and 11–26 is affirmed.

In summary:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1–9, 11–26	101	Eligibility	1–9, 11–26	

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED