UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/829,442	07/02/2010	Robert HOLLENSHEAD	26454-0429	8544

101373 7590 08/19/2020

Eversheds Sutherland (US) LLP / CEI
999 Peachtree Street
Suite 2300
Atlanta, GA 30309

EXAMINER	
RUHL, DENNIS WILLIAM	

ART UNIT	PAPER NUMBER
3687	

NOTIFICATION DATE	DELIVERY MODE
08/19/2020	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

CoxCommPatents@eversheds-sutherland.us
CoxEnterprisesPatents@eversheds-sutherland.us
patentdocket@eversheds-sutherland.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ROBERT HOLLENSHEAD and THEODORE REIMEL

Appeal 2018-006687
Application 12/829,442
Technology Center 3600

Before MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and NINA L. MEDLOCK, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant[1] appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 9, 21, 34, 40, and 43–67. An oral hearing in this appeal was held on July 1, 2020. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

---

[1] We use the term "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Our decision references Appellant's Appeal Brief ("Appeal Br.," filed February 12, 2018) and Reply Brief ("Reply Br.," filed June 17, 2018), and the Examiner's Answer ("Ans.," mailed April 17, 2018), and Final Office Action ("Final Act.," mailed November 1, 2017). Appellant identifies Autotrader.com, Inc. as the real party in interest (Appeal Br. 2).

CLAIMED INVENTION

The claimed invention "relate[s] to vehicle appraisal systems" (Spec. ¶ 1).

Claims 9, 21, 34, 40, 63, and 64 are the independent claims on appeal. Claim 9, reproduced below with bracketed notations added, is illustrative of the claimed subject matter:

> 9. A method for generating a guaranteed offer price for a particular vehicle by an appraiser computer, wherein the appraiser computer is communicatively linked to a user computer, a dealership computer, and a database of market values for vehicle types, the method comprising:
>
> [(a)] selecting, by the appraiser computer, a price adjustment category for the particular vehicle from a set of adjustment categories stored in a data storage device based on vehicle type information received from the user computer, wherein the price adjustment category selected by the appraiser computer defines a depreciation curve of a vehicle type;
>
> [(b)] modifying, by the appraiser computer, a market value of a vehicle type retrieved from the database based on an amount corresponding to the selected price adjustment category;
>
> [(c)] determining, by the appraiser computer, a base value for the particular vehicle using the modified market value;
>
> [(d)] determining, by the appraiser computer, a modifier value based on vehicle information received from the user computer, wherein the modifier value is limited to a threshold value;
>
> [(e)] determining, by the appraiser computer, a guaranteed offer price for the vehicle using the base value and the modifier value;
>
> [(f)] generating, by the appraiser computer, an offer certificate indicating the guaranteed offer price for the particular vehicle, wherein the offer certificate is a binding agreement between an appraiser and a dealer such that the guaranteed offer price represents an amount the appraiser is obligated to pay the dealer for the particular vehicle after the dealer has purchased the particular vehicle from a user based on the offer certificate;

> [(g)] transmitting, by the appraiser computer, the offer certificate to the user computer; and
>
> [(h)] configuring the appraiser computer to receive a request for payment from the dealership computer after the dealer has purchased the vehicle from the user at the guaranteed price indicated on the offer certificate, wherein in response to the request for payment, the appraiser will purchase the vehicle from the dealer at the guaranteed price.

REJECTION

Claims 9, 21, 34, 40, and 43–67 are rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

ANALYSIS

Appellant argues the pending claims as a group (Appeal Br. 8–21). We select independent claim 9 as representative. The remaining claims stand or fall with claim 9. *See* 37 C.F.R. §41.37(c)(1)(iv).

Under 35 U.S.C. § 101, an invention is patent eligible if it claims a "new and useful process, machine, manufacture, or composition of matter." 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: "[l]aws of nature, natural phenomena, and abstract ideas" are not patentable. *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 216 (2014).

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012), "for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts." *Alice Corp.*, 573 U.S. at 217. The first step in that analysis is to "determine whether the claims at issue are

directed to one of those patent-ineligible concepts." *Id.* If the claims are not directed to a patent-ineligible concept, e.g., an abstract idea, the inquiry ends. Otherwise, the inquiry proceeds to the second step where the elements of the claims are considered "individually and 'as an ordered combination'" to determine whether there are additional elements that "'transform the nature of the claim' into a patent-eligible application." *Id.* (quoting *Mayo*, 566 U.S. at 79, 78). This is "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.'" *Id.* at 217–18 (citation omitted) (alteration in original).

In rejecting the pending claims under 35 U.S.C. § 101, the Examiner determined that the claims are directed to "*generating a guaranteed offer price for a vehicle and entering into a contractual relationship (a binding agreement) for the sale and purchase of the vehicle*," i.e., to a concept similar to other concepts that courts have held abstract (Final Act. 3–9). The Examiner also determined that the claims do not include additional elements sufficient to amount to significantly more than the abstract idea itself (*id.* at 10–11).

After Appellant's briefs were filed, and the Examiner's Answer mailed, the U.S. Patent and Trademark Office (the "USPTO") published revised guidance for use by USPTO personnel in evaluating subject matter eligibility under 35 U.S.C. § 101. 2019 REVISED PATENT SUBJECT MATTER ELIGIBILITY GUIDANCE, 84 Fed. Reg. 50, 57 (Jan. 7, 2019) (the "2019 Revised Guidance"). That guidance revised the USPTO's examination procedure with respect to the first step of the *Mayo*/*Alice* framework by

(1) "[p]roviding groupings of subject matter that [are] considered an abstract idea"; and (2) clarifying that a claim is not "directed to" a judicial exception if the judicial exception is integrated into a practical application of that exception. *Id.* at 50. The 2019 Revised Guidance, by its terms, applies to all applications, and to all patents resulting from applications, filed before, on, or after January 7, 2019. *Id.*[2,3]

Step One of the Mayo/Alice Framework (*2019 Revised Guidance*, *Step 2A*)

The first step in the *Mayo*/*Alice* framework, as mentioned above, is to determine whether the claims at issue are "directed to" a patent-ineligible concept, e.g., an abstract idea. *Alice Corp.*, 573 U.S. at 217. This first step, as set forth in the 2019 Revised Guidance (i.e., Step 2A), is a two-prong test; in Step 2A, Prong One, we look to whether the claim recites a judicial exception, e.g., one of the following three groupings of abstract ideas: (1) mathematical concepts; (2) certain methods of organizing human activity, e.g., fundamental economic principles or practices, commercial or legal interactions; and (3) mental processes. 2019 Revised Guidance,

---

[2] The 2019 Revised Guidance supersedes MANUAL OF PATENT EXAMINING PROCEDURE ("MPEP") § 2106.04(II) and also supersedes all versions of the USPTO's "Eligibility Quick Reference Sheet Identifying Abstract Ideas." *See* 2019 Revised Guidance, 84 Fed. Reg. at 51 ("Eligibility-related guidance issued prior to the Ninth Edition, R-08.2017, of the MPEP (published Jan. 2018) should not be relied upon."). Accordingly, Appellant's arguments challenging the sufficiency of the Examiner's rejection will not be addressed to the extent those arguments are based on now superseded USPTO guidance.

[3] The USPTO issued an update on October 17, 2019 (the "October 2019 Update: Subject Matter Eligibility," available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf) clarifying the 2019 Revised Guidance in response to comments received from the public.

84 Fed. Reg. at 54. If so, we next consider whether the claim includes additional elements, beyond the judicial exception, that "integrate the [judicial] exception into a practical application," i.e., that 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 ("Step 2A, Prong Two"). *Id.* at 54–55. Only if the claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application do we conclude that the claim is "directed to" the judicial exception, e.g., an abstract idea. *Id.*

As an initial matter, we are not persuaded of Examiner error to the extent Appellant maintains that the § 101 rejection cannot be sustained because the Examiner has not addressed the patent eligibility of each of the dependent claims separately (Appeal Br. 9–10). There is no dispute that examiners are to evaluate the patent eligibility of each claim individually. But, consideration of each claim individually does not require a separate written analysis for each individual claim. Moreover, we agree with the Examiner that the dependent claims are directed to the same abstract idea as the independent claims, albeit at differing levels of specificity (Final Act. 11). *Cf. Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.*, 776 F.3d 1343, 1348 (Fed. Cir. 2014) (explaining that when all claims are directed to the same abstract idea, "addressing each claim of the asserted patents [is] unnecessary.").

We also are not persuaded by Appellant's argument that the Examiner erred in determining that claim 9 is directed to an abstract idea (Appeal Br. 10–17). The Federal Circuit has explained that "the 'directed to' inquiry applies a stage-one filter to claims, considered in light of the specification,

based on whether 'their character as a whole is directed to excluded subject matter.'" *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). It asks whether the focus of the claims is on a specific improvement in relevant technology or on a process that itself qualifies as an "abstract idea" for which computers are invoked merely as a tool. *See id.* at 1335–36. Here, it is clear from the Specification (including the claim language) that claim 9 focuses on an abstract idea, and not on any improvement to technology and/or a technical field.

The Specification is titled "METHOD AND SYSTEM FOR PROVIDING A GUARANTEED OFFER PRICE FOR A VEHICLE," and describes, in the Background section, that Internet vehicle appraisal services evaluate a user's vehicle and provide an estimated value (Spec. ¶ 2). This estimated value is calculated by first determining an initial value based on information regarding the type of vehicle, including its make, model and year, and then modifying the initial value based on the vehicle's mileage, options (e.g., color, transmission), general condition (e.g., poor, fair, good), and location (*id.*). The Specification describes that "[t]he estimated value represents the price a seller might receive from a buyer in a sale of any vehicle possessing substantially the same characteristics as those provided by the user" (*id.* ¶ 3). However, this estimated value "could correspond to thousands of different vehicles and, as such, does not represent the actual value of the user's particular vehicle" (*id.*)

The claimed invention is intended to address this shortcoming by providing methods and systems that determine a guaranteed offer price that an appraiser will pay a dealer for a user's *specific* vehicle (Spec. ¶ 6).

Claim 9, thus, recites a method for generating a guaranteed offer price for a particular vehicle by an appraiser computer comprising: (1) selecting a price adjustment category for the vehicle based on vehicle description information received from a user computer, i.e.,

> selecting, by the appraiser computer, a price adjustment category for the particular vehicle from a set of adjustment categories stored in a data storage device based on vehicle type information received from the user computer, wherein the price adjustment category selected by the appraiser computer defines a depreciation curve of a vehicle type

(step (a)); (2) determining a base value for the vehicle by modifying the market value of the vehicle type based on the selected price adjustment category, i.e., "modifying, by the appraiser computer, a market value of a vehicle type retrieved from the database based on an amount corresponding to the selected price adjustment category" and "determining, by the appraiser computer, a base value for the particular vehicle using the modified market value" (steps (b) and (c)); (3) determining modifier values based on vehicle information received from the user computer, and combining the base value and modifier values to arrive at a guaranteed offer price for the vehicle, i.e., "determining, by the appraiser computer, a modifier value based on vehicle information received from the user computer, wherein the modifier value is limited to a threshold value" and "determining, by the appraiser computer, a guaranteed offer price for the vehicle using the base value and the modifier value" (steps (d) and (e)); (4) generating a binding agreement between an appraiser and a dealer whereby the appraiser agrees to pay the dealer the guaranteed offer price for the user's vehicle, i.e.,

> generating, by the appraiser computer, an offer certificate indicating the guaranteed offer price for the particular vehicle, wherein the offer certificate is a binding agreement between an

> appraiser and a dealer such that the guaranteed offer price represents an amount the appraiser is obligated to pay the dealer for the particular vehicle after the dealer has purchased the particular vehicle from a user based on the offer certificate

(step (f)); (5) "transmitting, by the appraiser computer, the offer certificate to the user computer" (step (g)); and (6) purchasing the vehicle from the dealer at the guaranteed price after the dealer has purchased the vehicle from the user, i.e.,

> configuring the appraiser computer to receive a request for payment from the dealership computer after the dealer has purchased the vehicle from the user at the guaranteed price indicated on the offer certificate, wherein in response to the request for payment, the appraiser will purchase the vehicle from the dealer at the guaranteed price

(step (h)). We agree with the Examiner that these limitations, when given their broadest reasonable interpretation, recite "generating a guaranteed offer price for a vehicle and entering into a contractual relationship (a binding agreement) for the sale and purchase of the vehicle," i.e., a fundamental economic practice, which is one of certain methods of organizing human activity that are judicial exceptions and, therefore, an abstract idea. *See* 2019 Revised Guidance, 84 Fed. Reg. at 52. *See also, e.g.*, *buySAFE, Inc. v. Google, Inc.,* 765 F.3d 1350 (Fed. Cir. 2014) (holding that creating a contractual relationship is a patent-ineligible abstract idea).

Having concluded that claim 9 recites a judicial exception, i.e., an abstract idea (Step 2A, Prong One), we next consider whether the claim recites additional elements that integrate the judicial exception into a practical application (Step 2A, Prong Two).

The only additional elements recited in claim 9, beyond the abstract idea, are "an appraiser computer"; "a user computer"; "a dealership

computer"; "a data storage device"; and "a database of market values for vehicle types" — elements that, as the Examiner observed, are generic computer components (Final Act. 10–11), and disclosed as such in the written disclosure (*see, e.g.*, Spec. ¶¶ 11, 28–30). We find no indication in the Specification that the operations recited in claim 9 require any specialized computer hardware or other inventive computer components, i.e., a particular machine, invoke any allegedly inventive programming, or that the claimed invention is implemented using other than generic computer components to perform generic computer functions. *See DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) ("[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.").

We also find no indication in the Specification that the claimed invention effects a transformation or reduction of a particular article to a different state or thing. Nor do we find anything of record, short of attorney argument, that attributes an improvement in technology and/or a technical field to the claimed invention or that otherwise indicates that the claimed invention integrates the abstract idea into a "practical application," as that phrase is used in the 2019 Revised Guidance.[4]

[4] The 2019 Revised Guidance references MPEP § 2106.05(a)–(c) and (e) in describing the considerations that are indicative that an additional element or combination of elements integrates the judicial exception, e.g., the abstract idea, into a practical application. 2019 Revised Guidance, 84 Fed. Reg. at 55. If the recited judicial exception is integrated into a practical application, as determined under one or more of these MPEP sections, the claim is not "directed to" the judicial exception.

Citing *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253 (Fed. Cir. 2017), *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299 Fed. Cir. 2016), *Enfish*, and *Trading Technologies International v. CQG Inc.*, 675 F. App'x 1001 (Fed. Cir. 2017), Appellant variously argues that, rather than being directed to an abstract idea, the pending claims are directed to a patent-eligible improvement (Appeal Br. 10–17). Yet, we can find no parallel between claim 9 and the patent-eligible claims at issue in any of *Visual Memory*, *McRO*, *Enfish*, and *Trading Technologies.*

In *Enfish*, the Federal Circuit held that claims reciting a self-referential table for a computer database were not directed to an abstract idea under step one of the *Mayo*/*Alice* framework, and were patent eligible, because the claims were directed to an improvement in computer functionality. *Enfish*, 822 F.3d at 1336. The specification described the benefits of using a self-referential table – faster searching and more effective data storage – and highlighted the differences between the claimed self-referential table and a conventional database structure. *Id.* at 1333, 1337. The Federal Circuit, thus, rejected the district court's characterization of the claims as directed to the abstract idea of "storing, organizing, and retrieving memory in a logical table," *id.* at 1337, emphasizing that the key question is whether the focus of the claims is on the specific asserted improvement in computer capabilities or, instead, on a process that qualifies as an abstract idea for which computers are invoked merely as a tool. *Id.* at 1335–36.

Similarly, in *Virtual Memory*, where the claims recited a computer memory system connectable to a processor and having one or more programmable operational characteristics, the Federal Circuit determined that, "as with *Enfish's* self-referential table," Visual Memory's claims "are

directed to a technological improvement: an enhanced computer memory system"; the court noted that the claims "focus on a 'specific asserted improvement in computer capabilities' — the use of programmable operational characteristics that are configurable based on the type of processor — instead of 'on a process that qualifies as an 'abstract idea' for which computers are invoked merely as a tool" and like the patents at issue in *Enfish*, "the specification discusses the advantages offered by the technological improvement." *Visual Memory*, 867 F.3d at 1259–60. As such, the Federal Circuit concluded that Visual Memory's claims, like Enfish's, are directed to an improvement in the functioning of a computer, and, therefore, not directed to an "abstract idea" under step one of the *Mayo*/*Alice* framework *Id.* at 1262.

Appellant argues that "[l]ike the claims in *Visual Memory*, the present claims are patent-eligible because they . . . solve a technical problem with a technical solution" (Appeal Br. 11). Appellant describes the "technical problem" as "determining a consistent vehicle value at a central computer system that can be propagated to other computers without having to re-perform calculations," and asserts that "[t]o solve this problem, the claims recite specific and concrete operations" *(id.* (citing Spec. ¶¶ 3, 13, 16, 19, 20, 22, 25, 57)).

Appellant takes a substantially similar position with respect to *Enfish* (Appeal Br. 16 (arguing that "[l]ike the claims in *Enfish*, the present claims are directed towards an improvement of an existing technology — that of providing consistent and accurate vehicle values at a central appraiser computer that can be propagated across multiple dealership computers without requiring dealership computers to individually determine vehicle

values")). But, unlike the claims in *Visual Memory* and *Enfish*, Appellant does not identify, and we do not find, any element or combination of elements recited in claim 9 that yields an improvement in the functioning of a computer. The alleged improvement that Appellant touts, i.e., providing consistent and accurate vehicle values, does not concern an improvement to computer capabilities, but instead relates to an alleged improvement in assessing vehicle values — a process in which a computer is used as a tool in its ordinary capacity.

We also are not persuaded that there is any parallel between claim 9 and the claims at issue in *McRO*. Appellant asserts that the Federal Circuit "found that the claims in *McRO* were limited to rules with specific characteristics, and that the specific, claimed features of the rules allowed for the improvement realized by the invention" (Appeal Br. 13).

Appellant ostensibly maintains that claim 9, like the claim in *McRO*, is not directed to an abstract idea because the improvement realized by the claimed invention (i.e., determining a vehicle value) is allowed for "through a **specific sequence of events**" (*id.* at 13–14; *see also id.* at 15 ("The claimed components are employed to perform the distinct claimed process, **which uses a combined order of specific rules and determinations that are then used and applied to create desired results**.")). Yet, the Federal Circuit did not premise its determination that the claim in *McRO* was patent eligible merely on the specificity of the claimed animation scheme. Instead, the court determined that the claim there at issue was patent eligible because, when considered as a whole, the claim was directed to a technological improvement over existing, manual 3-D animation techniques and used limited rules in a process specifically designed to achieve an improved

technological result in conventional industry practice. *See McRO*, 837 F.3d at 1316. In particular, 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. *Id.* at 1313.

Generating a guaranteed offer price for a particular vehicle in accordance with a set of rules, may well improve a business process, i.e., vehicle appraisals. But we are not persuaded that it achieves an improved technological result analogous to that obtained in *McRO*.

Appellant's reliance on *Trading Technologies* is similarly unavailing. In *Trading Technologies*, the Federal Circuit affirmed the district court's holding that the patented claims (which recited a method and system for displaying market information on a graphical user interface) were not directed to an abstract idea because the district court found, and the Federal Circuit agreed, that the challenged patents were "directed to improvements in existing graphical user interface devices that have no 'pre-electronic trading analog,'" and did not simply claim displaying information on a graphical user interface; instead, the claims required "a specific, structured graphical user interface paired with a prescribed functionality directly related to the graphical user interface's structure that is addressed to and resolves a specifically identified problem in the prior state of the art." *Id.* at 1004.[5] The Federal Circuit, thus, concluded that "the claimed subject

[5] Specifically, the district court found that with prior art GUIs, the best bid and best ask prices changed based on updates received from the market; therefore, there was a risk with these GUIs that a trader would miss her intended price as a result of prices changing from under her pointer at the time she clicked on the price cell on the GUI. The patents-in-suit provided a

matter is 'directed to a specific improvement to the way computers operate,' . . . for the claimed graphical user interface method imparts a specific functionality to a trading system 'directed to a specific implementation of a solution to a problem in the software arts.'" *Id.* at 1006 (citations omitted).

Appellant asserts here that, like the claims and patents at issue in *Trading Technologies*, "the present claims and patent application solve a problem specific to vehicle valuation consistency for which there is no manual [i.e., "pre-electronic"] analog, and result in increased accuracy and computing efficiency by performing the calculations at a central computer" (Appeal Br. 16–17). But, unlike the situation in *Trading Technologies*, Appellant does not identify any problem with prior user interfaces or prior art computers that the claimed invention was specifically designed to resolve. Nor, is there any indication of record that the claimed invention improves the way computers operate.

Even assuming, without deciding, that the claimed invention has no pre-electronic analog, and can determine the value of a particular vehicle faster than doing so manually, any speed increase comes from the capabilities of the generic computer components — not the recited process itself. *See FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1095 (Fed. Cir. 2016) (citing *Bancorp Servs., L.L.C v. Sun Life Assurance Co.*, 687 F.3d 1266, 1278 (Fed. Cir. 2012) ("[T]he fact that the required calculations could be performed more efficiently via a computer does not

---

system and method whereby traders could place orders at a particular, identified price level, not necessarily the highest bid or the lowest ask price by keeping the prices static in position, and allowing the quantities at each price to change. *Trading Techs. Int'l, Inc. v. CQG, Inc.*, No. 05-cv-4811, 2015 WL 774655 *4 (N.D. Ill. Feb. 24, 2015).

materially alter the patent eligibility of the claimed subject matter.")); *see also Intellectual Ventures I LLC v. Erie Indemnity Co.*, 711 F. App'x 1012, 1017 (Fed. Cir. 2017) ("Though the claims purport to accelerate the process of finding errant files and to reduce error, we have held that speed and accuracy increases stemming from the ordinary capabilities of a general-purpose computer 'do[ ] not materially alter the patent eligibility of the claimed subject matter.'"'(alteration in original) (citation omitted)). Like the claims in *FairWarning*, the focus of claim 9 is not on an improvement in computers as tools, but on certain independently abstract ideas that use generic computing components as tools. *See FairWarning*, 839 F.3d at 1095; *cf. BSG Tech LLC v. BuySeasons, Inc.*, 899 F.3d 1281, 1288 (Fed. Cir. 2018) ("While the presentation of summary comparison usage information to users improves the quality of the information added to the database, an improvement to the information stored by a database is not equivalent to an improvement in the database's functionality.").

We conclude, for the reasons outlined above, that claim 9 recites a method of organizing human activity, i.e., an abstract idea, and that the additional elements recited in the claim are no more than generic computer components used as tools to perform the recited abstract idea. As such, they do not integrate the abstract idea into a practical application. *See Alice Corp.*, 573 U.S. at 223–24 ("[W]holly generic computer implementation is not generally the sort of 'additional featur[e]' that provides any 'practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.'" (quoting *Mayo*, 566 U.S. at 77) (alteration in original)). Accordingly, we agree with the Examiner that claim 9 is directed to an abstract idea.

Step Two of the Mayo/Alice Framework (*2019 Revised Guidance*, *Step 2B*)

Having determined under step one of the *Mayo*/*Alice* framework that claim 9 is directed to an abstract idea, we next consider under Step 2B of the 2019 Revised Guidance, the second step of the *Mayo*/*Alice* framework, whether claim 9 includes additional elements or a combination of elements that provides an "inventive concept," i.e., whether an additional element or combination of elements adds specific limitations beyond the judicial exception that are not "well-understood, routine, conventional activity" in the field (which is indicative that an inventive concept is present) or simply appends well-understood, routine, conventional activities previously known to the industry to the judicial exception. 2019 Revised Guidance, 84 Fed. Reg. at 56.

Appellant argues that even if claim 9 is directed to an abstract idea, the claim is nonetheless patent eligible because, similar to the claims held patent eligible in *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1302 (Fed. Cir. 2016), claim 9 provides "an unconventional technological solution (performing calculations at a central appraiser computer that can be propagated across multiple dealership computers without requiring dealership computers to individually determine vehicle values) to a technological problem (determining accurate and consistent vehicle values)" (Appeal Br. 18–19). Appellant's reliance on *Amdocs* is misplaced.

There, the Federal Circuit held that the claim at issue was patent eligible because the claim entails an unconventional technological solution (enhancing data in a distributed fashion) to a technological problem (massive record flows which previously required massive databases).

Although the solution requires generic components, the court determined that "the claim's enhancing limitation necessarily requires that these generic components operate in an unconventional manner to achieve an improvement in computer functionality" and that the "enhancing limitation depends not only upon the invention's distributed architecture, but also depends upon the network devices and gatherers — even though these may be generic — working together in a distributed manner." *Amdocs*, 841 F.3d at 1300–01.

Appellant argues here, as described above, that, similar to the claims in *Amdocs*, claim 9 provides an unconventional technological solution to a technological problem. (Appeal Br. 18). But, Appellant does not identify any "distributed architecture" comparable to that in *Amdocs*. There also is no persuasive evidence of record that the generic components recited in claim 9 operate in an unconventional manner, as in *Amdocs*, to achieve an improvement in computer functionality.

It also is significant here that although Appellant repeatedly asserts that the pending claims are not about merely generating vehicle values but instead solve the technological problem of determining a vehicle value at a central appraisal computer that can be propagated across multiple dealership computers without requiring dealership computers to individually determine vehicle values, neither claim 9 nor any of independent claims 21, 34, 40, 63, and 64 recites that the vehicle value is "propagated across multiple dealership computers." Instead, the claims merely recite that the appraiser computer determines a guaranteed offer price for the vehicle, and that the appraiser computer transmits an offer certificate indicating the guaranteed offer price to the user computer over a communication link. And, as the

Federal Circuit observed in *buySAFE, Inc.*, 765 F.3d at 1355, "[t]hat a computer receives and sends information over a network — without further specification — is not even arguably inventive."

We also do not agree with Appellant that any parallel exists between claim 9 and the claims at issue in *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016) (Appeal Br. 19–20). There, the Federal Circuit determined that the claims were directed to a technology-based solution to filter Internet content that overcame existing problems with other Internet filtering systems by taking a known filtering solution — i.e., a "one-size-fits-all" filter at an Internet Service Provider ("ISP") — and making it more dynamic and efficient by providing individualized filtering at the ISP. *Id.* at 1351. The court, thus, held that the second step of the *Mayo*/*Alice* framework was satisfied because the claimed invention "represents a 'software-based invention[ ] that improve[s] the performance of the computer system itself.'" *Id.* (alterations in original) (citation omitted).

Appellant argues that, similar to the claims of *BASCOM*, the present claims "recite a specific implementation and processes that provide benefits over the prior art." (Appeal Br. 19). But, unlike the filtering system improvements in *BASCOM* that added significantly more to the abstract idea in that case, the claimed invention here merely uses generic computing components to implement an abstract idea, i.e., "generating a guaranteed offer price for a vehicle and entering into a contractual relationship (a binding agreement) for the sale and purchase of the vehicle."

Responding to the Examiner's Answer, Appellant argues in the Reply Brief that the present rejection cannot be sustained because "the Examiner

fails to provide any additional detail or evidence regarding the assertion that the pending claims or any elements are well-understood, routine, and conventional" (Reply Br. 2). That argument is not persuasive.

The Examiner determined here, and we agree, that the only claim elements beyond the abstract idea are "an appraiser computer"; "a user computer"; "a dealership computer"; "a data storage device"; and "a database of market values for vehicle types," i.e., generic computer components (Final Act. 10–11) — a determination amply supported by, and fully consistent with the Specification (*see, e.g.*, Spec. ¶¶ 11, 28–30).

Appellant cannot reasonably contend that there is insufficient factual support for the Examiner's determination that the operation of these components is well-understood, routine, or conventional, where, as here, there is nothing in the Specification to indicate that the operations recited in claim 9 require any specialized hardware or inventive computer components or that the claimed invention is implemented using other than generic computer components to perform generic computer functions. Indeed, the Federal Circuit, in accordance with *Alice*, has "repeatedly recognized the absence of a genuine dispute as to eligibility" where claims have been defended as involving an inventive concept based "merely on the idea of using existing computers or the Internet to carry out conventional processes, with no alteration of computer functionality." *Berkheimer v. HP Inc.*, 890 F.3d 1369, 1373 (Fed. Cir. 2018) (Moore, J., concurring) (internal citations omitted); *see also BSG Tech LLC*, 899 F.3d at 1291 ("BSG Tech does not argue that other, non-abstract features of the claimed inventions, alone or in combination, are not well-understood, routine and conventional

database structures and activities. Accordingly, the district court did not err in determining that the asserted claims lack an inventive concept.").

We are not persuaded, on the present record, that the Examiner erred in rejecting independent claim 9 under 35 U.S.C. § 101. Therefore, we sustain the Examiner's rejection of claim 9, and claims 21, 34, 40, and 43–67, which fall with claim 9.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
9, 21, 34, 40, 43–67	101	Eligibility	9, 21, 34, 40, 43–67	

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

AFFIRMED