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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GREGORY JOSEPH BADROS, RAJAT RAINA, DING ZHOU,
TUDOR ANDREI ALEXANDRESCU, NUWAN SENARATNA,
HONG GE, CHI WANG, ALON AMIT, and JOHN HEGEMAN

Appeal 2018-006791
Application 13/296,117
Technology Center 3600

Before ANTON W. FETTING, NINA L. MEDLOCK, and
BRADLEY B. BAYAT, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–20. 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 March 13, 2018) and Reply Brief (“Reply Br.,” filed June 18, 2018), and the Examiner's Answer (“Ans.,” mailed April 19, 2018) and Non-Final Office Action (“Non-Final Act.,” mailed August 31, 2017). Appellant identifies Facebook, Inc. as the real party in interest. Appeal Br. 2.

CLAIMED INVENTION

Appellant describes that the claimed invention “relates generally to social networking, and in particular to providing information items, including advertisements, to users of a social networking system” (Spec. ¶ 2).

Claims 1, 11, and 20 are the independent claims on appeal. Claim 11, reproduced below with bracketed notations added, is illustrative of the claimed subject matter:

1. A method comprising:

[(a)] receiving from a user a page display request for displaying a page in a social networking system;

[(b)] logging user actions performed on pages in the social networking system;

[(c)] determining interests for a user of the social networking system based on an action of the user;

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

[(e)] receiving a plurality of information items for display to the user of the social networking system, the information items comprising at least one newsfeed story;

[(f)] determining concepts associated with one or more of the plurality of information items;

[(g)] identifying non-identical terms related to the determined concepts and a relatedness factor corresponding to how closely related each non-identical term is to the associated determined concept;

[(h)] computing, by a processor, a score for each information item having an associated concept, the score based on one or more contributions and the relatedness factor for the non-identical terms, each contribution based on matches of the discounted interests and the determined concepts;

[(i)] selecting one or more of the information items to display to the user, the selecting based at least in part on the scores associated with the information items;

- [(j)] generating a user interface comprising the selected one or more of the information items; and
- [(k)] sending the generated user interface for display to the user.

REJECTION

Claims 1–20 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. 7–18). We select independent claim 1 as representative. The remaining claims stand or fall with claim 1. *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 (alteration in original).

In rejecting the pending claims under 35 U.S.C. § 101, the Examiner determined the claims are directed to “sending and receiving data to select and send targeted information and targeted advertising,” *i.e.*, to an abstract idea similar to other concepts that the courts have held abstract (Non-Final Act. 3–4). The Examiner also determined that the claims do not include additional elements that are sufficient to amount to significantly more than the abstract idea itself because the additional computer elements provide conventional computer functions that do not add meaningful limits to practicing the abstract idea (*id.* at 4–8).

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, 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

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 solicited from the public.

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.

We are not persuaded, as an initial matter, that the Examiner mischaracterized the concept to which claim 1 is directed or that the Examiner otherwise failed to consider the claim as a whole (Appeal Br. 11). The Examiner’s characterization of claim 1 is, in our view, fully consistent with the Specification, including the claim language. That the claim includes more words than the phrase the Examiner used to articulate the abstract idea, and that the Examiner, thus, articulates the abstract idea at a higher level of abstraction than would Appellant is an insufficient basis to persuasively argue that the claim language has been mischaracterized. *See Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1240–41 (Fed. Cir. 2016) (“An abstract idea can generally be described at different levels of abstraction. As the Board has done, the claimed abstract idea could be described as generating menus on a computer, or generating a second menu from a first menu and sending the second menu to another location. It could be described in other ways, including, as indicated in the specification, taking orders from restaurant customers on a computer.”).

We also are not persuaded that the Examiner erred in determining that claim 1 is directed to an abstract idea (Appeal Br. 11–14). 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 the focus of claim 1 is on an abstract idea, and not on any improvement to technology or a technical field.

The Specification is entitled “COGNITIVE RELEVANCE TARGETING IN A SOCIAL NETWORKING SYSTEM USING CONCEPTS INFERRED FROM EXPLICIT INFORMATION,” and describes, in the Background section, that social networking systems provide information to their users in a number of different contexts, and that these systems typically select one or more information items from a larger set of items for display to a user (Spec. ¶ 3). The Specification explains that “[o]ne difficulty facing social networking systems is determining information items that are most relevant to a user’s current interests when concepts associated with the information items do not exactly match the user’s current interests” (*id.* ¶ 4). As a result, users often are exposed to advertisements and other information items that are less relevant to the user’s interests; these information items will, therefore, tend to receive less of the user’s attention and, in the case of advertisements, this results in lower conversion rates and less advertising revenue (*id.*).

The claimed invention is ostensibly intended to address this issue by providing a system and method for selecting information for display to a

user based on the inferred temporal relevance of that information to the user (*id.* ¶ 5). Claim 1, thus, recites a method for providing information items to a user of a social networking system comprising: (1) collecting information regarding user actions performed on pages in the social networking system and determining the user's current interests based on the user's recent actions, i.e.,

receiving from a user a page display request for displaying a page in a social networking system;

logging user actions performed on pages in the social networking system;

determining interests for a user of the social networking system based on an action of the user; [and]

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

(steps (a) through (d)); (2) receiving a set of information items and determining a set of concepts associated with one or more of the information items, i.e.,

receiving a plurality of information items for display to the user of the social networking system, the information items comprising at least one newsfeed story;

determining concepts associated with one or more of the plurality of information items; [and]

identifying non-identical terms related to the determined concepts and a relatedness factor corresponding to how closely related each non-identical term is to the associated determined concept

(steps (e) through (g)); (3) matching the user's current interests with the concepts associated with the information items, i.e., "computing, by a processor, a score for each information item having an associated concept, the score based on one or more contributions and the relatedness factor for the non-identical terms, each contribution based on matches of the

discounted interests and the determined concepts” (step (h)); and (5) based on the results of the matching step, selecting one or more information items from the set of information items, and sending a user interface comprising the selected items to the user for display, i.e.,

selecting one or more of the information items to display to the user, the selecting based at least in part on the scores associated with the information items;
generating a user interface comprising the selected one or more of the information items; and
sending the generated user interface for display to the user

(steps (i) through (k)). These limitations, when given their broadest reasonable interpretation, recite (1) collecting information, i.e., user actions performed on pages in the social networking system and information items, which the Specification describes may comprise advertisements (Spec. ¶ 8); (2) analyzing the information, i.e., determining the user’s current interests and a set of concepts associated with the information items, and selecting one or more of the information items based on a comparison of the user’s current interests and the concepts associated with the information items; and (3) presenting the results of the collection and analysis, i.e., sending the selected information items, e.g., advertisements, to the user for display. Simply put, claim 1 recites a method of targeting content/advertising to a user, i.e., a commercial interaction, which is a method of organizing human activity and, therefore, an abstract idea. *See* 2019 Revised Guidance, 84 Fed. Reg. at 52 (describing “Certain methods of organizing human activity” as including “commercial or legal interactions (including . . . advertising, marketing or sales activities or behaviors”)).

The Federal Circuit has held similar concepts to be abstract. Thus, for example, in *Bridge and Post, Inc. v. Verizon Communications, Inc.*,

778 F. App'x 882 (Fed. Cir. 2019), the Federal Circuit held that abstract ideas include tracking a user's computer network activity and using information gained about the user to deliver targeted media, such as advertisements. *See also, e.g., Affinity Labs of Texas, LLC v. Amazon.com, Inc.*, 838 F.3d 1266, 1271 (Fed. Cir. 2016) (customizing a user interface to have targeted advertising based on user information); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015) (tailoring information presented to a user based on particular information); *Morsa v. Facebook, Inc.*, 77 F. Supp. 3d 1007, 1013 (C.D. Cal. 2014), *aff'd*, 622 F. App'x 915 (Fed. Cir. 2015) (concluding that targeting advertisements to certain consumers is no more than an abstract idea).

Having concluded that claim 1 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 Examiner determined, and we agree, that the only elements recited in claim 1, beyond the abstract idea, are a “social networking system” and “a processor” — elements that, as the Examiner observes, are recited at a high level of generality, i.e., as generic computer components (Non-Final Act. 6 (citing Spec. ¶¶ 27–32, 74–78)).

We find no indication in the Specification, nor does Appellant direct us to any indication, that the operations recited in claim 1 invoke any assertedly inventive programming, require any specialized computer hardware or other inventive computer components, i.e., a particular machine, 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 that attributes an improvement in in computer functionality 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

Directing our attention to limitations (a), (b), (j), and (k), as recited in claim 1, Appellant argues that none of these four limitations can be executed by the human mind (Appeal Br. 13 (arguing that “[t]he human mind cannot receive a user web page request nor log user actions performed on social networking system web pages” and “cannot generate a user interface, much less send it to a user for display”)). Therefore, according to Appellant, “the claimed invention cannot be considered an abstract idea” (*id.*).

Appellant appears to be arguing that any invention that cannot be performed mentally or by hand, because the claim recites a computer is, therefore, not abstract. Yet, a substantially similar argument was expressly

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.

rejected by the Court in *Alice*. See *Alice Corp.*, 573 U.S. at 223 (“the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention”). Although “a method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101,” *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1373 (Fed. Cir. 2011), it does not automatically follow that methods requiring physical components — i.e., methods that arguably cannot be performed entirely in the human mind — are, therefore, not directed to abstract ideas.

We also are not persuaded by Appellant’s argument that the pending claims are not directed to an abstract idea because, as in *McRO, Inc. v. Bandai Namco Games America, Inc.*, 837 F.3d 1299 (Fed. Cir. 2016), the claims “recite ‘a **specific** means or method that **improves the relevant technology**’” (Appeal Br. 14). Although Appellant ostensibly suggests otherwise, the Federal Circuit did not premise its determination that the claims in *McRO* were patent eligible merely on the specificity of the claimed animation scheme. Instead, the court determined that the claims there at issue were patent eligible because, when considered as a whole, the claims were directed to a technological improvement over the 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.

Appellant argues here that the claims improve “the relevant technology (user engagement with a social networking system) by ‘determining information items that are most relevant to a user’s current interests when concepts associated with the information items do not exactly

match the user’s current interests” (Appeal Br. 14 (citing Spec. ¶ 4)). But, we are not persuaded that the pending claims, thus, provide a technological improvement comparable to that in *McRO*.

The claimed invention, when considered in light of the Specification, clearly appears focused on achieving a commercial objective, i.e., maximizing user engagement with the social networking system by exposing users to advertisements and other information items that are relevant to the users’ interests and, therefore, more likely to capture the users’ attention (*see, e.g.*, Spec. ¶ 4 (describing that when user are exposed to advertisements and other information items that are less relevant to the user’s interests, these items tend to receive less of the user’s attention and, for advertisements, this results in lower conversion rates and less advertising revenue)), and not on any claimed means for accomplishing that goal that improves technology.

Finally, to the extent Appellant maintains that the claims are patent eligible because they pose no risk of preemption, we note that preemption is not the sole test for patent eligibility (Appeal Br. 14). Although the Supreme Court has described “the concern that drives [the exclusion of abstract ideas from patent-eligible subject matter] as one of pre-emption,” *Alice Corp.*, 573 U.S. at 216, characterizing preemption as a driving concern for patent eligibility is not the same as characterizing preemption as the sole test for patent eligibility. “The Supreme Court has made clear that the principle of preemption is the basis for the judicial exceptions to patentability” and “[f]or this reason, questions on preemption are inherent in and resolved by the § 101 analysis.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (citing *Alice Corp.*, 573 U.S. at 216). “[P]reemption

may signal patent ineligible subject matter, [but] the absence of complete preemption does not demonstrate patent eligibility.” *Id.*

We conclude, for the reasons outlined above, that claim 1 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 recited 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)). Accordingly, we agree with the Examiner that claim 1 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 1 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 1 includes additional elements or a combination of elements that provides an “inventive concept,” i.e., whether claim 1 adds specific limitations beyond the judicial exception that are not “well-understood, routine, conventional” in the field. 2019 Revised Guidance, 84 Fed. Reg. at 56.

Appellant asserts that “[t]he claimed invention has a particular utility in a social networking system, which may leverage its knowledge about the actions of the user’s connections to infer additional information about the user’s current interests (Appeal Br. 15), and cites limitations (d), (g), (h), and

(i), as recited in claim 1, as capturing the inventive concept described in the Specification (*id.* at 16). Citing the Federal Circuit’s decisions in *Berkheimer v. HP, Inc.*, 881 F.3d 1360, 1366 (Fed. Cir. 2018) and *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016), Appellant maintains that these limitations, i.e., “discounting [user] interests based . . . on an amount of time since the performance of the action from which the interests were determined” and “using non-identical terms to provide the user with information items do not perfectly match the user’s current interests” go beyond that which is conventional, well-understood, or routine in the art (*id.* at 14–18). Yet, the limitations that Appellant identifies are part of the abstract idea itself, i.e., targeting content/advertising; they are not additional elements to be considered when determining whether claim 1 includes additional elements or a combination of elements that is sufficient to amount to significantly more than the judicial exception.

It could not be clearer from *Alice*, that under step two of the *Mayo/Alice* framework, the elements of each claim are considered both individually and “as an ordered combination” to determine whether the additional elements, i.e., the elements *other* than the abstract idea itself, “transform the nature of the claim” into a patent-eligible application. *Alice Corp.*, 573 U.S. at 217 (internal quotations and citation omitted); *see Mayo*, 566 U.S. at 72–73 (requiring that “a process that focuses upon the use of a natural law also contain *other* elements or a combination of elements, sometimes referred to as an ‘inventive concept,’ sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the natural law itself” (emphasis added) (internal citation omitted)). In other

words, the inventive concept under step two of the *Mayo/Alice* test cannot be the abstract idea itself:

It is clear from *Mayo* that the “inventive concept” cannot be the abstract idea itself, and *Berkheimer* . . . leave[s] untouched the numerous cases from this court which have held claims ineligible because the only alleged “inventive concept” is the abstract idea.

Berkheimer v. HP, Inc., 890 F.3d 1369, 1374 (Fed. Cir. 2018) (Moore, J., concurring); *see also BSG Tech LLC v. BuySeasons, Inc.*, 899 F.3d 1281, 1290 (Fed. Cir. 2018) (“It has been clear since *Alice* that a claimed invention’s use of the ineligible concept to which it is directed cannot supply the inventive concept that renders the invention ‘significantly more’ than that ineligible concept.”) (internal citation omitted).

The Examiner determined here, and we agree, that the only claim elements beyond the abstract idea are the “social networking system” and “processor,” i.e., generic computer components used to perform generic computer functions (Non-Final Act. 6) — a determination amply supported by, and fully consistent with the Specification (*see, e.g.*, Spec. ¶¶ 27–32, 74–78).⁵

Appellant cannot reasonably contend, nor does Appellant contend, that there is a genuine issue of material fact regarding whether the operation

⁵ The Office’s April 19, 2018 Memorandum to the Examining Corps from Deputy Commissioner for Patent Examination Policy, Robert W. Bahr, entitled, Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*), available at <https://www.uspto.gov/sites/default/files/documents/memo-berkheimer-20180419.pdf>, expressly directs that an examiner may support the position that an additional element (or combination of elements) is well-understood, routine or conventional with “[a] citation to an express statement in the specification . . . that demonstrates the well-understood, routine, conventional nature of the additional element(s)” (*id.* at 3).

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 1 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, e.g., receiving, matching, and processing information. 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*, 890 F.3d at 1373 (Moore, J., concurring) (internal citations omitted); *see also BSG Tech*, 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 have considered Appellant’s remaining arguments, specifically including those set forth in Appellant’s Reply Brief. And, we find them unpersuasive.

For the foregoing reasons, we are not persuaded, on the present record, that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 101. Therefore, we sustain the Examiner’s rejection of claim 1, and claims 2–20, which fall with claim 1.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1-20	101	Eligibility	1-20	

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