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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TERUHIKO GODA and KOJI KAWAHARA

Appeal 2018-007049
Application 13/827,370
Technology Center 3600

Before MAHSHID D. SAADAT, JOYCE CRAIG, and
JASON M. REPKO, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Final Rejection of claims 1–14 and 16–18.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42(a) (2017). Appellant identifies the real party in interest as Nintendo Co., Ltd. Appeal Br. 3.

² Claim 15 has been canceled previously.

STATEMENT OF CASE

Appellant's Specification describes "a content selling system, trading medium, content server device, recording medium and content selling method, for transmitting digital contents through a network to an apparatus, such as a game machine, and thus selling the digital contents." *See Spec.*

¶ 1.

Exemplary claim 1 under appeal reads as follows:

1. A digital content distribution system, comprising:
 - a physical trading medium that is associated with specific digital content, the physical trading medium including identification information required for obtaining the specific digital content;
 - a selling terminal computer device configured to execute a selling process regarding the physical trading medium and, based on execution of the selling process, issue a notification that identification information included as part of the physical trading medium has been identified;
 - a server computer system that comprises:
 - an electronic storage system configured to store:
 - the specific digital content that is associated with the physical trading medium;
 - an association between the specific digital content and the identification information of the physical trading medium;
 - a first processing system that includes at least one hardware processor, the processing system configured to:
 - update, based on the notification issued from the selling terminal computer device, a selling condition of the physical trading medium, the selling condition stored on the electronic storage system in association with the identification information;

a first transceiver configured to transmit the specific digital content that is stored in the electronic storage system;

an information processing computing device that comprises:

a second processing system that includes at least one hardware processor that is different from the at least one hardware processor of the first processing system, the second processing system configured to accept, via an input source, an identification input that is linked to the identification information of the physical trading medium;

a second transceiver configured to communicate with at least the server computer system, the second transceiver configured to:

transmit, to the server computer system, the identification input;

receive, from the server computer system, the specific digital content,

the first processing system of the server computer system is further configured to:

receive, via the first transceiver, the identification input transmitted from the information processing computing device;

determine that the identification information stored in association with the specific digital content is associated to the identification input and the selling condition indicates sold;

responsive to determination that the selling condition indicates sold, transmit the specific digital content that is stored in the electronic storage system to the information processing computing device;

the second processing system of the information processing computing device configured to:

display a menu screen on a display device that is coupled to the information processing computing device, the menu screen including a first selection item that is concurrently displayed with a second selection item;

while the menu screen is displayed, receive a selection of either the first selection item or the second selection item;

in response to selection of the first selection item, display a list screen that includes selection choices for plural different digital contents, which includes the specific digital content, that are purchasable by a user of the information processing computing device, the selection choices including a specific selection that corresponds to the specific digital content;

while the list screen is displayed, accept selection of the specific selection that corresponds to the specific digital content;

based at least in part on the specific selection that corresponds to the specific digital content, receive, via the second transceiver and from the server computer system, the specific digital content without requiring input of the identification input that is linked to the identification information associated with the specific digital content; and

in response to selection of the second selection item, present an identification input screen and then accept the identification input on the identification input screen.

Claims 1–14 and 16–18 stand rejected under 35 U.S.C. § 101 for being directed to patent-ineligible subject matter. *See* Final Act. 13–17.

Claims 1–14 and 16–18 stand rejected under 35 U.S.C. 112(a) or 35 U.S.C. § 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement.³

ANALYSIS

WRITTEN DESCRIPTION REJECTION

Principles of Law

The Federal Circuit has consistently held that 35 U.S.C. § 112, first paragraph, contains a written description requirement separate from enablement. *See Ariad Pharm., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc). To satisfy the written description requirement, an applicant must convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention, and that the invention, in that context is whatever is now claimed. *See Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563–64 (Fed. Cir. 1991).

Discussion

The Examiner finds claim 1 recites subject matter that “was not described in the Specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventor(s), at the time the application was filed, had possession of the claimed invention.” Final Act. 10 (emphasis omitted). The Examiner finds the terms “a selling terminal computer device,” “a server computer system,” and “an electronic storage system” in claim 1, the term “a physical trading

³ The rejections of claims 1–14 and 16–18 under 35 U.S.C. § 103(a) and under 35 U.S.C. § 112 (pre-AIA), first paragraph, with respect to the term “at least one hardware processor” are withdrawn, but maintained with respect to the written description requirement for the remaining highlighted terms. Ans. 3; *see also* Final Act. 10–13.

medium” in claim 16, and the term “selection accepting unit which accepts a selection to input the identification information or request a purchase of the specific content from the server device” fail to satisfy the written description requirement. Final Act. 10–12.

Appellant contends the Examiner erred in rejecting the claims under 35 U.S.C. § 112, first paragraph because “the specification reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.” Appeal Br. 33 (emphasis omitted). Appellant refers to specific portions of the Specification as follows:

For the “physical trading medium” term, Applicant respectfully submits that that a person of ordinary skill in the art having read and understood the specification and drawings would have understood that applicant was in possession of the claimed subject matter. In particular, the specification discloses a game card and states “the game card 1 is a card in which information required for downloading a specific game application is printed. A user who purchased the game card 1 inputs the information printed on the game card 1 with the game machine 7.” Paragraph 8. The specification further states “The processing unit 30 performs processing for selling several trade articles including the game card 1, game package 2 and the like.” Paragraph 25 (emphasis added).

For the “selling terminal computer device” term, Applicant respectfully submits that that a person of ordinary skill in the art having read and understood the specification and drawings would have understood that applicant was in possession of the claimed subject matter. See selling terminal device described in paragraph 10.

For the recitation of “a server computer system,” Applicant respectfully submits that that a person of ordinary skill in the art having read and understood the specification and drawings would have understood that Applicant was in

possession of the claimed subject matter. For example, the specification describes a “selling server” and “selling content devices.” Upon reading the description of these devices in the context of this specification a person of skill would have understood that these refer to computing devices. For example, because this is a person of skill in the art they would have understood that the term “server” in the context of this application does not refer to, for example, a waiter that serves meals in a restaurant or the like, but instead refers to a computer system. The description of these components and how they are used in the example embodiments described in the specification reasonably convey to those skilled in the art that the inventor had possession of the claimed subject matter.

For the recitation of “an electronic storage system,” Applicant respectfully submits that that a person of ordinary skill in the art having read and understood the specification and drawings would have understood that applicant was in possession of this subject matter. In particular, the specification discloses storing units 43 and 65 and states, for example, “the storing unit 65 is configured with a storing device, such as a hard disk.” Paragraph 37.

....

For the recitation of “transceiver,” Applicant respectfully submits that that a person of ordinary skill in the art having read and understood the specification and drawings would have understood that applicant was in possession of the claimed subject matter. See communicating unit 35, 44, 64, 84. A person of ordinary skill in the art would understand that the specification reasonably conveys that the inventor was in possession of a transceiver.

App. Br. 33–35.

The Examiner responds by stating that the disclosed examples in the Specification do not provide the scope of the above-mentioned terms in sufficient details to one of ordinary skill in the art. *See* Ans. 15–17. Based on the portions of the Specification that are highlighted by Appellant (*see*

above), we disagree with the Examiner’s reasoning and find that the disclosure satisfies the written description requirement. Therefore, we do not sustain the Examiner’s rejection of claims 1–14 and 16–18 under 35 U.S.C. § 112, first paragraph, for lack of written description.

PATENT ELIGIBILITY REJECTION

Principles of Law

Section 101 of the Patent Act provides that “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof” is patent eligible. 35 U.S.C. § 101. But the Supreme Court has long recognized an implicit exception to this section: “Laws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014) (quoting *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)). To determine whether a claim falls within one of these excluded categories, the Court has set out a two-part framework. The framework requires us first to consider whether the claim is “directed to one of those patent-ineligible concepts.” *Alice*, 573 U.S. at 217. If so, we then examine “the elements of [the] 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.” *Alice*, 573 U.S. at 217 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 78, 79 (2012)). That is, we examine the claim for an “inventive concept,” “an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Alice*, 573 U.S. at 217–18 (alteration in original) (quoting *Mayo*, 566 U.S. at 72–73).

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

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* MANUAL OF PATENT EXAMINING PROCEDURE (“MPEP”) §§ 2106.05(a)–(c), (e)–(h) (9th ed. 2018)).

See 2019 Revised Guidance, 84 Fed. Reg. at 52, 55–56. Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look to whether the claim:

- (3) adds a specific limitation beyond the judicial exception that are not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or
- (4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See Revised Guidance, 84 Fed. Reg. at 56.

With these principles in mind, we turn to the § 101 rejection.

Contentions

The Examiner determines that the claims are directed to an abstract idea of “selling and distributing a product on the internet.” Final Act. 15–16 (determining that claim 1 is similar to other identified abstract ideas such as collecting and comparing known information and using categories to organize, store, and transmit information. *See*, for example, *Content*

Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n, 776 F.3d 1343, 1358–59 (Fed. Cir. 2014)); *see also In re TLI Commc'ns LLC Patent Litig.*, 823 F.3d 607 (Fed. Cir. 2016) (classifying and storing digital images in an organized manner); *Digitech Image Techs., LLC v Elecs. for Imaging, Inc.*, 758 F.3d 1344 (Fed. Cir. 2014) (organizing information through mathematical correlations); and *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016) (collecting information, analyzing it, and displaying certain results of the collection and analysis); and *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229 (Fed. Cir. 2016) (generating menus with certain features). The Examiner further determines no additional elements are recited in claim 1 “that are sufficient to amount to significantly more than the judicial exception.” Final Act. 16. The Examiner finds:

For example, claim 1 recites computer devices, servers, processors, and storage devices, which are considered to be generic computer components performing generic computer functions. The use of generic computer components performing generic computer functions does not impose any meaningful limits on the computer implementation of the abstract idea. (*See Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. ___, 134 S. Ct. 2347, 2356 (2014).).

Id.

Appellant argues that the claimed invention is not directed to an abstract idea because the Examiner has over-simplified the recited features in contrast with the analysis in *McRO*⁴ and *Enfish*.⁵ Appeal Br. 18–21. Additionally, Appellant asserts the Examiner’s characterization of the claims as “directed to purchasing a product with an associated identification code

⁴ *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016).

⁵ *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016).

and inputting the identification code online in order to receive the product” fails to “consider the claims as an ordered combination and it fails to consider all of the elements of the claims.” Appeal Br. 21. Appellant also argues “the claims in this application are directed to a particularly arranged graphical user interface that improves how digital content is delivered to a user and how an electronic content distribution system can provide the same digital content through multiple different delivery options.” *Id.* (emphasis omitted). According to Appellant,

Graphical user interfaces are patent eligible subject matter. For example, in *Trading Techs. Int’l, Inc. v. CQG INC.*, the court held that claims “directed to a specific improvement to the way computers operate [because] 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.” 675 F. App’x 1001, 1006 (Fed. Cir. 2017). Similarly, the district court in *SCVNGR, Inc. v. DailyGobble, Inc.*, found that claims directed to a point of sale system were patent eligible because they improved “payment processing technology” by solving problems in existing point of sale systems. 238 F. Supp. 3d 263, 269–70 (D.R.I. 2017). Applicant’s claims, like those in *SCVNGR* improve upon conventional user interface elements (in Applicant’s claims the improvement is in on digital delivery interfaces whereas the improvement in *SCVNGR* was for point of sale systems). Both of these factually relevant cases illustrate that graphical user interface related inventions, like the one at issue in this case, are patent eligible.

Appeal Br. 22 (alteration in original, some emphasis omitted). According to Appellant, the recited features related to an interface are more than the abstract idea. *See* Appeal Br. 21–24. Appellant adds the graphical user interface recited in the claims of the instant invention further “improves upon past conventional digital content delivery systems because it allows

users to easily use either functional process for obtaining the same digital content,” which “cannot be said to be generic or conventional.” Appeal Br. 25.

The Judicial Exception – Abstract Idea

Under the Revised Guidance, we begin our analysis by first considering whether the claims recite any judicial exceptions, including certain groupings of abstract ideas, in particular: (a) mathematical concepts, (b) mental steps, and (c) certain methods of organizing human activities. Turning to independent claim 1, we observe claim 1, other than executing instructions and storing content, recites, inter alia, the following functions:

update, . . ., a selling condition of the physical trading medium, the selling condition stored on the electronic storage system in association with the identification information;

. . .

transmit, . . ., the identification input;

receive, . . ., the specific digital content;

. . .

receive, . . ., the identification input . . .;

determine that the identification information stored in association with the specific digital content is associated to the identification input and the selling condition indicates sold;

. . ., **transmit** the specific digital content . . .;

. . .

display a menu screen . . .;

. . ., **receive** a selection of either the first selection item or the second selection item;

. . .

. . ., **accept** selection of the specific selection . . .;

. . ., **receive**, . . ., the specific digital content . . .;

. . . , **present** an identification input screen and then accept the identification input on the identification input screen.

Claim 1 (emphases added).

Thus, we conclude the aforementioned steps of *updating a selling condition, transmitting/receiving content, determining identification, and presenting input screen* functions involve certain methods of organizing human activity of commercial or legal interactions, legal obligations, or business relations, and managing personal behavior or relationships or interactions between people including following rules or instructions.

Revised Guidance, 84 Fed. Reg. at 52.⁶ The Specification describes these steps as managing human activities involved in “content selling method, for transmitting digital contents through a network to an apparatus, such as a game machine, and thus selling the digital contents.” Spec. ¶ 1.

“[C]onfiguration of a content selling system” and “selling terminal device 3 is a device located in a store, for example, a game selling store,

⁶ Certain functions of claim 1 could be performed in the human mind or using pen and paper (similar to Mental Processes concepts performed in the human mind (including an observation, evaluation, judgment, opinion)). If a method can be performed by human thought alone, or by a human using pen and paper, it is merely an abstract idea and is not patent eligible under § 101. *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372–73 (Fed. Cir. 2011); *see also Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1146–47 (Fed. Cir. 2016) (“While the Supreme Court has altered the § 101 analysis since *Cyber Source* in cases like *Mayo* and *Alice*, we continue to ‘treat[] analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category.’” (alteration in original) (quoting *Elec. Power Grp.*, 830 F.3d at 1354.); *CyberSource*, 654 F.3d at 1375 (“That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*.”)).

electric appliances mass retailer or the like,” which “performs a selling processing, such as purchase amount calculation, change calculation, receipt issue and the like.” Spec. ¶ 7. “A sale person in the store performs the selling processing of the game card 1 or the game package 2 with the selling terminal device 3.” Spec. ¶ 10. “The selling processing unit 37 of the processing unit 30 shows on the displaying unit 32 a name, price and the like of a trade article.” Spec. ¶ 26. “The terminal display processing unit 53 displays the login screen on the game machine 7, and the content server device 5 requests for the input of user ID, password and the like.” Spec. ¶ 46.

We note that independent claims 16 and 17 recite similar language of commensurate scope that we conclude also falls into the abstract idea category of certain methods of organizing human activity such as commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations).

We also note the recited “display” and “present” functions of claim 1, and similar language recited in other independent claims, merely access and present information. Courts have found such data gathering steps to be insignificant extra-solution activity. *See, e.g., In re Bilski*, 545 F.3d 943, 963 (Fed. Cir. 2008) (en banc), *aff’d sub nom Bilski v. Kappos*, 561 U.S. 593 (2010) (characterizing data gathering steps as insignificant extra-solution activity).

Because we conclude all claims on appeal recite an abstract idea, as discussed above, under *Step 2A, Prong One*, we proceed to *Step 2A, Prong Two*. Although claim 1 recites an abstract idea based on these mental

processes, we, nevertheless, must still determine whether the abstract idea is integrated into a practical application, namely whether the claim applies, relies on, or uses the abstract idea in a manner that imposes a meaningful limit on the abstract idea, such that the claim is more than a drafting effort designed to monopolize the abstract idea. *See Revised Guidance*, 84 Fed. Reg. at 54–55. We, therefore, (1) identify whether there are any additional recited elements beyond the abstract idea, and (2) evaluate those elements individually and collectively to determine whether they integrate the exception into a practical application. *See id.*

*Integration of the Judicial Exception into a
Practical Application*

Further pursuant to the Revised Guidance, we consider whether there are additional elements set forth in the claims that integrate the judicial exception into a practical application. *See Revised Guidance*, 84 Fed. Reg. at 54–55. The additional non-abstract limitations recited in independent claim 1 include a computer system, server computer system, an electronic storage system, a first and a second processing system, a first and a second transceiver, and a display device.

We determine that claim 1 does not recite additional elements that integrate the abstract ideas into a practical application. As discussed below, the additional elements do not improve computer capabilities or a technical field. Nor do they implement the abstract ideas on a particular machine that is integral to the claims or effect a transformation or reduction of a particular article to a different state or thing. *Revised Guidance*, 84 Fed. Reg. at 55. They simply use computers as tools to apply the abstract ideas. “[M]ere recitation of a generic computer cannot transform a patent-ineligible abstract

idea into a patent-eligible invention.” *Alice*, 573 U.S. at 223; *see also Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016).

The recited “computer system” and “server computer system” are generic components that perform generic functions of analyzing and processing data, which does not integrate the abstract ideas into a practical application. *See* 84 Fed. Reg. at 55 n.31; *Elec. Power Grp.*, 830 F.3d at 1353–54 (holding that recited steps of collecting information even when limited to particular content that does not change its character as information and analyzing the information by steps people go through in their minds or by mathematical algorithms, without more, are abstract ideas). These computer systems are disclosed as “[t]he information processing terminal device 15 receiving the digital contents is not limited to the game machine 7” and may include “various information processing terminal devices” such as “a mobile phone, smart phone, tablet type terminal device and PC (Personal Computer).” Spec. ¶ 72. The storage system is disclosed as “the storing unit 85,” where the display is disclosed as “a liquid crystal panel or the like” without any details of its configuration or display arrangement. Spec. ¶¶ 26, 30, 36, 43, 44.

It is well-settled that “mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Alice*, 573 U.S. at 223 (“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 ‘implemen[t]’ an abstract idea ‘on ... a computer,’ . . . that addition cannot impart patent eligibility.”) (quoting *Mayo Collaborative*

Servs. v. Prometheus Labs., Inc., 566 U.S. 66, 82 (2012)); *see* Revised Guidance, 84 Fed. Reg. at 55 & n.30.

Essentially, the method automates a process of acquiring digital content previously performed manually. *See* Reply Br. 4. As discussed above, the Specification describes known methods of selling content, processing a trading medium, determining the selling condition of the physical trading medium, and offering selections to the user as processes that involve large data files being downloaded on networks with improved communication speed. Spec. ¶ 2. Individuals in a store manipulate the selling terminal device in a store, presenting a user with a game card including all the information needed to download a game. Spec. ¶ 8.

Using generic computer systems and servers to perform selling content more efficiently using “a specifically designed user interface such that it would be ‘possible to implement the content selling having advantages of both the store selling and download selling’” that previously were done manually or separately (*see* Reply Br. 4) does not integrate the abstract ideas into a patent-eligible application. *See OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015) (“But relying on a computer to perform routine tasks more quickly or more accurately is insufficient to render a claim patent eligible.”).

Additionally, we are not persuaded by Appellant’s arguments that claim 1 recites “features in which an improved user interface is provided,” which are “an ordered combination, more than just ‘purchasing a product with an associated identification code and inputting the identification code online in order to receive the product.’” Appeal Br. 23–24. Similarly, we are unpersuaded by Appellant’s argument that “[t]he particularly arranged

graphical user interface improves upon past conventional digital content delivery systems because it allows users to easily use either functional process for obtaining the same digital content.” Appeal Br. 25.

Unlike the claims in *Core Wireless*, Appellant’s claim 1 does not integrate the abstract ideas into a practical application that is patent-eligible. In *Core Wireless*, the claims recited an improved user interface rather than the generic idea of summarizing information that already existed. *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1362 (Fed. Cir. 2018). The improvements were (1) “an application summary that can be reached directly from the menu,” (2) “the application summary displays a limited list of data offered within the one or more applications, each of the data in the list being selectable to launch the respective application,” and (3) “the application summary is displayed while the one or more applications are in an un-launched state.” *Id.* at 1359 (emphasis omitted), 1362–63 (“These limitations disclose a specific manner of displaying a limited set of information to the user, rather than using conventional user interface methods to display a generic index on a computer.”). The specification confirmed that the claims recited an improved user interface for electronic devices, particularly those with small screens. *Id.* at 1363. Rather than requiring a user to “drill down through many layers to get to desired data or functionality” on small screens, the “invention improves the efficiency of using the electronic device by bringing together ‘a limited list of common functions and commonly accessed stored data,’ which can be accessed directly from the main menu.” *Id.* (“[T]he summary window allows the user to see the most relevant data or functions ‘without actually opening the application up.’”).

Here, the user interface display allows users to see a menu screen, select an item from the menu, and receive and accept an identification input in an identification input screen without actually improving computers. In other words, the recited features of the display device relate to the way information is displayed, which is essentially part of the abstract idea itself. *See Trading Techs. Int'l, Inc. v. IBG LLC*, 921 F.3d 1378, 1385 (Fed. Cir. 2019) (where arranging information along an axis does not improve computers, claims are directed to an abstract idea); *Affinity Labs of Tex., LLC v. DirecTV, LLC*, 838 F.3d 1253, 1263 (Fed. Cir. 2016) (holding that where the essential advance was in the content of an application, i.e., a functionally described display of information, rather than the process of downloading it, the claims were directed to an abstract idea).

Thus, we determine that claim 1 is directed to an abstract idea.

Inventive Concept

Because we determine claim 1 is “directed to” an abstract idea, we consider whether claim 1 recites an “inventive concept.” Under the Revised Guidance, if a claim: (1) recites a judicial exception, and (2) does not integrate that exception into a practical application, we then look to whether the claim adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or, simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception. *See* Revised Guidance, 84 Fed. Reg. at 56.

The Examiner determined claim 1 does not recite an inventive concept because the additional elements in the claim include “computer devices,

servers, processors, and storage devices, which are considered to be generic computer components performing generic computer functions.” *See* Final Act. 16. The Examiner further cited the court decision in *BASCOM* where “[t]he court further found that the patent is claiming a technology-based solution (not an abstract idea based solution implemented with generic technical components in a conventional way) to filter content on the Internet that overcomes existing problems with Internet filtering systems,” which is not the case with the recited features of claim 1. Ans. 12–13.

Appellant argues that the Examiner did not provide any evidence to show the recited features of claim 1 are “well-understood, routine, or conventional.” Reply Br. 2. Appellant contends

The instant claims recite significantly more than the Examiner’s asserted abstract idea (i.e., “purchasing a product with an associated identification code and inputting the identification code online in order to receive the product”) because the additional elements required by the claims beyond this asserted abstract idea are not well-understood, routine or conventional. *See Berkheimer*. In particular, the combination of elements in how a menu screen is displayed and the particular requirements for how the subsequent list screen and identification input screens are linked to the menu screen are not well-understood, routine or conventional.

Reply Br. 3 (emphasis omitted).

We are unpersuaded. First, Appellant’s claims can be distinguished from patent-eligible claims such as those in *BASCOM* (*see* Appeal Br. 24), where the system claims were directed to a “content filtering system for filtering content retrieved from an Internet computer network,” which the court held were directed to an abstract idea. *BASCOM*, 827 F.3d at 1348–49. The court further held the claims included an inventive concept in the ordered combination of system components, including a local client

computer and a remote ISP server connected to the client computer and Internet computer network providing for “the installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user.” *Id.* at 1350. Appellant has failed to establish that claim 1 includes a similar or analogous arrangement or “ordered combination” of components, and, instead, makes only the conclusory statement that “the combination of elements in how a menu screen is displayed and the particular requirements for how the subsequent list screen and identification input screens are linked to the menu screen are not well-understood, routine or conventional.” *See Reply Br. 3.*

Second, the additional elements recited in the claim include “display a menu screen,” “receive a selection,” and “present . . . on the identification input screen” that receives selection choices and accepts selections and receives content. The claim recites these elements at a high level of generality, and the written description provides no details about the selection screen, selection choices, or receiving content to show there is anything about using the graphical user interface that is not routine or conventional. *See, e.g., Spec.* ¶¶ 26, 30, 36, 44 (describing generic display without specific display functions). With respect to claim 7, we are also unpersuaded by Appellant’s argument that the recitation of the distribution server adds significantly more than the abstract idea. *Appeal Br. 25.* Appellant’s Specification does not describe the recited servers with any details and, as discussed above, refers to servers at a high level of generality. Additionally, Figures 5 and 9 show the content server as a generic component. Consequently, we find that the above-identified claim elements constitute no more than what would have been well-understood, routine and conventional

to a skilled artisan. *See Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (2018).⁷

Conclusion

For at least the above reasons, we agree with the Examiner that claim 1 is “directed to” an abstract idea and does not recite an “inventive concept.” Accordingly, we sustain the Examiner’s rejection of claim 1 and the remaining claims which fail to include additional elements that add significantly more to the abstract idea under 35 U.S.C. § 101.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–14, 16–18	112, first paragraph	Written Description		1–14, 16–18
1–14, 16–18	101	Eligibility	1–14, 16–18	
Overall Outcome			1–14, 16–18	

⁷ A specification demonstrates the well-understood, routine, conventional nature of additional elements when it describes the additional elements as well-understood or routine or conventional (or an equivalent term), as a commercially available product, or in a manner that indicates that the additional elements are sufficiently well-known that the specification does not need to describe the particulars of such additional elements to satisfy 35 U.S.C. § 112(a). Memorandum on *Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (Berkheimer v. HP, Inc.)* (Apr. 19, 2018) available at: <https://www.uspto.gov/sites/default/files/documents/memo-berkheimer-20180419.PDF>.

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TIME PERIOD FOR RESPONSE

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