



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. |
|-----------------------|-------------|----------------------|---------------------|------------------|
| 14/494,267 | 09/23/2014 | Michelle Harold | 2174.000400 | 9172 |
| 23720 | 7590 | 09/30/2019 | EXAMINER | |
| WILLIAMS MORGAN, P.C. | | | GREGG, MARY M | |
| 6464 Savoy | | | ART UNIT | |
| Suite 600 | | | PAPER NUMBER | |
| HOUSTON, TX 77036 | | | 3697 | |
| | | | NOTIFICATION DATE | |
| | | | DELIVERY MODE | |
| | | | 09/30/2019 | |
| | | | 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):

Docketing@wmalaw.com
jjohn@wmalaw.com
nnolan@wmalaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHELLE HAROLD, MARK BREUR, and
JOHN F. TANGREDI

Appeal 2018-007578
Application 14/494,267
Technology Center 3600

Before KRISTEN L. DROESCH, JENNIFER S. BISK, and
JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ seeks review under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–21, all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant indicates the real party-in-interest is INSPERITY SERVICES, L.P. App. Br. 2.

BACKGROUND

The disclosed invention relates to methods and systems for automatically funding an expense payment infrastructure in response to a request, wherein the automated funding may comprise automated reallocation of funds. Spec. ¶ 2, Abstract.

CLAIMED SUBJECT MATTER

Claim 1, which is representative of the subject matter of the appeal and is reproduced from the Claims Appendix of the Appeal Brief, reads as follows:

1. A method for providing an automated transfer of funds, comprising:
 - receiving data relating to an unused amount of funds in an account associated with a first payment mechanism, the unused funds having been deposited in the account associated with the first payment mechanism by a third party;
 - determining if a user of a second payment mechanism has a pending request for funding from the third party;
 - transferring at least a portion of said unused amount of funds from said account associated with said first payment mechanism to an account associated with the second payment mechanism in response to determining that said user of said second payment mechanism has a pending request for funding from the third party; and
 - transferring at least a portion of said unused amount of funds from said account associated with said first payment mechanism to a master account in response to determining that said user of said second payment mechanism does not have a pending request for funding from the third party.

REJECTIONS ON APPEAL²

Claims 1–21 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

Claims 1–21 stand rejected under 35 U.S.C. § 112(a) as failing to comply with the written description requirement.

ANALYSIS

Rejection under 35 U.S.C. § 101

Standard for Patent Eligibility 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. However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[I]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g.*, *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Alice*, 573 U.S. at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75-77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See id.* at 219 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk.”); *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk.”).

² Additional grounds of rejection under 35 U.S.C. § 103 subject to the Appeal were withdrawn by the Examiner. Ans. 3.

Concepts determined to be abstract ideas, and thus patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 67–68 (1972)).

Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); “tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores” (*id.* at 183 n.7 (quoting *Corning v. Burden*, 56 U.S. (15 How.) 252, 267–68 (1854))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, . . . and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent eligible application.” *Alice*, 573 U.S. at 221. “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (alterations in original) (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

The PTO recently published revised guidance on the application of § 101. *See* 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (USPTO Jan. 7, 2019) (“Guidance”). Under the 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 activities such as a fundamental economic practice, or mental processes); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP §§ 2106.05(a)–(c), (e)–(h) (9th ed. Rev. 08.2017, Jan. 2018)).

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look to whether the claim:

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

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

See Guidance, 84 Fed. Reg. at 56.

Examiner’s Findings and Conclusion

In the first step of the *Alice* inquiry, the Examiner determines the claims are directed to “funding accounts and transferring funds to specified accounts based on parameters.” Final Act. 21. The Examiner determines the claims are an abstract idea, because, like the claims in *Alice* and *Bilski*, the claims are directed to a fundamental economic practice. *See id.* at 20. The Examiner also analogizes the abstract idea of the claims at issue before us to the claims at issue in *buySafe v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014) and *Ultramercial Inc., v. Hulu, Inc.*, 772 F.3d 709 (Fed. Cir. 2014), along with several district court cases. *See id.* at 20–21.

In the second step of *Alice*, the Examiner identifies “receiving data relating to an unused amount of funds in an account associated with a first payment mechanism . . . ,” recited in claim 1, as: (1) an abstract idea related to basic practices in banking; (2) a pre-solution insignificant activity similar to the data gathering step of *Bilski*; and (3) receiving intangible data similar to the court’s finding in *Cybersource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366 (Fed. Cir. 2014) that obtaining intangible data is abstract. *See* Final Act. 22–23. The Examiner identifies “determining if a user of a second payment mechanism has a pending request for funding . . . ,” recited in claim 1, as an abstract idea related to a basic practice in banking and transactions, and similar to the court’s finding in *Cybersource* that comparing intangible data pertinent to business is abstract. *See id.* at 23.

The Examiner identifies “transferring at least a portion of said unused amount of funds from said account associated with said first payment mechanism to an account associated with the second payment mechanism in response to determining that said user of said second payment mechanism has a pending request for funding . . . ,” and “transferring at least a portion of said unused amount of funds from said account associated with said first payment mechanism to a master account in response to determining that said user of said second payment mechanism does not have a pending request . . . ,” recited in claim 1, as basic practices in banking and abstract. *See id.* at 23–25. Analogizing the claim limitations to claims in district court cases, the Examiner also finds: (1) the “transferring” steps could be implemented manually and mentally and do not transform the claim into patent eligible subject matter; and (2) conditional actions are also abstract. *See id.* at 24–26.

The Examiner also finds the limitations of the claims are directed toward economic practices, and, in combination, are not directed toward improvement of technology, a technological field, or computer functionality. *See Final Act. 26; see also Ans. 9–10* (similar arguments). According to the Examiner, “[n]othing in the claims or the specification point to anything other than off the shelf technology and software for performing the transactions that would affect or improve upon ‘real time’ technical techniques in funding functions.” *Ans. 9*. The Examiner further finds, when the claims are taken as a whole, as an ordered combination, the combination of steps does not add significantly more. *See Final Act. 27*. According to the Examiner, the claimed subject matter “appears to implement the abstract

idea to a particular technological environments using what is well-understood, routine, and conventional in the related arts.” *Id.*

Does the claim recite a judicial exception?

Viewing the Examiner’s rejection through the lens of the Guidance, we first consider whether the claim recites a judicial exception. Guidance, 84 Fed. Reg. at 51. For reasons that follow, we conclude the claims recite a fundamental economic practice, which is one of certain methods of organizing human activity identified in the Guidance, and thus an abstract idea. *See* Guidance, 84 Fed. Reg. at 52, 53 (listing “[c]ertain methods of organizing human activity--fundamental economic principles or practices” as one of the “enumerated groupings of abstract ideas”).

Appellant addresses all of the claims as a group. *See* Appeal Br. 12–15; Reply Br. 6–11. Accordingly, we treat claim 1 as representative of the group. Claim 1 is directed to an abstract idea because it is directed to a fundamental economic practice, which is one of certain methods of organizing human activity, as discussed below. The steps of claim 1, including in italics,

receiving data relating to an unused amount of funds in an account associated with a first payment mechanism, *the unused funds having been deposited in the account associated with the first payment mechanism* by a third party;

determining if a user of a second payment mechanism has a pending request for funding from the third party;

transferring at least a portion of said unused amount of funds from said account associated with said first payment mechanism to an account associated with the second payment mechanism in response to determining that said user of said second payment mechanism has a pending request for funding from the third party; and

transferring at least a portion of said unused amount of funds from said account associated with said first payment mechanism to a master account in response to determining that said user of said second payment mechanism does not have a pending request for funding from the third party.

recite steps of “funding accounts and transferring funds to specified accounts based on parameters.”

Under Supreme Court precedent, claims directed purely to an abstract idea are patent ineligible. As set forth in the Guidance, which extracts and synthesizes key concepts identified by the courts, abstract ideas include: (1) mathematical concepts; (2) certain methods of organizing human activity; and (3) mental processes. *See* Guidance, 84 Fed. Reg. at 52. Among those certain methods of organizing human activity listed in the Guidance are fundamental economic practices, such as the concept of intermediated settlement in *Alice*, and the concept of hedging in *Bilski*. Like those concepts, claim 1 also recites a fundamental economic practice. Specifically, the italicized steps fall under the umbrella of economic practices, including “funding accounts and transferring funds to specified accounts based on parameters” because this would ordinarily take place during financial transactions. For example, the Specification discloses: “[t]he present invention relates generally to the fields of automated funding and, more particularly, automatically funding an expense payment infrastructure in response to a request, wherein the automatic funding may comprise automated reallocation of funds.” Spec. ¶ 2. Claim 1 is similar to claims that courts have concluded recite a fundamental economic practice. *See, e.g., Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (determining that hedging risk is a fundamental economic practice long prevalent in our system of commerce”); *Alice*, 573 U.S. at 219–20 (determining that

intermediated settlement is a fundamental economic practice); *Inventor Holdings, LLC v. Bed Bath & Beyond Inc.*, 876 F.3d 1372, 1378–79 (Fed Cir. 2017) (determining that local processing of payments for remotely purchased goods is a fundamental economic practice); *Solutran Inc., v. Elavon, Inc.*, 931 F.3d 1161, 1167 (Fed. Cir. 2019) (determining that crediting a merchant’s account as early as possible while electronically processing a check is a long-standing commercial practice); *see also* Guidance 84 Fed. Reg. at 52 n.13.

Accordingly, we conclude claim 1 recites a fundamental economic practice, which is one of certain methods of organizing human activity identified in the Guidance, and thus an abstract idea.

Does the claim recite additional elements that integrate the judicial exception into a practical application?

In accordance with the Guidance, and looking to MPEP §§ 2106.05(a)–(c) and (e)–(h), we determine that the additional elements of claim 1, both individually and as an ordered combination, do not integrate a judicial exception, in this case the abstract idea of a fundamental economic practice, into a practical application. Claim 1 is directed to little more than pre-solution activity of receiving data, and the suggestion, by way of “automated” in the preamble, to use a computer as a tool to perform the abstract idea identified by the Examiner (*see* Final Act. 21) of “funding accounts and transferring funds to specified accounts based on parameters.” The claim, as a whole, describes automated steps of receiving data and “funding accounts and transferring funds to specified accounts based on parameters.”

The claim term “automated” is recited at a high level of generality and merely suggests the use of a computer as a tool to perform the abstract idea

of “funding accounts and transferring funds to specified accounts based on parameters.” Implementing an abstract idea on a generic computer is not a practical application of the abstract idea. *See, e.g.*, Spec. ¶ 20 (“Embodiments herein provide for using remote devices (e.g., mobile phones such as smartphones, computers such as laptop computers tablet computers, desktop computers, etc.), as well as modules (e.g., software modules, hardware modules, firmware modules, etc.) or applications (e.g., proprietary mobile application technology) to automatically and proactively manage the approval or rejection and distribution of funds within the workflow of an organization, such as a corporation.”).

Claim 1 also recites “receiving data relating to an unused amount of funds in an account associated with a first payment mechanism” We agree with the Examiner’s finding that the step of “receiving data relating to an unused amount of funds in an account associated with a first payment mechanism” is insignificant pre-solution activity similar to the step of obtaining information about credit card transactions so that the information can be any analyzed by an abstract mental process, as found in *CyberSource*. *See* Final Act. 22–23. Adding the step of receiving data to the abstract idea, in combination with suggesting the use of a computer as a tool to perform the abstract idea, is insufficient to integrate the judicial exception into a practical application.

We are not persuaded by Appellant’s arguments that “[I]ike *Enfish*, *McRO*, *Synchronous*, and *others*, the instant application is directed to a solution to a problem in the software arts,” and “provide[s] software for automated, efficient transfer of funds between payment mechanisms within an organization to provide funding on a real time, or near real time basis.”

App. Br. 12–13; *see* Reply Br. 6–7 (same argument); *see also* App. Br. 14 (identifying real time or near real time operations as a technological problem). Appellant does not identify sufficiently the problem in the software arts or the technological problems to which the invention recited in claim 1 offers a solution. Specifically, Appellant does not explain how providing funding on a real-time or near real-time basis solves a problem in the software arts or a technological problem, rather than, for example a general desire to increase the speed of an economic practice to a real-time or near real-time basis. Indeed, the Specification discloses: “[t]he solutions provided by embodiments herein may address the challenge of automating the process of controls necessary for organizations to distribute funds to employees in the field without having to generate paper forms and manually move the forms between resources.” Spec. ¶ 22. “[R]elying on a computer to perform routine tasks more quickly or more accurately is insufficient to render a claim patent eligible.” *OIP Techs, Inc., v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir 2015).

We also are not persuaded by Appellant’s following attorney arguments: (1) embodiments described in the claims “reduce the number of transfers so that funding may occur automatically and efficiently to achieve real time or near real time funding. . . . reducing the number of transactions by up to 50%” (*see* App. Br. 13–14); (2) “the process will experience a dramatic (*i.e.*, 100%) boost in operating speed” (Reply Br. 7); and (3) “[w]ithout Appellant’s contribution, software for controlling transfers would be substantially slower such that real time or near real time transfers would not be achievable (*see* App. Br. 13).” Appellant does not direct us evidence, such as the Specification, to support its assertion that a reduced

number of transfers improves the operation of the computer system or boosts operating speed, and that a conventional or non-reduced number of transfers would be substantially slower, thereby, foreclosing the achievement of real time or near real time transfers.

Accordingly, the claim, as a whole, does not integrate the abstract idea into a practical application because the claim limitations do not impose any meaningful limits on practicing the abstract idea. Stated in a different way, the claims: (1) do not improve the functioning of a computer or other technology; (2) are not applied with any particular machine (except for one or more generic computer); (3) do not effect a transformation of a particular article to a different state; and (4) are not applied in any meaningful way beyond generally linking the use of the judicial exception to a particular technological environment, such that the claim, as a whole, is more than a drafting effort designed to monopolize the exception. *See* MPEP §§ 2106.05(a)–(c), (e)–(h).

Does the claim provide an inventive concept?

Because we determine that claim 1 is “directed to” an abstract idea, we next consider whether claim 1 recites an “inventive concept.” *See* Guidance, 84 Fed. Reg. at 56. Additional elements, individually and in combination, should be evaluated to determine whether they provide an inventive concept. *See id.* In evaluating the presence of an inventive concept, we look to whether the claim adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field, 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 id.* In addition to the abstract idea of “funding

accounts and transferring funds to specified accounts based on parameters,” claim 1 recites “automated” in the preamble and “receiving data relating to an unused amount of funds in an account associated with a first payment mechanism” The use of “automated” in the preamble suggests the use of a computer as a tool to perform the abstract idea, and amounts to simply appending well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality (i.e., using a computer as a tool), to the judicial exception. We agree with the Examiner that the Specification and claims do not provide any specific process with respect to receiving data that would transform the function beyond what is well understood. *See* Final Act. 23; Spec. ¶¶ 8, 86, 88, 89. When considering the abstract idea of funding accounts and transferring funds to specified accounts based on parameters,” in combination with the suggestion to use a computer as a tool to perform the abstract idea, and the pre-solution activity of receiving data, we determine that claim 1 does not provide an inventive concept.

We are not persuaded by Appellant’s arguments that: (1) an inventive concept is present because none of the art cited by the Examiner individually or collectively teaches each and every aspect of Appellant’s claims (*see* App. Br. 14; Reply Br. 9); (2) the claims are novel and nonobvious over the prior art (*see* App. Br. 15; Reply Br. 10); and (3) Appellant had not attempted to claim all types of electronic funding (*see* App. Br. 14; Reply Br. 10). Appellant improperly conflates the requirements for eligible subject matter (§ 101) with the independent requirements of novelty (§ 102) and non-obviousness (§ 103). “The ‘novelty’ of any element or steps in a process, or even of the process itself, is of no relevance in determining

whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter.” *Diehr*, 450 U.S. at 188–89; *see also Genetic Techs. Ltd. v. Merial L.L.C.*, 818 F.3d 1369, 1376 (Fed. Cir. 2016) (stating that, “under the *Mayo/Alice* framework, a claim directed to a newly discovered law of nature (or natural phenomenon or abstract idea) cannot rely on the novelty of that discovery for the inventive concept necessary for patent eligibility”). Finally, although preemption is characterized as a driving concern for patent eligibility, preemption itself is not the test for patent eligibility. “Where a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015). “While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Id.*

Accordingly, we sustain the Examiner’s rejection of claims 1–21 under 35 U.S.C. § 101 as directed to patent-ineligible subject matter.

Rejection under 35 U.S.C. § 112(a)

Standard for Written Description under 35 U.S.C. § 112

To comply with the written description requirement of § 112, “the 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*[, which] is, for purposes of the ‘written description’ inquiry, *whatever is now claimed.*” *VasCath v. Mahurkar*, 935 F.2d 1555, 1563–64 (Fed. Cir. 1991). The applicant conveys possession of the invention “by such descriptive means as words, structures, figures, diagrams, formulas,

etc., that fully set forth the claimed invention[,] [a]lthough the exact terms need not be used *in haec verba*.” *Lockwood v. Am. Airlines, Inc.*, 107 F.3d 1565, 1572 (Fed. Cir. 1997) (citing *Eiselstein v. Frank*, 52 F.3d 1035, 1038 (Fed. Cir. 1995)). “[W]hatever the specific articulation, the test requires an objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art.” *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc). As the Federal Circuit has explained,

the patent specification is written for a person of skill in the art, and such a person comes to the patent with the knowledge of what has come before. . . . Placed in that context, it is unnecessary to spell out every detail of the invention in the specification; only enough must be included to convince a person of skill in the art that the inventor possessed the invention.

LizardTech, Inc. v. Earth Res. Mapping, Inc., 424 F.3d 1336, 1345 (Fed. Cir. 2005). “A description which renders obvious the invention for which an earlier filing date is sought is not sufficient.” *Lockwood*, 107 F.3d at 1572.

Analysis

The Examiner finds, “the unused funds having been deposited in the account associated with the first payment mechanism by a third party” and additional recitations “from the third party,” recited in claim 1, and similar limitations in independent claims 5, 9, 12, and 20, and dependent claim 13, are directed to new matter. *See* Final Act. 12–18; Ans. 4–8. The Examiner asserts that the original presentation of the claims do not have support for funding a payment mechanism by a third party. *See* Final Act. 13–18. The Examiner acknowledges that paragraph 27 of the Specification provides support for third party funding, but contends the Specification does not

provide support for any functions disclosed in the claimed limitations with respect to the third party. *See id.*

Appellant argues that the Specification “is replete with funding being accomplished by a third party, such as a corporation, into accounts used by its employees (the users).” App. Br. 10. According to Appellant, “those skilled in the art would readily understand that the corporation is a third party, distinct from its employees.” Appellant points to paragraphs 3, 24, 68, 71, 77–79, and Figures 7–8 of the Specification as disclosing funding employee accessible accounts by a third party, such as a corporation that employs the employees, and subsequent reallocation to a different employee accessible account. *See id.* at 9; *see also* Reply Br. 4–6 (similar arguments).

In response to the Brief, The Examiner asserts that paragraphs 3, 24, 27, 68, 71, 77–79 of the Specification do not provide any support for, or mention any functions related to third parties. *See* Ans. 5–8.

In reply to the Answer, Appellant asserts the claims recite three parties: a first user, a second user, and a third party. Appellant points out that the Specification discloses, in some embodiments, “a system that allows ‘organizations (e.g., corporations) to quickly and easily transfer company funds to and from employees in a real time or a near real time basis using a linked system of pre-paid debit cards or other payment mechanisms, such as credit cards, wireless payment devices, mobile phone payment modules or applications, etc.’” Reply Br. 2 (quoting Spec. ¶ 24); *see id.* at 5 (similar argument). Appellant asserts that the Examiner rejects the notion that a corporation, in this embodiment, is a third party with respect to its employees. *See id.* at 3. Appellant also points out that a legal dictionary definition for third party may be “a person who is not a party to a contract or

a transaction, but has an involvement.” *See id.* (quoting <https://legal-dictionary.thefreedictionary.com/third+party>). Appellant argues the corporation described in the Specification meets the legal definition of a third party relative to its employees, especially with respect to the transaction (i.e., transfer of funds between accounts). *See id.* Appellant further contends that those skilled in the art having the benefit of the Specification would readily understand that regarding the embodiment disclosed in paragraph 24 that the employee-users are the first and second parties, while the corporation would be the third party. *See id.*

We agree with Appellant’s arguments. Paragraphs 3, 24, 68, 71, 77–79, and Figures 7–8 of the Specification convey with reasonable clarity to those skilled in the art that, as of the filing date sought, that Appellant was in possession of the claimed invention. That the Specification does not use the term “third party,” but instead uses the terms “organizations” and “corporations” to describe funding accounts associated with employees (*see* Spec. ¶¶ 3, 24) is of no moment because “the exact terms need not be used *in haec verba*.” *Lockwood*, 107 F.3d at 1572.

Accordingly, we are constrained to reverse the rejection of claims 1–21 under 35 U.S.C. § 112(a) as failing to comply with the written description requirement.

DECISION

We AFFIRM the rejection of claims 1–21 under 35 U.S.C. § 101.

We REVERSE the rejection of claims 1–21 under 35 U.S.C. § 112(a).

| Claims Rejected | Basis | Affirmed | Reversed |
|------------------------|--------------|-----------------|-----------------|
| 1–21 | § 101 | 1–21 | |
| 1–21 | § 112(a) | | 1–21 |
| Outcome | | 1–21 | |

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

AFFIRMED