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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* BRIAN ROSENTHAL

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Appeal 2018-008265<sup>1</sup>  
Application 13/954,913  
Technology Center 3600

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Before JAMES B. ARPIN, SHARON FENICK, and RUSSELL E. CASS,  
*Administrative Patent Judges.*

ARPIN, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant<sup>2</sup> appeals under 35 U.S.C. § 134(a) from the Examiner’s non-final rejection of claims 1–20, all of the pending claims. Non-Final Act. 2–7; App. Br. 4. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> In this Decision, we refer to Appellant’s Appeal Brief (“App. Br.,” filed April 30, 2018) and Reply Brief (“Reply Br.,” filed August 10, 2018); the Non-Final Office Action (“Non-Final Act.,” mailed September 27, 2017); the Examiner’s Answer (“Ans.,” mailed June 15, 2018; and the originally-filed Specification (“Spec.,” filed July 30, 2013)). Rather than repeat the Examiner’s findings and determinations and Appellant’s contentions in their entirety, we refer to these documents.

<sup>2</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party-in-interest as Facebook, Inc. App. Br. 2.

## STATEMENT OF THE CASE

Appellant’s claimed methods and systems “relate[] generally to social networking, and in particular to crowdsourced advertising within a social networking system.” Spec. ¶ 2.

As noted above, claims 1–20 are pending. Claims 1, 14, and 20 are independent. App. Br. 16–17 (claim 1), 19–20 (claim 14), 21–22 (claim 20) (Claims App’x). Claims 2–13 depend directly or indirectly from claim 1, and claims 15–19 depend directly from claim 14. *Id.* at 17–20.

Claim 20 recites systems performing methods recited in claim 1. *Id.* at 16–17, 21–22. Claim 14 recites substantially similar methods to those recited in claim 1, and Appellant does not rely on the differences between claims 1 and 14 in challenging the Examiner’s rejection of either claim or the claims dependent therefrom. Therefore, we focus our analysis on the disputed and overlapping limitations of these independent claims. *See Accenture Global Servs. GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1341 (Fed. Cir. 2013) (“Although [*CLS Bank Int’l v. Alice Corp.*, 717 F.3d 1269 (Fed. Cir. 2013) (en banc)] issued as a plurality opinion, in that case a majority of the court held that system claims that closely track method claims and are grounded by the same meaningful limitations will generally rise and fall together.” *Id.* at 1274 n.1 (parenthetical omitted)); *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 226–227 (2014) (“Put another way, the system claims are no different from the method claims in substance.”).

Claim 1, reproduced below, is representative.

1. A method comprising:

presenting, to an endorsing user of an online social networking system, an endorsement user interface comprising an advertising template, the advertising template comprising

advertising content for endorsement and one or more fields for an endorsement;

receiving, from the endorsing user of the online social networking system through the endorsement user interface, an endorsement of the advertising content of the advertising template and a selection of a set of candidate viewing users to view an advertisement including the endorsement, each candidate viewing user a user of the online social networking system;

generating, by a processor of the online social networking system, an advertisement by combining the advertisement template and the received endorsement of the advertising content;

identifying, by the processor of the online social networking system, a set of target viewing users for the advertisement from the selected candidate viewing users received from the endorsing user, the identifying based on targeting criteria for the advertisement and a relationship between the viewing user and the endorsing user in the online social networking system;

associating the generated advertisement with the set of target viewing users; and

responsive to receiving a request to display an advertisement to a viewing user of the set of target viewing users:

selecting the generated advertisement for display based on an expected value of the generated advertisement; and

sending the generated advertisement for display to the viewing user.

*Id.* at 16–17.

## REJECTION

The Examiner rejects claims 1–20 under 35 U.S.C. § 101 as directed to patent ineligible subject matter. Non-Final Act. 2–7. We review the appealed rejection for error based upon the issues identified by Appellant, and in light of the arguments and evidence produced thereon. *Ex parte Frye*,

94 USPQ2d 1072, 1075 (BPAI 2010) (precedential). Arguments not made are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). Unless otherwise indicated, we adopt the Examiner’s findings in the Non-Final Action and the Answer as our own and add any additional findings of fact for emphasis. For the reasons given below, we sustain the Examiner’s rejection.

## ANALYSIS

### *Patent Ineligible Claims*

#### *A. Section 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 U.S. Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g.*, *Alice*, 573 U.S. at 216.

In determining whether a claim falls within an excluded category, we are guided by the Court’s two-part framework, described in *Mayo* and *Alice*. *Id.* 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 Alice*, 573 U.S. 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.”). According to the Court, 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 (1972)).

In *Diamond v. Diehr*, the claim at issue recited a mathematical formula, but the Court held that “a claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diamond v. Diehr*, 450 U.S. 175, 187 (1981). Having said that, the 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.* at 191 (citing *Benson* and *Flook*). Nevertheless, the Court noted that “[i]t 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.” *Id.* at 187; *see also* *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1352 (Fed. Cir. 2016) (Even if the individual components were known, “an inventive concept can be found in the ordered combination of claim limitations that transform the abstract idea of filtering content into a particular, *practical application* of that abstract idea” (emphasis added)).

If the claim is “directed to” an abstract idea, we next “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 (quotation marks omitted). “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.*

*B. Office Patent Eligibility Guidance*

In an effort to achieve clarity and consistency in how the Office applies the Court’s two part test, the Office published revised guidance on the application of § 101. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019).<sup>3</sup> In Step One of our analysis, we look to see whether the claims, as written, fall within one of the four statutory categories identified in § 101. *Id.* at 53 (“Examiners should determine whether a claim satisfies the criteria for subject matter eligibility by evaluating the claim in accordance with the criteria discussed in MPEP 2106, *i.e.*, whether the claim is to a statutory category (Step 1) and the *Alice/Mayo* test for judicial exceptions (Steps 2A and 2B)”).

Under the guidance, we then look to whether the claim recites:

- (1) Step 2A – Prong One: 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) Step 2A – Prong Two: additional elements that integrate the judicial exception into a practical application (*see* MPEP<sup>4</sup> § 2106.05(a)–(c), (e)–(h)).

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<sup>3</sup> This guidance supersedes previous guidance memoranda. *See 2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. at 51 (“All USPTO personnel are, as a matter of internal agency management, expected to follow the guidance.”).

<sup>4</sup> All Manual of Patent Examining Procedure (“MPEP”) citations herein are to MPEP, Rev. 08.2017, January 2018.

*See 2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. at 54–55 (“Revised Step 2A”).

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 id.* at 56 (“*Step 2B: If the Claim Is Directed to a Judicial Exception, Evaluate Whether the Claim Provides an Inventive Concept.*”).

### *C. Step One – Claims Directed to Statutory Categories*

Appellant’s independent claims 1 and 14, and their associated dependent claims, are directed to methods (i.e., a “process”), and claim 20 is directed to systems (i.e., a “machine”). App. Br. 16–22 (Claims App’x). Thus, the pending claims are directed to recognized statutory categories.

### *D. Two-Part Alice/Mayo Test*

#### *1. Step 2A, Prong One – Claims Recite Abstract Ideas*

Applying the first part of the *Alice/Mayo* analysis (Step 2A), “the Examiner has characterized . . . the invention as being directed to two distinct abstract ideas: targeted advertising, and collecting and analyzing information in order to produce a desirable information based result.” Non-Final Act. 4–5; *see* Ans. 3–4. In particular, the Examiner finds

the remaining steps, untethered from the generic computers, are simply abstractions within the field of targeted advertising:

selecting whom to target based on demographics beginning with a user-supplied population, selecting an advertisement based on an expected value and so on. All of these are utterly abstract steps which can be performed mentally, and there is nothing in the claim to indicate that the computer performs them in any particular way at all, much less any particular way that would be unlike how a person would, mentally, perform the same steps.

Non-Final Act. 5. The Examiner explains that the abstract idea of targeted advertising is a fundamental economic practice, similar to the concept identified as abstract by the Federal Circuit in *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253 (Fed. Cir. 2016), and the abstract idea of processing, collecting, and analyzing information in order to provide a desirable information-based result is similar to the concept identified as abstract by the Federal Circuit in *Electric Power Grp., LLC v. Alstrom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016). Non-Final Act. 2–3; *see* Ans. 3–4; *see also* *Cellspin Soft, Inc. v. Fitbit, Inc.*, 927 F.3d 1306, 1319 (Fed. Cir. 2019) (citing *Electric Power Grp.* with approval).

Appellant contends that (1) the Examiner improperly identifies multiple abstract ideas allegedly recited by the claims, and (2) the Examiner improperly identifies the abstract ideas at “a high level of abstraction and untethered from the language of the claims.” App. Br. 6–7; Reply Br. 2–3. We disagree.

Initially, we note that the Examiner is not prohibited from determining that the claims recite multiple abstract ideas and identifying those ideas. *See SAP America, Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1167 (Fed. Cir. 2018) (“The claims in this case are directed to abstract ideas. The focus of the claims . . . is on selecting certain information, analyzing it using mathematical techniques, and reporting or displaying the results of the

analysis. That is all abstract.”). Here, we are persuaded that consideration of the claim limitations reveals that the claims recite either or both identified abstract ideas.

Claim 1 broadly recites the limitations of (1) presenting data, e.g., advertising content and fields, to a user (“presenting, to an endorsing user of an online social networking system, an endorsement user interface comprising an advertising template, the advertising template comprising advertising content for endorsement and one or more fields for an endorsement”); (2) receiving approved data and a list of potential data recipients from a user (“receiving, from the endorsing user of the online social networking system through the endorsement user interface, an endorsement of the advertising content of the advertising template and a selection of a set of candidate viewing users to view an advertisement including the endorsement, each candidate viewing user a user of the online social networking system”); (3) generating a result, e.g., an advertisement, from the approved data (“generating . . . an advertisement by combining the advertisement template and the received endorsement of the advertising content”); (4) identifying target recipients from the potential recipients based on the results and a potential recipient’s relationship with the user (“identifying . . . a set of target viewing users for the advertisement from the selected candidate viewing users received from the endorsing user, the identifying based on targeting criteria for the advertisement and a relationship between the viewing user and the endorsing user in the online social networking system”); (5) linking the result to the target recipients (“associating the generated advertisement with the set of target viewing users”); and (6) selecting and sending the result to the target recipient

(“responsive to receiving a request to display an advertisement to a viewing user of the set of target viewing users: selecting the generated advertisement for display based on an expected value of the generated advertisement; and sending the generated advertisement for display to the viewing user”). App. Br. 16–17 (Claims App’x); *see* Non-Final Act. 3; Ans. 4–5; *see also* Spec. ¶¶ 19 (defining “friend” as “any other user to whom a user has formed a connection, association, or relationship via the social networking system”), 24 (describing example of an “endorsement”), 44 (describing example of “targeting criteria”), 46 (explaining determination of “expected value” broadly in terms of known click pricing models). As evidenced by the analysis above, claim 1 is broad in its scope and does not meaningfully limit the abstract ideas, particularly, how the advertising template is endorsed or analyzed, how the candidate and target viewers are selected or their identities are collected, or how the advertisement is chosen for display. *See Affinity Labs of Texas, LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1272 (Fed. Cir. 2016) (“[The patent] claims the general concept of streaming user-selected content to a portable device. The addition of basic user customization features to the interface does not alter the abstract nature of the claims and does not add an inventive component that renders the claims patentable.”); *Electric Power Grp.*, 830 F.3d at 1353.

Claim 1’s limitations, under their broadest reasonable interpretation, recite the abstract idea of “targeted advertising,” which is “a fundamental economic practice,” and falls within the broader category of “[c]ertain methods of organizing human activity.” Non-Final Act. 2, 4–5; 2019 *Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. at 52; *see* Spec. ¶¶ 2 (“crowdsourced advertising within a social networking system”),

6 (“Embodiments of the invention provide advertisements that improve the credibility and trust of the advertised products by using user generated content and leveraging the information stored within the social networking system. Providing advertisements generated by users of the social networking system allows advertisers to generate trust in the advertised product. Users generally have more confidence in purchasing a products [sic] endorsed by a friend.”); *see also* App. Br. 12–13 (“These limitations incorporate the stated goals of ‘improv[ing] the credibility and trust of the advertised products’ through ‘endorsements generated by friends because friends likely have similar needs and use for a product as the user,’ and therefore improving the efficiency of the presented advertisements. *See* Specification at [0006].”). In this respect, the analysis of claim 1 is similar to that in *Ultramercial v. Hulu*, 772 F.3d 709, 714 (Fed. Cir. 2014), in which it was determined that a claim “describ[ing] only the abstract idea of showing an advertisement before delivering free content” is patent ineligible.

The limitations of claim 1 also recite “collecting and analyzing information [provided by a user] in order to provide a desirable information-based result [to be shared a target group based in part on their relationship with the user].” Specifically, claim 1 recites collecting information from a user of an online social networking system (an endorsement of an advertisement and a set of candidate viewing users to view the advertisement), analyzing that information to identify a set of target viewing users for an advertisement, and providing a desirable information based result by combining the advertisement and the received endorsement and sending it to a viewing user. These interactions involve “managing

relationships or interactions between people” (e.g., social networking users, an advertiser, and users selected by the social networking user to receive an advertisement), including “social activities,” and, therefore, also fall within the broader category of “[c]ertain methods of organizing human activity” set forth in the 2019 Guidance. Non-Final Act. 2, 4–5; *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. at 52. Thus, we determine that the rejected claims recite abstract ideas, namely “[c]ertain methods of organizing human activity.”

*2. Step 2A, Prong Two – Abstract Ideas Not Integrated Into Practical Application*

Claim 1 recites that certain of its steps are performed “by a processor of the online social networking system,” that performs certain activities within the system or between the user and the target viewers via a network. App. Br. 12–13 (Claims App’x). Applying the second part of the *Alice/Mayo* analysis,<sup>5</sup> the Examiner finds

Looking now at step 2B, the search for “significantly more”, all of the claim language boldfaced by the applicant is per se abstract. Abstractions such as “an endorsement user interface” comprising a template with fields, which can be nothing more than boxes on a piece of paper, and a “selection of a set of candidate viewing users” who happen to be users of the same system as another person, are not even more than abstract, and so they certainly cannot be significantly more. Beyond the abstract idea, the only thing found here, as in *Alice* and [*Electric*

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<sup>5</sup> We acknowledge that some of the considerations at Step 2A, Prong Two, properly may be evaluated under Step 2 of *Alice* (Step 2B of the Office guidance). For purposes of maintaining consistent treatment within the Office, we evaluate those considerations under first part of the *Alice/Mayo* analysis (Step 2A of the Office guidance). See *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. at 55 n.25, 27–32; but see Reply Br. 4.

*Power Grp.*], is a generic computer which, as the court pointed out in *Alice*, is not sufficient.

Non-Final Act. 6.

Further, the Specification discloses that the additional, recited elements are generic. *See* Spec. ¶¶ 54 (methods and systems not limited to any particular display), 56 (“The described operations and their associated modules may be embodied in software, firmware, hardware, or any combinations thereof.”), 57 (“In one embodiment, a software module is implemented with a computer program product comprising a computer-readable medium containing computer program code, which can be executed by a computer processor for performing any or all of the steps, operations, or processes described.”), 58 (“This apparatus may be specially constructed for the required purposes, *and/or it may comprise a general-purpose computing device* selectively activated or reconfigured by a computer program stored in the computer.” (emphasis added)). Moreover, Appellant does not assert that social networking systems or graphical user interfaces were not known at the time of this application, and the Specification describes the interfaces here in the most general terms. *See, e.g., id.* ¶¶ 19 (Social networking systems and their operation were known in the art.), 36 (“This endorsement user interface may include heading information and input fields where a user can enter endorsement information. The input fields enable a user to enter endorsements. For example, the user interface can include a title field, to allow a user to input a title for the advertisement. The user interface may also include an endorsement field, where a user can input an endorsement.”), Fig. 4. Thus, the methods of claim 1 merely recite generic hardware and known social networking and data input techniques, and the recited methods are not linked to any particular machine (MPEP § 2106.05(b)) and merely

apply generic computer hardware and software to perform the abstract ideas (MPEP § 2106.05(f)). Non-Final Act. 3–4; *see* 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. at 55 n.27, 30.

Appellant contends, however, that, like the graphical user interface at issue in *Trading Technologies International, Inc. v. CQG, Inc.*, 675 F. App’x 1001 (Fed. Cir. 2017), “the instant claims recite a ‘specific, structured graphical user interface paired with a prescribed functionality directly related to the graphical user interface’s structure.’” App. Br. 7 (quoting *Trading Techs.*, 675 F. App’x at 1004); *see* Reply Br. 4. In particular, Appellant contends:

The claims of *Trading Technologies* were determined to be patent eligible because they were directed towards “a specific improvement to the way computers operate . . . for the claimed graphical user interface method imparts a specific functionality to [the] system ‘directed to a specific implementation of a solution to a problem in the software arts.’” *See* [*Trading Techs.*, 675 F. App’x at 1006]. Similarly, the instant claims recite a specific “endorsement user interface” with functionality to allow an “endorsing user” to endorse “the advertising content of the advertising template” displayed in the endorsement user interface and to select “a set of candidate viewing users to view an advertisement including the endorsement.”

App. Br. 7.

As noted above, however, the recited methods and the Specification describe the functionality of the endorsement user interface in only the most general terms, quite unlike the detailed recitation of functionality provided in claims at issue in *Trading Technologies*. 675 F. App’x at 1003; *cf.* Spec.

¶ 36. Agreeing with the district court, the Federal Circuit in *Trading Technologies* explained:

the challenged patents do not simply claim displaying information on a graphical user interface. The claims require a specific, structured graphical user interface paired with a prescribed functionality directly related to the graphical user interface's structure that is addressed to and resolves a specifically identified problem in the prior state of the art.

*Id.* at 1004.

Thus, we are not persuaded that “the instant claims are not directed to an abstract idea but are instead directed to ‘a specific improvement to the way computers operate . . . for the claimed graphical user interface method imparts a specific functionality’.” App. Br. 7; *see* Non-Final Act. 3 (“The social-media limitations are simply a field of use which attempts to confine the invention to a particular technological environment. The type of information being manipulated does not impose meaningful limitations or render the idea less abstract.”). The invocation of interface functionality here does not apply or use the judicial exceptions in some other meaningful way beyond generally linking their use to a particular technological environment. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. at 55 n.29; *see* Non-Final Act. 5; Ans. 5–6.

Further, the steps of “*selecting* the generated advertisement for display based on an expected value of the generated advertisement; and *sending* the generated advertisement for display to the viewing user” are merely insignificant, extra-solution activity associated with the implementation of the abstract idea. App. Br. 17 (Claims App’x) (emphases added); *see* MPEP § 2106.05(g), *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. at 55 n.31; *see also* Spec. ¶ 46 (explaining determination of “expected value” by known click pricing models). Appellant also does not contend that the recited methods transform or reduce a particular article to a

different state or thing. *See* MPEP § 2106.05(c); *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. at 55 n.28.

In view of Appellant's claim recitations and Specification and consistent with the Examiner's determinations, we are persuaded the rejected claims do not recite:

- (i) an improvement to the functioning of a computer;
- (ii) an improvement to another technology or technical field;
- (iii) an application of the abstract idea with, or by use of, a particular machine;
- (iv) a transformation or reduction of a particular article to a different state or thing; or
- (v) other meaningful limitations beyond generally linking the use of the abstract idea to a particular technological environment.

*See* MPEP § 2106.05(a)–(c), (e)–(h). Thus, we conclude that the rejected claims do not integrate the judicial exceptions into a practical application and that the claims are directed to abstract ideas.

### *3. Step 2B – Not Significantly More Than the Abstract Ideas*

Because we find that the claims are directed to abstract ideas and do not integrate those abstract ideas into a practical application, we now consider whether the claims include additional limitations, such that the claims amount to significantly more than the abstract ideas. As noted above, applying second part of the *Alice/Mayo* test, the Examiner concludes:

The claim elements when considered as an ordered combination - that is, the generic computer components appended to the series of abstract steps which are themselves arranged chronologically - do nothing more than when analyzed individually. The use of such ubiquitous items as templates and user interfaces does not reduce the level of abstraction. The other independent claims are simply different embodiments but in each case are directed to generic computers performing the same or a very similar process.

Non-Final Act. 3–4; *see id.* at 6–7; Ans. 7–12. We agree.

The Specification does not assert that any of the recited components, alone or in combination, are novel. On the contrary, the Specification makes clear that the components and techniques recited in the rejected claims are well-understood, routine, and conventional. *See, e.g.*, Spec. ¶¶ 19, 54, 56–58.

Appellant contends, however, that: (1) the claims recite additional elements that amount to significantly more than the identified abstract ideas; (2) even if the individual additional elements are conventional, the claims recite an unconventional arrangement of these elements, citing *BASCOM*; and (3) the Examiner fails to show that the additional elements are well-understood, routine, and conventional, citing *Berkheimer v. HP Inc.*, 881 F.3d 1360 (Fed. Cir. 2018) (cert. petition pending). App. Br. 8–14; Reply Br. 5–8. We disagree.

Appellant identifies particular elements of the claim that allegedly recite significantly more than the identified abstract ideas. App. Br. 8–9. However, these elements merely recite a conventional graphical user interface for presenting non-functional advertising content (“an endorsement user interface comprising an advertising template, the advertising template comprising advertising content for endorsement and one or more fields for an endorsement”), the abstract concept of picking a group of possible viewers of a result (“a selection of a set of candidate viewing users to view an advertisement including the endorsement, each candidate viewing user a user of the online social networking system”), and the identification of related groups of users (“from the selected candidate viewing users received from the endorsing user, . . . a relationship between the viewing user and the

endorsing user in the online social networking system”). *Id.* (bolding omitted). These elements are themselves conventional or abstract. Thus, we agree with the Examiner that these identified elements do not add significantly more to the abstract ideas, to which the recited methods and systems are directed. Ans. 7–9.

Similarly, we agree with the Examiner that Appellant’s reliance on *BASCOM* is misplaced. As the Examiner recognized, the claims recite a series of abstract steps, “which are themselves arranged *chronologically*[, and] do nothing more than when analyzed individually.” Non-Final Act. 3–4 (emphasis added). Thus, we agree with the Examiner that the claims do not recite an unconventional arrangement of steps. Ans. 9.

Finally, we agree with the Examiner that the Specification makes clear that the utilized computer components are well-understood, routine, and conventional. Ans. 9; *see* Spec. ¶¶ 54, 56–58. The Examiner also provides sufficient evidence to establish that the graphical user interfaces and social networking systems recited in the claims are well-understood, routine, and conventional. Ans. 10–11; *see* Spec. ¶¶ 19, 23. As the Examiner correctly notes, “appellant does not bother to describe any particular feature of the present invention which ought to have been considered, in light of *Berkheimer*, to go beyond the well-understood, routine and conventional.” Ans. 11. Although Appellant further asserts that “while overcoming § 103 is not dispositive for the § 101 analysis, under *Berkheimer*, it follows that a lack of prior art showing the claimed invention is *evidence* that the claimed invention may in fact go beyond that which is ‘conventional, well-understood, or routine’” (Reply Br. 8 (quoting App. Br. 14)), this argument improperly conflates the determination of patent

eligibility with obviousness. Finding that a claim is not obvious is not inconsistent with the determination that the recited elements are themselves well-understood, routine, and conventional. *Ans. 12*; *see SAP America*, 898 F.3d at 1163 (citing *Mayo*, 566 U.S. at 90 (“[T]o shift the patent-eligibility inquiry entirely to these later sections risks creating significantly greater legal uncertainty, while assuming that those sections can do work that they are not equipped to do.”); *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1151 (Fed. Cir. 2016) (“[A] claim for a new abstract idea is still an abstract idea. The search for a § 101 inventive concept is thus distinct from demonstrating § 102 novelty.”); *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1315 (Fed. Cir. 2016) (same for obviousness)).

On this record, we agree with the Examiner that independent claim 1, as well as independent claims 14 and 20, is directed to abstract ideas and fails to recite “significantly more” than the identified abstract ideas. Thus, we are not persuaded that the Examiner erred in determining that these claims are patent ineligible, and we sustain that rejection. Appellant does not argue the eligibility of the dependent claims separately, and we find that the dependent claims fall with their base claims. *See Non-Final Act. 4* (addressing the patent eligibility of the dependent claims). Therefore, we also sustain the patent ineligibility rejection to the dependent claims.

#### DECISION

1. The Examiner did not err in rejecting claims 1–20 under 35 U.S.C. § 101, as directed to patent-ineligible subject matter.
2. Thus, on this record, claims 1–20 are not patentable.

CONCLUSION

We affirm the Examiner's rejection of claims 1–20.

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
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)(1)(iv).

AFFIRMED