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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHRISTOPHER ARMSTRONG, ALAN KEISTER,
LARK DUNHAM, JENNIFER GRANITO, STEVEN GREENBERG,
RAKESH AGRAWAL, MICHAEL SOMMERS, and CAROL A. GLOVER

Appeal 2018-008683
Application 14/461,587
Technology Center 2100

Before JOSEPH L. DIXON, JAMES W. DEJMEK, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

BELISLE, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Throughout this Decision, we use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42 (2016). Appellant identifies the real party in interest as Microsoft Technology Licensing LLC. App. Br. 3.

STATEMENT OF THE CASE

The Claimed Invention

Appellant's invention generally relates to "indicating recent content publication activity by a user" in an online computer network environment. Spec. 1:10–11.

According to the Specification, the context for Appellant's invention is, for example, an instant messaging ("IM") environment, such as the well-known instant messaging platform historically operated by America Online ("AOL"). *See, e.g.*, Spec. 11:17–27, Fig. 1. In an exemplary embodiment, if a co-user engages in publication activity, "an icon indicating that [the] update took place may be displayed proximate to a screen name associated with the co-user in a list of co-users (e.g., an AOL or AIM Buddy List)." Spec. 11:21–24. By doing so, "other users in a social network may be notified of a co-user's recent content publication activity without the co-user having to independently contact all of the users in the social network." Spec. 11:24–27. According to the Specification, "recent content publication activity" includes many forms of online activity, including updating availability status, updating a user profile, adding photographs, creating a new journal or blog entry, posting a new message, etc. *See, e.g.*, Spec. 13–20.

Claim 1, reproduced below, is representative of the subject matter on appeal:

1. A method, comprising:
accessing an online identifier for each of a plurality of co-users who populate a list, inclusion in which is directed by an online publisher;

selecting an identifier of a particular co-user from the list;
and

modifying an online identifier of the online publisher so as to indicate that the online publisher has recently engaged in content publication activity when

a determination is made that the online publisher wants to share with the particular co-user recent content publication activity, based at least in part on a publication preference of the online publisher, and

the particular co-user views either a profile of the online publisher or a feed of recent content publication activity of co-users associated with the particular co-user.

App. Br. 20 (Claims Appendix).

The Applied Reference

The Examiner relies on the following reference as evidence of unpatentability of the claims on appeal:

Sample	US 2006/0230061 A1	Oct. 12, 2006
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The Examiner's Rejections

The Examiner made the following rejections of the claims on appeal:

Claims 1–20 stand rejected under pre-AIA 35 U.S.C. § 102(e) as being unpatentable over Sample. Final Act. 2–6.

Claims 1–20 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Ans. 3–8. The Examiner issued this rejection as a new ground of rejection in the Answer.

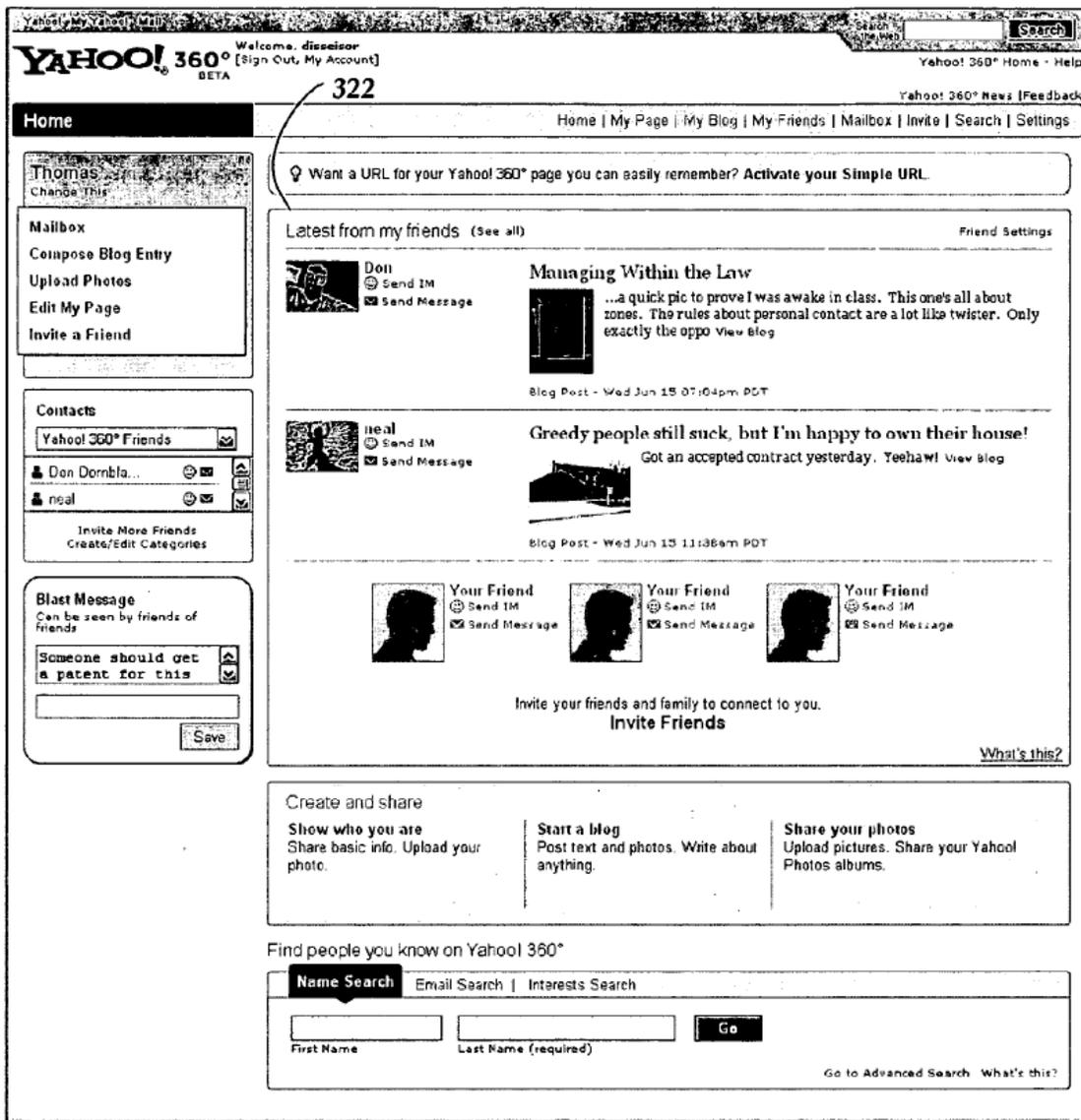
ANALYSIS²

Anticipation Rejection

Appellant disputes the Examiner's finding that Sample anticipates claims 1–20, including independent claims 1, 12, 13, 14, 18, and 19. App. Br. 12–18; Reply Br. 4–6. In particular, as to all independent claims, Appellant argues Sample does not disclose “accessing an online identifier for each of a plurality of co-users who populate a list” (“Accessing Limitation”). App. Br. 16–17. As to independent claims 1, 13, 14, 18, and 19, Appellant argues Sample does not disclose “modifying an online identifier of the online publisher so as to indicate that the online publisher has recently engaged in content publication activity” (“Modifying Limitation”). App. Br. 17–18.

Sample generally relates to “enabling a user to control a view of content recently posted [online] by a related content publisher, and enabling the content publisher to control which co-users are able to view recently published content.” Sample ¶ 2. In Sample, users of an online social network service interact via client user interface 320 shown in Figure 4, reproduced below. Sample ¶ 45.

² Throughout this Decision, we have considered Appellant's Appeal Brief filed September 12, 2018 (“App. Br.”); Appellant's Reply Brief filed August 29, 2018 (“Reply Br.”); the Examiner's Answer mailed June 29, 2018 (“Ans.”); the Final Office Action mailed May 26, 2016 (“Final Act.”); and Appellant's Specification filed August 18, 2014 (“Spec.”).



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FIG. 4

Figure 4 of Sample shows a screen shot of client user interface 320, illustrating a sample home page with vitality section 322 for a receiving user of an online social network service. Sample ¶ 12. Vitality section 322 “displays the most recent posting of selected information from related co-

users.” Sample ¶ 45. “Upon logon or other event, a summary of content updates is provided to each receiving user that meets each content publisher’s required relationship.” Sample, Abstract. “[T]he content updates are delivered according to a selected delivery method from those content publishers that meet the relationship requirements of the receiving users.” *Id.* The means of delivering updates include “email, instant message, RSS feeds, and the like.” *Id.*

Accessing Limitation

The Examiner finds Sample discloses different group names such as “family” and “classmates,” and finds this corresponds to identifying a plurality of co-users in a list, and “clearly disclose[s] the relationship degree to the publisher and what kind of [information] a co-user can access.” Ans. 8–9 (citing Sample ¶¶ 54–55 (“For desired co-users, the receiving user may specify relationship categories, such as family, classmate, fishing buddy, and the like.”), Fig. 4). The Examiner also finds Sample discloses “[a] user can control which group of co-users to access and share blogs posted by the user,” and “the specified group of co-user[s] corresponds to [a] co-users identifier list as shown in Fig. 4, wherein ‘Don Donbla’ and ‘neal’ under [C]ontacts are the co-user[s] identifier list.” Ans. 9 (citing Sample ¶ 44 (“[A] publishing user can control which group(s) of co-users can access the publishing user’s blog.”)). The Examiner further finds these explicit disclosures in Sample describe “accessing an online identifier for each of a plurality of co-users who populate a list,” as recited, for example, in claim 1.

Appellant responds Sample does not disclose “any list populated by a plurality of co-users,” and “[a]s a result, any alleged accessing of any alleged online identifier(s) supposedly taught by Sample . . . is not ‘of a

plurality of co-users who populate a list.” App. Br. 16. Appellant further responds “[m]erely moving a member out of a contact list, for example, is not accessing ‘for each of a plurality of co-users,’” and “is not accessing any identifier,” but rather “controlling membership in a list is more akin to moving identifiers.” Reply Br. 6. We find Appellant’s arguments unpersuasive of Examiner error.

“A patent claim is anticipated if a single prior art reference expressly or inherently discloses every limitation of the claim.” *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1252 (2014). Additionally, to anticipate, a prior art reference must disclose more than “multiple, distinct teachings that the artisan might somehow combine to achieve the claimed invention.” *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008); *see also In re Arkley*, 455 F.2d 586, 587 (CCPA 1972) (“[T]he [prior art] reference must clearly and unequivocally disclose the claimed [invention] or direct those skilled in the art to the [invention] without *any* need for picking, choosing, and combining various disclosures not directly related to each other by the teachings of the cited reference.”). But anticipation “is not an ‘ipsissimis verbis’ test.” *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990).

Here, as noted by the Examiner, Sample’s Figure 4 discloses, *inter alia*, co-users “Don Donbla” and “neal” populating a list entitled “Yahoo! 360° Friends,” and as broadly claimed, “accessing” each of these “online identifiers” or screen names at least for purposes of identifying them as part of the list, and for purposes of receiving the “[l]atest from my friends,” including both “Don Donbla” and “neal.” *See* Ans. 8–9 (citing, e.g., Sample ¶¶ 44, 54–55, Fig. 4); Spec. 12:7 (“A screen name (or an identifier) is provided to identify the user.”). Appellant does not sufficiently define

“accessing an online identifier,” other than to argue Sample does not disclose it, and does not substantively respond to the Examiner’s reliance on Figure 4, particularly the “Yahoo! 360° Friends” listing with updates shown. *See* Reply Br. 6; App. Br. 16–17. Based on the foregoing, we find Appellant does not show persuasively that the Examiner erred in finding that Sample discloses “accessing an online identifier for each of a plurality of co-users who populate a list,” as recited in claim 1.

Modifying Limitation

The Examiner finds Sample discloses that “co-user identifiers can be changed from the group list of recipient[s] based on the relationship degree,” and “some names may be added or deleted from a group based on the relationship to the user.” Ans. 9. The Examiner also finds Sample discloses “the user can control and update the receipt of a post and access to the user posts.” Ans. 9–10. The Examiner further finds these explicit disclosures in Sample describe “modifying an online identifier of the online publisher so as to indicate that the online publisher has recently engaged in content publication activity,” as recited, for example, in claim 1.

Appellant responds that in Sample “no alleged online identifier (or an alleged online identifier from the claimed list) changes,” rather ““notifications about new information posted by users’ are presented.” App. Br. 18 (“**No alleged online identifier is modified in the vitality module 322.**”). Appellant also responds that adding or removing names from a contact list “is neither ‘modifying an online identifier’ nor ‘. . . so as to indicate that an online publisher has recently engaged in content publication activity,’” and argues “this alleged disclosure does not render the subject

features of independent claims 1, 12, 13, 14, 18, and 19 obvious [sic: anticipated].” We find Appellant’s arguments persuasive.

Here, the Examiner does not provide sufficient evidence or technical reasoning to show Sample expressly or inherently discloses “modifying an online identifier of the online publisher so as to indicate that the online publisher has recently engaged in content publication activity.” Indeed, the Examiner makes no express findings as to how Sample’s modifying (adding or removing) identifiers in a list discloses modifying such identifiers so as to indicate recent content publication activity, and to the extent that the Examiner affords no weight to the “indicating” limitation, the Examiner also makes no express statements in this regard.

Accordingly, constrained by the record before us,³ we do not sustain the Examiner’s rejection under pre-AIA 35 U.S.C. § 102(e) of independent claim 1. Additionally, we do not sustain the Examiner’s rejection under pre-AIA 35 U.S.C. § 102(e) of claim 20, which depends therefrom. For similar reasons, we do not sustain the Examiner’s rejections under pre-AIA 35 U.S.C. § 102(e) of independent claims 12,⁴ 13, 14, 18, and 19, which

³ Sample shows in Figure 4 the “[l]atest from my friends,” including a blog post snippet shown adjacent to user “Don” and another blog post snippet shown adjacent user “neal,” both of which users are shown in an adjacent contact list. Figure 4 also shows these users with emoji or emoticons adjacent their usernames. Because the Examiner’s art rejection is based only on anticipation, we do not opine herein on whether these or other features in Sample would teach or at least fairly suggest (render obvious) any of claims 1–20. Although the Board is authorized to reject claims under 37 C.F.R. § 41.50(b), no inference should be drawn when the Board elects not to do so. *See* MPEP § 1213.02.

⁴ In the Final Action, the Examiner noted “Claim 12 which is an independent claim was not amended the same way all other independent

recite commensurate limitations, and claims 2–11 and 15–17, which depend therefrom.

Section 101 Rejection

Appellant disputes the Examiner’s conclusion that the pending claims are directed to patent-ineligible subject matter. Reply Br. 2–4. In particular, Appellant argues the claims “encompass a specific solution to an Internet-centric problem relating to *online* publishing amongst friends and contacts,” and the claimed invention “is a solution to a ‘challenge particular to the Internet’, which has been found both **not abstract** and **patent eligible**.” Reply Br. 2 (citing *DDR Holdings*). Appellant also argues the Examiner oversimplifies the claims by concluding the steps of accessing an online identifier, selecting an identifier, and modifying an online identifier to indicate recent content publication activity (a) constitute an “‘abstract idea of displaying an indication of published content based upon a distribution list,’” and (b) amount to merely “collect[ing] information, analyz[ing] that information, and display[ing] it.” Reply Br. 3; *see* Ans. 4. Rather, Appellant asserts the Examiner ignores “the expressly recited features of

claims were,” but nevertheless proceeded to reject claim 12 as part of an omnibus rejection of all independent claims. Final Act. 2–3, 6. Appellant notes that claim 12 recites “modifying the selected identifier,” whereas claim 1 recites “modifying an online identifier,” and argues the Examiner erred by not addressing this different language, but Appellant stops short of explaining any alleged difference. App. Br. 14–15; Reply Br. 4–6. However, in the Reply Brief, Appellant also argues Sample does not disclose “modifying an online identifier,” and thus Sample does not anticipate any of the independent claims, including claim 12. *See* Reply Br. 6. Nevertheless, given we do not sustain the Examiner’s § 102(e) rejection of any claim based on the present record, we find the Examiner’s treatment of claim 12 harmless and moot.

modifying online identifiers based on two conditions precedent.” Reply Br. 3. We find Appellant’s arguments unpersuasive.

The Supreme Court’s two-step framework guides our analysis of patent eligibility under 35 U.S.C. § 101. *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 217 (2014). In addition, the Office recently published revised guidance for evaluating subject matter eligibility under 35 U.S.C. § 101, specifically with respect to applying the *Alice* framework. USPTO, 2019 *Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Office Guidance”). If a claim falls within one of the statutory categories of patent eligibility (i.e., a process, machine, manufacture, or composition of matter) then the first inquiry is whether the claim is directed to one of the judicially recognized exceptions (i.e., a law of nature, a natural phenomenon, or an abstract idea). *Alice*, 573 U.S. at 217. As part of this inquiry, we must “look at the ‘focus of the claimed advance over the prior art’ to determine if the claim’s ‘character as a whole’ is directed to excluded subject matter.” *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016). Per Office Guidance, this first inquiry has two prongs of analysis (i) does the claim recite a judicial exception (e.g., an abstract idea), and (ii) if so, is the judicial exception integrated into a practical application. 84 Fed. Reg. at 54. Under the Office Guidance, if the judicial exception is integrated into a practical application, *see infra*, the claim is patent eligible under § 101. 84 Fed. Reg. at 54–55. If the claim is directed to a judicial exception (i.e., recites a judicial exception and does not integrate the exception into a practical application), the next step is to determine whether any element, or combination of elements, amounts to

significantly more than the judicial exception. *Alice*, 573 U.S. at 217; 84 Fed. Reg. at 56.

Here, we conclude Appellant’s claims recite an abstract idea because they recite mental processes. If a claim, under its broadest reasonable interpretation, covers performance in the mind but for the recitation of generic computer components, then it is still in the mental processes category unless the claim cannot practically be performed in the mind. *See Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016) (“[W]ith the exception of generic computer-implemented steps, there is nothing in the claims themselves that foreclose them from being performed by a human, mentally or with pen and paper.”); *see also CyberSource Corp.*, 654 F.3d at 1375, 1372 (holding that the incidental use of “computer” or “computer readable medium” does not make a claim otherwise directed to process that “can be performed in the human mind, or by a human using a pen and paper” patent eligible); *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71 (2012) (explaining mental processes are not patentable); 84 Fed. Reg. at 52–53 nn.14–15.

More specifically, Appellant’s claims generally are directed to determining recent content publication activity of publishers in the context of user-publishers in an Internet or online environment. This is consistent with how Appellant describes the claimed invention. *See* Spec. 1:10–11 (“This application relates to indicating recent content publication activity by a user.”); *see also, e.g.*, Spec. 1:20–21 (describing principle of invention as “recent content publication activity by a publishing online identity is indicated”); Spec. 8:7–8 (describing performing the step of “[d]etermining that the publishing online identity has engaged in recent content publication

activity”). Consistent with our Guidance and case law, we conclude that determining recent content publication activity of publishers is a mental process, namely, an observation, evaluation, and judgment, and, therefore, an abstract idea. *See* 84 Fed. Reg. at 52; *Content Extraction & Transmission v. Wells Fargo Bank, N.A.*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (concluding that a concept that can be performed in the human mind like “1) collecting data, 2) recognizing certain data within the collected data set, and 3) storing that recognized data in a memory” is an abstract idea); *see also Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016) (explaining that “analyzing information by steps people go through in their minds” is a mental process within the abstract idea category and concluding claims directed to “collecting information, analyzing it, and displaying certain results of the collection and analysis” were abstract); *accord In re BRCA1 & BRCA2-Based Hereditary Cancer Test Patent Litig.*, 774 F.3d 755, 763 (Fed. Cir. 2014) (concluding that the concept of “comparing BRCA sequences and determining the existence of alterations,” like comparing past and recent profiles or postings and determining the existence of recent activity or alternations, is an “abstract mental process”).

Claim 1 is reproduced below with the claim limitations that recite determining recent content publication activity of publishers in the context of user-publishers in an Internet or online environment in *italics*:

1. A method, comprising:

accessing an online identifier for each of a plurality of co-users who populate a list, inclusion in which is directed by an online publisher;

selecting an identifier of a particular co-user from the list;

and

modifying an online identifier of the online publisher *so as to indicate that the online publisher has recently engaged in content publication activity* when

a determination is made that the online publisher wants to share with the particular co-user recent content publication activity, based at least in part on a publication preference of the online publisher, and

the particular co-user views either a profile of the online publisher or a feed of recent content publication activity of co-users associated with the particular co-user.

App. Br. 20 (Claims Appendix).

More particularly, the concept of determining recent content publication activity of publishers in the context of user-publishers in an Internet or online environment comprises (i) identifying co-users (i.e., the claimed step of “accessing an online identifier for each of a plurality of co-users who populate a list, inclusion in which is directed by an online publisher”); (ii) selecting a co-user (i.e., the claimed steps of “selecting an identifier of a particular co-user from the list” and “when” condition of “view[ing] either a profile of the online publisher or a feed of recent content publication activity of co-users associated with the particular co-user”); (iii) determining whether a co-user-publisher wants to share recent content publication activity with other co-users (i.e., the claimed “when” condition of “a determination is made that the online publisher wants to share with the particular co-user recent content publication activity, based at least in part on a publication preference of the online publisher”); and (iv) determining whether a co-user-publisher has recent content publication activity (i.e., the claimed step of “indicat[ing] that the online publisher has recently engaged in content publication activity” embedded within the step of modifying an online identifier).

Because the claim recites a judicial exception, we next determine whether the claim integrates the judicial exception into a practical application. 84 Fed. Reg. at 54. To determine whether the judicial exception is integrated into a practical application, we identify whether there are “*any additional elements recited in the claim beyond the judicial exception(s)*” and evaluate those elements to determine whether they integrate the judicial exception into a practical application. 84 Fed. Reg. at 54–55 (emphasis added); *see also* Manual of Patent Examining Procedure (“MPEP”) § 2106.05(a)–(c), (e)–(h) (9th ed. Rev. 08.2017, Jan. 2018).

Here, we find the additional limitation(s) do not integrate the judicial exception into a practical application. More particularly, the claims do not recite (i) an improvement to the functionality of a computer or other technology or technical field (*see* MPEP § 2106.05(a)); (ii) a “particular machine” to apply or use the judicial exception (*see* MPEP § 2106.05(b)); (iii) a particular transformation of an article to a different thing or state (*see* MPEP § 2106.05(c)); or (iv) any other meaningful limitation (*see* MPEP § 2106.05(e)). *See* 84 Fed. Reg. at 55. Rather, the step of presenting the results of determining recent content publication activity of publishers, namely, “modifying an online identifier of the online publisher” to indicate such activity, is the type of extra-solution activities (i.e., in addition to the judicial exception) the courts have determined insufficient to transform judicially excepted subject matter into a patent-eligible application. *See* MPEP § 2106.05(g); *see Elec. Power*, 830 F.3d at 1355 (explaining that “selecting information, by content or source, for collection analysis, and display does nothing significant to differentiate a process from ordinary mental processes”); *Elec. Power*, 830 F.3d at 1354 (recognizing

“that merely presenting the results of abstract processes of collecting and analyzing information, without more (such as identifying a particular tool for presentation), is abstract as an ancillary part of such collection and analysis”); *Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Can.*, 771 F. Supp. 2d 1054, 1065 (E.D. Mo. 2011) *aff’d*, 687 F.3d 1266 (Fed. Cir. 2012) (explaining that “storing, retrieving, and providing data . . . are inconsequential data gathering and insignificant post solution activity”).

Contrary to Appellant’s arguments (*see, e.g.*, Reply Br. 2), the claims are not directed to a technological improvement. Although Appellant characterizes the claimed invention as “a specific solution to an Internet-centric problem relating to *online* publishing amongst friends and contacts,” Appellant does not identify the technological “problem” being solved. *See* Reply Br. 2–4. The purported improvement or “specific solution” (determining and indicating recent content publication activity of publishers), however, relates to the abstract idea, and does not improve a computer, technology, or a technical field. *See McRO, Inc. v. Bandai Namco Games Am., Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016) (“We . . . look to whether the claims in these patents focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.”) (citing *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016)). Further, Appellant does not explain how the “online” interactions with the Internet recited in claim 1, for example, are not merely the routine or conventional use of the Internet. *See DDR Holdings*, 773 F.3d at 1258–59 (“We caution, however, that not all

claims purporting to address Internet-centric challenges are eligible for patent.”).

For at least the foregoing reasons, the claims do not integrate the judicial exception into a practical application.

Because we determine the claims are directed to an abstract idea or combination of abstract ideas, we analyze the claims under step two of *Alice* to determine if there are additional limitations that individually, or as an ordered combination, ensure the claims amount to “significantly more” than the abstract idea. *Alice*, 573 U.S. at 217–18 (citing *Mayo*, 566 U.S. at 72–73, 77–79). As stated in the Office Guidance, many of the considerations to determine whether the claims amount to “significantly more” under step two of the *Alice* framework are already considered as part of determining whether the judicial exception has been integrated into a practical application. 84 Fed. Reg. at 56. Thus, at this point of our analysis, we determine if the claims add a specific limitation, or combination of limitations, that is not well-understood, routine, conventional activity in the field, or simply appends well-understood, routine, conventional activities at a high level of generality. 84 Fed. Reg. at 56.

Here, Appellant’s claims do not recite specific limitations (or a combination of limitations) that are not well-understood, routine, and conventional. Accessing, selecting, determining, modifying, and displaying data as in claim 1, for example, merely requires the well-understood function of a computer/computer network. *See buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (“That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive.”). In addition, we note Appellant describes the

components of the claimed invention at a high level of generality and the components perform generic functions that are well-understood, routine, and conventional. *See, e.g.*, Spec. 27:19–23 (“Each of the client 1110 and the host 1130 may be implemented by, for example, a general-purpose computer capable of responding to and executing instructions in a defined manner . . . [or] other equipment or some combination thereof capable of responding to and executing instructions.”), Fig. 11.

Additionally, to the extent Appellant contends the claims do not seek to tie-up (i.e., preempt) an abstract idea (*see* Reply Br. 2), we are unpersuaded of Examiner error. “[W]hile preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1098 (Fed. Cir. 2016) (quoting *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015)); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (“[T]hat the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract.”). Further, “[w]here 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*, 788 F.3d at 1379.

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner’s rejection of independent claim 1 under 35 U.S.C. § 101. Further, we sustain the Examiner’s rejection under 35 U.S.C. § 101 of claims 2–20, which were not argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv).

CONCLUSION

Claims Rejected	Basis	Affirmed	Reversed
1-20	35 U.S.C. § 102, Sample		1-20
1-20	35 U.S.C. § 101	1-20	
Overall Outcome		1-20	

Because we affirm at least one ground of rejection with respect to each claim on appeal, the Examiner's decision rejecting claims 1-20 is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED