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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* JORGE A. ARROYO, STEPHEN P. KRUGER,  
PATRICK J. O’SULLIVAN and LUCIANO SILVA

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Appeal 2019-000181  
Application 14/450,063  
Technology Center 3600

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Before CARL W. WHITEHEAD JR., JEFFREY S. SMITH  
and SCOTT RAEVSKY, *Administrative Patent Judges*.

WHITEHEAD JR., *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant<sup>1</sup> is appealing the final rejection of claims 8–27 under 35 U.S.C. § 134(a). Appeal Brief 4. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies International Business Machines Corporation, as the real party in interest. Appeal Brief 2.

*Introduction*

According to Appellant, the invention is directed to “determining a policy change for an outcome, and more specifically, to determining a policy change for an outcome related to an opportunity.” Specification ¶ 1. “A customer relationship management (CRM) system uses techniques and methods to gather, organize, automate, and synchronize sales, for marketing, customer service, and technical support.” Specification ¶ 2.

*Representative Claim*

8. A system for determining a policy change for an opportunity, the system comprising:
  - a processor with associated memory; and
  - a network interface;
  - the processor to implement all of:
    - a monitoring engine to monitor factors and outcomes associated with opportunities stored in a customer relationship management (CRM) system via the network interface;
    - an extracting engine to extract the factors and the outcomes associated with the opportunities stored in the CRM system into a queryable database, the factors including an identification of a number of personalities associated with different opportunities, identification of products and versions involved with different opportunities and historical patterns of customers involved with different opportunities;
    - an applying engine to apply a weight to the factors and the outcomes;

an analyzing engine to analyze, via the queryable database, the factors and the outcomes associated with the opportunities to identify patterns related to the outcomes of the opportunities; and

a determining engine to, based on a similarity between a first opportunity and a number of other opportunities for which data is extracted to the database, change a policy regarding the first opportunity based on factors of the number of other opportunities to which the first opportunity bears a similarity.

### *References*

<b>Name</b>	<b>References</b>	<b>Date</b>
Hunt et al.	US 2009/0018996 A1	January 15, 2009
Lanxner et al.	US 2014/0278804 A1	September 18, 2014

### *Rejections on Appeal*

Claims 8–27 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter. Final Action 2–5.

Claims 8–27 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Lanxner and Hunt. Final Action 5–14.

### ANALYSIS

Rather than reiterate the arguments of Appellant and the Examiner, we refer to the Appeal Brief (filed April 23, 2018), the Reply Brief (filed October 9, 2018), the Final Action (mailed May 4, 2017) and the Answer (mailed August 10, 2018), for the respective details.

## PRINCIPLES OF LAW

### 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 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 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.”).

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)). 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 waterproof cloth, vulcanizing India

rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1853))); 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 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 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.* (citation omitted) (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 part 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 (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. USPTO Section 101 Guidance

In January 2019, the U.S. Patent and Trademark Office (USPTO) published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“2019 Revised Guidance”).<sup>2</sup> “All USPTO personnel are, as a matter of internal agency management, expected to follow the guidance.” *Id.* at 51; *see also* October 2019 Update at 1.

Under the 2019 Revised Guidance and the October 2019 Update, we first look to whether the claim recites:

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes) (“Step 2A, Prong One”); 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)) (“Step 2A, Prong Two”).<sup>3</sup>

2019 Revised Guidance, 84 Fed. Reg. at 52–55.

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<sup>2</sup> In response to received public comments, the Office issued further guidance on October 17, 2019, clarifying the 2019 Revised Guidance. USPTO, *October 2019 Update: Subject Matter Eligibility* (the “October 2019 Update”) (available at [https://www.uspto.gov/sites/default/files/documents/peg\\_oct\\_2019\\_update.pdf](https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf)).

<sup>3</sup> This evaluation is performed by (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception, and (b) evaluating those additional elements individually and in combination to determine whether the claim as a whole integrates the exception into a practical application. *See* 2019 Revised Guidance - Section III(A)(2), 84 Fed. Reg. 54–55.

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look, under Step 2B, 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.

2019 Revised Guidance, 84 Fed. Reg. at 52–56.

### 35 U.S.C. § 101 Rejection

The Examiner determines the claims are patent ineligible under 35 U.S.C. § 101. *See* Final Action 2–3. We agree with the Examiner’s determination because the claims are directed to an abstract idea comprising commercial or legal interactions (sales and marketing activities), a certain method of organizing human activity, and do not include additional elements that are sufficient to amount to significantly more than the abstract idea. *See Alice*, 573 U.S. at 217 (describing the two-step framework “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts”); *see also* Specification ¶ 2.

#### *Alice/Mayo—Step 1 (Abstract Idea)*

#### *Step 2A—Prongs 1 and 2 identified in the Revised Guidance*

#### Step 2A, Prong One

Appellant contends the claims are not directed to an abstract idea. *See* Appeal Brief 20 (“The Action acknowledges that claim 8 recites ‘a

machine,’ claim 14 recites an article of ‘manufacture,’ and claim 21 recites a ‘machine,’ all of which are expressly permitted categories of patentable subject matter under § 101.” (*citing* Final Action 3)).

The Specification discloses that, “the customer relationship management (CRM) system uses techniques and methods to organize, automate, and synchronize sales, for marketing, customer service, and technical support.” Specification ¶ 23. The Specification also discloses, “the term ‘factor’ is meant to be understood broadly as an element associate[d] with an opportunity that contributes to the outcome related to the opportunity” and according to one example, “factors may be winning factors related to profit gains, losing factors related to profit losses, expenditures without improved sales, or combinations thereof.” Specification ¶ 26. The Specification further discloses that “factors associated with the opportunities may include factors such as products sold, sellers, customers, opportunity management, locations, currency, technology, timing, effort spent, costs, return on investment (ROI), other factors, or combinations thereof.” Specification ¶ 26. The Specification also discloses that “the term ‘outcome’ is meant to be understood broadly as a determination whether an opportunity is successful or unsuccessful. For example, outcomes may include success based on obtained sales, failure based on missed sales, futile sales, other outcomes, or combinations thereof.” Specification ¶ 27. The Specification further discloses, “the term ‘policy change’ is meant to be understood broadly as a change in a factor for an opportunity that results in a change for an outcome.” Specification ¶ 28.

Claim 8 recites a system for determining a policy change for an opportunity wherein:

- (1) “factors and outcomes associated with opportunities stored in a customer relationship management (CRM) system via the network interface” are monitored;
- (2) “factors and the outcomes associated with the opportunities stored in the CRM system into a queryable database” are extracted, “the factors including an identification of a number of personalities associated with different opportunities, identification of products and versions involved with different opportunities and historical patterns of customers involved with different opportunities;”
- (3) weight is applied to the factors and the outcomes;
- (4) “the factors and the outcomes associated with the opportunities to identify patterns related to the outcomes of the opportunities” are analyzed; and
- (5) “based on a similarity between a first opportunity and a number of other opportunities for which data is extracted to the database, change a policy regarding the first opportunity based on factors of the number of other opportunities to which the first opportunity bears a similarity.”

Under the broadest reasonable interpretation, these steps comprise commercial or legal interactions (sales/ marketing activities); thus, the claim recites the abstract idea of “certain methods of organizing human activity.” Revised Guidance, Section I (Groupings of Abstract Ideas); *see* Specification ¶¶ 3–5. Our reviewing court has found claims to be directed to abstract ideas when they recited similar subject matter. *See Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Can Canada (U.S.)*, 687 F.3d 1266, 1280 (Fed. Cir. 2012) (concluding that “managing a stable value protected life

insurance policy by performing calculations and manipulating the results” is an abstract idea); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (holding that concept of “creating a contractual relationship—a ‘transaction performance guaranty’” is an abstract idea); *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378–79 (Fed. Cir. 2017) (holding that concept of “‘local processing of payments for remotely purchased goods’” is a “‘fundamental economic practice, which Alice made clear is, without more, outside the patent system.’”); *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (concluding that claimed concept of “offer-based price optimization” is an abstract idea “similar to other ‘fundamental economic concepts’ found to be abstract ideas by the Supreme Court and this court”). Therefore, we conclude the claims recite an abstract idea pursuant to Step 2A, Prong One of the guidance. *See* Revised Guidance, Section III(A)(1) (Prong One: Evaluate Whether the Claim Recites a Judicial Exception).

*Step 2A, Prong Two (Integration into a Practical Application)*

Step 2A, Prong Two

Under Prong Two of the Revised Guidance, we must determine “whether the claim as a whole integrates the recited judicial exception into a practical application of the exception.” It is noted that a “claim that integrates a judicial exception into a practical application will apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” Revised Guidance, Section III(A)(2).

Appellant argues, “the claimed subject matter improves the previous operation of such CRM system in that a new database, the ‘queryable database’ is constructed and used to produce a change in policy for an opportunity in the CRM system” and therefore “the CRM system becomes self-updating because policies are automatically changed based on the operation of the claimed system building and utilizing the new queryable database.” Appeal Brief 20–21 (*citing Recent Subject Matter Eligibility Decisions Memorandum*, November 2, 2016).

We note, as the Federal Circuit has explained, a “claim for a *new* abstract idea is still an abstract idea.” *Synopsis, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1151 (Fed. Cir. 2016). Even assuming the technique claimed was “[g]roundbreaking, innovative, or even brilliant,” that would not be enough for the claimed abstract idea to be patent eligible. *See Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 591 (2013).

Further, we find Appellant’s claims distinguishable from claims our reviewing court has found to be patent eligible by virtue of reciting technological improvements to a computer system. *See, e.g., DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1249, 1257 (Fed. Cir. 2014) (holding that claims reciting computer processor for serving “composite web page” were patent eligible because “the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks”); *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1259 (Fed. Cir. 2017) (holding that claims directed to “an improved computer memory system” having many benefits were patent eligible); *see also* Appeal Brief 20, 23–24.

In *McRO*<sup>4</sup>, the Federal Circuit concluded that the claim, when considered as a whole, was directed to a “technological improvement over the existing, manual 3-D animation techniques” through the “use [of] limited rules . . . specifically designed to achieve an improved technological result in conventional industry practice.” *McRO*, 837 F.3d at 1316.

Specifically, the Federal Circuit found that the claimed rules allow computers to produce accurate and realistic lip synchronization and facial expressions in animated characters that previously could only be produced by human animators; and the rules are limiting because they define morph weight sets as a function of phoneme sub-sequences. *McRO*, 837 F.3d at 1313 (internal citations omitted).

We find no evidence of record here that the present situation is like the one in *McRO* where computers were unable to make certain subjective determinations, i.e., regarding morph weight and phoneme timings, which could only be made prior to the claimed invention by human animators. *See* Appeal Brief 9–10. The Background section of the *McRO* ’576 patent includes a description of the admitted prior art method and the shortcomings associated with that prior method. *See McRO*, 837 F.3d at 1303–06. There is no comparable discussion in Appellant’s Specification or elsewhere of record.

Subsequently, we do not find Appellants’ arguments persuasive because the claims utilize a processor, associated memory and a network interface without any improvement to the functioning of the devices. *See* Specification ¶¶16, 20; *see also Enfish, LLC v. Microsoft Corp.*, 822 F.3d

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<sup>4</sup> *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1303 (Fed. Cir. 2016).

1327, 1335–36 (Fed. Cir. 2016) (“[W]e find it relevant to ask whether the claims are directed to an improvement to computer functionality versus being directed to an abstract idea . . . the focus of the claims is on the specific asserted improvement in computer capabilities (i.e., the self-referential table for a computer database) or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.”). The claims do not recite an additional element or elements that reflect an improvement in the functioning of a computer, or an improvement to other technology or technical field. *See Alice*, 573 U.S. at 222 (“In holding that the process was patent ineligible, we rejected the argument that ‘implement[ing] a principle in some specific fashion’ will ‘automatically fal[l] within the patentable subject matter of § 101.’” (Alterations in original) (quoting *Parker v. Flook*, 437 U.S. 584, 593 (1978))).

Appellant further argues that the “claims clearly do not pre-empt or monopolize all use of any identified abstract idea.” Appeal Brief 21. The U.S. Supreme Court has described “the concern that drives this exclusionary principle [i.e., the exclusion of abstract ideas from patent eligible subject matter] as one of pre-emption.” *Alice*, 573 U.S. at 216. However, characterizing preemption as a driving concern for patent eligibility is not the same as characterizing preemption as the sole test for patent eligibility. As our reviewing court has explained, “[t]he Supreme Court has made clear that the principle of preemption is the basis for the judicial exceptions to patentability,” and “[f]or this reason, questions on preemption are inherent in and resolved by the § 101 analysis.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (citing *Alice*, 573 U.S. at 216). And, although “preemption may signal patent ineligible subject matter, the

absence of complete preemption does not demonstrate patent eligibility.” *Id.* Moreover, “[w]here a patent’s claims are deemed only to disclose patent ineligible subject matter under the *[Alice/Mayo]* framework . . . preemption concerns are fully addressed and made moot.” *Id.*; *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015), *cert. denied*, 136 S. Ct. 701 (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.”).

Subsequently, we detect no additional element (or combination of elements) recited in Appellant’s representative claim 8 that integrates the judicial exception into a practical application. *See Revised Guidance, Section III(A)(2)*. For example, Appellant’s claimed additional elements (e.g., processor, associated memory, network interface) do not: (1) improve the functioning of a computer or other technology; (2) are not applied with any particular machine (except for a 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)*.

Accordingly, we determine the claim does not integrate the recited judicial exception into a practical application. *See Revised Guidance, Section III(A)(2) (Prong Two: If the Claim Recites a Judicial Exception, Evaluate Whether the Judicial Exception Is Integrated Into a Practical Application)*.

*Alice/Mayo—Step 2 (Inventive Concept)*  
*Step 2B identified in the Revised Guidance*

Step 2B

Next, we determine whether the claim includes additional elements that provide significantly more than the recited judicial exception, thereby providing an inventive concept. *Alice*, 573 U.S. at 217–18 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72–73 (2012)).

Appellant argues, “[t]he Answer has not substantiated the finding that the claimed elements, individually and in combination, are well known, routine and conventional in the art *as required here*. For at least this reason, the rejection under § 101 should be supported, as outlined in the Bahr Memo (Berkheimer Memorandum)<sup>5</sup>, or reconsidered and withdrawn.” Reply Brief 14.

Memorandum, Section III (B) (footnote 36) states (emphasis added):

In accordance with existing guidance, an examiner’s conclusion that an additional element (or combination of elements) is well understood, routine, conventional activity must be supported with a factual determination. For more information concerning evaluation of well-understood, routine, conventional activity, see MPEP 2106.05(d), as modified by the USPTO *Berkheimer* Memorandum.

The *Berkheimer* Memorandum Section III (A) states when formulating rejections, “[i]n a step 2B analysis, an additional element (or combination of elements) is not well-understood, routine or conventional

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<sup>5</sup> “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*)” April 19, 2018.

unless the examiner finds, and expressly supports a rejection in writing.” The *Berkheimer* Memorandum provides four criteria for the Examiner to utilize to provide support for the additional elements to be considered to be well-understood, routine or conventional.<sup>6</sup>

Appellant argues that the Examiner does not provide support for the position that the additional elements are well-understood, routine or conventional in accordance to the *Berkheimer* Memorandum. Reply Brief 14. The Examiner determines:

In addition, as discussed in paragraph 0020 of the specification, “These computer readable program instructions may be provided to a processor of a general purpose computer, special purpose computer, or other programmable data processing apparatus to produce a machine, such that the instructions, which execute via the processor of the computer or other programmable data processing apparatus, create means for implementing the functions/acts specified in the flowchart and/or block diagram block or blocks.”

As such, this disclosure supports the finding that no more than a general purpose computer, performing generic computer functions that are well-understood, routine, and conventional activities previously, known to the pertinent industry, is required by the claims.

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<sup>6</sup> *Berkheimer* Memorandum Section III (A) (1. A citation to an express statement in the specification or to a statement made by an applicant during prosecution that demonstrates the well-understood, routine, conventional nature of the additional element(s); 2. A citation to one or more of the court decisions discussed in MPEP § 2106.05(d)(II) as noting the well-understood, routine, conventional nature of the additional element(s); 3. A citation to a publication that demonstrates the well-understood, routine, conventional nature of the additional element(s) and 4. A statement that the examiner is taking official notice of the well-understood, routine, conventional nature of the additional element(s).).

Final Action 5 (*emphasis added*).

Consequently, we do not find Appellant’s argument persuasive because in determining if the additional element (or combination of additional elements) represents well-understood, routine, conventional activity, the Examiner supported the determination based upon a factual determination as specified in the *Berkheimer* Memorandum, i.e., citation to the Specification. *See Berkheimer* Memorandum Section III (A)(1); Final Action 5.

Further, we analyze the claim elements that are well-understood, routine, and conventional both individually and as an ordered combination. *See Alice*, 573 U.S. at 217–18, 221–22 (“we consider the elements of each claim both individually and ‘as an ordered combination’” to determine whether the claim includes “significantly more” than the ineligible concept) (quoting *Mayo*, 566 U.S. at 78–79); *see also Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016) (“an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces.”).

Accordingly, we conclude claims 8–27 are directed to commercial or legal interactions (sales/marketing activities), which are considered methods of organizing human activity identified in the Revised Guidance and thus an abstract idea wherein the claims do not recite limitations that amount to significantly more than the abstract idea itself. We sustain the Examiner’s § 101 rejection of claims 8–27.

### 35 U.S.C. § 103 Rejection

The Specification discloses:

A customer relationship management (CRM) system uses techniques and methods to gather, organize, automate, and synchronize sales, for marketing, customer service, and technical support.

Specification ¶ 2.

Appellant contends that CRM system is a term of art. Appeal Brief 15. Appellant argues, “Lanxner describes a method of re-pricing items in a sales system. Lanxner does not address and never mentions a CRM system. Consequently, all the citations in the Action relying on Lanxner as describing various aspects of a system integrated with a CRM system as claimed are misplaced.” Appeal Brief 15. The Examiner finds that Lanxner discloses a CRM system. Final Action 6 (*citing* Lanxner ¶ 97). Lanxner’s paragraphs 97 and 98 are reproduced below in their entirety and paragraph 99 is only partially reproduced:

The re-pricing system 100 monitors the trade activity relating to the one or more items offered for sale and collects the commerce information of the one or more items.

The re-pricing system 100 may predict variables related to the one or more items offered for sale. The repricing system 100 may predict one or more intermediate metrics associated for the items offered for sale. The repricing system 100 may predict metrics associated with the sale policy of the item offered for sale.

The re-pricing system 100 may be a learning system which analyzes the received commerce information and/or predicted values in order to define and/or modify the set of recommended price setting rules for adjusting the price of the one or more items.

The Examiner concludes that, “the CRM system merely uses techniques and methods to gather, organize, automate, and synchronize

sales, for marketing, customer service, and technical support” and “[s]imilarly, Lanxner et al disclose the re-pricing system 100 monitors the trade activity relating to the one or more items offered for sale and collects the commerce information of the one or more items.” Answer 9–10 (*citing* Lanxner ¶97).

We agree with the Examiner that the Lanxner’s re-pricing system is similar to Appellant’s CRM system; however, there are clear distinctions between the two systems. Lanxner’s re-pricing system is just that, a system that analyzes received commerce information and modify a set of price rules for adjusting the price of items. *See* Lanxner ¶ 99. The claimed CRM system does more than merely re-pricing. *See* Specification ¶¶ 2, 23; *see also* Appeal Brief 14-15.

Hunt discloses a data harvester that loads data to an analytic platform wherein the analytic platform analyze and process data in a disaggregated or aggregated format. *See* Hunt ¶¶ 199, 128; *see also* Final Action 9. Hunt fails to address Lanxner’s noted deficiency.<sup>7</sup> We find Appellant’s arguments persuasive and reverse the Examiner’s obviousness rejection of independent claims 8, 14 and 21 commensurate in scope, as well as, dependent claims 8–13, 15–20 and 22–27 as unpatentable over Lanxner and Hunt.

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<sup>7</sup> Although we agree with Appellant that neither Lanxner nor Hunt teaches a “CRM system” as claimed, Appellant has admitted that the CRM system is known in the prior art. Specification ¶ 2. However, the Examiner did not rely on Appellant’s admitted prior art in rejecting independent claims 8, 14 and 21. Rather, the Examiner relied on the combination of Lanxner and Hunt, which does not teach a “CRM system” as claimed.

CONCLUSION

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
8-27	101	Eligibility	8-27	
8-27	103	Lanxner, Hunt		8-27
Overall Outcome			8-27	

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). *See* 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED