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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SANDRA LYNN GODSEY, STEVEN ROMERO, and
JEREMIAH JOSEPH AKIN

Appeal 2019-000571
Application 14/056,762
Technology Center 3600

Before JEAN R. HOMERE, DANIEL N. FISHMAN, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

FISHMAN, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–15, all of the pending claims. Appeal Br. i. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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

CLAIMED SUBJECT MATTER

The claims are directed to “systems, methods and media to provide user intent tracking streams . . . based on aspects of consolidated contextual or personal data, allowing improved presentation of actionable or relevant information to users.” Spec. ¶ 1. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. An intent tracking system comprising:

an identification module, implemented using at least one hardware processor of one or more hardware processors, to identify a plurality of aspects of contextual or personal information relating to a user;

an analysis module, implemented using at least one hardware processor of the one or more hardware processors, to analyze the plurality of aspects of contextual or personal information to identify a user intent or a likelihood relating to a pre-determined action or event;

a correlation module, implemented using at least one hardware processor of the one or more hardware processors, to correlate the user intent or likelihood with at least a subset of the analyzed aspects of contextual or personal information to identify an intent tracking stream for the user, the intent tracking stream based on the correlated sub-set and maintained in an intent tracking data structure;

a tracking module, implemented using at least one hardware processor of the one or more hardware processors, to track the intent tracking stream as a user identifier or a predictor of the pre-determined action or event; and

a restriction module, implemented using at least one hardware processor of the one or more hardware processors, to restrict an electronic notification in an electronic device based on a result of the analysis, the electronic notification meeting criteria of issuance defined by an application.

REJECTIONS²

Claims 1–15 are rejected under 35 U.S.C. § 112(b) as indefinite.
Final Act. 31–32.

Claims 1–15 are rejected under 35 U.S.C. § 101 as directed to patent ineligible subject matter. *Id.* at 32–38.

Claims 1–15 are rejected under 35 U.S.C. § 102(a)(1) as anticipated by Ciurea (US 2011/0047072 A1). *Id.* at 38–54.

OPINION

We review the appealed rejections 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).

Section 112

Claims 1, 6, and 11 recite “a restriction module . . . to restrict an electronic notification in an electronic device based on a result of the analysis, the electronic notification meeting criteria of issuance defined by an application.” The Examiner finds, these limitations (hereinafter the “restricting limitations”) would be confusing to the ordinarily skilled artisan because the restricting limitations “indicate electronic notification meeting criteria for issuance but other limitations indicate still being restricted (which corresponds to failing to meet a criteria for issuance or meeting criteria for restriction/non-issuance).” Final Act. 31–32. Specifically, the

² The application was filed after March 16, 2013 and, thus, we apply the post-AIA sections of Title 35.

Examiner finds “[i]t is unclear how restricting a notification and meeting a criteria for issuance are reconciled.” *Id.* at 32. The Examiner further finds dependent claims 2–5, 7–10, and 12–15 include these same indefinite recitations and, thus are rejected for the same reason. *Id.*

Appellant argues,

[The restricting limitations], however, do not conflict. For example, a global positioning system (GPS) application may be configured to issue an electronic notification when the GPS device is within one mile of a specified destination; thus, the limitation “the electronic notification meeting criteria of issuance defined by an application.” The electronic notification may be restricted, however, in the electronic device that would display the notification. Thus, the electronic notification both meets the criteria of issuance defined by an application and is restricted in the electronic device.

Appeal Br. 9 (emphasis omitted).

The Examiner further finds Appellant’s argument is unpersuasive because it is unsupported by the Specification. Ans. 3. The Examiner observes that the term “restriction module” appears nowhere in the Specification or originally filed claims whereas the other recited modules are expressly identified in the Specification and original claims.³ Ans. 4. Thus, the Examiner finds the only possible support for the restricting limitations

³ We similarly discern no support in the Specification (including the originally filed claims) for the claimed “restriction module” and, thus, suggest the Examiner reconsider the Examiner’s earlier withdrawal of a rejection under 35 U.S.C. § 112(a) for lack of written description. We further suggest the Examiner consider whether the Specification includes sufficient structure corresponding to each of the recited “modules” to avoid interpretation in accordance with 35 U.S.C. § 112(f) as “means-plus-function” elements.

must be found in the other disclosed, and originally claimed, modules (i.e., the identification module, analysis module, correlation module, and tracking module), which collectively perform the analysis to determine that “the electronic notification [meets] criteria of issuance defined by an application.” *See* Ans. 5; *see also* Ans. 6 (“[The restricting] limitations do not appear in the specification, and so in order to support sufficient written description, the limitations must be interpreted to be the result of the combined customer segmentation modules analysis.”). The Examiner then finds the originally disclosed modules perform processing that identifies notifications that meet a “criteria of issuance,” and, at the same time, that same notification would be restricted from appearing on the electronic device based on that same analysis. *See id.* at 6–7. We agree with the Examiner that such a determination that a notification both meets the criteria for issuance and is restricted based on the same analysis is indefinite. *See id.* at 7.

For the above reasons, we sustain the Examiner’s rejection of claims 1–15 as indefinite under 35 U.S.C. § 112(b).

Section 102 Rejection

In view of the above discussion, it is unclear what is meant by the recited functions of the “restriction module.” We conclude “those skilled in the art would [not] understand what is claimed when the claim is read in light of the specification.” *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986) (citations omitted). Because “no reasonably definite meaning can be ascribed to certain terms in the claim . . .

the claim becomes indefinite.” *See In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970).

In view of the ambiguities discussed above, comparing the invention of claims 1, 6, and 11 (and their respective dependent claims) with the prior art would require “considerable speculation as to [the] meaning of the terms employed and assumptions as to the scope of [the] claims.” *In re Steele*, 305 F.2d 859, 862 (CCPA 1962). It is improper to rely on such “speculative assumptions as to the meaning of the claims” to maintain an art-based rejection thereon. *Id.* at 863. Accordingly, to avoid such improper speculation as to the scope of the claims, we are constrained to reverse, *pro forma*, the Examiner’s rejection of independent claims 1–14 under 35 U.S.C. § 102(a). We hasten to add, however, that the reversal is a procedural reversal (*pro forma*) rather than one based upon the merits of this rejection.

Section 101

Having reviewed the Appellant’s arguments regarding this § 101 rejection, we are not persuaded the Examiner erred. We agree with and adopt the Examiner’s findings in the Final Office Action and the Answer as our own and add any additional findings of fact appearing below for emphasis.

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 water-proof 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))).

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.*

Patent Office Guidance

The U.S. Patent and Trademark Office (USPTO) published revised guidance on the application of § 101. USPTO’s January 7, 2019 Memorandum, *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (“January 2019 Memorandum”).⁴ Under that guidance, we first look to whether the claim recites:

- (1) (*see* January 2019 Memorandum at 54, 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) (*see* January 2019 Memorandum at 54, Step 2A – Prong Two) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)).⁵

⁴ The Office issued a further memorandum on October 17, 2019 (the “October 2019 Memorandum”) clarifying guidance of the January 2019 Memorandum in response to received public comments. *See* https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf. Moreover, “[a]ll USPTO personnel are, as a matter of internal agency management, expected to follow the guidance.” January 2019 Memorandum at 51; *see also* October 2019 Memorandum at 1.

⁵ We acknowledge that some of these considerations may be properly evaluated under second part of the *Alice/Mayo* analysis (Step 2B of Office guidance). Solely for purposes of maintaining consistent treatment within

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 January 2019 Memorandum at 56, Step 2B.

Step 1 – Claims Directed to Statutory Categories

Claims 1–5 each recite a system (i.e., a machine), claims 6–10 each recite a method (i.e., a process), and claims 11–15 each recite a machine readable media including computer instructions (i.e., an article of manufacture). Thus, the pending claims (1–15) are directed to recognized statutory categories of § 101, and we turn to the two-part *Alice/Mayo* analysis to determine whether the claims are directed to a judicial exception to eligibility. January 2019 Memorandum at 53.

Step 2A Prong 1 – Claims Recite Abstract Ideas

Applying the *Alice/Mayo* analysis, the Examiner determines that the claims (1–15) “are directed to the abstract idea of identifying consumers from observing their behavior, categorizing them by that behavior, and using that information to predict their actions or make targeted offers.” Final Act. 33. The Examiner characterizes claim 1 as “identifying consumers from

the Office, we evaluate it under first part of *Alice/Mayo* analysis (Step 2A of Office guidance). *See* January 2019 Memorandum at 51.

observing their behavior, categorizing them by that behavior, and using that information to predict their actions or make targeted offers” and determines this corresponds to a fundamental economic practice—an abstract idea. *Id.* at 33–34 (citing generally *Alice*). In addition, the Examiner finds this characterization of claim 1 corresponds to an idea of itself, e.g., a mental process that can be performed in the human mind, or by a human using a pen and paper. *Id.* at 34 (citing generally *Alice*).

Mental Process

Appellant contends the claims are not directed to a mental process (i.e., an idea of itself) because the recited functions “are not performed by a human mind or using a pen and paper,” and, “these elements are performed by machines and not by humans.” Appeal Br. 16. Appellant further argues, “[c]ontrary to the Examiner’s assertion, restricting an electronic notification in an electronic device is not ‘an idea is [sic] capable of being so performed’ in the human mind or using a pen and paper . . . it is the electronic device that restricts the electronic notification in the claimed embodiment.” *Id.* (emphasis omitted). Appellant contends the restricting limitations specifically require restriction “*in an electronic device*” and, hence, “excludes embodiments that can be performed without technology,” “i.e., not capable of being performed by the human mind alone or with pen and paper.” *Id.* at 17.

We are not persuaded by Appellant’s arguments. The Examiner finds, and we agree, “the standard is not whether the invention is expressly described as being performed in the human mind or using a pen and paper but rather whether such an idea is capable of [practically] being so performed.” Ans. 8. Claim 1 recites, in essence:

- (1) an identification module to identify contextual or personal information relating to a user;
- (2) an analysis module to analyze the information to identify a user intent or a likelihood relating to a pre-determined action or event;
- (3) a correlation module to correlate the result of the analysis module with a subset of the identified information to identify an intent tracking stream for the user based on the correlated subset and maintaining the stream in an intent tracking data structure;
- (4) a tracking module to track the intent tracking stream as a user identifier or a predictor of the pre-determined action or event; and
- (5) a restriction module to restrict an electronic notification in an electronic device based on the result of the analysis.

Accordingly, the function of each of these claimed modules (1–5) can be reasonably characterized as reciting a judicial exception to patent-eligible subject matter. Module (1) can identify the recited information by mere observation of a user by a human. Modules (2), (3), and (4) can be characterized as merely evaluating the observed information—analysis that can be practically performed in the human mind to determine a user identifier or a predictor of the pre-determined action or event. The last module (5) can be performed by a human’s judgment that a particular notification should or should not be provided to the user based on the identification and evaluation of the information. The January 2019 Memorandum expressly recognizes mental processes, including

observations, evaluations, judgments, and opinions that can be performed in the human mind. January 2019 Memorandum at 52. That the modules maintain the stream in a data structure and the restriction is, arguably, done by an “electronic device” does not change otherwise ineligible subject matter into patentable subject matter.

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.”).

Id. n.14. Storing/maintaining information in a data structure and the restriction, arguably, taking place within an “electronic device,” requires nothing more than typical computer technology. Accordingly, claim 1 can be characterized as reciting a mental process—an abstract idea.

Fundamental Economic Practice

Appellant argues the claims are not directed to a fundamental economic practice but, instead, “the claims at issue are directed to a specific set of operations for restricting notifications in an electronic device.”

Appeal Br. 17. Appellant further argues “this is not just the computerization of some long standing practice, but something that is necessarily ‘rooted in computer technology’ like DDR Holdings by virtue of the *restriction* of an

electronic notification in an electronic device.”⁶ *Id.* at 18. Still further, Appellant argues the Examiner’s assertion that the claims are directed to a fundamental economic practice is devoid of requisite “authoritative documentation that the identified economic component is long prevalent in our system of commerce.” *Id.* at 18–19.

The Examiner responds that the claim limitations “identify consumers from observing their behavior, categorize them by that behavior, and use that information to predict their actions or make targeted offers, where notifications to users will be segmented into subsets either subject to notification or restricted from notification.” Ans. 9. The Examiner further finds,

None of said claim limitations deviate from the basic market research concepts of identifying consumers from observing their behavior, categorizing them by that behavior, and using that information to predict their actions or make targeted offers to those individuals an organization deems most useful for their business purposes, and so the claims present the fundamental economic practice consumer market segmentation, which is even more fundamental and well-known than e.g. risk management or intermediated settlement.

Id.

We are not persuaded the Examiner erred in characterizing the claims as directed to customer/market segmentation—a fundamental economic practice and, hence, an abstract idea. Although the independent claims make no specific reference to customers or markets, the application make clear that commerce is a key application of the claimed invention. The claims, as

⁶ Appellant refers to *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014)) (“*DDR*”).

paraphrased above, recite systems and functions to track user information to identify the user (e.g., as a consumer of certain goods and services) and to predict events and actions for the user. Dependent claims 2, 7, and 12 specifically reference tracking the intent tracking stream “in a marketplace environment.” Furthermore, dependent claims 3, 8, and 13 specifically reference a targeting module to present “targeted information” to the user and the Specification makes clear that “targeted information” includes “commercial art, smart advertisement . . . ‘ad content.’” *See Spec.* ¶¶ 25–26. More generally, the Specification makes clear that commerce and economics are a key application of the claimed invention. *See id.* ¶¶ 33 (“Merchants and online content providers, for example, can focus on selected clients or consumer segments without having to resort to batch emailing techniques, data dumps, or analyzing sparse or imprecise click-through rates. Frustration and screen clutter generated by unsolicited notifications or advertisements can be minimized. In appropriate applications, brand equity or awareness can be enhanced while meeting the requirements of consumer privacy laws.”), 46 (“targeted information publication modules 420 (in certain examples, these can also include commerce modules, advertising modules, and marketplace modules, to name a few)”), 47 (referring to advertisements, payment services, redemption of offers, checkout, coupons, “discount deals,” etc.). Still further, the Specification makes frequent reference to “merchant 130” and “merchant server 280.” *See Spec.* Fig. 1, Fig. 2, ¶¶ 34–36, 43, 50.

Accordingly, the claims recite tracking information to categorize or segment of users as customers to predict events/actions for each user (e.g., to target marketing information to the user). These systems and functions

recite systems and techniques for advertising, marketing or sales activities or behaviors—a fundamental economic practice, which is a certain method of organizing human activity and, hence, and abstract idea. See January 2019 Memorandum at 52.

Step 2A Prong 2 – Not Integrated Into A Practical Application

Having determined that the claims recite an abstract idea, and, thus, a judicial exception to subject matter eligibility, we next determine whether the claims include additional elements that integrate the judicial exception into a practical application. January 2019 Memorandum at 54.

The Examiner determines the claimed additional elements (“modules,” “hardware processors,” “application”) of the limitations “are recited at a high level of generality” and utilize only generic computer components and functions such that “the claim merely amounts to the application or instructions to apply the abstract idea on a computer.” Final Act. 35. The Examiner further finds,

The claim does not result an improvement to another technology or technical field, improvements to the functioning of the computer itself, or a transformation of subject matter into a different state or thing. Thus, taken alone, the additional elements do not amount to significantly more than the above-identified judicial exception (the abstract idea).

Looking at the limitations of each independent claim as an ordered combination adds nothing that is not already present when looking at the elements taken individually. There is no indication that the combination of elements improves the functioning of a computer or improves any other technology. Their collective functions merely provide conventional computer implementation.

Id. at 36.

Appellant argues that claims recite specific “modules” implemented using a hardware processor and, thus, recite a specially-configured computer rather than a generic computer on which an abstract idea is implemented. Appeal Br. 22–23. Appellant further argues the recited steps/functions are recited with a low level of generality as compared to the claims in *Bilski* and *Alice*. *Id.* at 23–24. Still further, Appellant argues the Examiner failed to consider the claims as an ordered combination and argues the claims do not “seek to tie up any judicial exception so that others cannot practice it” and “do not preempt the making, using, and selling of basic tools of scientific and technological work.” Appeal Br. 30–32.

The Examiner responds that, “[r]eciting that a device is a special purpose computer, without any other additional Details, is Insufficient to Make Claim Eligible because the label of ‘special purpose’ does not change the functions recited, nor does this result in eligibility.” Ans. 13 (citing *Eon Corp. IP Holdings LLC v. AT&T Mobility LLC*, 785 F.3d 616 (Fed. Cir. 2015)). The Examiner further determines, contrary to Appellant’s assertion, the claims provide no (low level) details regarding how the recited functions are performed and discloses “no structure beyond a generic computing environment and Appellant admits such general limitations function in a generic computing environment.” *Id.* at 13–14 (citing Spec. ¶¶ 56, 61).

We are not persuaded by Appellant’s arguments and agree with the Examiner that the claims merely recite functions to be performed in a generic computing environment. As the Examiner observes, the named “modules” are defined only by the result they are intended to achieve, in a computing environment, without any further disclosure of structure of the modules or how the results are achieved. *See* Ans. 14. Furthermore,

contrary to Appellant’s assertion, the Examiner did consider the claims as an ordered combination and still found the claims fail to recite more than the abstract idea. Final Act. 36; *see also* Ans. 18–19. Lastly, we agree with the Examiner that “while a preemptive claim may be ineligible, the absence of complete preemption does not guarantee that a claim is eligible.” Ans. 21. “While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015). Moreover, “[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.” *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015), cert. denied, 136 S.Ct. 701 (2015).

Appellant contends the claims are not directed to a judicial exception because,

The claims recite an improvement to the area of managing *electronic notifications*, which is an improvement to the functioning of the computer itself since it allows the computer to manage notifications in an electronic device and electronically restrict notifications in an electronic device (as described in the specification) to increase the available processing power of the computing device.

Appeal Br. 33 (citing *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016)).

The Examiner responds that the claims are directed to “generic implementation, and not technology specific” and “Appellant provides no specific equation, code or algorithm to alter any computer technology to improve its processing performance.” Ans. 22–23.

We are not persuaded by Appellant’s arguments and we agree with the Examiner that the claims are not directed to any improvement to computer technology. Appellant provides no evidence that “managing electronic notifications” improves the functioning of a computer as Appellant asserts. To the contrary, Appellant’s claimed invention appears to impose additional processing on systems that generate notifications and then, after generating such notification, performs further processing to restrict the generated notifications from being presented on a user’s electronic device.

Accordingly, we are not persuaded that the claims include additional elements that integrate the judicial exception into a practical application. Specifically, we conclude the pending claims do not recite:

- (i) an improvement to the functioning of a computer [(or a mobile device)];
- (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 claims are directed to an abstract idea.

Step 2B – Not Significantly More Than The Abstract Idea

Having determined that the claims recite an abstract idea and the claims do not include additional elements to integrate the judicial exception into a practical application, we next determine whether the claims recite

significantly more to transform the abstract idea into an inventive concept. *Alice*, 573 U.S. at 221.

The Examiner finds the claims do not “include additional elements that are sufficient to amount to significantly more than the judicial exception” and the claims amount “to nothing more than requiring a generic computer to perform generic computer functions that are well-understood, routine and conventional activities previously known to the industry that amount to no more than implementing the abstract idea with a computerized system.” Final Act. 35; *see also* Ans. 14–18.

Appellant argues that management of electronic notifications is not conventional and, like the claims in *DDR*, addresses a problem rooted in computer technology. Appeal Br. 24–29. Appellant further argues the elements of the claims are not well-understood, routine, or conventional but, instead, recite “a technology-based solution (not an abstract-idea-based solution implemented with generic technical components in a conventional way).” *Id.* at 35–36 (quoting *BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1351 (Fed. Cir. 2016) (“*Bascom*”)).

We remain unpersuaded of Examiner error. As noted above, in considering the second prong of Step 2A, the claims as a whole do not recite significantly more than using computer systems in the manner they are conventionally used in computing technology, on generic computers, accessing stored data in the conventional manner, and applying all of these elements in a conventional computing network environment, all to generate notifications to be sent to a user’s conventional electronic device—i.e., an otherwise mental process or a certain method of organizing human activity and, thus, an abstract idea.

CONCLUSION

Accordingly, we affirm the Examiner's decisions rejecting claims 1–15 under 35 U.S.C. §§ 101 and 112(b) and we reverse the decision rejecting claims 1–15 under 35 U.S.C. § 102, *pro forma*. Because we have affirmed at least one ground of rejection with respect to each claim on appeal, we affirm the Examiner's decision. *See* 37 C.F.R. § 41.50(a)(1).

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–15	112(b)	Indefinite	1–15	
1–15	102(a)(1)	Ciurea		1–15 (<i>pro forma</i>)
1–15	101	Ineligible	1–15	
Overall Outcome			1–15	

TIME PERIOD FOR RESPONSE

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

AFFIRMED