UNITED STATES PATENT AND TRADEMARK OFFICE

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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 SACHIN SONI, WALTER WEI–TUH CHANG,
ANMOL DHAWAN, and ASHISH DUGGAL
_____

Appeal 2019–001555
Application 14/542,219
Technology Center 3600
_____

Before ANTON W. FETTING, NINA L. MEDLOCK, and
PHILIP J. HOFFMANN, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE[1]

Sachin Soni, Walter Wei–Tuh Chang, Anmol Dhawan, and Ashish

Duggal (Appellant[2]) seek review under 35 U.S.C. § 134 of a final rejection

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[1] Our decision will make reference to the Appellant's Appeal Brief ("Appeal
Br.," filed August 24, 2018) and Reply Brief ("Reply Br.," filed
November 29, 2018), and the Examiner's Answer ("Ans.," mailed
October 2, 2018) and Final Action ("Final Act.," mailed January 3, 2018).
[2] We use the word "Appellant" to refer to "applicant" as defined in
37 C.F.R. § 1.42. Appellant identifies the real party in interest as Adobe
Systems Incorporated (Appeal Br. 1).

of claims 1–15 and 17–21, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

The Appellant invented a way of monitoring and responding to social media posts, and, more specifically, of replying to social media posts with comparison data. Specification para. 2.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below (bracketed matter and some paragraphing added).

> 1. A method for replying to social media postings as part of a marketing campaign comprising:
>
> [1] monitoring,
>
> > by a computing device comprising at least one processor,
>
> a plurality of social media posts across a plurality of social media accounts received by a social media system over a period of time for reference to one or more keywords related to a brand;
>
> [2] determining,
>
> > by analyzing the plurality of social media posts,
>
> a socially relevant competitor of the brand by
>
> > extracting entities from posts that mention the brand,
> >
> > determining entities having a same type as the brand,
> >
> > determining a count of social media posts that mention the one or more keywords for each entity having the same type as the brand,
> >
> > and
> >
> > designating an entity having a high count as the socially relevant competitor;

[3] determining, by the computing device, at least one theme related to the brand and to the socially relevant competitor mentioned in the plurality of social media posts;

[4] identifying, by the computing device,

whether the plurality of social media posts have a positive or a negative sentiment:

with respect to the at least one theme and the brand,

and

with respect to the at least one theme and the socially relevant competitor

by

parsing the plurality of social media posts utilizing natural language processing

to identify parts of speech tags and lexical chains

and

determining a sentiment of one or more adjectives or adverbs;

and

[5] upon identifying a social media post having a positive sentiment with respect to the at least one theme and the socially relevant competitor:

[5.1] identifying at least one social media post from the plurality of social media posts having a positive sentiment with respect to the at least one theme and the brand;

[5.2] automatically generating a reply to the social media post, having a positive sentiment with respect to the at least one theme and the socially relevant competitor, comprising the at least one social media post having a positive sentiment with respect to the at least one theme and the brand;

and

> [5.3] providing the automatically generated reply in
> response to the social media post having a positive
> sentiment with respect to the at least one theme and the
> socially relevant competitor.

Claims 1–15 and 17–21 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

ISSUES

The issues of eligible subject matter turn primarily on whether the claims recite more than abstract conceptual advice of results desired.

ANALYSIS

Claims 1–15 and 17–21 rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more

STEP 1[3]

Claim 1, as a method claim, nominally recites one of the enumerated categories of eligible subject matter in 35 U.S.C. § 101. The issue before us is whether it is directed to a judicial exception without significantly more.

STEP 2

The Supreme Court:

> set forth a framework for distinguishing patents that claim laws
> of nature, natural phenomena, and abstract ideas from those that
> claim patent-eligible applications of those concepts. First, . . .
> determine whether the claims at issue are directed to one of
> those patent-ineligible concepts. If so, we then ask, "[w]hat
> else is there in the claims before us? To answer that question, .
> . . consider the elements of each claim both individually and "as

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[3] For continuity of analysis, we adopt the steps nomenclature from the 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) ("Revised Guidance").

an ordered combination" to determine whether the additional elements "transform the nature of the claim" into a patent-eligible application. [The Court] described step two of this analysis as a search for an "'inventive concept'"—i.e., an element or combination of elements that is "sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself."

Alice Corp. v. CLS Bank Int'l, 573 U.S. 208, 217–18 (2014) (citations omitted) (*citing Mayo Collaborative Servs. v. Prometheus Labs, Inc.*, 566 U.S. 66 (2012)). To perform this test, we must first determine what the claims are directed to. This begins by determining whether the claims recite one of the judicial exceptions (a law of nature, a natural phenomenon, or an abstract idea). Then, if the claims recite a judicial exception, determining whether the claims at issue are directed to the recited judicial exception, or whether the recited judicial exception is integrated into a practical application of that exception, i.e., that the claims "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, 84 Fed. Reg. at 54. If the claims are directed to a judicial exception, then finally determining whether the claims provide an inventive concept because the additional elements recited in the claims provide significantly more than the recited judicial exception.

STEP 2A Prong 1

At a high level, and for our preliminary analysis, we note that method claim 1 recites monitoring media posts data, determining competitor data by extracting, determining, and designating data, determining theme data, identifying sentiment data by parsing and determining data, identifying post

data, generating reply data, and providing reply data. Monitoring data is receiving data. Determining, extracting, designating, identifying, and parsing data are all rudimentary forms of data analysis. Providing data is transmitting data. Thus, claim 1 recites receiving, analyzing, generating, and transmitting data. None of the limitations recites technological implementation details for any of these steps, but instead recite only results desired by any and all possible means.

From this we see that claim 1 does not recite the judicial exceptions of either natural phenomena or laws of nature.

Under Supreme Court precedent, claims directed purely to an abstract idea are patent ineligible. As set forth in the Revised Guidance, which extracts and synthesizes key concepts identified by the courts, abstract ideas include (1) mathematical concepts[4], (2) certain methods of organizing human activity[5], and (3) mental processes[6]. Among those certain methods of organizing human activity listed in the Revised Guidance are commercial or legal interactions. Like those concepts, claim 1 recites the concept of managing marketing campaigns. Specifically, claim 1 recites operations that

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[4] *See, e.g.*, *Gottschalk v. Benson*, 409 U.S. 63, 71–72 (1972); *Bilski v. Kappos*, 561 U.S. 593, 611 (2010); *Mackay Radio & Telegraph Co. v. Radio Corp. of Am.*, 306 U.S. 86, 94 (1939); *SAP America, Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1163 (Fed. Cir. 2018).

[5] *See, e.g.*, *Bilski*, 561 U.S. at 628; *Alice*, 573 U.S. at 219-20; *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed Cir. 2014); *Smart Sys. Innovations, LLC v. Chicago Transit Auth.*, 873 F.3d 1364, 1383 (Fed. Cir. 2017); *In re Marco Guldenaar Holding B.V.*, 911 F.3d 1157, 1160–61 (Fed. Cir. 2018).

[6] *See, e.g.*, *Benson*, 409 U.S. at 67; *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1371–72 (Fed. Cir. 2011); *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016).

would ordinarily take place in advising one to respond to positive brand related social media identified by conventional data analysis. The advice to respond to positive brand related social media identified by conventional data analysis involves replying to social media postings as part of a marketing campaign, which is an economic act, and determining a socially relevant competitor of the brand, which is an act ordinarily performed in the stream of commercial marketing. For example, claim 1 recites "replying to social media postings as part of a marketing campaign," which is an activity that would take place whenever one is performing commercial market research. Similarly, claim 1 recites "determining . . . a socially relevant competitor of the brand," which is also characteristic of commercial market research.

The Examiner determines the claims to be directed to providing information to users based on what is known about them. Final Act. 2. The preamble to claim 1 recites that it is a method for replying to social media postings as part of a marketing campaign. The steps in claim 1 result in managing marketing campaigns by responding to positive brand related social media identified by conventional data analysis absent any technological mechanism other than a conventional computer for doing so.

As to the specific limitations, limitation 1 recites receiving data. Limitations 2–5 recite generic and conventional analyzing, generating, and transmitting of marketing related social media data, which advise one to apply generic functions to get to these results. The limitations thus recite advice for responding to positive brand related social media identified by conventional data analysis. To advocate responding to positive brand related

social media identified by conventional data analysis is conceptual advice for results desired and not technological operations.

The Specification at paragraph 2 describes the invention as relating to monitoring and responding to social media posts, and more specifically, to replying to social media posts with comparison data. Thus, all this intrinsic evidence shows that claim 1 recites managing marketing campaigns. This is consistent with the Examiner's determination.

This in turn is an example of commercial or legal interactions as a certain method of organizing human activity because managing commercial marketing is a method of organizing commercial marketing plans. The concept of managing marketing campaigns by responding to positive brand related social media identified by conventional data analysis is one idea for creating such a campaign. The steps recited in claim 1 are part of how this might conceptually be premised.

Our reviewing court has found claims to be directed to abstract ideas when they recited similar subject matter. *Affinity Labs of Texas, LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1271 (Fed. Cir. 2016) (tailoring content); *Digitech Image Techs, LLC v. Elecs for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014) (organizing data sets into a new form); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (collecting, recognizing, and storing data); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1369 (Fed. Cir. 2015) (tailoring content); *BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC,* 827 F.3d 1341, 1347 (Fed. Cir. 2016) (filtering content); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093 (Fed. Cir. 2016) (collecting information).

Alternately, this is an example of concepts performed in the human mind as mental processes because the steps of receiving, analyzing, generating, and transmitting data mimic human thought processes of observation, evaluation, judgment, and opinion, perhaps with paper and pencil, where the data interpretation is perceptible only in the human mind. *See In re TLI Commc'ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016); *FairWarning*, 839 F.3d 1089. Claim 1, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data reception, analysis, generation, and transmission and does not recite an improvement to a particular computer technology. *See, e.g.*, *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314–15 (Fed. Cir. 2016) (finding claims not abstract because they "focused on a specific asserted improvement in computer animation"). As such, claim 1 recites receiving, analyzing, generating, and transmitting data, and not a technological implementation or application of that idea.

From this we conclude that at least to this degree, claim 1 recites managing marketing campaigns by responding to positive brand related social media identified by conventional data analysis, which is a commercial and legal interaction, one of certain methods of organizing human activity identified in the Revised Guidance, and, thus, an abstract idea.

STEP 2A Prong 2

The next issue is whether claim 1 not only recites, but is more precisely directed to this concept itself or whether it is instead directed to

some technological implementation or application of, or improvement to, this concept, i.e., integrated into a practical application.[7]

> At the same time, we tread carefully in construing this exclusionary principle lest it swallow all of patent law. At some level, "all inventions ... embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas." Thus, an invention is not rendered ineligible for patent simply because it involves an abstract concept. "[A]pplication[s]" of such concepts " 'to a new and useful end,' " we have said, remain eligible for patent protection. Accordingly, in applying the § 101 exception, we must distinguish between patents that claim the " 'buildin[g] block[s]' " of human ingenuity and those that integrate the building blocks into something more.

Alice, 573 U.S. at 217 (citations omitted).

Taking the claim elements separately, the operation performed by the computer at each step of the process is expressed purely in terms of results, devoid of implementation details. Step 1 is a pure data gathering step. Limitations describing the nature of the data do not alter this. Step 5.3 is insignificant post solution activity, such as storing, transmitting, or displaying the results. Steps 2–5.2 recite generic computer processing expressed in terms of results desired by any and all possible means and so present no more than conceptual advice. The recited extracting and parsing operations, in steps 2 and 4, may be phrased with technological buzzwords, but both are conventional generic low level data analysis. All purported inventive aspects reside in how the data are interpreted and the results desired, and not in how the process physically enforces such a data

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[7] *See, e.g., Alice*, 573 U.S. at 223, discussing *Diamond v. Diehr*, 450 U.S. 175 (1981).

interpretation or in how the processing technologically achieves those results.

Viewed as a whole, Appellant's claim 1 simply recites the concept of managing marketing campaigns by responding to positive brand related social media identified by conventional data analysis as performed by a generic computer. This is no more than conceptual advice on the parameters for this concept and the generic computer processes necessary to process those parameters, and does not recite any particular implementation.

Claim 1 does not, for example, purport to improve the functioning of the computer itself. Nor does it effect an improvement in any other technology or technical field. The Specification only spells out different generic equipment[8] and parameters that might be applied using this concept and the particular steps such conventional processing would entail based on the concept of managing marketing campaigns by responding to positive brand related social media identified by conventional data analysis under different scenarios. It does not describe any particular improvement in the manner a computer functions. Instead, claim 1 at issue amounts to nothing significantly more than an instruction to apply managing marketing campaigns by responding to positive brand related social media identified by conventional data analysis using some unspecified, generic computer. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice*, 573 U.S. at 225–26.

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[8] The Specification describes a special purpose or general purpose computer including computer hardware, such as, for example, one or more processors and system memory. Spec. para. 136.

None of the limitations reflects an improvement in the functioning of a computer, or an improvement to other technology or technical field, applies or uses a judicial exception to effect a particular treatment or prophylaxis for a disease or medical condition, implements a judicial exception with, or uses a judicial exception in conjunction with, a particular machine or manufacture that is integral to the claim, effects a transformation or reduction of a particular article to a different state or thing, or applies or uses the judicial exception in some other 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.

We conclude that claim 1 is directed to achieving the result of managing marketing campaigns by advising one to respond to positive brand related social media identified by conventional data analysis, as distinguished from a technological improvement for achieving or applying that result. This amounts to commercial or legal interactions, which fall within certain methods of organizing human activity that constitute abstract ideas. The claim does not integrate the judicial exception into a practical application.

STEP 2B

The next issue is whether claim 1 provides an inventive concept because the additional elements recited in the claim provide significantly more than the recited judicial exception.

The introduction of a computer into the claims does not generally alter the analysis at *Mayo* step two:

> the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.

> Stating an abstract idea "while adding the words 'apply it'" is not enough for patent eligibility. Nor is limiting the use of an abstract idea "'to a particular technological environment.'" Stating an abstract idea while adding the words "apply it with a computer" simply combines those two steps, with the same deficient result. Thus, if a patent's recitation of a computer amounts to a mere instruction to "implement[t]" an abstract idea "on . . . a computer," that addition cannot impart patent eligibility. This conclusion accords with the preemption concern that undergirds our § 101 jurisprudence. Given the ubiquity of computers, wholly generic computer implementation is not generally the sort of "additional feature[e]" that provides any "practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself."

Alice, 573 U.S. at 223–24 (citations omitted).

"[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea [] on a generic computer." *Alice*, 573 U.S. at 225. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer for receiving, analyzing, generating, and transmitting data amounts to electronic data query and retrieval—one of the most basic functions of a computer. All of these computer functions are generic, routine, conventional computer activities that are performed only for their conventional uses. *See Elec. Power Grp. LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). *See also In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1316 (Fed. Cir. 2011) ("Absent a possible narrower construction of the terms 'processing,' 'receiving,' and 'storing,' . . . those functions can be achieved by any general purpose computer without special programming"). None of these activities is used in some unconventional manner nor does any produce

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some unexpected result. Appellant does not contend it invented any of these activities. In short, each step does no more than require a generic computer to perform generic computer functions. As to the data operated upon, "even if a process of collecting and analyzing information is 'limited to particular content' or a particular 'source,' that limitation does not make the collection and analysis other than abstract." *SAP Am., Inc. v. InvestPic LLC*, 898 F.3d 1161, 1168 (Fed. Cir. 2018).

Considered as an ordered combination, the computer components of Appellant's claim 1 add nothing that is not already present when the steps are considered separately. The sequence of data reception-analysis-generation-transmission is equally generic and conventional. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction), *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (sequence of data retrieval, analysis, modification, generation, display, and transmission), *Two-Way Media Ltd. v. Comcast Cable Communications, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) (sequence of processing, routing, controlling, and monitoring). The ordering of the steps is therefore ordinary and conventional.

We conclude that claim 1 does not provide an inventive concept because the additional elements recited in the claim do not provide significantly more than the recited judicial exception.

REMAINING CLAIMS

Claim 1 is representative. The remaining method claims merely describe process parameters. We conclude that the method claims at issue

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are directed to a patent-ineligible concept itself, and not to the practical application of that concept.

As to the structural claims, they

> are no different from the method claims in substance. The method claims recite the abstract idea implemented on a generic computer; the system claims recite a handful of generic computer components configured to implement the same idea. This Court has long "warn[ed] . . . against" interpreting § 101"in ways that make patent eligibility 'depend simply on the draftsman's art.'

Alice, 573 U.S. at 226. As a corollary, the claims are not directed to any particular machine.

LEGAL CONCLUSION

From these determinations we further determine that the claims do not recite an improvement to the functioning of the computer itself or to any other technology or technical field, a particular machine, a particular transformation, or other meaningful limitations. From this we conclude the claims are directed to the judicial exception of the abstract idea of certain methods of organizing human activity as exemplified by the commercial and legal interaction of managing marketing campaigns by advising one to respond to positive brand related social media identified by conventional data analysis, without significantly more.

APPELLANT'S ARGUMENTS

As to Appellant's Appeal Brief arguments, we adopt the Examiner's determinations and analysis from Final Action 2–6 and Answer 3–9 and reach similar legal conclusions. We now turn to the Reply Brief.

We are not persuaded by Appellant's argument that:

> [t]he Examiner's Answer even acknowledges that natural language processing is a technical means at least during the lengthy discussion regarding ELIZA and natural language processing on pages 7 and 8 of the *Examiner's Answer*. As such, and as laid out in the Appeal Brief, the pending claims go well beyond stating functions in general terms without limiting them to technical means for performing the functions, as was found patent ineligible in *Electric Power Group*. Rather, and in contrast to the assertions in the Examiner's Answer, the pending claims state specific functions and the technical means by which those functions are accomplished.

Reply Br. 2 (citations omitted). Appellant's problem is that the data extraction and parsing operations to which such an argument alludes are both generic and conventional to the point the claims recite no more than the conceptual idea of applying such processing functionally. Appellant does not contend it invented natural language processing nor that the claims recite implementation details other than such conventional operations as extracting and parsing data. Simply invoking the function of natural language processing cannot confer eligibility.

> At that level of generality, the claims do no more than describe a desired function or outcome, without providing any limiting detail that confines the claim to a particular solution to an identified problem. The purely functional nature of the claim confirms that it is directed to an abstract idea, not to a concrete embodiment of that idea.

Affinity Labs, 838 F.3d at 1269.

> We are not persuaded by Appellant's argument that the claim
>
> limitations recite much more than "mentally determining a positive sentiment," as asserted by the *Examiner's Answer*. As noted in the Appeal Brief, the claims are similar to those in *McRO*, in that they "created a fundamentally different process which was amenable to computer execution." Similarly, in

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> order to do things like determine a sentiment of a social media
> post, the claims recite a fundamentally different process than a
> mental act that is amenable to computer execution, including:
> parsing the plurality of social media posts utilizing natural
> language processing to identify parts of speech tags and lexical
> chains and determining a sentiment of one or more adjectives or
> adverbs. Thus, the language of the pending claims is necessarily
> rooted in computing realms and cannot simply be performed by
> a person scrolling through his social media newsfeed.

Reply Br. 3–4 (citations omitted). As determined *supra*, the claims recite an

example of concepts performed in the human mind as mental processes

because the steps of receiving, analyzing, generating, and transmitting data

mimic human thought processes of observation, evaluation, judgment, and

opinion, perhaps with paper and pencil, where the data interpretation is

perceptible only in the human mind. Parsing and performing natural

language processing is the epitome of performing the first R, Reading, in the

3 R's taught in elementary school. Elementary school students

conventionally use pen and paper for reading and writing. The remaining

recited operations describe what such students do in their heads to apprehend

what is read. No technological implementation details are recited that would

make the claims more than such generic conventional functions.

Appellant also attempts to analogize the claims to those involved in

McRO.   Reply Br. 3–4. In *McRO*, the court held that, although the

processes were previously performed by humans, "the traditional process

and newly claimed method . . . produced . . . results in fundamentally

different ways." *FairWarning,* 839 F.3d at 1094 (differentiating the

claims at issue from those in *McRO*). In *McRO*, "it was the incorporation

of the claimed rules not the use of the computer, that improved the

existing technology process," because the prior process performed by

humans "was driven by subjective determinations rather than specific, limited mathematical rules." *McRO*, 837 F.3d at 1314 (internal quotation marks, citation, and alterations omitted). In contrast, the claims of the instant application merely implement an old practice of using decision criteria in making response decisions in a new environment. Appellant has not argued that the claimed processes of selecting content apply rules of selection in a manner technologically different from those which humans used, albeit with less efficiency, before the invention was claimed. Merely pigeon holing the objects of decision making in tiers to aid decision making is both old and itself abstract.

> The claims in *McRO* were not directed to an abstract idea, but instead were directed to "a specific asserted improvement in computer animation, i.e., the automatic use of rules of a particular type." We explained that "the claimed improvement [was] allowing computers to produce 'accurate and realistic lip synchronization and facial expressions in animated characters' that previously could only be produced by human animators." The claimed rules in *McRO* transformed a traditionally subjective process performed by human artists into a mathematically automated process executed on computers.

FairWarning, 839 F.3d at 1094 (differentiating the claims at issue from those in *McRO*).

Appellant further argues that the asserted claims are akin to the claims found patent eligible in *Core Wireless Licensing S.A.R.L. v. LG Electronics, Inc.*, 880 F.3d 1356 (Fed. Cir. 2018). Reply Br. 4. But the court in *Trading Technologies International, Inc. v. IBG LLC* addressed Appellant's Core Wireless argument.

> Relying principally on *Core Wireless*, TT argues the claimed invention provides an improvement in the way a computer operates. We do not agree. The claims of the '999 patent do not

> improve the functioning of the computer, make it operate more
> efficiently, or solve any technological problem. Instead, they
> recite a purportedly new arrangement of generic information
> that assists traders in processing information more quickly.

Trading Techs. Int'l, Inc. v. IBG LLC, 921 F.3d at 1093 (citations omitted).

The instant claims do not improve the functioning of the computer, make it

operate more efficiently, or solve any technological problem. Instead, they

recite a purportedly new arrangement of generic information that assists

users in processing information more quickly. Appellant contends that "the

pending claims also improve the functioning of computers by increasing the

ease and efficiency of user navigation in accessing data related to socially-

relevant competitors." Reply Br. 4–5. Appellant refers to the argument that

"conventional systems require the user 'to scroll around and switch views

many times to find the right data/functionality,' or 'to drill down through

many layers to get to desired data or functionality.'" Appeal Br. 15. But

this is precisely an instance of information improvement as contrasted with

computer technology improvement described in *Trading Technologies.*

Scrolling around and drilling down are information search techniques, not

computer operation techniques.

Appellant cites *Berkheimer* for the proposition that evidence of

something being conventional is necessary. Reply Br. 5–6 (citing

Berkheimer v. HP Inc., 881 F.3d 1360 (Fed. Cir. 2018). Support for this

finding is provided under Step 2B supra.

CONCLUSIONS OF LAW

The rejection of claims 1–15 and 17–21 under 35 U.S.C. § 101 as

directed to a judicial exception without significantly more is proper.

CONCLUSION

The rejection of claims 1–15 and 17–21 is affirmed.

In summary:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1–15, 17–21	101	Eligibility	1–15, 17–21	

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED