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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* MYLES KENNETH LEIGHTON, and  
CURT DANIEL SZYMANSKI<sup>1</sup>

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Appeal 2019–002335  
Application 14/186,128  
Technology Center 3600

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*Before:* ERIC B. GRIMES, FRANCISCO C. PRATS, and JOHN G. NEW,  
*Administrative Patent Judges.*

NEW, *Administrative Patent Judge.*

DECISION ON APPEAL

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<sup>1</sup> We use the word “Appellant” to refer to the “applicant” as defined in 37 C.F.R. § 1.142. Appellant identifies Caffeination Credit Manager (Series 1 of Caffeination Series, LLC) as the real party-in-interest. App. Br. 1.

## SUMMARY

Appellant files this Appeal under 35 U.S.C. § 134(a) from the Examiner’s Final Rejection of claims 1, 6, 9, 11–17, 21, and 23–27 as unpatentable under 35 U.S.C. § 101 as being directed to nonstatutory subject matter.

We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

## NATURE OF THE CLAIMED INVENTION

Appellant’s claimed invention is directed to methods, systems and computer program products of aggregating data with minimal data entry to create, format, share, merge, securely store, update, and display affordability with reason of a credit application on a mobile device and website. Abstr.

## REPRESENTATIVE CLAIM

Independent claim 1 is representative of the claims on appeal and recites:

1. A computer system, comprising:

a processor; and

a memory coupled to the processor, the memory comprising computer readable program code embodied therein that, when executed by the processor, causes the processor to perform operations comprising:

receiving, via a user interface, a first user input that comprises a social network login;

transmitting a request to the social network to receive personal user data from the social network, wherein the personal user data includes a name of the user and a city of the user;

aggregating the personal user data in a primary aggregating operation corresponding to the personal user data received from the social network;

aggregating secondary data by requesting data from a plurality of different data repositories including at least two of a credit data repository, a government agency, and an asset aggregator;

sorting and matching aggregated personal user data and secondary data into standard data fields;

generating a user data file corresponding to the user and including the sorted and matched aggregated data;

receiving, via the user interface, a credit application selection input corresponding to a credit application type of a plurality of credit application types;

receiving, via the user interface, a form selection input corresponding to which form of a plurality of forms to use for a credit application;

receiving an affordability analysis input from the user via the user interface; and

generating an affordability analysis responsive to receiving the affordability analysis input and that is based on the user data file and the credit application type, wherein the affordability analysis includes at least one suggestion for improving an affordability characteristic that includes rates and/or buying power;

generating the credit application having a standard format based on the user data file and the credit application selection input; and

transmitting the generated credit application to the user.

App. Br. 21–22.

## ISSUES AND ANALYSES

We agree and adopt, the Examiner’s findings, reasoning, and conclusion that the claims on appeal are directed to nonstatutory subject matter. We address the arguments raised sequentially by Appellant below.

### *Issue*

Appellant argues that the Examiner erred because the claims: (1) are not directed to a judicially-created exception to 35 U.S.C. § 101; and (2) recite significantly more than the allegedly abstract idea. App. Br. 8, 11.

### *Analysis*

The Examiner finds that the claims recite concepts relating to data comparisons and organizing or analyzing information that can be performed mentally or are analogous to human mental work, specifically: (1) transmitting a request to a social network to receive personal user data; (2) aggregating the personal user data in a primary aggregating operation; (3) aggregating secondary data from a plurality of different data repositories; (4) sorting and matching the aggregated data into standard data fields; (5) generating a user data file including the aggregated data; and (6) generating a credit application having a standard format. Final Act. 15.

The Examiner finds that the claims also recite concepts relating to managing relationships or transactions between people that have been identified as methods of organizing human activity, including: (1) receiving a first user input that comprises a social network login; (2) receiving a credit application selection input corresponding to a credit application type; (3) receiving a form selection input to use for a credit application; (4) receiving an affordability analysis; (5) generating an affordability analysis based on the user data file and the credit application type; and (6) transmitting the generated credit application to the user. Final Act. 15–16.

The Examiner also finds that the claims, as a whole, embody concepts relating to the performance of financial transactions that have been identified as fundamental economic practices. Final Act. 16. The Examiner finds that the claimed method involves gathering data from various sources for a selected credit application, analyzing the data including an affordability analysis (analogous to being preapproved for a certain mortgage amount and recommending ways to increase the amount or determining how much of a car loan one can afford), and completing the credit application. *Id.*

The Examiner finds that the claim recites additional elements, *viz.*, a processor, memory, a user interface and a computer program product; however the Examiner also finds that these additional elements do not amount to significantly more than the abstract idea itself. Final Act. 17 (citing *Interim Guidance*, 79(241) Fed. Reg. 74624 (December 16, 2014) (The “2014 Guidance”)).

The Examiner concludes that looking at the limitations as an ordered combination adds nothing that is not already present when looking at the

elements taken individually, and that the claims are therefore directed to nonstatutory subject matter. Final Act. 19.

Appellant argues that the claims on appeal are directed to facilitating data management for, and generation and transmission of, a credit application. App. Br. 9. Appellant contends that the claims are therefore directed to a statutory category, i.e., because the claims recite a memory, a processor, and a user interface, the claims are directed to at least a process, machine, or manufacture, which are statutory categories. *Id.*

Appellant next turns to Step 2A of the 2014 Guidance, and argues that the claimed method of facilitating data management for a credit application, and generating and transmitting the application, improves the functioning of credit applications by managing the credit application data and providing a user customizable credit application to the user. App. Br. 10. Therefore, Appellant contends, the claims do not recite any judicial exception to Section 101.<sup>2</sup> *Id.*

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<sup>2</sup> Appellant argues further that:

Here, by reducing the recitations of Claims 15–24 and 28–43 to “exchanging and resolving financial obligations based on probabilities created during a distribution of cards, wagering tokens/chips used to represent and indicate the financial aspects of the game,” the Office Action has violated the dictates of *Enfish*, and has instead improperly oversimplified the claims in a manner that is “untethered from the language of the claims.”

For example, like the “physical processing of checks” at issue in *Solutran*, claim 15 recites providing a **physical** “*instant win gaming ticket*” with a **physical** “*removable cover*.” Claim 15 also

Appellant argues further that the Examiner’s alleged reduction of the recitations of claims 15–24 and 28–43<sup>3</sup> to “exchanging and resolving financial obligations” merely asks whether the claims involve a patent-ineligible concept, but by ignoring the physical products and processes recited by the claims, the Office Action violates the holdings of the Federal Circuit in *Enfish LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) and the District Court of Minnesota’s holding in *Solutran, Inc. v. U.S. Bancorp and Elavon, Inc.*, 2017 U.S. Dist. LEXIS 194336, \*15 (D. Minn. Nov. 27, 2017), because it does not consider whether, in light of Appellant’s Specification, the character of the claim as a whole is directed to excluded subject matter. App. Br. 11. According to Appellant, just as claims reciting the physical processing of checks in *Solutran* were held to be directed to

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recites, after the **physical** “*removal of the cover by the player,*” **physically** “*receiving a tender of the instant win gaming ticket from the player for redemption.*”

App. Br. 10–11.

We are unable to follow Appellant’s argument. Dependent claim 15 recites, in its entirety: “The method according to Claim 14, wherein the user input comprises a social network login corresponding to a social network.” Nowhere in the claims on appeal can we discern the terms “player,” “cover,” or “instant win gaming ticket,” let alone the limitations quoted here by the Appellant. Appellant appears to be arguing claims other than those presently on appeal, and we are consequently unable to evaluate Appellant’s argument in this respect.

<sup>3</sup> See fn.2. The claims on appeal are claims 1, 6, 9, 11–17, 21, and 23–27. There are no claims 28–43 on appeal in the present proceeding, and Appellant appears to be referring to claims in some other appeal.

eligible subject matter, so too are claims 15–24 and 28–43<sup>4</sup>, which are directed, *inter alia*, to providing a credit application that is based on user data and user inputs that are received via the user interface. *Id.*

Appellant next argues that the Examiner “provides no express factual finding that the additional features of the claims are well-understood, routine, or conventional.”<sup>5</sup> App. Br. 12. Appellant contends that the Examiner has not provided any statements that would satisfy the requirements of USPTO memorandum, *Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision* (April 19, 2018) (the “2018 memorandum”). *Id.* at 15. Additionally, argues Appellant, the claims of the present application define subject matter that is both novel and nonobvious relative to the cited references because there is no prior art rejection of any pending claim. *Id.* Appellant asserts that, because the claims recite an inventive concept, they necessarily recite subject matter that is “significantly more” than an abstract idea, and therefore patent-eligible.<sup>6</sup> *Id.*

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<sup>4</sup> See fn.3 *supra*.

<sup>5</sup> Appellant argues that: “The Office Action contends that elements such as lottery cards are not sufficient to amount to more than the judicial exception.” App. Br. 12 (citing Final Act. 3–4). Again, we are unable to find the claim term “lottery cards” recited or implied in any of the claims on appeal.

<sup>6</sup> Similarly, Appellant argues that: “There is no question that the claims satisfy the textual requirements of § 101, because they recite, *inter alia*, physically providing and receiving a physical instant win ticket.” App. Br. 17. And on pages 18–19 of the Appeal Brief, Appellant argues that:

We are not persuaded by Appellant’s arguments. In performing an analysis of patentability under Section 101, we follow the framework set forth by the Supreme Court in *Mayo Collaborative Servc’s v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012). We are also mindful of, and guided by, the United States Patent and Trademark Office’s 2019 Revised Patent Subject Matter Eligibility Guidance, 84(4) Fed. Reg. 50–57 (January 7, 2019) (the “2019 Guidance”).

Appellant’s claim 1 recites: “A computer system, comprising: a processor; and a memory..., the memory comprising computer readable program code embodied therein that, when executed by the processor, causes the processor to perform operations comprising....” Following the first step of the *Mayo* analysis, we find that the claims are directed to a machine that performs a process, or method, and therefore fall into one of the broad statutory categories of patent-eligible subject matter under 35 U.S.C. § 101.

In the next step of the *Mayo* analysis, we determine whether the claims at issue are directed to a nonstatutory, patent-ineligible concept, i.e., a law of nature, a phenomenon of nature, or an abstract idea. *Mayo*, 566 U.S. at 70–71. If the claims are so directed, we next consider the elements of each claim both individually and “as an ordered combination” to determine whether additional elements “transform the nature of the claim” into a

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“Because the claims recite a new or original instant game ticket, the claims are directed to significantly more than an abstract idea.” Once again, we are unable to determine the sense of this argument because it does not reflect, in any way, the language of the claims on appeal. Consequently, we do not reach these arguments.

patent-eligible application. *Id.* at 78–79; *see also Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1375 (Fed. Cir. 2015). Specifically, the Supreme Court considered this second step as determining whether the claims recite 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.” *Mayo*, 566 U.S. at 72–73.

More specifically, in this second step of the *Mayo* analysis, we look to whether the claim recites one of the judicially-created exceptions to Section 101, i.e., an abstract idea, a law of nature, or a natural phenomenon. *See* 2019 Guidance 54 (Step 2A, Prong 1). If we determine that the claim recites a judicial exception, we then determine whether the limitations of the claim reciting the judicial exception are integrated into a practical application. *Id.* (Step 2A, Prong 2).

Finally, if we determine that the claim is directed to a judicially-created exception to Section 101, we evaluate the claim under the next step of the *Mayo* analysis, considering the elements of each claim both individually and “as an ordered combination” to determine whether additional elements “transform the nature of the claim” into a patent-eligible application. *Mayo*, 566 U.S. at 78–79; 2019 Guidance at 56 (Step 2B).

Claim 1 recites “caus[ing] the processor [of the claimed computer system] to perform operations comprising”: (1) receiving a social network login; (2) transmitting a request to the social network for personal user data; (3) aggregating the personal user data; (4) aggregating secondary data by requesting data from a plurality of different sources; (5) sorting and matching the aggregated personal user data and secondary data into standard data fields; (6) generating a user data file; (7) receiving a credit application

selection input; (8) receiving a form selection input; (9) receiving an affordability analysis input; (10) generating an affordability analysis that is based on the user data file and the credit application type; and (11) generating and (12) transmitting the credit application in a standard format.

We agree with the Examiner that the claims recite an abstract idea and, more specifically, gathering personal data and generating a credit application in a standard format, constituting “a fundamental economic practice long prevalent in our system of commerce,” which is an intangible entity. *Bilski v. Kappos*, 561 U.S. 593, 611 (2010); *see also buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1353 (Fed. Cir. 2014).

Basically, claim 1 recites a series of receiving (limitation 1, 3, 4, 7, 8), processing (limitations 3–5, 10–11), and transmitting information (limitation 12) steps performed on a generic computer. *See* Spec. ¶¶ 54–55. Our reviewing court, in *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016), held that “[i]nformation as such is an intangible.” 830 F.3d at 1353 (citing *Microsoft Corp. v. AT & T Corp.*, 550 U.S. 437, 451 n.12 (2007); *Bayer AG v. Housey Pharm., Inc.*, 340 F.3d 1367, 1372 (Fed. Cir. 2003)).

Similarly, the court held that “collecting information, including when limited to particular content (which does not change its character as information), [is] within the realm of abstract ideas.” *Id.* at 1354 (citing, e.g., *TLI Commc ’ns LLC Patent Litig.*, 823 F.3d 607, 613 (Fed. Cir. 2016); *Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014); *SmartGene, Inc. v. Advanced Biological Labs., SA*, 555 Fed.Appx. 950, 955 (Fed. Cir. 2014); *Bancorp Servs., L.L.C. v. Sun Life Assurance Co. of Canada (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012);

*CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011); *SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319, 1333 (Fed. Cir. 2010)). The Federal Circuit has also recognized that merely presenting the results of abstract processes of collecting and analyzing information, without more (such as identifying a particular tool for presentation), is abstract as an ancillary part of such collection and analysis. *Id.* (citing e.g., *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014); *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014)).

Here, as in *Electric Power Grp.*, the claims are directed to a combination of these abstract-idea processes. 830 F.3d at 1354. They are directed to a process of gathering, processing, and analyzing information of a specified content, then sending the results to an end user. *Id.* We conclude that the claims are therefore directed to an abstract idea.

Furthermore, in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (2014), the Federal Circuit reviewed a number of cases with facts similar to those of the appeal before us that were found to be directed to abstract ideas and therefore patent ineligible:

In *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014), the claims recited no more than using a computer to send and receive information over a network in order to implement the abstract idea of creating a “transaction performance guaranty.” In *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1344–45 (Fed. Cir. 2013), the claims merely recited “generalized software components arranged to implement an abstract concept [of generating insurance-policy-related tasks based on rules to be completed upon the occurrence of an event] on a computer.” And in *Bancorp Servc’s, L.L.C. v. Sun Life Assur. Co. of Canada (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012), the claims recited no more than the use of a computer

“employed only for its most basic function, the performance of repetitive calculations,” to implement the abstract idea of managing a stable-value protected life insurance policy. Under Supreme Court precedent, the above claims were recited too broadly and generically to be considered sufficiently specific and meaningful applications of their underlying abstract ideas. Although many of the claims recited various computer hardware elements, these claims in substance were directed to nothing more than the performance of an abstract business practice on the Internet or using a conventional computer. Such claims are not patent-eligible.

773 F.3d at 1256.

Similarly, in the appeal presently before us, the claims recite using a “processor,” i.e., a generic computer, to receive, organize, and transmit information to and from customers. As such, we find that the claims are directed to: “nothing more than the performance of an abstract business practice on the Internet or using a conventional computer” and use “generalized software components arranged to implement an abstract concept [a series of task-based rules] on a computer.” *Id.*

Even more specifically, we find that the limitations recited in claim 1 are analogous to those at issue in *Dealertrack, Inc. v. Huber*, 674 F.3d 1315 (Fed. Cir. 2012). In *Dealertrack*, our reviewing court found that a computer-aided method of loan processing amounted to little more than using the general principle of a clearinghouse. 674 F.3d at 1333. The court held that merely using a computer to enact a computer-based method of operating a clearinghouse, even when limited to automobile loan processing, was insufficient to prevent the claimed method from being directed broadly to an abstract idea. *Id.* at 1334 (citing *Bilski*, 561 U.S. at 612 (holding that claims “limiting an abstract idea to one field of use or add[ed] token post-

solution components” are not patent eligible). Similarly, Appellant’s claims are directed to a system of generating a credit application by gathering and aggregating user information and an affordability analysis, and then generating a credit application based upon the aggregated information. As such, the claims recite no more than a method of credit application generation mediated by a computer.

Appellant points to *Enfish*, arguing that the claimed method offers advantages to pre-existing technical systems involving coupon processing by providing enhanced security and protection against fraudulent usage over pre-existing systems. *See* App. Br. 7–8. We disagree. Unlike in *Enfish* where the court specifically found the improvement to be in the way computers operate (822 F.3d at 1332, 1336), in Appellant’s claimed method, the alleged novelty of the invention goes to the methodological steps of receiving information, assigning it values in a user data file, and transmitting it to the user. Nothing in the recited limitations speaks to changing or altering or improving the methods by which computers operate. Rather, the “processor” performs steps that are within the normal ambit of generic computer functions. *See* Spec. ¶ 71 (“These computer program instructions may be provided to a processor of a general purpose computer, special purpose computer, or other programmable data processing apparatus”); *see also buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (2014):

The claims’ invocation of computers adds no inventive concept. The computer functionality is generic—indeed, quite limited: a computer receives a request for a guarantee and transmits an offer of guarantee in return. There is no further detail. That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive.

We consequently conclude that Appellant’s reliance on *Enfish* is misplaced, and that the claims are directed to an abstract idea.

Having determined that the claims recite an abstract idea, we next look to see whether the claims are integrated into a practical application. 2019 Guidance 54 (Step 2A, Prong 2). The Guidance provides additional context for this analysis, stating 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.” *Id.* at 53.

In the present case, we find that the claims recite no more than the abstract idea, as implemented on a generic computer and using generic software. As such, we find that the claims do not impose meaningful limits upon the abstract idea recited in the claims.

For the same reasons, we find that, considering the elements of each claim both individually and “as an ordered combination” the claims recite no additional elements that “transform the nature of the claim” into a patent-eligible application. *Mayo*, 566 U.S. at 78–79; 2019 Guidance at 56 (Step 2B).

We therefore conclude that the claims are directed to nonstatutory subject matter, and we affirm the Examiner’s rejection of the claims.

CONCLUSION

The Examiner’s rejection of claims 1, 6, 9, 11–17, 21, and 23–27 under 35 U.S.C. § 101 is affirmed.

AFFIRMED

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1, 6, 9, 11–17, 21, 23–27	101	Nonstatutory Subject Matter	1, 6, 9, 11–17, 21, 23–27	