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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/554,357	07/20/2012	Shanmugam Chinnappa	11290.0012-00000	2804
22852	7590	03/23/2020	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			NGUYEN, THUY-VI THI	
			ART UNIT	PAPER NUMBER
			3664	
			NOTIFICATION DATE	DELIVERY MODE
			03/23/2020	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SHANMUGAM CHINNAPPA

Appeal 2019-002359
Application 13/554,357
Technology Center 3600

Before ERIC B. GRIMES, FRANCISCO C. PRATS, and
RACHEL H. TOWNSEND, *Administrative Patent Judges*.

Opinion for the Board filed by *Administrative Patent Judge* PRATS.

Opinion Concurring filed by *Administrative Patent Judge* TOWNSEND.

PRATS, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–3, 5–13, and 15–20. 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. Appellant states that “AMDOCS DEVELOPMENT LIMITED is the real party in interest.” Appeal Br. 1.

STATEMENT OF THE CASE

The Specification explains that, “[c]ompanies commonly employ customer service representatives (CSRs) to speak with, and resolve issues or problems for, customers. Customer Relationship Management (CRM) software has been developed that assists CSRs when attempting to resolve issues for customers.” Spec. ¶ 2.

The Specification explains that CRM software can have deficiencies, however, because the software can depend heavily on a representative’s capacity “to determine a problem underlying a customer’s call. Thus, an inexperienced CSR may not be able to efficiently resolve a customer’s problem. Similarly, an experienced CSR may not be able to efficiently resolve a customer’s problem when the problem is uncommon or complex.” *Id.*

To address these deficiencies, “[v]arious embodiments for performing automated issue resolution are disclosed. Issue resolution begins when a user transmits a communication to a CSR regarding a symptom of an underlying issue or problem that s/he is experiencing.” *Id.* ¶ 16.

The Specification explains that a “symptom of the underlying problem may be, for example, an inability to access the Internet with a certain device. The CSR may then perform operations in an attempt to resolve the user’s problem. Some or all of the operations may be recorded.” *Id.* User devices that may be serviced according to Appellant’s invention include electronic devices such as computers and mobile phones. *Id.* ¶ 18.

The Specification explains that if the customer service representative (CSR) is able to resolve the user’s problem, the problem-resolving operations “may be compared to a model to identify the problem and/or

symptoms associated with the problem. After waiting for a predetermined time, the process may determine whether symptoms of the previously identified problem are present and, if so, attempts to resolve the problem.”

Id. ¶ 16.

Appellant’s claim 1 is representative of the subject matter on appeal, and reads as follows:

1. A computer-implemented method for monitoring and resolving problems with user devices, comprising the following operations performed by one or more processors:

storing an identified problem associated with a first symptom of a first problem with a user device, wherein the identified problem corresponds to a particular problem from a set of possible problems, the particular problem selected by:

recording on a second device, a first set of operations intended to resolve the first problem, and

comparing the recorded first set of operations to a model, wherein the model comprises a mapping between a set of possible operations and the set of possible problems with known resolutions;

determining the identified problem is a recurring problem;

establishing, based on the identified problem being a recurring problem, a monitoring schedule;

receiving data from the user device according to the monitoring schedule;

automatically monitoring the received data from a computer system associated with the user device for a second symptom of the identified problem;

- automatically determining that the second symptom of the identified problem is present in the monitored data;
- providing a signal to the user device to perform the first set of operations to resolve the identified problem based on the determination that the second symptom of the identified problem is present in the monitored data, wherein performing the first set of operations resolves the identified problem;
- determining the identified problem is associated with a device type associated with the user device;
- receiving data from a set of other devices for the second symptom of the identified problem, wherein the set of other devices is based on the device type associated with the user device;
- automatically monitoring the received data from the set of other devices for the second symptom of the identified problem; and
- automatically providing a signal to a device in the set of other devices to perform the first set of operations to resolve the identified problem.

Appeal Br., Claims App'x.

The following rejections are before us for review:

(1) Claims 1–3, 5–13, and 15–20, under 35 U.S.C. § 101, as being directed to subject matter not eligible for patenting (Ans. 3–7); and

(2) Claims 1–3, 5–13, and 15–20 under 35 U.S.C. § 112(a) or pre-AIA 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement (Ans. 7–10).

35 U.S.C. § 101—
ELIGIBILITY FOR PATENTING

The Examiner's Rejection

The Examiner determined that representative claim 1's process of storing a problem selected by comparison to a model, "monitoring data and determining a second symptom[,] and providing instruction to perform a first set of operations on a user device that resolves the problem is considered to be an abstract idea . . . itself because [it] can be performed mentally or is analogous to human me[n]tal work." Ans. 4.

The Examiner determined also that "fixing problems in user devices is a known business concept . . . that has traditionally been performed manually in the customer service field and is similar to certain methods of human activity that have been identified as abstract, e.g., concepts relating to sales activities or transactions." *Id.* at 5 (citing Spec. ¶¶ 1–4).

The Examiner determined that, beyond the abstract ideas, the features of representative claim 1, when considered separately and as a whole, did not include additional elements sufficient to ensure that the claimed process amounted to significantly more than the judicial exception. *Id.* at 5–6. In particular, the Examiner determined that claim 1's processor and user devices were "recited at a high level of generality and are described as general purpose devices." *Id.* at 5 (citing Spec. ¶¶ 17–19). The Examiner determined further that claim 1's steps of storing and receiving data are functions that have been identified in case law as well-understood, routine, and conventional computer functions, "or as insignificant extra-solution activity." *Id.* at 6.

Therefore, the Examiner concluded:

[T]aken alone, the additional elements do not amount to significantly more than the abstract idea. Looking at the limitations 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.

Id.

Principles of Law

An invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. The Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions, however: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *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 Supreme Court’s two-step framework, described in *Mayo Collaborative Services v. Prometheus Laboratories., Inc.*, 566 U.S. 66 (2012) and *Alice*, 573 U.S. at 217–18 (citing *Mayo*, 566 U.S. at 75–77). 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.”).

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 v. Kappos*, 561 U.S. 593, 611 (2010)); mathematical formulas (*Parker v. Flook*, 437 U.S. 584,

594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)).

If the claim is “directed to” an abstract idea, we turn to the second step 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).

Early in 2019, the PTO published revised guidance on the application of § 101. USPTO, *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (January 7, 2019) (“Memorandum” or “2019 Office Guidance” or “Office Guidance”).² In light of comments received in response to the Office Guidance, the PTO subsequently issued the *October 2019 Patent Eligibility Guidance Update* (“October 2019 Update”).³

Following the Office Guidance and the October 2019 Update, under Revised Step 2A, we first look to whether the claim recites the following:

(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); and

(2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)).

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 of the Office Guidance, to whether the claim:

² Available at <https://www.govinfo.gov/content/pkg/FR-2019-01-07/pdf/2018-28282.pdf>.

³ https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf.

(3) adds specific limitations beyond the judicial exception that are 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 Memorandum.

Analysis

Office Guidance—Revised Step 2A, Prong 1

Appellant’s claim 1 is representative of the claims subject to this rejection. Applying Revised Step 2A, Prong 1, of the 2019 Office Guidance, we agree with the Examiner that Appellant’s claim 1 recites judicial exceptions, in the form of abstract ideas.

Claim 1 recites “[a] computer-implemented method for monitoring and resolving problems with user devices.” Appeal Br., Claims App’x. The process includes the step of “providing a signal to [a first] user device to perform [a] first set of operations to resolve [an] identified problem” and the later subsequent step of “providing a signal to a device in [a] set of other devices to perform the first set of operations to resolve the identified problem.” *See id.* Claim 1 thus recites a process in which a problem in a first user device is resolved, and then the same problem is resolved in a second user device, where the second user device is the same type of device as the first. *See id.*

As the Examiner noted, Appellant’s Specification explains that solving problems in user devices is a common business practice. *See* Spec. ¶ 2 (“Companies commonly employ customer service representatives (CSRs) to speak with, and resolve issues or problems for, customers.”).

And, as also explained in Appellant’s Specification, the processes of Appellant’s invention automate that common business practice. *See id.* ¶ 16 (“Various embodiments for performing automated issue resolution are disclosed.”).

Thus, when read in context with Appellant’s Specification, Appellant’s claim 1 recites a process that automates the common business practice of solving problems in user devices, that is, devices used by customers. Read in context with the Specification, therefore, Appellant’s claim recites a process of commercial interaction between a vendor and a customer, which is considered a method of organizing human activity, and ultimately an abstract idea. *See Office Guidance* (84 Fed. Reg. at 52 (abstract ideas include “(b) Certain methods of organizing human activity—fundamental economic principles or practices (including hedging, insurance, mitigating risk); **commercial . . . interactions** (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; **business relations**”) (emphasis added))).

The fact that claim 1 recites performing a number of steps to accomplish the ultimate customer problem-solving result does not persuade us that, by characterizing the claimed process as problem solving, the Examiner overgeneralized the claimed process, in the context of this application. *See Appeal Br. 13; Reply Br. 3.* Indeed, we agree with the Examiner that, beyond claim 1’s abstract business relational processes of providing problem-solving operations to customer/user devices, claim 1 recites only mental processes, which constitute abstract ideas. *See Office Guidance* (84 Fed. Reg. at 52 (abstract ideas include “(c) Mental processes”)).

As an initial matter, we note that claim 1 expressly recites that the claimed operations are performed by one or more processors, as Appellant contends. *See* Appeal Br. 12–13, 15–16, Claims App’x; Reply Br. 2–3. As explained in the Office Guidance, however, “[i]f 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.” 84 Fed. Reg. at 52, n.14.

In the first set of steps recited in claim 1, a problem is selected by comparing (“mapping”) a recorded set of operations to a model, and then stored. Appeal Br., Claims App’x. Because comparing and recording/storing information (i.e., memorization) can be performed in the human mind, we agree with the Examiner that, but for the generic computer components recited in claim 1, the initial step of storing a problem identified by a comparison step involves mental processes, which are abstract ideas. *See* Office Guidance (84 Fed. Reg. at 52 (abstract ideas include “(c) Mental processes—concepts performed in the human mind (including an observation, evaluation, judgment, opinion”) (citations omitted))).

Similarly, the next set of steps in claim 1, which provide the criteria for deciding whether to send a signal to perform problem-solving operations in the first-recited user device, all may be performed in the human mind, but for the generic processors recited in the claim. Specifically, claim 1’s steps of determining that the identified problem is a recurring problem in the user device, establishing a monitoring schedule for the device, receiving data from the device according to the schedule, monitoring the received data for a second symptom of the identified problem, and determining that the second

symptom of the identified problem is present in the monitored data, all involve observation, evaluation, and judgment, and therefore are mental processes constituting abstract ideas. *See* Office Guidance (84 Fed. Reg. at 52). Indeed, the decision whether to provide the signal to perform the problem-solving operations to the first-recited user device is conditioned on a mental process: “the determination that the second symptom of the identified problem is present in the monitored data.” Appeal Br., Claims App’x.

The final set of steps recited in claim 1 are directed to the abstract mental decisional processes involved in determining whether to send a signal to a second user device to perform the problem-resolving operations. Specifically, the steps of determining that the identified problem is associated with a particular type of device, receiving data from other devices of that type for the second symptom of the identified problem, and monitoring the received data for the second symptom of the identified problem all involve observation, evaluation, and judgment, and therefore are mental processes constituting abstract ideas. *See* Office Guidance (84 Fed. Reg. at 52).

In sum, viewed as a whole, Appellant’s claim 1 recites a process in which a recurring problem is identified in a first-recited user device, the problem in the first user device is then resolved by signaling the device to perform problem-resolving operations, and then, after determining that the problem is associated with a certain type of device, a signal is sent to other devices of the same type to also perform the problem-resolving operations. As discussed above, when read in context with the Specification, claim 1’s overall problem-resolving process is a process of commercial interaction

between a vendor and a customer, which is considered a method of organizing human activity, and ultimately an abstract idea.

As also discussed above, but for the generic recitation of using processors, the individual steps recited in claim 1 all involve the mental processes employed in deciding whether to signal the user devices to perform the problem-resolving operations. Accordingly, viewed as a whole or as an individual series of steps, we agree with the Examiner that Appellant's claim 1 recites judicial exceptions in the form of abstract ideas.

Office Guidance—Revised Step 2A, Prong 2

Having determined that Appellant's claim 1 recites judicial exceptions in the form of abstract ideas under Revised Step 2A, Prong 1, of the 2019 Office Guidance, we turn to Revised Step 2A, Prong 2, of the Office Guidance to determine whether claim 1 recites additional elements that integrate the judicial exceptions into a practical application. *See* Office Guidance (84 Fed. Reg. at 54–55).

We find that Appellant's claim 1 does not recite additional elements sufficient to integrate the judicial exceptions into a practical application. As discussed above, claim 1's overall process is directed to the abstract business relational idea of resolving problems in user/customer devices, and the individual steps all involve abstract mental processes that are performed to accomplish the problem resolutions.

We again acknowledge claim 1's express recitation that the individual steps are performed by one or more processors. *See* Appeal Br. 16–18; Reply Br. 6–7. We also acknowledge Appellant's contention that the claimed process improves the function of devices, including computers, by fixing problems in the devices. *See* Appeal Br. 15–17; Reply Br. 3–4.

However, because claim 1 does not recite any particular structure or algorithms in relation to the claimed processors, and does not limit the user devices to any particular machine or apparatus, we are not persuaded that claim 1 includes limitations that are sufficiently specific to integrate the claimed process into a practical application. *See* Office Guidance (84 Fed. Reg. at 55 (example in which a judicial exception is not integrated into a practical application includes situation in which claim “merely includes instructions to implement an abstract idea on a computer, or merely uses a computer as a tool to perform an abstract idea”)). Accordingly, evaluating the claimed elements individually and in combination, we are not persuaded that claim 1 integrates any of the recited judicial exceptions into a practical application under Revised Step 2A, Prong 2, of the 2019 Office Guidance.

Office Guidance—Step 2B

For the reasons discussed above, we are persuaded that Appellant’s representative claim 1 recites judicial exceptions (abstract ideas in the form of methods of organizing human activity and mental processes) under Revised Step 2A, Prong 1, of the 2019 Office Guidance, and does not integrate those judicial exceptions into a practical application under Revised Step 2A, Prong 2. Accordingly, we turn to Step 2B of the Office Guidance to determine whether (a) claim 1 recites specific limitations beyond the judicial exceptions that are not well-understood, routine, or conventional in the field, or (b) whether claim 1 simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception. *See* Office Guidance (84 Fed. Reg. at 56).

In the present case, as discussed above, when the steps of representative claim 1 are viewed as an ordered combination, the overall claimed process, as a whole, recites an automated method of resolving problems in user/customer devices, which is a process of commercial and business interaction. In other words, viewed as a whole, and as an ordered combination of steps and elements, claim 1 recites *no specific additional elements* beyond the features involved in the recited method of organizing human activity, which is an abstract idea. We are not persuaded, therefore, that when claim 1 is viewed as a whole, claim 1 includes specific limitations beyond the judicial exception that are not well-understood, routine, or conventional in the field. As explained in the 2019 Office Guidance, it is the “*additional elements* recited in the claims” beyond the judicial exceptions in the claim that must provide significantly more than the recited judicial exception. *See* Office Guidance (84 Fed. Reg. at 56) (emphasis added).

Viewing the steps of claim 1’s process individually, we come to the same conclusion. As noted above, the steps employed in deciding whether to signal the user devices to perform the problem-resolving operations all involve mental processes. Beyond those abstract ideas, the only tangible elements recited in claim 1 are the user devices to which the problem-resolving operations are provided, and the generically recited processors. *See* Appeal Br., Claims App’x.

As noted above, claim 1 does not recite any particular structure or algorithms in relation to the claimed processors, and does not limit the user devices to any particular machine or apparatus. We are not persuaded, therefore, that beyond the recited judicial exceptions, claim 1 adds specific

limitations that amount to significantly more than the recited judicial exceptions.

As the Examiner contends, moreover, Appellant’s Specification discloses that a user device may be a computer (Spec. ¶ 18), and that computer components including processes are “well-known in the art” (*id.* ¶ 17). Appellant does not persuade us, therefore, that the Examiner failed to advance evidence sufficient to support a finding that the non-abstract elements of Appellant’s claim 1 are well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality. *See* Appeal Br. 19–20 (citing *Berkheimer v. HP Inc.*, 881 F.3d 1360 (Fed. Cir. 2018)).

In sum, for the reasons discussed, viewing Appellant’s claim 1 as a whole, as an ordered combination, and considering the claimed steps and elements individually, we find that the preponderance of the evidence supports the Examiner’s determination that claim 1 simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exceptions recited in the claim.

Eligibility for Patenting—Conclusion

As discussed above, we are persuaded that Appellant’s representative claim 1 recites judicial exceptions (abstract ideas in the form of methods of organizing human activity and mental processes) under Revised Step 2A, Prong 1, of the 2019 Office Guidance, and does not integrate those judicial exceptions into a practical application under Revised Step 2A, Prong 2. As also discussed above, we are persuaded that, to the extent claim 1 recites additional elements beyond the judicial exceptions recited in the claim,

claim 1 simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exceptions.

Accordingly, applying the principles set forth in the 2019 Office Guidance, we find that the preponderance of the evidence supports the Examiner's determination that Appellant's claim 1 is directed to subject matter that is ineligible for patenting. We, therefore, affirm the Examiner's rejection of claim 1 as being ineligible for patenting. Claim 2, 3, 5–13, and 15–20 fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

WRITTEN DESCRIPTION

The Examiner's Rejection

The Examiner rejected claims 1–3, 5–13, and 15–20, for failure to comply with the written description requirement. Ans. 7–10. The Examiner determined, essentially, that Appellant's Specification does not demonstrate possession of claim 1's step of "automatically providing a signal to a device in the set of other devices to perform the second set of operations to resolve the identified problem." *Id.* at 7.

Although the Examiner conceded, apparently, that paragraphs 25 and 26 of the Specification provide literal support for automatically signaling a device to perform problem-resolving operations, the Examiner determined that paragraphs 25 and 26 "do not seem to show how the 'automatically [sic] problem is automatically resolved' for a device after determining the second symptom occurs [in] a device from the set of the device but merely indicate 'the problem may be resolved automatically.'" *Id.* at 8–9. In particular, the Examiner reasoned that:

There no indication what instructions or what algorithm is performed in order to is send to the device to perform the operation to resolve the identified problem. Considering with the variety of the problems and when the system determines particular problem to resolve, what instruction is automatically being provided to the device based on the identified problem? In the other words, the specification does not describe the claimed invention in such full, clear, concise, and exact terms that a skilled artisan would recognize applicant was in possession of the claimed invention.

Id. at 9.

Analysis

We reverse the Examiner's rejection for lack of written description. As we understand it, the Examiner's position is not that claim 1 lacks literal support for the step of automatically signaling a device to perform problem-resolving operations. Rather, the Examiner determines that the Specification does not disclose the specific operations that are performed to resolve the problem. *See* Ans. 8–9, 19–20.

Our reviewing court has explained, however, that:

A claim will not be invalidated on section 112 grounds simply because the embodiments of the specification do not contain examples explicitly covering the full scope of the claim language. That is because the patent specification is written for a person of skill in the art, and such a person comes to the patent with the knowledge of what has come before. Placed in that context, it is unnecessary to spell out every detail of the invention in the specification; only enough must be included to convince a person of skill in the art that the inventor possessed the invention and to enable such a person to make and use the invention without undue experimentation.

Falko-Gunter Falkner v. Inglis, 448 F.3d 1357, 1366 (Fed. Cir. 2006) (quoting *LizardTech, Inc. v. Earth Resource Mapping, Inc.*, 424 F.3d 1336, 1345 (Fed. Cir. 2005)).

In the present case, as discussed above, Appellant’s Specification explains (and the Examiner does not dispute) that resolving problems in user devices is a common business practice. *See* Spec. ¶ 2 (“Companies commonly employ customer service representatives (CSRs) to speak with, and resolve issues or problems for, customers.”). Because resolving problems in user devices is a common business practice we find that, on the current record, a skilled artisan would understand what operations may be performed to resolve problems in user devices, and that the details of those operations therefore need not be spelled out in Appellant’s Specification.

Indeed, reading the Specification as a whole, it is evident that Appellant’s invention is not directed to the actual problem-resolving operations. Rather, Appellant’s invention is directed to automated methods of signaling user devices to perform the problem-resolving operations. *See* Spec. ¶ 16 (“Various embodiments for performing automated issue resolution are disclosed.”). Accordingly, when read in the context of the actual application, we are not persuaded that the Examiner has shown that Appellant failed to possess the claimed invention, or that the Specification failed to describe the disputed limitation adequately. We, therefore, reverse the Examiner’s rejection of claims 1–3, 5–13, and 15–20, for failure to comply with the written description requirement.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/ Basis	Affirmed	Reversed
1-3, 5-13, 15-20	101	Ineligibility	1-3, 5-13, 15-20	
1-3, 5-13, 15-20	112, first paragraph	Lack of Written Description		1-3, 5-13, 15-20
Overall Outcome			1-3, 5-13, 15-20	

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SHANMUGAM CHINNAPPA

Appeal 2019-002359
Application 13/554,357
Technology Center 3600

Before ERIC B. GRIMES, FRANCISCO C. PRATS, and
RACHEL H. TOWNSEND, *Administrative Patent Judges*.

TOWNSEND, *Administrative Patent Judge*, concurring.

I agree with my colleagues' analysis and decision to reverse the Examiner's written description rejection.

However, I concur with my colleagues that the Examiner's rejection under 35 U.S.C. § 101 should be affirmed. In my view, there are limitations recited in the method that my colleagues refer to as "mental processes" that I would not so categorize. Nevertheless, I agree with my colleagues and the Examiner that claim 1 is directed to patent-ineligible subject matter. I provide my reasoning below.

Step 2A, Prong Two

I would evaluate the two "receiving data" steps and the "providing a signal" steps as insignificant extra-solution activity. The first receiving data

step is effected to gather data for the purpose of analyzing that data to determine whether to signal the user device to perform resolution of the identified problem. Similarly the second receiving data step is effected to gather data for the purpose of analyzing that data to determine whether to signal other devices of the same device type as the user device to perform resolution of the identified problem on those other devices. These receiving steps do not integrate a judicial exception into a practical application, but rather are mere data gathering steps that are necessary for use of the mental processes of monitoring for a symptom in the device data being collected. *See 2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50, 55 n.31 (January 7, 2019) (“Guidance”) (“insignificant extra-solution activity” includes “mere data gathering such as a step of obtaining information about credit card transactions”); *see also Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 716 (Fed. Cir. 2014) (“‘data-gathering steps,’ *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011), . . . add nothing of practical significance to the underlying abstract idea.”).

The “providing a signal” steps are effected if the second symptom is determined to be present. Although there is corrective action identified that is to be taken from the signaling, the signaling itself does not effect any change to any device. The signaling is thus akin to generating a report or displaying information based on the analysis of data.

Moreover, the corrective action to be effected in both signal providing steps is recited at a high level of generality: “perform the first set of operations to resolve the identified problem.” The claim identifies the first set of operations as “a first set of operations intended to resolve the first

problem.” These signal providing limitations cover signaling so that any steps to resolve any problem are undertaken. In other words, these steps are no more than mere instructions to apply the judicial exception in a generic manner. *See* MPEP 2106.05(f) (“The recitation of claim limitations that attempt to cover any solution to an identified problem with no restriction on how the result is accomplished and no description of the mechanism for accomplishing the result, does not provide significantly more because this type of recitation is equivalent to the words ‘apply it’.”). Thus, neither step of “providing a signal” applies or uses the judicial exception in a manner that imposes a meaningful limit on the judicial exception. Guidance, 84 Fed. Reg. at 54.

The foregoing is true whether these steps are considered individually or in combination.

Step 2B

Step 2B requires that we look to whether the claim, that we have determined above to set forth the judicial exception of an abstract idea, “adds a specific limitation beyond the judicial exception that [is] not ‘well-understood, routine, conventional’ in the field.” Guidance, 84 Fed. Reg. at 56; MPEP § 2106.05(d)). In light of my position that the “receiving data” steps and the “providing a signal” steps are not themselves mental steps, those steps must be addressed in the Step 2B analysis.

I conclude these steps and the recited computer element (i.e., the processor recited that performed the recited steps), whether considered individually or in combination, do not result in claim 1 amounting to significantly more than the recited abstract ideas. I agree with the Examiner

that the processor is recited at a high level of generality and is recited to perform functions of a processor that are well-understood, routine and conventional. (Final Action 4.) Appellant’s Specification teaches that a general purpose processor is suitable to carry out the claimed invention. (Spec. ¶ 41; *see also* ¶ 17 (explaining that a central processing unit of the computer 110 that can be used to carry out the method is “well known in the art and will not be further discussed.”); ¶ 19 (“system 220 may include a CSR system 260 comprising a CSR device 240 and, in some embodiments, a communication device 250. CSR device 240 may be an electronic device, such as, for example, computer 110.”).) The Specification further provides that the receiving of data is accomplished in a conventional matter. (*Id.* ¶ 41 (“Generally, a processor will receive instructions and data from a read only memory or a random access memory or both.”))

With respect to the “providing a signal” steps, I note that there is scant description in the Specification as to what this entails. However, it would appear that, generally, the signal involves the normal operation of computers in automatically carrying out functional processing steps. (*See, e.g.*, ¶ 37 (“all of the functional operations described in this specification can be implemented in digital electronic circuitry”).) This is consistent with Appellant’s response to the Examiner’s rejection of the claims under 35 U.S.C. § 112, first paragraph with respect to the “automatically providing a signal” step. (Appeal Br. 23–25 (indicating that the Specification describes at ¶¶ 34 and 36 that to automatically resolve a problem a signal may be sent to “reset [a] 3G gateway configuration” and in ¶ 45 “that the system may operate with user devices in a client-server environment, in which signals

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and data are sent between the user devices (e.g., the clients) and a backend system (e.g., a server) to implement the claimed processes.”)

Thus, I agree with the Examiner that claim 1 does not include an inventive concept, such that the additional elements results in a claim directed to something significantly more than the abstract ideas. Consequently, I agree with my colleagues and the Examiner that the claim is directed to patent-ineligible subject matter.