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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte WILLIAM CLAY, BRENTLY BARROW,
ERIC JOSHUA STUART, MARTIN RICHARD ROSE,
and TERRY TALLEY

Appeal 2019-002455
Application 14/617,584
Technology Center 3600

Before NINA L. MEDLOCK, PHILIP J. HOFFMANN, and
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant[1] appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–16 and 19–33. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

CLAIMED INVENTION

The claimed invention relates to "a system and method by which specific content is collected, assembled, modified and evaluated through an interactive game interface" (Spec. ¶ 11).

Claims 1, 21, and 31 are the independent claims on appeal. Claim 1, reproduced below, is illustrative of the claimed subject matter:

> 1. A method for collecting, assembling, modifying and evaluating content and data about an organization for performing marketing scenario simulation, predicting specific, measurable outcomes that are empirically reproducible, and making, testing, and optimizing specific business decisions surrounding capability improvement programs for marketing to consumers at a remote computing device comprising a processor, comprising the steps of:
>
> a. sending to a user device a user interface generated by the processor, wherein the user device comprises a web browser configured to display the user interface;

[1] We use the term "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Our decision references Appellant's Appeal Brief ("Appeal Br.," filed November 9, 2018) and Reply Brief ("Reply Br.," filed February 4, 2019), and the Examiner's Answer ("Ans.," mailed December 13, 2018) and Final Office Action ("Final Act.," mailed June 19, 2018). Appellant identifies Acxiom Corporation as the real party in interest. Appeal Br. 2.

b. receiving through the user interface a set of user supplied content (USC) pertaining to the current maturity level of a plurality of marketing maturity attributes for the organization;

c. receiving through the user interface a set of user supplied data (USD) pertaining to a set of key performance indicators (KPls) for the organization;

d. receiving through the user interface a set of defined output relating to the business rules and instructions pertaining to the organization;

e. receiving external evidence related to the organization;

f. adding the extrinsic evidence to the USC to produce a set of modified user supplied content (MUSC);

g. correlating the USC, MUSC, and USD with a dynamic normative database (NDB) by matching a specific capability attribute from the NDB with a USC score for such capability attribute, a MUSC score for such capability attribute, a KPI for such capability attribute, and the USD for such capability attribute, thereby obtaining specific marketing performance predictions for the organization, based on the USC, MUSC, and USD, and used in conjunction with predictive relationships among variables in the NDB, and generating a capability attribute traceability matrix comprising the correlated data;

h. identifying predictive relationships based on correlations among variables in the NDB to generate a summary attribute table comprising a weighted attribute value for each specific capability attribute;

i. receiving at the processor from the user interface a targeted desired marketing maturity state;

j. utilizing a dynamic marketing maturity model body of knowledge (BOK) comprising capability definitions, dimension definitions, attribute definitions, and definitions for level of maturity, specific KPls, and the definitions for each KPI, generating a report indicating current marketing maturity for each set of business challenges, or a subset thereof, and the desired targeted marketing maturity state based on the capability attribute traceability matrix and the summary attribute table;

k. outputting to the user interface a marketing improvement plan (MIP);

l. after the MIP has been sent to the user interface, receiving through the user interface a second set of user supplied data (USD) pertaining to the KPls for the organization;

m. recursively re-correlating USC, MUSC, and USD with the NOB;

n. identifying additional predictive relationships based on the correlation performed with the NDB; and

o. outputting to the user interface an updated marketing improvement plan (MIP).

REJECTION

Claims 1–16 and 19–33 are rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

ANALYSIS

Appellant argues the pending claims as a group (Appeal Br. 19–27). We select independent claim 1 as representative. The remaining claims, thus, stand or fall with claim 1. *See* 37 C.F.R. §41.37(c)(1)(iv).

Under 35 U.S.C. § 101, an invention is patent eligible if it claims a "new and useful process, machine, manufacture, or composition of matter." 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: "[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).

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012), "for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts." *Alice Corp.*, 573 U.S. at 217.

The first step in that analysis is to "determine whether the claims at issue are directed to one of those patent-ineligible concepts." *Id.* If the claims are not directed to a patent-ineligible concept, e.g., an abstract idea, the inquiry ends. Otherwise, the inquiry proceeds to the second step where the elements of the claims are considered "individually and 'as an ordered combination'" to determine whether there are additional elements that "'transform the nature of the claim' into a patent-eligible application." *Id.* (quoting *Mayo*, 566 U.S. at 79, 78). This is "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.'" *Id.* at 217–18 (alteration in original).

In rejecting the pending claims under 35 U.S.C. § 101, the Examiner determined that claim 1 recites "a combination of abstract ideas, collecting, storing, analyzing, and transmitting information," and also describes "correlating data to produce normalized data, which is used for identifying predictive relationships among variables, which is considered [a] [m]athematical [r]elationship," i.e., an abstract idea (Final Act. 4–6). The Examiner also determined that claim 1 does not include additional elements sufficient to amount to significantly more than the judicial exception, and that the remaining claims are patent ineligible for substantially similar reasons (*id.* at 6–7).

After Appellant's Appeal Brief was filed, and the Examiner's Answer mailed, the U.S. Patent and Trademark Office (the "USPTO") published revised guidance on January 7, 2019 for use by USPTO personnel in evaluating subject matter eligibility under 35 U.S.C. § 101. 2019 REVISED PATENT SUBJECT MATTER ELIGIBILITY GUIDANCE, 84 Fed. Reg. 50, 57

(Jan. 7, 2019) (the "2019 Revised Guidance"). That guidance revised the USPTO's examination procedure with respect to the first step of the *Mayo*/*Alice* framework by (1) "[p]roviding groupings of subject matter that [are] considered an abstract idea"; and (2) clarifying that a claim is not "directed to" a judicial exception if the judicial exception is integrated into a practical application of that exception. *Id.* at 50. The 2019 Revised Guidance, by its terms, applies to all applications, and to all patents resulting from applications, filed before, on, or after January 7, 2019. *Id.*[2,3]

Step One of the Mayo/Alice Framework (*2019 Revised Guidance*, *Step 2A*)

The first step in the *Mayo*/*Alice* framework, as mentioned above, is to determine whether the claims at issue are "directed to" a patent-ineligible concept, e.g., an abstract idea. *Alice Corp.*, 573 U.S. at 217. This first step, as set forth in the 2019 Revised Guidance (i.e., Step 2A), is a two-prong test; in Step 2A, Prong One, we look to whether the claim recites a judicial exception, e.g., one of the following three groupings of abstract ideas: (1) mathematical concepts; (2) certain methods of organizing human

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[2] The 2019 Revised Guidance supersedes MANUAL OF PATENT EXAMINING PROCEDURE ("MPEP") § 2106.04(II) and also supersedes all versions of the USPTO's "Eligibility Quick Reference Sheet Identifying Abstract Ideas." *See* 2019 Revised Guidance, 84 Fed. Reg. at 51 ("Eligibility-related guidance issued prior to the Ninth Edition, R-08.2017, of the MPEP (published Jan. 2018) should not be relied upon."). Accordingly, Appellant's arguments challenging the sufficiency of the Examiner's rejection will not be addressed to the extent those arguments are based on currently superseded USPTO guidance.

[3] The USPTO issued an update on October 17, 2019 (the "October 2019 Update: Subject Matter Eligibility," available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf) clarifying the 2019 Revised Guidance in response to comments solicited from the public.

activity, e.g., fundamental economic principles or practices, commercial or legal interactions; and (3) mental processes. 2019 Revised Guidance, 84 Fed. Reg. at 54. If so, we next consider whether the claim includes additional elements, beyond the judicial exception, that "integrate the [judicial] exception into a practical application," i.e., that 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 ("Step 2A, Prong Two"). *Id.* at 54–55. Only if the claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application do we conclude that the claim is "directed to" the judicial exception, e.g., an abstract idea. *Id.*

We are not persuaded by Appellant's arguments that the Examiner erred in determining that claim 1 is directed to an abstract idea (Appeal Br. 19–24). The Federal Circuit has explained that "the 'directed to' inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether 'their character as a whole is directed to excluded subject matter.'" *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). It asks whether the focus of the claims is on a specific improvement in relevant technology or on a process that itself qualifies as an "abstract idea" for which computers are invoked merely as a tool. *See id.* at 1335–36. Here, the Specification (including the claim language) makes clear that the claims focus on an abstract idea, and not on any improvement to computer technology and/or functionality.

The Specification is titled "INTERACTIVE MARKETING SIMULATION SYSTEM AND METHOD" and describes, in the

Background section, that with the commercialization of the Internet, and following the rapid proliferation of smart phones, tablets, social media, and other new channels for marketing to consumers, companies need new and different tools, methods, and data to make strategic decisions about how to deploy financial and human resources in a way that achieves optimal marketing results (Spec. ¶ 2). The Specification explains that "the ability to market to consumers effectively across devices, channels, platforms and social media sites requires specific marketing capabilities, including capabilities for closed-loop evaluation of the outcomes achieved through investing in the new capabilities" (*id.* ¶ 7), and further describes that without the ability to identify the current level of capability maturity for these capabilities, and to model the effectiveness of making improvements to one or more capability attributes, "business executives are unable to conceive of, execute and measure the effectiveness of . . . strategic initiatives . . . as measured and reported through marketing key performance indicators (KPls)" (*id.*). Therefore, according to the Specification, what is needed is a system for collecting, assembling, modifying, and evaluating content and data for performing marketing scenario simulation; predicting specific, measurable outcomes that are empirically reproducible; and making, testing, and optimizing specific business decisions surrounding capability improvement programs for marketing to consumers (*id.* ¶ 8).

The claimed invention is ostensibly intended to address this need by providing an interactive web-based marketing simulation game that relies on a proprietary body of knowledge ("BoK"), techniques, and methods that allow marketers to simulate (and, thereby, predict) the likely outcomes (i.e., business performance improvements) resulting from strategic choices made

by management (*id.* ¶¶ 11–22, Abstract). Claim 1, thus, recites a method for collecting, assembling, modifying, and evaluating content and data about an organization for performing marketing scenario simulation; predicting specific, measurable outcomes that are empirically reproducible; and making, testing, and optimizing specific business decisions surrounding capability improvement programs for marketing to consumers comprising: (1) sending a web-based graphical user interface to a user device, i.e., "sending to a user device a user interface generated by the processor, wherein the user device comprises a web browser configured to display the user interface" (step a); (2) receiving, through the user interface, a set of user supplied content regarding the current maturity level of a plurality of marketing maturity attributes for the organization, a set of user defined data relating to a set of key performance indicators for the organization, and a set of defined output relating to business rules and instructions pertaining to the organization, i.e.,

> receiving through the user interface a set of user supplied content (USC) pertaining to the current maturity level of a plurality of marketing maturity attributes for the organization;
>
> receiving through the user interface a set of user supplied data (USD) pertaining to a set of key performance indicators (KPls) for the organization; [and]
>
> receiving through the user interface a set of defined output relating to the business rules and instructions pertaining to the organization

(steps b, c, and d); (3) receiving external evidence related to the organization and adding this evidence to the user supplied content to produce a set of modified user supplied content, i.e., "receiving external evidence related to the organization"; and "adding the extrinsic evidence to the USC to produce a set of modified user supplied content (MUSC)" (steps e and f);

(4) correlating the user supplied content, modified user supplied content, and user supplied data with a normative database to obtain specific marketing performance predictions for the organization; generating a capability attribute traceability matrix comprising the correlated data; and generating a summary attribute table based on correlations among variables in the normative database, i.e.,

> correlating the USC, MUSC, and USD with a dynamic normative database (NDB) by matching a specific capability attribute from the NDB with a USC score for such capability attribute, a MUSC score for such capability attribute, a KPI for such capability attribute, and the USD for such capability attribute, thereby obtaining specific marketing performance predictions for the organization, based on the USC, MUSC, and USD, and used in conjunction with predictive relationships among variables in the NDB, and generating a capability attribute traceability matrix comprising the correlated data; [and]
>
> identifying predictive relationships based on correlations among variables in the NDB to generate a summary attribute table comprising a weighted attribute value for each specific capability attribute

(steps g and h); (5) receiving a targeted desired marketing maturity state from the user interface and using a dynamic marketing maturity model body of knowledge to generate a report indicating (i) current marketing maturity for each set of business challenges and (ii) the desired targeted marketing maturity state based on the capability attribute traceability matrix and the summary attribute table, i.e.,

> receiving at the processor from the user interface a targeted desired marketing maturity state; [and]
>
> utilizing a dynamic marketing maturity model body of knowledge (BOK) comprising capability definitions, dimension definitions, attribute definitions, and definitions for level of maturity, specific KPls, and the definitions for each KPI, generating a report indicating current marketing maturity for

> each set of business challenges, or a subset thereof, and the desired targeted marketing maturity state based on the capability attribute traceability matrix and the summary attribute table

(steps i and j); (6) "outputting to the user interface a marketing improvement plan (MIP)" (step k); (7) receiving a second set of user supplied data; recursively re-correlating the user supplied content, modified user supplied content, and user supplied data with the nominative database; and identifying additional predictive relationships based on the correlation, i.e.,

> after the MIP has been sent to the user interface, receiving through the user interface a second set of user supplied data (USD) pertaining to the KPls for the organization;
>
> recursively re-correlating USC, MUSC, and USD with the NOB; [and]
>
> identifying additional predictive relationships based on the correlation performed with the NDB

(steps l, m, and n); and (8) "outputting to the user interface an updated marketing improvement plan (MIP)" (step o)). These limitations, when given their broadest reasonable interpretation, recite collecting, via a graphical user interface, content and data pertaining to an organization, which collectively represent user-defined marketing scenarios; simulating, predicting, and measuring improvements that result from execution of the scenarios; and outputting, to the user interface, a marketing plan designed to allow the organization to achieve its desired marketing objectives within a desired period of time. Simply put, these limitations recite a method for developing a marketing plan, i.e., a fundamental economic practice, which is a method of organizing human activity and, therefore, an abstract idea. *See* 2019 Revised Guidance, 84 Fed. Reg. at 52.

Having concluded that claim 1 recites a judicial exception, i.e., an abstract idea (Step 2A, Prong 1), we next consider whether the claim recites

additional elements that integrate the judicial exception into a practical application (Step 2A, Prong 2).

The only additional elements recited in claim 1, beyond the abstract idea, are "a remote computing device comprising a processor"; "a user interface generated by the remote processor"; and a "a user device comprising a web browser configured to display the user interface" — elements that, as the Examiner observed, are generic computer components recited as performing generic computer functions (Final Act. 6 (citing Spec. ¶ 63)). We find no indication in the Specification that the operations recited in claim 1 require any specialized computer hardware or other inventive computer components, i.e., a particular machine, invoke any assertedly inventive programming, or that the claimed invention is implemented using other than generic computer components to perform generic computer functions. *See DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) ("[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.").

We also find no indication in the Specification that the claimed invention effects a transformation or reduction of a particular article to a different state or thing. Nor do we find anything of record, short of attorney argument, that attributes an improvement in computer-related technology and/or functionality to the claimed invention or that otherwise indicates that the claimed invention integrates the abstract idea into a "practical application," as that phrase is used in the 2019 Revised Guidance.[4]

[4] The 2019 Revised Guidance references MPEP § 2106.05(a)–(c) and (e) in describing the considerations that are indicative that an additional element or

Ostensibly relying on the Federal Circuit's decision in *Enfish*, Appellant argues that claim 1 is not directed to an abstract idea, and is patent eligible because the claimed method improves "a technology or computer functionality" (Appeal Br. 19–24; *see also* Reply Br. 1–3). That argument is not persuasive at least because there is no evidence of record that the claimed method uses a data structure, like the self-referential table in *Enfish*, to improve a computer's functionality or efficiency, or to otherwise change the way the computer operates.

Appellant asserts that the claimed invention "allows for scenario simulation using less powerful computational equipment and a limited number of computational cycles," as compared to prior generation planning scenario simulation methods, and provides a method that can be "operated within existing technology architecture" and is "capable of operating at high levels of efficiency, low computational cycles, low requirements for redundancy, and at a low error rate" (Appeal Br. 20 (citing Spec. ¶¶ 5–9)). Appellant explains that the correlation or joining of quantitative data to qualitative data in a normalized database prior to analysis serves to increase the efficiency of the computing system in that fewer clock cycles are required to perform the analysis than would be required without this correlation/integration (*id.* at 21 (citing Spec. ¶¶ 12, 19)). And Appellant argues that this feature, which "is directly incorporated" in step (g) of claim 1, "improves the functioning of [the] computer or technology" (*id.*; *see*

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combination of elements integrates the judicial exception, e.g., the abstract idea, into a practical application. 2019 Revised Guidance, 84 Fed. Reg. at 55. If the recited judicial exception is integrated into a practical application, as determined under one or more of these MPEP sections, the claim is not "directed to" the judicial exception.

also Reply Br. 2–3 (arguing that reducing clock cycles for a required operation is an improvement to computer technology)).

The difficulty with Appellant's argument is that it, at best, establishes that the claimed invention provides an improved method for performing planning scenario simulation, i.e., an improved abstract idea. We fail to see how, and Appellant does not adequately explain how, the claimed invention improves "computer functionality" in a manner comparable to the situation in *Enfish*.

The claims in *Enfish* were directed to a "specific improvement to the way computers operate," i.e., an improved database configuration that permitted faster and more efficient searching. *Enfish*, 822 F.3d at 1330–33, 1336. The Federal Circuit has, thus, explained that the claims "in *Enfish* did more than allow computers to perform familiar tasks with greater speed and efficiency." *Finjan, Inc. v. Blue Coat Sys., Inc.*, 879 F.3d 1299, 1305 (Fed. Cir. 2018).

In contrast to *Enfish*, Appellant does not describe an advance in hardware or software that causes the recited computer processor to operate faster or more efficiently by, for example, expanding or improving the capabilities of the processor itself.

Appellant argues that by correlating quantitative data to qualitative data in a normalized database prior to analysis, computer functionality is improved in that fewer clock cycles are required (Appeal Br. 21). Yet, there is a fundamental difference between computer functionality improvements, on the one hand, and uses of existing computers as tools to perform a particular task, on the other. Indeed, the Federal Circuit applied this distinction in *Enfish*, in rejecting the § 101 challenge, because the claims

there at issue focused on a specific type of data structure, i.e., the self-referential table, designed to improve the way a computer carries out its basic functions of storing and retrieving data, and not merely on asserted advances in the uses to which existing computer capabilities could be put. *Enfish*, 822 F.3d at 1335–36. The alleged improvement that Appellant touts, i.e., requiring fewer clock cycles, does not concern an improvement to computer capabilities but instead relates to an alleged improvement in correlating quantitative data to qualitative data, a task for which a computer is used in its ordinary capacity.

We conclude, for the reasons outlined above, that claim 1 recites a method of organizing human activity, i.e., an abstract idea, and that the additional elements recited in the claim are no more than generic components used as tools to perform the recited abstract idea. As such, they do not integrate the abstract idea into a practical application. *See Alice Corp.*, 573 U.S. at 223–24 ("[W]holly generic computer implementation is not generally the sort of 'additional featur[e]' that provides any 'practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.'" (quoting *Mayo*, 566 U.S. at 77)). Accordingly, we agree with the Examiner that claim 1 is directed to an abstract idea.

Step Two of the Mayo/Alice Framework (*2019 Revised Guidance*, *Step 2B*)

Having determined under step one of the *Mayo*/*Alice* framework that claim 1 is directed to an abstract idea, we next consider under Step 2B of the 2019 Revised Guidance, the second step of the *Mayo*/*Alice* framework, whether claim 1 includes additional elements or a combination of elements that provides an "inventive concept," i.e., whether the additional elements

amount to "significantly more" than the judicial exception itself. 2019 Revised Guidance, 84 Fed. Reg. at 56.

Appellant argues that even if that the claims are directed to an abstract idea, the claims recite additional elements that amount to significantly more than the abstract idea itself (Appeal Br. 24–27). In this regard, Appellant first argues that the claims are patent eligible because they "recite limitations that individually and in combination work to improve the computational functionality of the system by which the process [of correlating quantitative data to qualitative data in a normalized database] is carried out" (*id.* at 25). That argument is not persuasive for the reasons set forth above.

We also are not persuaded by Appellant's further argument that the claims add specific limitations other than what is well-understood, routine, and conventional activity in the field (*id.*). Appellant asserts that claim 1 "is directed to fifteen distinct steps that describe in detail the processing that is performed in order to create the necessary software output," and charges that the Examiner "ignores the detail to which the limitations are recited and the amount of limitations in the claims that render the method unconventional" (*id.* at 26). Yet, "the relevant inquiry is not whether the claimed invention as a whole is unconventional or non-routine." *BSG Tech LLC v. BuySeasons, Inc.*, 899 F.3d 1281, 1290 (Fed. Cir. 2018). Instead, the question under step two of the *Mayo*/*Alice* framework (i.e., step 2B) is whether the claim includes additional elements, i.e., elements other than the abstract idea itself, that "'transform the nature of the claim' into a patent-eligible application." *Alice Corp.*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 79, 78). *See also Mayo*, 566 U.S. at 72–73 (requiring that "a process that focuses upon the use of a natural law also contain *other* elements or a combination of elements,

sometimes referred to as an 'inventive concept,' sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the natural law itself" (emphasis added)).

The Examiner determined here, and we agree, that the only claim elements beyond the abstract idea are the "remote computing device comprising a processor"; "user interface generated by the remote processor"; and "user device comprising a web browser configured to display the user interface," i.e., generic computer components recited as performing generic computer functions (Final Act. 6 (citing Spec. ¶ 63)). Appellant cannot reasonably contend, nor does Appellant, that there is a genuine issue of material fact regarding whether the operation of these components is well-understood, routine, or conventional, where, as here, there is nothing in the Specification to indicate that the operations recited in claim 1 require any specialized hardware or inventive computer components, or that the claimed invention is implemented using other than generic computer components to perform generic computer functions, e.g., receiving, processing, and transmitting information. Indeed, the Federal Circuit, in accordance with *Alice*, has "repeatedly recognized the absence of a genuine dispute as to eligibility" where claims have been defended as involving an inventive concept based "merely on the idea of using existing computers or the Internet to carry out conventional processes, with no alteration of computer functionality." *Berkheimer v. HP, Inc.*, 890 F.3d 1369, 1373 (Fed. Cir. 2018) (Moore, J., concurring) (internal citations omitted); *see also BSG Tech*, 899 F.3d at 1291 ("BSG Tech does not argue that other, non-abstract features of the claimed inventions, alone or in combination, are not well-understood, routine and conventional database structures and activities.

Accordingly, the district court did not err in determining that the asserted claims lack an inventive concept.").

We are not persuaded, on the present record, that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 101. Therefore, we sustain the Examiner's rejection of independent claim 1, and claims 2–16 and 19–33, which fall with claim 1.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–16, 19–33	101	Eligibility	1–16, 19–33	

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