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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PAUL MAGUIRE, LISA CINNAMON, CLAIRE OSTRUM,
STEVEN EDGETT, and CHARLES CORCORAN

Appeal 2019-002538
Application 14/620,491
Technology Center 3600

Before MIRIAM L. QUINN, DAVID J. CUTITTA II, and
RUSSELL E. CASS, *Administrative Patent Judges*.

CUTITTA, *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, 2, 4–11, and 13–24 under 35 U.S.C. § 101.² We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ We use the word “Appellant” to refer to “[A]pplicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as KNOWMADICS, INC. Appeal Br. 2.

² Claims 3 and 12 are cancelled. Appeal Br. 31, 32.

STATEMENT OF THE CASE

Invention

According to Appellant, the claimed invention relates to “a web-based market place that allows corporations, governments, and private individuals - called ‘taskers’ - to task the collection of information (audio, video, imagery, text, location, temperature, observation, and other data) anywhere in the world.” Spec. ¶ 30.³

Representative Claim

Independent claim 1 is representative of the claimed subject matter and is reproduced below:

1. An electronic device comprising a display, at least one processor and a memory comprising instructions, the instructions being executable by the at least one processor to at least:

create a request for data associated with an upcoming event, the request for data including one or more specifications of data to be requested to collect data associated with the upcoming event and complying with the one or more specifications, the one or more specifications indicating a type of the data to be requested, a date and/or time for collecting the data to be requested, and a location of the upcoming event associated with the data to be requested;

transmit the request for data to a plurality of collecting devices,

³ We refer to: (1) the originally-filed Specification filed February 12, 2015 (“Spec.”); (2) the Non-Final Office Action mailed August 16, 2018 (“Non-Final Act.”); (3) the Appeal Brief filed October 23, 2018 (“Appeal Br.”); (4) the Examiner’s Answer mailed December 13, 2018 (“Ans.”); and (5) the Reply Brief filed February 8, 2019 (“Reply Br.”).

receive one or more bids from one or more collecting devices in response to the request for data, each bid including a type of data to be collected by at least one collecting device, a location of the at least one collecting device, a delivery date for the at least one collecting device to deliver the data to be collected, and/or proposed payment for the at least one collecting device to collect the data;

receive one or more data collections complying with the one or more specifications from the one or more collecting devices after the event has occurred;

display one or more attributes of at least one data collection received from at least one of the plurality of collecting devices on the display, to enable accepting the at least one data collection in accordance with the specifications of the request for data;

transmit an acceptance message to the at least one of the plurality of collecting devices; and

transmit payment to each of the at least one of the plurality of collecting devices to which the acceptance message was sent.

Appeal Br. 30 (Claims Appendix).

REJECTION

The Examiner rejects claims 1, 2, 4–11, and 13–24 under 35 U.S.C. § 101 as reciting patent-ineligible subject matter. Non-Final Act. 2–9.

OPINION

We review the appealed rejection for error based upon the issues identified by Appellant and in light of Appellant's arguments and evidence.

Ex parte Frye, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).
Arguments not made are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2017).

I. 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. However, the US Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *See, e.g., Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Court’s two-step framework, described in *Alice* and *Mayo*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 217.

If the claim recites an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, in which “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (quotation marks omitted). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

The Office published revised guidance on the application of § 101. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) (hereinafter “Guidance”). In October 2019, the USPTO published an update to that guidance. *October 2019 Patent Eligibility Guidance Update*, 84 Fed. Reg. 55,942 (hereinafter “Guidance Update”). Under the Guidance and the Guidance Update, in determining whether a claim falls within an excluded category, we first look to whether the claim recites:

(1) Step 2A — Prong One: any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity, such as a fundamental economic practice, or mental processes); and

(2) Step 2A — Prong Two: additional elements that integrate the judicial exception into a practical application (*see* MPEP⁴ § 2106.05(a)–(c), (e)–(h)).

See Guidance, 84 Fed. Reg. 54–55 (“Revised Step 2A”). Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look to whether the claim (Step 2B):

(3) adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or

(4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See id. at 56 (“*Step 2B: If the Claim Is Directed to a Judicial Exception, Evaluate Whether the Claim Provides an Inventive Concept.*”).

⁴ All Manual of Patent Examining Procedure (“MPEP”) citations herein are to MPEP, Rev. 08.2017, January 2018.

II. The Examiner's § 101 Rejection

The Examiner determines that representative⁵ claim 1 is directed to a judicial exception: an abstract idea. Non-Final Act. 2–9; Ans. 3–7. According to the Examiner, claim 1 “describe[s] the concept of organizing and scheduling worker activity, which is a Certain Method of Organizing Human Activity.” Non-Final Act. 6. The Examiner determines “[t]here is no indication that the combination of elements improves the functioning of a computer or improves any other technology, and their collective functions merely provide conventional computer implementation utilizing a computer to implement the abstract ideas.” *Id.* at 7 (citing Spec. ¶ 28). The Examiner also determines the claims do “not include additional elements that are sufficient to amount to significantly more than the judicial exception.” Non-Final Act. 7.

III. Appellant's Arguments

We summarize Appellant's arguments in favor of eligibility as follows: (1) “the claimed method improves the functionality of traditional data collection systems by . . . collecting data associated with an upcoming event and complying with detailed specifications.” (Appeal Br. 13); (2) the claims are “directed to concrete technical features (e.g., requesting for and collecting data associated with an upcoming event and complying with detailed specifications) that are carried out by a tasking device and plural collecting devices” (*id.* at 14); (3) the claims are not abstract because “the

⁵ Appellant argues claims 1, 2, 4–11, and 13–22 as a group with respect to the § 101 rejection. Appeal Br. 13–24. We, thus, select independent claim 1 as representative of the claims. *See* 37 C.F.R. § 41.37(c)(1)(iv).

claimed method/device enables collecting desired data associated with an event to be occurred in the future and complying with particular specifications indicated in a request for data” (*id.* at 15); (4) the claims “are directed to an improved data collection system, in which the claimed tasking device and/or collecting devices operate in a particular and unconventional way to enhance the functionality of the data collection system” (*id.* at 17); (5) as in *Finjan*⁶, “the claims employ a new kind of request for data that defines the specifications of the data to be collected for an upcoming event and enables the data collection system to do things it would not do before” (*id.* at 18); (6) the claims “provide[] a technical solution to technical problems” (*id.* at 19); (7) “[t]he particular combinations of elements recited in the pending claims are not simply ‘well-understood, routine, conventional’ activities” (*id.* at 21); (8) “the Examiner failed to provide any of the above evidences [required in *Berkheimer*⁷] in his step 2B analysis to prove the combination of the above-identified additional elements are well-understood, routine, and conventional” (*id.* at 22); (9) the “claims recite limitations directed to purported improvements to computer functionality” (*id.* at 23); and (10) the “claims recite a physical display device” (*id.* (emphasis omitted)).

IV. Our Review, Guidance, Step 1

We analyze the representative claim and the Examiner’s rejection in view of the Guidance, and we adopt the nomenclature for the steps used in the Guidance. As an initial matter, the claims must recite at least one of four

⁶ *Finjan, Inc. v. Blue Coat Systems, Inc.*, 879 F.3d 1299 (Fed. Cir. 2018).

⁷ *Berkheimer v. HP Inc.*, 881 F.3d 1360 (Fed. Cir. 2018).

recognized statutory categories, namely, machine, process, article of manufacture, or composition of matter. MPEP § 2106(I); *see* 35 U.S.C. § 101. Independent claims 1 and 10 recites a device and claims 18 and 19 recite a method. Thus, the pending claims recite recognized statutory categories under § 101, i.e., machines and processes. We next turn to the two-step *Alice/Mayo* analysis applied in accordance with the Guidance.

*V. Step 2A, Prong 1 in the Guidance (Alice/Mayo–Step 1)
(Judicial Exceptions)*

Here, we determine whether claim 1, being directed to a statutory class of invention, nonetheless recites a judicial exception. Guidance, 84 Fed. Reg. 51.

We agree with the Examiner that claim 1 recites a certain method of organizing human activity and thus is an abstract idea. Non-Final Act. 6. According to the Guidance, certain methods of organizing human activity that qualify as abstract ideas may include claims that relate to “managing personal behavior or relationships or interactions between people[, and] social activities, teaching, and following rules or instructions.” Guidance, 84 Fed. Reg. 52. Aside from the additional limitations discussed separately below in sections *VI* and *VII*, the claimed invention recites steps that can be carried out by humans without the use of a computer. More specifically, a human tasker may create and transmit requests for information, including one or more specifications, to a plurality of collectors, e.g., by telephone or U.S. mail. A human collector then may collect information, e.g., by taking photographs, and sending the photographs by U.S. mail along with a bid to the tasker. The tasker, after receipt of the data, may send an acceptance message and payment to the collector.

Appellant argues “the claims are not directed to methods of organizing human activity or mental processes,” as set forth in the Guidance. Reply Br. 2. We find this argument unpersuasive for lack of evidence or persuasive reasoning. Thus, we conclude that claim 1 recites “the concept of organizing and scheduling worker activity,” which is an example of managing interactions between people that qualifies as a certain method of organizing human activity under the Guidance. *See* Non-Final Act. 6; Guidance, 84 Fed. Reg. 52. Claim 1, therefore, recites a judicial exception, i.e., an abstract idea. *See* Guidance at 52.

*VI. Step 2A, Prong Two in the Guidance
(Integration into a Practical Application)*

Because claim 1 recites an abstract idea, we now determine whether the recited judicial exception is integrated into a practical application of that exception by: (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception or exceptions; and (b) evaluating those additional elements individually and in combination to determine whether they integrate the exception into a practical application. Guidance, 84 Fed. Reg. 54–55. This evaluation requires an additional element or a combination of additional elements in the claim to 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 exception. *Id.*

The Examiner finds claim 1 recites additional elements including “a display, at least one processor and memory comprising instructions, [and] a plurality of collecting devices.” Non-Final Act. 7. The Examiner determines the additional elements do not integrate the exception into a

practical application because “[t]here is no indication that the combination of elements improves the functioning of a computer or improves any other technology, and their collective functions merely provide conventional computer implementation utilizing a computer to implement the abstract ideas” and this “amount[s] to no more than implementing the abstract idea with a computerized system such as in *Alice*.” *Id.* at 7 (citing Spec. ¶ 28).

In summary, Appellant argues “the claimed method improves the functionality of traditional data collection systems” and that the claims are “directed to concrete technical features,” and “an improved data collection system” that “provides a technical solution to technical problems.” Appeal Br. 13–19; *see also* section III, arguments (1) – (6) above.

We find Appellant’s arguments unpersuasive. We agree with the Examiner that claim 1 does not recite an “improvement to any technology.” Ans. 4. Rather, the problem being solved in claim 1 is old and well known in the pre-Internet world. As acknowledged by Appellant’s own Specification, the focus of Appellant’s invention is not to improve the performance of computers or any computer-related technologies; instead, the focus is to “propose a marketplace that facilitates commercial transactions centered around tasking by an individual, agency, and/or corporation for the purposes of knowledge generation from individuals, agencies, and/or corporations.” Spec. ¶ 4. Here, the described improvement is in using crowd-sourcing to collect data from different sources. Spec. ¶ 6. Essentially, the disclosed invention seeks to use generic computer technology to perform the crowd sourcing such as by allowing individual mobile device users to upload data at the request of a tasker. Using crowd sourcing to collect data from varied sources as recited in claim 1 is not a

solution to a technical problem. Claim 1 does not, for example, use technology to improve how the data is collected or how it is transmitted to the tasker. In this way, claim 1 is unlike the technology-based integrations cited by Appellant. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1337 (Fed. Cir. 2016) (holding that the patent-eligible claim was directed to a self-referential table to improve computer databases), *cited in* Appeal Br. 6.

Using a generic “electronic device that can collect, transmit, and receive data, such as a laptop or desktop computer, a tablet, a digital camera, or a smart phone” (Spec. ¶ 27, Figure 1) “as intended to send, receive, store, and process information” (Ans. 5) is insufficient to show integration into a practical application. *See* MPEP § 2106.05(f); *see also* Spec. ¶¶ 12, 13, 16, 80–85. Instead, these generic computing components are used simply for the automation of the abstract idea. *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1354 (Fed. Cir. 2014) (“[M]erely requir[ing] generic computer implementation . . . does not move [a claim] into [§] 101 eligibility territory.”).

Next, Appellant argues the claimed invention provides an improvement to computer functionality because claim 1, like the claims in *Finjan*⁸, “employ a new kind of request for data.” Appeal Br. 18.

We are not persuaded. In *Finjan*, the court found the claimed behavior-based virus scan constituted an improvement in computer functionality over “traditional, ‘code-matching’ virus scans.” *Finjan*, 879

⁸ *Finjan Inc. v. Blue Coat Systems, Inc.*, 879 F.3d 1299 (Fed. Cir. 2018).

F.3d at 1304. The court determined that the *Finjan* claimed method employed a new kind of file that allowed access to be tailored to different users, and allowed the system to accumulate and use newly available, behavior-based information regarding potential threats. *Id.* at 1305. The court ultimately held the *Finjan* claims were “directed to a non-abstract improvement in computer functionality, rather than the abstract idea of computer security,” and “recite[d] specific steps—generating a security profile that identifies suspicious code and linking it to a downloadable—that accomplish the desired result.” *Id.*

Unlike the claims in *Finjan*, Appellant’s claim 1 does not claim the improvement over traditional functionality of the computer technology. With regard to the technology involved in *Finjan*, claim 1 here further fails to employ a newly generated file containing a security profile in a downloadable. Nor does the claim use a new file to enable a computer security system to improve on or add a computer functionality by reciting specific steps accomplishing the desired improved security results. We are, therefore, not persuaded that claim 1 is sufficiently analogous to the claims in *Finjan*. Accordingly, we are not persuaded that claim 1 “provides an improvement to computer functionality,” as argued by Appellant. Appeal Br. 18. Considering the claim as a whole, Appellant’s invention lacks a technical solution to a technical problem.

Alternatively, an additional element may integrate a judicial exception into a practical application when the “additional element implements a judicial exception with, or uses a judicial exception in conjunction with, a particular machine or manufacture that is integral to the claim.” Guidance, 84 Fed. Reg. 55. In this case, claim 1 lacks such a machine. At best, the

processor simply executes the abstract idea described above. Notably, the claimed processor can be a general-purpose computer. *See* Spec. ¶ 27 (“Tasking device 10 and collecting devices 14 may be any kind of electronic device that can collect, transmit, and receive data, such as a laptop or desktop computer, a tablet, a digital camera, or a smart phone.”). But a general-purpose processor that merely executes the judicial exception is not a particular machine. *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 716–17 (Fed. Cir. 2014), *cited in* MPEP § 2106.05(b)(I).

In addition, Appellant’s claimed additional elements do not transform matter; at best, they transform *information*. That is, the claim simply collects, manipulates, transmits, and displays data such as by “display[ing] one or more attributes of at least one data collection received from at least one of the plurality of collecting devices on the display.” Appeal Br. 30; *see* MPEP § 2106.05(c); *see also* *Gottschalk v. Benson*, 409 U.S. 63, 71–72 (1972) (holding that a computer based algorithm that merely transforms data from one form to another is not patent-eligible). As such, the claim has no other meaningful limitations (*see* MPEP § 2106.05(e)), and merely recites instructions to execute an abstract idea on generic computer hardware (*see* MPEP § 2106.05(f)).

We, therefore, determine claim 1 is not directed to a specific asserted improvement in computer-related technology or otherwise integrated into a practical application, and thus is *directed to* a judicial exception.

VII. Step 2B in the Guidance (Alice/Mayo, Step 2) (Inventive Concept)

Next, we determine whether the claim includes additional elements that provide significantly more than the recited judicial exception, thereby

providing an inventive concept. *Alice*, 573 U.S. at 221 (quoting *Mayo*, 566 U.S. at 72–73). To determine whether the claim provides an inventive concept, the additional elements are considered—individually and in combination—to determine whether they (1) add a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field or (2) simply append well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception. Guidance, 84 Fed. Reg. 56.

The Examiner determines that the “additional elements of a display, at least one processor and memory comprising instructions, a plurality of collecting devices, and respective collecting devices are generic computer components/software claimed to perform their basic functions of storing, retrieving, sending, and processing data” and thus do “not include additional elements that are sufficient to amount to significantly more than the judicial exception.” Non-Final Act. 7.

Appellant argues “the pending claims are not simply ‘well-understood, routine, conventional’ activities as demonstrated, for example, by . . . the Examiner’s failure of providing prior art to show these combinations.” Appeal Br. 21.

We are not persuaded by Appellant’s argument. Although the second step in the *Alice/Mayo* analysis includes a search for an inventive concept, the analysis is not an evaluation of novelty or non-obviousness, but rather, a search for “an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Alice*, 573 U.S. at 217 (quoting *Mayo*, 132 S. Ct. at 1294). A novel and nonobvious claim directed to an abstract

idea is, nonetheless, patent-ineligible. *See Mayo*, 566 U.S. at 90. As the Federal Circuit has stated, the “appropriate question is not whether the entire claim as a whole was ‘well-understood, routine [and] conventional’ to a skilled artisan (i.e., whether it lacks novelty).” *Chamberlain Grp., Inc. v. Techtronic Indus. Co.*, 935 F.3d 1341, 1348–49 (Fed. Cir. 2019). Rather, the determination of whether the additional elements recited in the claim are well-understood, routine, and conventional is an analysis conducted apart from the abstract idea recited in the claim. *Id.* Appellant’s argument that there is no evidence that the “[t]he particular combinations of elements recited in the pending claims” are taught by the prior art incorrectly focuses on the novelty or obviousness of the abstract idea, rather than the additionally recited elements, which we consider separately from the abstract idea. Appeal Br. 21.

Appellant next argues “the Examiner failed to provide any of the above evidences [required by *Berkheimer*] in his step 2B analysis to prove the combination of the above-identified additional elements are well-understood, routine, and conventional.” Appeal Br. 22 (citing *Berkheimer v. HP Inc.*, 881 F.3d 1360 (Fed. Cir. 2018)).

We find Appellant’s argument unpersuasive. In *Berkheimer*, the Federal Circuit held that “[w]hether something [(i.e., additional elements beyond the abstract idea)] is well-understood, routine, and conventional to a skilled artisan at the time of the patent is a factual determination.” *See Berkheimer*, 881 F.3d at 1369. In response to *Berkheimer*, the USPTO

issued a new examination procedure (“the *Berkheimer* Memorandum⁹”), requiring the Examiner to support expressly a finding that limitations beyond the abstract idea are well-understood, routine, and conventional.

The Examiner, although not expressly mentioning *Berkheimer*, does comply with the *Berkheimer* Memorandum’s requirement to support expressly a finding that an additional limitation beyond the abstract idea is well-understood, routine, and conventional. *See also Berkheimer*, 881 F.3d at 1369. The Examiner identifies claim 1’s additional elements as “a display, at least one processor and memory comprising instructions, a plurality of collecting devices, and respective collecting devices” and finds, based on the Specification, that the limitations are “generic components/software claimed to perform their basic functions of storing, retrieving, sending, and processing data, and does not add meaningful limits to practicing the abstract idea.” Non-Final Act. 7 (citing Spec. ¶ 28). Thus, the Examiner cites to Appellant’s Specification to find certain additional limitations are well-understood, routine, and conventional as set forth in the *Berkheimer* Memorandum. *Berkheimer* Memorandum 4 (III. A. 1 “[a] citation to an express statement in the specification.”). Appellant, in turn, fails to specifically address the Examiner’s reliance on the Specification or to point out which “claim elements” are not well-understood, routine, or conventional, whether under *Berkheimer* or any other authority. *See Appeal Br. 21–22; see also Reply Br. 2–6*. We decline to speculate as to which limitations Appellant refers.

⁹ April 19, 2018 Memorandum to the Patent Examining Corps, entitled “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*).”

Appellant further argues “[t]he question is whether the associated recitations in their respective entirety—and as an ordered combination—are well-understood, routine, and conventional. And that has not, and cannot be, demonstrated on this record.” Reply Br. 7.

This argument incorrectly focuses on the abstract idea, rather than the additionally recited elements, which are considered separately from the abstract idea. *Chamberlain Grp.*, 935 F.3d at 1348–49. Appellant fails to provide persuasive arguments indicating which *additional* limitations, alone or in combination, amount to more than the abstract idea. To the contrary, in analyzing the additional limitations both alone and as an ordered combination, we agree with the Examiner that “[t]he claim does not include additional elements that are sufficient to amount to significantly more than the judicial exception.” Non-Final Act. 7.

Neither does Appellant direct our attention to anything in the Specification that indicates the claimed components, as an ordered combination, perform anything other than well-understood, routine, and conventional processing functions, such as retrieving, manipulating, and generating data. *See Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (holding that considering claims reciting data retrieval, analysis, modification, generation, display, and transmission as an “ordered combination” reveals that they “amount to ‘nothing significantly more’ than an instruction to apply [an] abstract idea” using generic computer technology) (internal citation omitted). In short, as previously noted, claim 1 does no more than use conventional hardware to implement the claimed abstract idea.

Next, Appellant argues “[t]he claims are not merely directed to the alleged abstract limitations,” but recite significantly more than the abstract idea because the claims recite a physical display device. Appeal Br. 23, 24 (citing *Ex parte Scott*, Appeal No. 2012-009834, at 5–6 (PTAB Mar. 10, 2015)).

We are not bound by non-precedential Board opinions. Nor does the Board’s non-precedential holding in *Scott* stand for the proposition that all claims reciting a display are non-abstract. Claim 1 broadly recites “display[ing] one or more attributes of at least one data collection” at a high level of generality and on a conventional display. Spec. ¶ 28. Thus, the claim’s recitation of displaying data is unlike patent-eligible claims directed to displaying data such as the claimed user interface in *Core Wireless Licensing S.A.R.L. v. LG Electronics Inc.*, 880 F.3d 1356 (Fed. Cir. 2018). In *Core Wireless*, the court held that claims which recited an interface were patent eligible because the claims recited specific limitations of the interface such as: an application summary that can be reached through a menu, the data being in a list and being selectable to launch an application, and additional limitations directed to the actual user interface displayed and how it functions. *Core Wireless*, 880 F.3d at 1363. The court found that the claims were directed to an improved user interface and not the abstract concept of an index as the claim “limitations disclose a specific manner of displaying a limited set of information to the user, rather than using conventional user interface methods to display a generic index on a computer.” *Id.*; see also *Trading Tech v. CQG, Inc.*, 675 Fed. Appx. 1001 (Fed. Cir. 2017) (holding that a user interface with a prescribed functionality directly related to the interface’s structure, that is addressed to and resolves a

problem in the art, is patent eligible). In Appellant’s claim 1, there are no limitations directed to a specific manner of displaying a limited set of information to the user or to how the user interacts with the displayed data and, therefore, we find Appellant’s arguments unpersuasive. We, thus, conclude that claim 1 does not provide an inventive concept because the additional elements recited in claim 1 do not provide significantly more than the recited judicial exception.

For the reasons discussed above, we conclude claim 1 does not recite patent-eligible subject matter. Appellant does not provide separate substantive arguments for any of claims 2, 4–11, or 13–22. Accordingly, we conclude for the same reasons provided for claim 1, that claims 2, 4–11, and 13–22 do not recite patent-eligible subject matter. Consequently, we sustain the rejection of claims 1, 2, 4–11, or 13–22 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter.

Dependent Claims 23 and 24

Appellant argues claims 23 and 24 are similar to the claims of *Core Wireless*, and thus “recite a specific improvement over prior systems,” because “claim 23 discloses displaying an icon or label indicating received at least one data collection on a part of the display, and displaying the one or more attributes of the received at least one data collection on another part of the display as one or more menu items” and “claim 24 discloses displaying an icon or label indicating the received request for data on a part of the display, and displaying the one or more specifications of the data to be requested on another part of the display as one or more menu items.”
Appeal Br. 25–26.

The Examiner determines dependent claims 23 and 24 do not confer eligibility because the claims “describe displaying an icon or a label indicative of information received. This is transmission of information, which has been collected and analyzed, and not significantly more as displaying an icon indicating information is old and well-known.” Ans. 6.

We agree with the Examiner because the limitations argued by Appellant from claims 23 and 24 merely describe the desired *layout* of the at least one data collection received from the at least one of the plurality of collecting devices. That is, the solution offered by the claims lies in the layout of information, rather than some technical improvement. Further, as the Federal Circuit has stated, a claim, like the claim here, “focused on providing information . . . in a way that helps [a human] process information more quickly,” does not recite some manner of “improving computers or technology.” *Trading Techs. Int’l, Inc. v. IBG LLC*, 921 F.3d 1378, 1384 (Fed. Cir. 2019). Moreover, the claims’ broad recitation of “an icon or label” and displaying certain data “on another part of the display” (Appeal Br. 34–35) is unlike the specifically claimed user interface in *Core Wireless* and thus do not recite a patent eligible “improved user interface for computing devices.” *Core Wireless*, 880 F.3d at 1362.

Accordingly, we conclude claims 23 and 24 do not recite patent-eligible subject matter. We sustain the rejection of claims 23 and 24 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 2, 4-11, 13-24	101	Eligibility	1, 2, 4-11, 13-24	

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