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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/080,448	11/14/2013	Karen Yao	16113-4602001	4722
26192	7590	02/28/2020	EXAMINER	
FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			TOKARCZYK, CHRISTOPHER B	
			ART UNIT	PAPER NUMBER
			3622	
			NOTIFICATION DATE	DELIVERY MODE
			02/28/2020	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KAREN YAO and SHU NIU

Appeal 2019-002548
Application 14/080,448¹
Technology Center 3600

Before MICHAEL J. STRAUSS, HUNG H. BUI, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

BUI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant seeks our review under 35 U.S.C. § 134(a) from the Examiner’s Final Rejection of claims 1–5, 9–12, and 19–23, which are all the claims pending in the application. Claims 6–8 and 13–18 are cancelled. Appeal Br. 21–29 (Claims App.). We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.²

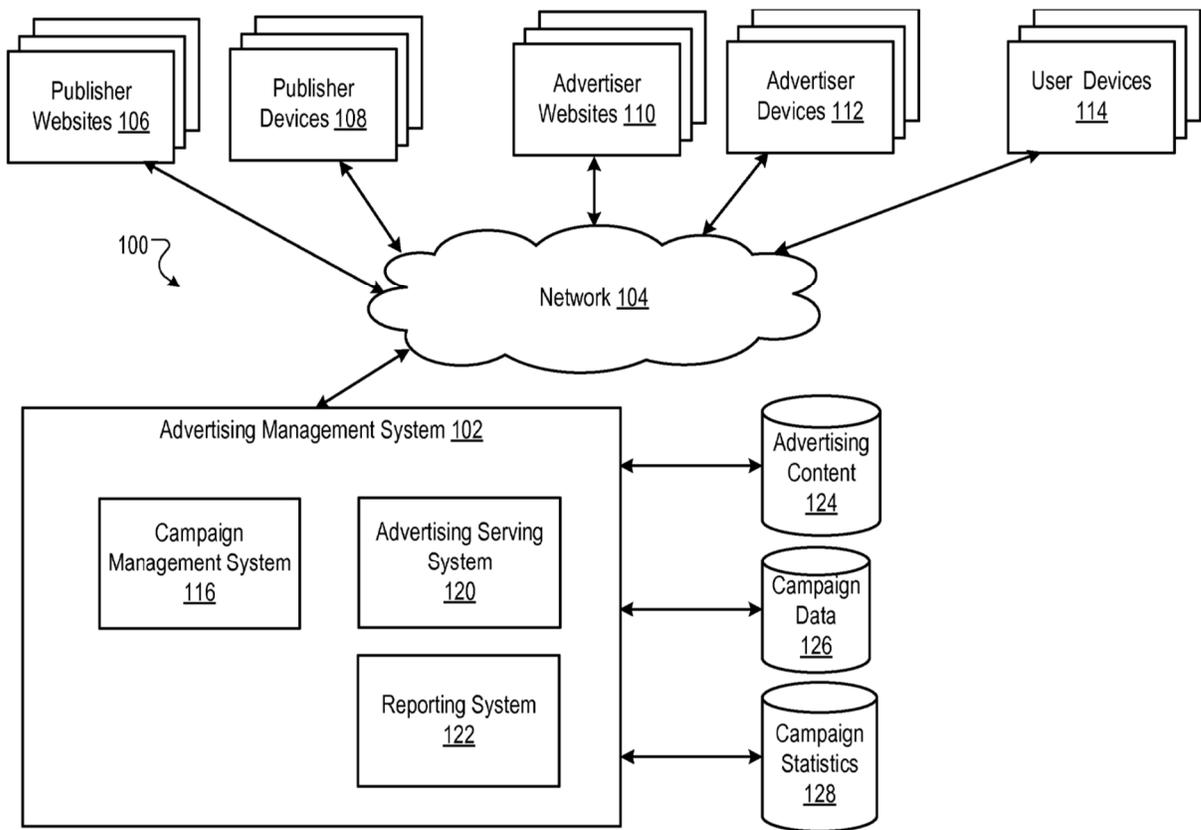
¹ We use the word “Appellant” to refer to “applicant(s)” as defined in 37 C.F.R. § 1.42. The real party in interest is Google LLC. Appeal Br. 1.

² Our Decision refers to Appellant’s Appeal Brief (“Appeal Br.”) filed August 22, 2018; Reply Brief (“Reply Br.”) filed February 4, 2019; Examiner’s Answer (“Ans.”) mailed December 14, 2018; Final Office Action (“Final Act.”) mailed March 20, 2018; and original Specification (“Spec.”) filed November 14, 2013.

STATEMENT OF THE CASE

Appellant's Invention

Appellant's invention relates to "selective advertising" (Spec. 1:11) and "an advertising management system [shown in Figure 1] to facilitate the sale and purchase of online advertising opportunities between publishers and advertisers." (Spec. 5:21–23). Figure 1 is reproduced below:



Appellant's Figure 1 shows advertising management system 102 including campaign management system 116, advertising serving system 120, and reporting system 122 to facilitate the sale and purchase of advertising opportunities between publishers 106 and advertisers 110 (Spec. 6:10–13).

Campaign management system 116 "provides user interfaces for advertisers (e.g., using advertiser devices 112) to define advertising campaigns and ad groups, submit advertising content, and specify various

targeting and/or ad placement criteria for the advertising content in each advertising campaign and/or ad group.” (Spec. 6:14–17).

According to Appellant, “[c]onstructing an advertising campaign can be a time-consuming task, as advertisers often take great care in specifying features of their campaigns” or adding “new features and capabilities that an advertiser can use in new campaigns” (Spec. 1:28–29). However, “new features result in changes that are not backwards-compatible with existing campaigns” (Spec. 2:1–2). As such, Appellant proposes “a feature management user interface” as part of campaign management system 116 to facilitate an “on-demand conversion of [particular] campaign entities stored in a first format [e.g., a legacy format] to a second format [e.g., new or updated format] within a workflow” so that “the user is not required to update all of the campaign entities from the first format to the second format all at once, nor is the user required to suspend the workflow and initiate another separate workflow to update the campaign entities.” (Spec. 3:23–31, 9:13–25). “For example, in the case of sitelink extensions [of a campaign entity], which are multiple links to a site shown [] a search result or advertisement that link to certain pages in addition to the landing page of the search result or the advertisement,” “an advertiser may not want to update all sitelink extensions when creating a new campaign that can use [only] the updated extensions” (Spec. 4:28–5:1, 10:17–30).

Representative Claim

Claims 1, 9, and 19 are independent. Representative claim 1 is reproduced below:

1. A system comprising:
a data processing apparatus including one or more computers;

a computer storage system storing instructions that when executed by data processing apparatus cause the data processing apparatus to perform actions comprising:

accessing, through a content item management system, content item management data that includes a plurality of sitelink extensions that are each used by multiple different content item campaigns for distributing content items over a network;

providing, to a user device, instructions that cause the user device to perform operations comprising:

displaying a feature management user interface in which a set of sitelink extensions that are available for use in a particular content item campaign are displayed in a first visualization format and are selectable within the feature management user interface, wherein at least a first portion of the set of sitelink extensions available for use in the particular content item campaign are stored in a first data format that supports a particular set of features that each provide a particular content item management or visualization functionality, and are represented in the first data format in the feature management user interface, wherein the first portion of the set of sitelink extensions stored in the first data format are being used in a different content item campaign according to a first feature set that is supported by a first sitelink version; and

in response to receiving a selection of a proper subset of the set of sitelink extensions, the proper subset including a particular sitelink extension that is selected for use in the particular content item campaign according to a second feature set that (i) is different from the first feature set, (ii) requires the particular sitelink extension to be updated to a second data format that is not supported by the first sitelink version and is different from the first data format, and (iii) includes features that each provide a particular content item management or visualization functionality that is different from each of the features in the first data format, causing the user device to send a request for an update of only the proper subset of the set of sitelink extensions and to display the particular sitelink extension in a second

visualization format that is different from the first visualization format; and

in response to receiving the update request updating only the proper subset of the set of sitelink extensions to the second data format while maintaining sitelink extensions from the set of sitelink extensions that are not included in the proper subset in the first data format, including updating the particular sitelink extension by performing operations including:

generating, at the data processing apparatus, a new version of the particular sitelink extension in the second data format, that is different from the first data format, for use in the particular content item campaign;

storing, in the content item management data, the new version of the particular sitelink extension that is used by the particular content item campaign; and

distributing content that includes the new version of the particular sitelink extension in the particular content item campaign according to the second feature set, while maintaining sitelink extensions that are not included in the proper subset in the first data format, and while the particular sitelink extension continues to be used in the first data format by the different content item campaign after updating the particular sitelink extension to the new version of the particular sitelink extension.

Appeal Br. 21–22 (Claims App.).

EXAMINER'S REJECTION³

(1) Claims 4, 12, 22, and 23 stand rejected under 35 U.S.C. § 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. Final Act. 2–3.

(2) Claims 1–5, 9–12, and 19–23 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 3–7.

(3) Claims 1–5, 9–12, and 19–23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Catalahana et al. (US 2012/0116895 A1; published May 10, 2012; “Catalahana”), Oldham et al. (US 2009/0307188 A1; published Dec. 10, 2009; “Oldham”), and Neal et al. (US 2008/0052140 A1; published Feb. 23, 2008; “Neal”). Final Act. 7–20.

ANALYSIS

35 U.S.C. § 112, First Paragraph: Written Description

Claim 4 depends from claim 1, and further recite:

wherein the set of sitelink extensions include sitelinks that are displayed with advertisements, and wherein updating the particular sitelink comprises enabling additional features that are not backwards compatible with the first format of the particular sitelink extension, wherein the additional features include one of reporting data on a per-sitelink basis or management of sitelinks on a per-sitelink basis.

³ Claims 19–23 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter (i.e., transitory propagating signals *per se*). Final Act. 3. However, the Examiner has withdrawn the rejection (Ans. 3). As such, the 101 rejection of claims 19–23 is no longer on appeal.

Appeal Br. 23 (Claims App.) (emphasis added). Claims 12, 22, and 23 recite similar limitations.

In support of the § 112, first paragraph rejection of claims 4, 12, 22, and 23, the Examiner finds the wherein clause “updating the particular sitelink comprises enabling additional features that are not backwards compatible with the first format of the particular sitelink extension” lacks written description. Final Act. 2–3. In particular, the Examiner asserts “the specification does not indicate any description of implementing a solution for ‘updating the particular sitelink’ that ‘comprises enabling additional features that are not backwards compatible with the first format of the particular sitelink extension’ as claimed.” Final Act. 3.

Appellant argues the Specification describes a problem in existing advertising management system, i.e.,

“when a new feature is introduced into the advertising management system, advertisers may be required to migrate [all] existing data to a new data format that supports the new feature set. However, migration may not be backwards compatible, and other infrastructure mechanisms may not fully support the new features” (Spec. 9:13–25),

and provides a solution thereto, i.e.,

“a workflow that facilitates the on-demand updating of a campaign entity from a first format (e.g., a legacy format) that supports of first feature set to a second format (e.g., a new or updated format) that supports a second feature set” (Spec. 9:13–28)

via feature management user interfaces that support the processing and management of campaign entities in both the first format and the second format [shown in Figs. 2–5], including the workflow that “manages sitelink

extensions so as to provide a solution for the problems of particular sitelink versions not being backward compatible” (Spec. 10:17–30). Appeal Br. 6–9.

In response, the Examiner takes the position that:

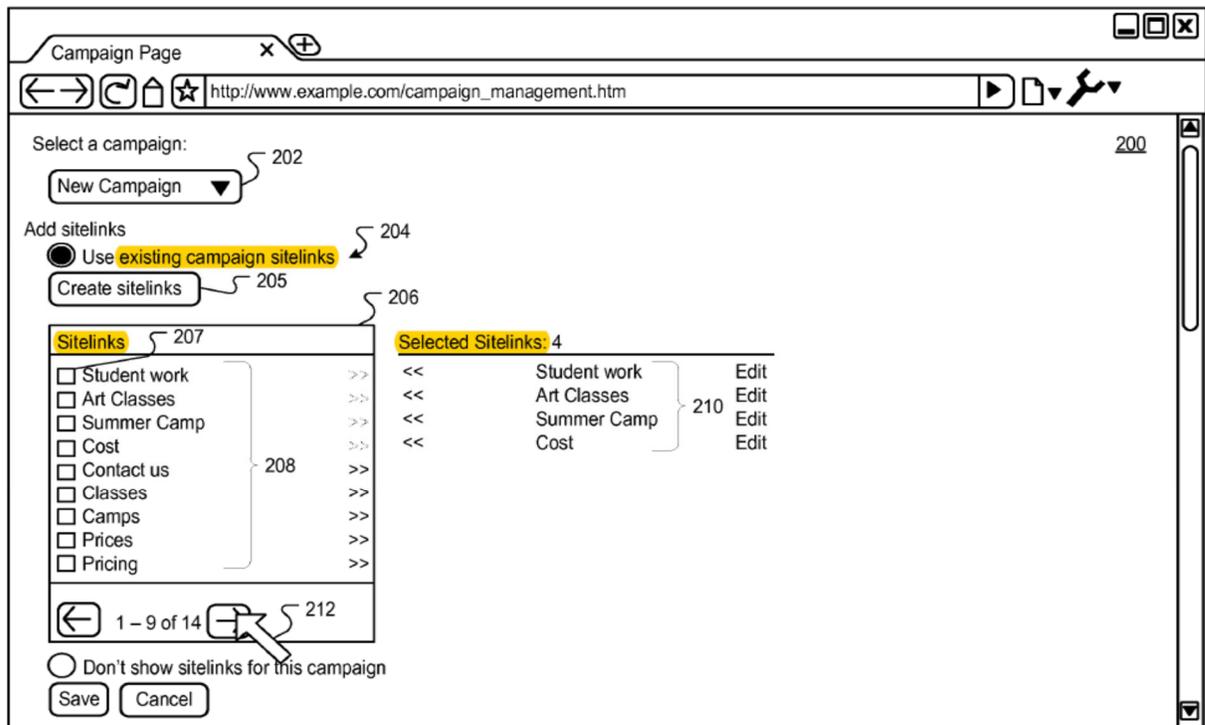
the teaching that a “second format that supports additional or different features than are supported by sitelinks in a first format” does not support *enabling additional features that are not backwards compatible with the first format of the particular sitelink extension*, because the disclosure does not provide the missing link that “additional or different features than are supported by sitelinks in a first format” are *not backwards compatible* with sitelinks in a first format. For example, a newer version of the sitelink could change the font color of all of the text in the sitelink from a default black color to red. This new version adds additional and different features than supported by the previous version—i.e., the red font color—but this feature is backwards compatible; the red text could have been rendered in the previous version had that color been selected.

Ans. 4–5 (emphasis added).

We do not agree with the Examiner’s position. The *written description* requirement under 35 U.S.C. § 112, first paragraph only requires Appellant to “reasonably convey[] to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.” *Ariad Pharm., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010). “[T]he level of detail required to satisfy the written description requirement varies depending on the nature and scope of the claims and on the complexity and predictability of the relevant technology.” *Id.* However, “the disclosure as originally filed does not have to provide *in haec verba* support for the claimed subject matter at issue.” *Purdue Pharma L.P. v. Faulding Inc.*, 230 F.3d 1320, 1323 (Fed. Cir. 2000). In some cases,

“drawings alone may provide a ‘written description’ of an invention as required by § 112.” *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1565 (Fed. Cir. 1991). Regardless, the disclosure must convey with reasonable clarity to those skilled in the art that the inventor was in possession of the invention. *Id.* at 1563–1564.

Here, Appellant has shown that there is sufficient structure and description in the Specification as filed to support the limitation “updating the particular sitelink comprises enabling additional features that are not backwards compatible with the first format of the particular sitelink extension” as recited in claims 4, 12, 22, and 23. For example, Figure 2 shows a feature management user interface that support the processing and management of campaign entities, including sitelink extensions 206. Figure 2 is reproduced below with additional annotations for illustration.



Appellant’s Figure 2 shows a user interface supporting the update of sitelink extensions of an advertising campaign.

As explained by Appellant’s Specification, “sitelink extensions [for advertisements] . . . are multiple links to a site shown . . . a search result or advertisement that link to certain pages in addition to the landing page of the search result or the advertisement” (Spec. 4:28–5:1, 10:17–30). When sitelinks 206, shown in Figure 2, are selected by an advertiser for a new advertising campaign, these sitelinks 206 may include “additional or different features” that may not be backwards-compatible with existing advertising campaigns and, as such, require “on-demand updating of a campaign entity from a first format (e.g., a legacy format) that supports [a] first feature set to a second format (e.g., a new or updated format) that supports a second feature set” (Spec. 2:1–2, 5:12–14, 9:21–23).

Because examples of such campaign entities being updated from “a first format (e.g., a legacy format) that supports [a] first feature set to a second format (e.g., a new or updated format) that supports a second feature set” includes “sitelink extensions,” we agree with Appellant that (1) a skilled artisan would understand that the scope of claim 4 (updating a particular sitelink extension, which is a type of campaign entity) is supported by the specification as originally filed, and (2) Appellant has “reasonably convey[ed] to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.”

For these reasons, we do not sustain the § 112, first paragraph rejection of claims 4, 12, 22, and 23 for failure to comply with the “written description” requirement.

35 U.S.C. § 101: Patent-Ineligible Subject Matter

In support of the § 101 rejection of claims 1–5, 9–12, and 19–23, the Examiner determines these claims recite “mental processes that can be performed [][in the] human mind or by a human using a pen and paper,” and include limitations such as:

“(i) accessing content item management data that includes a plurality of sitelink extensions; (ii) that the sitelink extensions in the set have different formats and versions (such as formats that provide particular content item management or visualization functionalities); (iii) receiving a selection of a proper subset of the sitelink extensions; (iv) generating a new version of the sitelink extension in a second format that is different than the first format; and (v) storing new versions of the sitelink extension”

that are similar or analogous to the claims found by the Federal Circuit to be an abstract idea in *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (holding that the concept of “collecting information, analyzing it, and displaying certain results of the collection and analysis” is an abstract idea). Final Act. 4–5.

The Examiner then determines additional elements (i.e., “data processing apparatus,” “computer storage system,” “user interface,” and “user device” recited in claim 1, “content item management system,” “user interface,” and “user device” recited in claims 9 and 19), when analyzed individually and as an ordered combination, do not amount to significantly more than the abstract idea because these additional elements (1) are “[g]eneric computer components recited as performing generic computer functions that are well-understood, routine and conventional activities” and (2) do not “improve[] the functioning of a computer or improves any other technology.” Final Act. 5–6.

Eligibility Framework

To determine whether claims are patent eligible under 35 U.S.C. § 101, we apply the Supreme Court’s two-step framework articulated in *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208 (2014). First, we determine whether the claims are directed to a patent-ineligible concept: laws of nature, natural phenomena, and abstract ideas. *See Alice*, 573 U.S. at 216. If so, we then proceed to the second step to consider the elements of the claims “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.* at 217. In other words, the second step is to “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 218 (quotation marks omitted).

The Federal Circuit has described the *Alice* step-one inquiry as looking at the “focus” of the claims, their “character as a whole,” and the *Alice* step-two inquiry as looking more precisely at what the claim elements add—whether they identify an “inventive concept” in the application of the ineligible matter to which the claim is directed. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016); *see also Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015).

In an effort to achieve clarity and consistency in how the U.S. Patent and Trademark Office (the “Office”) applies the Supreme Court’s two-step framework, the Office has published revised guidance interpreting governing case law and establishing a prosecution framework for all patent-eligibility analysis under *Alice* and 35 U.S.C. § 101 effective as of January 7, 2019.

See 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50–57 (Jan. 7, 2019); *see also* USPTO October 2019 Update: Subject Matter Eligibility, 84 Fed. Reg. 55942–53 (Oct. 17, 2019) (Updating the guidance promulgated in January 2019 with “examples as well as a discussion of various issues raised by the public comments.”). “All USPTO personnel are, as a matter of internal agency management, expected to follow the guidance.” *See* 2019 Revised Guidance, 84 Fed. Reg. 51; *see also* October 2019 Update.

2019 Revised Guidance, 84 Fed. Reg.

Under the 2019 Revised Guidance and the October 2019 Update, we first look under *Alice* step 1 or “Step 2A” to whether the claim recites:

- (1) Prong One: any judicial exceptions, including certain groupings of abstract ideas (i.e., [i] mathematical concepts, [ii] mental processes—concepts performed in the human mind (including an observation, evaluation, judgment, opinion), or [iii] certain methods of organizing human activity such as a fundamental economic practice or managing personal behavior or relationships or interactions between people); and
- (2) Prong Two: additional elements that integrate the judicial exception into a practical application (*see* Manual of Patent Examining Procedure (“MPEP”) §§ 2106.05(a)–(c), (e)–(h)).⁴

See 2019 Revised Guidance, 84 Fed. Reg. 51–52, 55, Revised Step 2A, Prong One (Abstract Idea) and Prong Two (Integration into A Practical Application). Only if a claim: (1) recites a judicial exception; and (2) does not integrate that exception into a practical application, do we then evaluate

⁴ All references to the MPEP are to the Ninth Edition, Revision 08.2017 (rev. Jan. 2018).

whether the claim provides an “inventive concept” under *Alice* step 2 or “Step 2B.” See 2019 Revised Guidance, 84 Fed. Reg. 56; see also *Alice*, 573 U.S. at 217–18. For example, we look to whether the claim:

- 1) adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (see MPEP § 2106.05(d)); or
- 2) simply appends well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See 2019 Revised Guidance, 84 Fed. Reg. at 56.

Alice/Mayo—Step 1 (Abstract Idea)

Step 2A—Prongs 1 and 2 identified in the Revised Guidance

Step 2A—Prong 1

Appellant argues “the claims are not directed to patent eligible subject matter” because the “claims, unlike those at issue in *Electric Power Group* . . . utilize an inventive technique for updating certain files, or sitelinks, while not updating other files by providing ‘piecemeal, just-in-time updates as needed’ instead of forcing users to ‘invoke[e] [sic] an update process separate from a workflow for the new feature, resulting in an intuitive and time-efficient user experience.’” Appeal Br. 9, 16.

Appellant’s argument is not persuasive. At the outset, we note Appellant’s Specification and claims describe “selective advertising” (Spec. 1:11) in the context of “an advertising management system [shown in Figure 1] to facilitate the sale and purchase of online advertising opportunities between publishers and advertisers.” (Spec. 5:21–23). User interfaces are provided for an advertiser (e.g., using advertiser device 112) “to define advertising campaigns and ad groups, submit advertising content,

and specify various targeting and/or ad placement criteria for the advertising content in each advertising campaign and/or ad group.” (Spec. 6:14–17). According to Appellant, “[c]onstructing an advertising campaign can be a time-consuming task, as advertisers often take great care in specifying features of their campaigns” or adding “new features and capabilities that an advertiser can use in new campaigns” (Spec. 1:28–29) that may not be “backwards-compatible with existing campaigns” (Spec. 2:1–2). As such, Appellant proposes “a feature management user interface” as part of campaign management system 116 to facilitate an “on-demand conversion of campaign entities stored in a first format [e.g., a legacy format] to a second format [e.g., new or updated format] within a workflow” so that “the user is not required to update all of the campaign entities from the first format to the second format all at once, nor is the user required to suspend the workflow and initiate another separate workflow to update the campaign entities.” (Spec. 3:23–31, 9:13–25).

As correctly recognized by the Examiner, limitations of Appellant’s claim 1, under their broadest reasonable interpretation, recite (1) “accessing . . . content item management data that includes a plurality of sitelink extensions . . . for distributing content items over a network”; (2) “displaying . . . a set of sitelink extensions . . . in a first [data] format”; (3) “in response to receiving a selection of a proper subset of [] sitelink extensions . . . send[ing] a request for an update of only the proper subset of [] sitelink extensions [] to display [] in a second [data] format”; (4) “generating . . . a new version of the sitelink extension in the second data format, that is different than the first data format”; (5) “storing . . . the new version of the sitelink extension”; and (6) “distributing content that includes the new

version of the particular sitelink extension in the particular content item campaign” that are nothing more than a series of collecting (accessing), analyzing (selecting and generating), and storing a new version of the particular sitelink extension for distribution by an advertiser, which are “mental processes” that could also be performed practically in the human mind or by a human using a pen and paper (including an observation, evaluation, judgment, opinion), and therefore an abstract idea. Ans. 6–7; *see CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372–73 (Fed. Cir. 2011) (“[A] method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101.”); *see also In re Comiskey*, 554 F.3d 967, 979 (Fed. Cir. 2009) (“[M]ental processes—or processes of human thinking—standing alone are not patentable even if they have practical application.”); *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972) (“Phenomena of nature, . . . *mental processes*, and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work.” (emphasis added)). Additionally, mental processes remain unpatentable even when automated to reduce the burden on the user of what once could have been done with pen and paper. *CyberSource*, 654 F.3d at 1375 (“That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*.”).

Information, as such, is intangible, and data analysis and algorithms are also abstract ideas. *See, e.g., Microsoft Corp. v. AT&T Corp.*, 550 U.S. 437, 451 n.12 (2007); *see also Alice*, 573 U.S. at 218; *Parker v. Flook*, 437 U.S. 584, 589, 594–95 (1978) (“Reasoning that an algorithm, or mathematical formula, is like a law of nature, *Benson* applied the established

rule that a law of nature cannot be the subject of a patent.”); *Benson*, 409 U.S. at 71–72. According to the Federal Circuit, “collecting information, including when limited to particular content (which does not change its character as information),” falls within the realm of abstract ideas. *Elec. Power Grp.*, 830 F.3d at 1353; *see also e.g., Internet Patents Corp.*, 790 F.3d at 1346; *OIP Techs. Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014); *Digitech Image Techs, LLC v. Electronics for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014); *CyberSource*, 654 F.3d at 1370.

Likewise, “analyzing information by steps people go through in their minds, or by mathematical algorithms, without more,” is “essentially mental processes within the abstract-idea category.” *Elec. Power Grp.*, 830 F.3d at 1353; *see, e.g., In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 613 (Fed. Cir. 2016); *Digitech*, 758 F.3d at 1351; *SmartGene, Inc. v. Advanced Biological Labs., SA*, 555 F. App’x 950, 955 (Fed. Cir. 2014); *Bancorp Servs. L.L.C. v. Sun Life Assurance Co. of Can. (US)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012); *CyberSource Corp.*, 654 F.3d at 1372; *SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319, 1333 (Fed. Cir. 2010); *see also Parker v. Flook*, 437 U.S. at 589–90; *Benson*, 409 U.S. at 67. That is, “[w]ithout additional limitations, a process that employs mathematical algorithms to manipulate existing information to generate additional information is not patent eligible.” *Digitech*, 758 F.3d at 1350–51 (“Data in its ethereal, non-physical form is simply information that does not fall under any of the categories of eligible subject matter under section 101.”). And the Federal Circuit has also recognized that merely presenting the results of abstract

processes of collecting and analyzing information, without more (such as identifying a particular tool for presentation), is abstract as an ancillary part of such collection and analysis. *See, e.g., Content Extraction, 776 F.3d at 1347; Ultramercial, Inc. v. Hulu, LLC, 772 F.3d 709, 715 (Fed. Cir. 2014).*

Alternatively, limitations of Appellant’s claim 1, when broadly interpreted in light of Appellant’s Specification, also describe advertising campaigns for distributing advertisements (content items including multiple sitelink extensions used by different advertising campaigns) over a network. For example, Appellant’s claim 1 recite (1) “accessing . . . content item management data that includes a plurality of sitelink extensions . . . for distributing content items over a network”; (2) “displaying . . . a set of sitelink extensions . . . in a first [data] format”; (3) “in response to receiving a selection of a proper subset of [] sitelink extensions . . . send[ing] a request for an update of only the proper subset of [] sitelink extensions [] to display [] in a second [data] format”; (4) “generating . . . a new version of the sitelink extension in the second data format, that is different than the first data format”; (5) “storing . . . the new version of the sitelink extension”; and (6) “distributing [advertisement] content that includes the new version of the particular sitelink extension in the particular content item campaign” that are known business activities, especially in the context of an advertising industry where an advertiser can create an advertising campaign with features most effective to promote products/services to end users.

These limitations recite commercial or legal interactions (including advertising, marketing or sales activities or behaviors; business relations) and fundamental economic practices (including insurance and mitigating risk) in our system of commerce, examples of “certain methods of

organizing human activity” identified in the 2019 Revised Guidance, and therefore the claim recites an abstract idea. *See* 2019 Revised Guidance (*Revised Step 2A, Prong One*), 84 Fed. Reg. at 52 (describing an abstract idea category of “[c]ertain methods of organizing human activity— fundamental economic principles or practices . . . commercial or legal interactions (including . . . advertising, marketing or sales activities or behaviors; business relations)”), 54. *See* Spec. 1:16–2:2, 2:22–31, 5:4–18, 9:13–28.

Such economic activities are squarely within the realm of abstract ideas, including those identified by the Supreme Court and the Federal Circuit as abstract ideas, such as, for example: (1) the risk hedging in *Bilski v. Kappos*, 561 U.S. 593 (2010); (2) the intermediated settlement in *Alice*, 573 U.S. at 220; (3) verifying credit card transactions in *CyberSource*, 654 F.3d at 1370; (4) managing a stable value protected life insurance policy in *Bancorp Servs.*; (5) guaranteeing transactions in *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1354 (Fed. Cir. 2014); (6) distributing products over the Internet in *Ultramercial*; (7) determining a price of a product offered to a purchasing organization in *Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306 (Fed. Cir. 2015); (8) pricing a product for sale in *OIP Techs*; (9) delivering user-selected media content (i.e., targeted advertisement) to a portable device in *Affinity Labs of Tex., LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1269, 1271 (Fed. Cir. 2016); and (10) taking orders from restaurant customers in *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229 (Fed. Cir. 2016). The claimed updating a campaign entity including sitelink extensions in various formats to reach potential customers is also a building block of commerce and insurance and, like risk hedging and intermediated

settlement, is an “abstract idea” beyond the scope of § 101. *See Alice*, 573 U.S. at 220.

Thus, under Step 2A, Prong One, we agree with the Examiner that limitations (1)–(6) in Appellant’s claim 1 recite a series of mental processes or a fundamental economic practice as identified in the 2019 Revised Guidance, and thus, an abstract idea. *See* 2019 Revised Guidance (*Revised Step 2A, Prong One*), 84 Fed. Reg. at 52, 54.

Because the claims recite an abstract idea, we next proceed to *Step 2A, Prong Two* of the Revised Guidance, to determine whether the claims integrate the recited idea into a practical application). *See* Revised Guidance, 84 Fed. Reg. at 54.

Step 2A—Prong 2 (Integration into Practical Application)

Under *Step 2A, Prong Two* of the 2019 Revised Guidance, we discern no additional element (or combination of elements) recited in Appellant’s claims 1, 9, or 19 that integrate(s) the judicial exception into a practical application. *See* 2019 Revised Guidance, 84 Fed. Reg. at 54–55 (“Prong Two”).

For example, Appellant’s additional elements (i.e., “data processing apparatus,” “computer storage system,” “user interface,” and “user device” recited in claim 1, “content item management system,” “user interface,” and “user device” recited in claims 9 and 19) do not (1) improve the functioning of a computer or other technology, (2) are not applied with any particular machine (except for generic computer components), (3) do not effect a transformation of a particular article to a different state, and (4) are not applied in any meaningful way beyond generally linking the use of the judicial exception to a particular technological environment, such that the

claim as a whole is more than a drafting effort designed to monopolize the exception. *See* MPEP §§ 2106.05(a)–(c), (e)–(h).

Appellant argues that (1) like the claims in *McRO*, “the claimed subject matter ‘improves a computer or other technology’ and provides ‘a particular solution to a problem or a particular way to achieve a desired result’” (Appeal Br. 12–13), and (2) “[T]he claimed solution improves over the prior art by providing the technical advantages of being able to update only the sitelinks which have been specified for update by the user, and not all sitelinks, some of which may utilize features that are not compatible with the updated format or features.” (Appeal Br. 10). According to Appellant,

[t]his is an improvement over prior art systems because updating all sitelinks may result in disrupting the experience of the user while the claimed subject matter eliminates this problem and allows users to “avail themselves of new features without invoking an update process separate from a workflow for the new feature, resulting in an intuitive and time-efficient user experience” . . .

Here, the claims specifically recite a solution to a problem that arises when updates to sitelink versions cause compatibility issues with features utilized in the prior version. In other words, the version update may prevent the use of some of the features of the prior version, but continued use of those features in some of the existing sitelinks may be desired. The solution is to provide a mechanism for the old sitelink version to continue to be used for those sitelinks that are to continue using the features that are not compatible in the new version, while allowing other sitelinks to be selectively updated to the new version.

Appeal Br. 10–11 (citing Spec. 3).

We agree with Appellant that the claimed invention provides a solution to the potential problem of an advertising campaign for distributing

advertisements over a network where sitelink advertising extensions are used by an advertiser to construct a new advertising campaign. However, we are not sufficiently persuaded by Appellant’s argument that the claimed solution is aimed to improve the performance of computers or computer-related technologies. Instead, Appellant’s claimed solution allows an advertiser to construct and update an advertising campaign including sitelink extensions more efficiently, whether updating “all of the campaign entities” or just a particular campaign entity to save time to reach to customers.

As acknowledged by Appellant’s Specification, “all of the campaign entities” can be updated by a conventional advertisement management system “from [a] first [data] format to [a] second [data] format all at once” (Spec. 3:25–27). However, “migrating all existing data . . . to the new format may be time consuming for an advertiser” (Spec. 15–18) because “there may be millions of campaign entities that could be updated” (Spec. 11:4–5). Appellant’s solution is to provide “piecemeal, just-in-time updates as needed” (Spec. 3:28–29), i.e., an on-demand updating of a particular campaign entity (as opposed to all the available campaign entities) from a first data format (e.g., a legacy format) to a second data format (e.g., a new or updated format). But whether the update of a campaign entity is made wholesale or “piecemeal, just-in-time,”⁵ the update is part of a

⁵ Appellant’s proposed solution is predicated upon an understanding that conventional advertisement management systems are highly complex and include “millions of campaign entities that could be updated.” However, if such advertisement management systems are brand new or are simpler with only two advertisement campaigns, Appellant’s proposed solution would not differ from these conventional advertisement management systems where “all of the campaign entities” (i.e., a single campaign entity) could be

workflow of the construction of an advertising campaign by an advertiser. Thus, to the extent there is a solution, “it is an entrepreneurial, rather than a technological one.” *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1265 (Fed. Cir. 2014).

Using generic computing components (i.e., “data processing apparatus,” “computer storage system,” “user interface,” and “user device” recited in claim 1, “content item management system,” “user interface,” and “user device” recited in claims 9 and 19) as a tool, for example, as shown in Appellant’s Figures 1 and 8, to perform an abstract idea is insufficient to show “integration into a practical application.” *See* MPEP § 2106.05(f). Instead, these generic computing components are simply the “automation of the fundamental economic concept [or mental steps],” *OIP Techs.*, 788 F.3d at 1362–63. “[M]erely requir[ing] generic computer implementation,” “does not move into [§] 101 eligibility territory.” *buySAFE*, 765 F.3d at 1354 (second alteration in original).

Furthermore, Appellant’s reliance on *McRO* is misplaced. For example, *McRO*’s ’576 patent (U.S. Patent No. 6,307,576) describes computer software for matching audio to a 3D animated mouth movement to provide lip-synched animation. *McRO*’s claims contain: (i) specific limitations regarding a set of rules that “define[] a morph weight set stream as a function of phoneme sequence and times associated with said phoneme sequence” to enable computers to produce “accurate and realistic lip synchronization and facial expressions in animated characters” and, when viewed as a whole, are directed to: (ii) a “technological improvement over

updated from a first data format to a second data format “all at once” (Spec. 3:25–27).

the existing, manual 3–D animation techniques” that uses “limited rules in a process specifically designed to achieve an improved technological result in conventional industry practice.” *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1313, 1316 (Fed. Cir. 2016).

In contrast to *McRO*, we do not agree with Appellant’s characterization that the claims describe technological improvements or provide specific improvements to the way computers operate. Instead, Appellant’s claims describe constructing an advertising campaign having sitelink extensions in different data formats and features for distribution over a network and, in our view, do not make any specific improvement to the underlying technology or the way computers operate.

For these reasons, we determine that: (1) Appellant’s “additional elements” recited in claims 1, 9, and 19 do not integrate the recited judicial exception into a practical application and, as such; and (2) Appellant’s claims are directed to an abstract idea. *See* 2019 Revised Guidance (*Revised Step 2A, Prong Two*), 84 Fed. Reg. at 54–55.

Alice/Mayo—Step 2 (Inventive Concept)
Step 2B identified in the 2019 Revised Guidance

Under the 2019 Revised Guidance, only if a claim: (1) recites a judicial exception, and (2) does not integrate that exception into a practical application, do we then (3) look to whether the claim adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or, instead, it simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception. *See* 2019 Revised Guidance, 84 Fed. Reg. at 56. However, we find no element or combination of elements recited in Appellant’s claims 1,

9, and 19 that contain any “inventive concept” or add anything “significantly more” to transform the abstract concept into a patent-eligible application. *Alice*, 573 U.S. 208 at 221.

Appellant does not identify any specific limitation of claims 1, 9, and 19 beyond the judicial exception that is not “‘well-understood, routine, conventional’ in the field” as per MPEP § 2106.05(d). Instead, Appellant argues (1) “the combination of features recited by the claims are non-conventional” (Appeal Br. 9); (2) “the present claims recite an ordered combination of features beyond that which was “well-understood, routine, [or] conventional” (Appeal Br. 11; Reply Br. 4); and (3) the claims “contain an ‘inventive concept’ in their ordered combination of limitations sufficient to satisfy the second step of the Supreme Court’s *Alice* test” (Appeal Br. 11–12 (citing *BASCOM Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016))).

We do not agree. Contrary to Appellant’s arguments, there is no evidence from the Specification to support any contention that Appellant’s claimed “combination of features are non-conventional.” Appeal Br. 9, 11–12). Mere attorney arguments and conclusory statements that are unsupported by factual evidence are entitled to little probative value. *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *see also In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984); and *Ex parte Belinne*, No. 2009-004693, slip op. at 7–8 (BPAI Aug. 10, 2009) (informative).

Likewise, Appellant’s claims are not analogous to the claims in *BASCOM*. For example, *BASCOM* (U.S. Patent No. 5,987,606 (“*BASCOM* ’606 patent”)) describes a particular arrangement of filtering software at a specific location, remote from the end-users, with customizable filtering

features specific to each end user. The filtering software enables individually customizable filtering at the remote ISP server by taking advantage of the technical ability of the ISP server to identify individual accounts and associate a request for Internet content with a specific individual account. *BASCOM* '606 patent, 4:35–38.

The Federal Circuit recognized that *BASCOM*'s installation of an Internet content filter at a particular network location is “a technical improvement over prior art ways of filtering such content” because such an arrangement advantageously allows the Internet content filter to have “both the benefits of a filter on a local computer and the benefits of a filter on the ISP server” and “give[s] users the ability to customize filtering for their individual network accounts.” *BASCOM*, 827 F.3d at 1350, 1352. According to the Federal Circuit, *BASCOM*'s claims “do not preempt the use of the abstract idea of filtering content on the Internet or on generic computer components performing conventional activities.” *Id.* at 1352. Instead, *BASCOM*'s claims “carve out a specific location for the filtering system (a remote ISP server) and require the filtering system to give users the ability to customize filtering for their individual network accounts.” *Id.* As such, “an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces.” *Id.* at 1350.

In contrast to *BASCOM*, Appellant's claims and Specification describe constructing an advertising campaign, by an advertiser, having sitelink extensions in different data formats and features for distribution over a network. There is no evidence in the record to support the contention that Appellant's claimed system is provided with any non-conventional and non-generic arrangement of known, conventional components similar to

BASCOM. Likewise, there is no element or combination of elements recited in Appellant’s claims 1, 9, and 19 that contain any “inventive concept” or add anything “significantly more” to transform the abstract concept into a patent-eligible application. *Alice*, 573 U.S. 208 at 221.

In *Berkheimer*, the Federal Circuit held that “[t]he patent eligibility inquiry may contain underlying issues of fact.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1365 (Fed. Cir. 2018) (quoting *Mortg. Grader, Inc. v. First Choice Loan Servs. Inc.*, 811 F.3d 1314, 1325 (Fed. Cir. 2016) (“The § 101 inquiry ‘*may* contain underlying factual issues.’”)). However, the Federal Circuit also held that “[w]hen there is *no genuine issue of material fact* regarding whether the claim element or claimed combination is well-understood, routine, [and] conventional to a skilled artisan in the relevant field, this issue can be decided on summary judgment as a matter of law.” *Id.* at 1368 (emphasis added). This qualification has been reiterated.

If there is a genuine dispute of material fact, Rule 56 requires that summary judgment be denied. In *Berkheimer*, there was such a genuine dispute for claims 4–7, but not for claims 1–3 and 9. . . . [I]n accordance with *Alice*, we have repeatedly recognized the absence of a genuine dispute as to eligibility for the many claims that 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, 1371–73 (Fed. Cir. 2018) (Order, On Petition for rehearing en banc, May 31, 2018) (Moore, J., concurring); *see also Aatrix Software, Inc. v. Green Shades Software, Inc.*, 890 F.3d 1354, 1368 (Fed. Cir. 2018) (“A factual allegation or dispute should not automatically take the determination out of the court’s hands; rather, there

needs to be justification for why additional evidence must be considered—the default being a legal determination.”).

Here, the Specification indisputably shows that (1) the “data processing apparatus,” the “computer storage system,” the “user interface,” and the “user device” recited in claim 1, and the “content item management system,” the “user interface,” and the “user device” recited in claims 9 and 19 were conventional and part of a known online advertising environment at the time of filing. *See* Spec. 5:20–29, 14:14–32; Figures 1, 2, and 8; see also Catalahana’s Figures 1, 2; Oldham’s Figures 2–3; Neal’s Figure 1. Accordingly, no genuine issue of material fact exists as to the well-understood, routine, or conventional nature of the computer components used to construct an advertising campaign for distribution over a network as claimed.

Moreover, *Berkheimer* is limited to *Alice* step 2 and is only applicable after a determination is made that a patent claim is directed to an abstract idea under *Alice* step 1. The question of whether a claim is directed to an abstract idea under *Alice* step 1 is still a question of law. *See, e.g., In re Wang*, 737 F. App’x 534, 535 (Fed. Cir. 2018); *see also Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1338 (Fed. Cir. 2017); and *Versata Dev. Grp.*, 793 F.3d at 1331 (“We review questions concerning compliance with the doctrinal requirements of [section] 101 of the Patent Act (and its constructions) as questions of law, without deference to the trial forum.”). As previously discussed, we find the additional elements beyond the abstract idea recited in Appellant’s claims 1, 9, and 19 (i.e., “data processing apparatus,” “computer storage system,” “user interface,” and “user device” recited in claim 1, “content item management

system,” “user interface,” and “user device” recited in claims 9 and 19) do not transform the abstract idea into a patent eligible invention. As our reviewing court has observed, “after *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.” *DDR Holdings*, 773 F.3d at 1256 (citing *Alice*, 573 U.S. at 222).

Finally, the law is clear that the claim element(s) to be considered under *Alice* step 2 cannot be part of the abstract idea itself. *Berkheimer*, 890 F.3d at 1374 (Moore, J., concurring) (“*Berkheimer* . . . leave[s] untouched the numerous cases from [the Federal Circuit] which have held claims ineligible because the only alleged ‘inventive concept’ is the abstract idea.”); *BSG Tech LLC v. Buyseasons, Inc.*, 899 F.3d 1281, 1283 (Fed. Cir. 2018) (indicating same). “Groundbreaking, innovative, or even brilliant discovery does not by itself satisfy the [section] 101 inquiry.” *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 591 (2013).

Preemption

Lastly, Appellant argues “the claims do not pre-empt other techniques that do not include the combination of features recited.” Appeal Br. 17. We do not agree.

The lack of preemption is a factor to consider for patent eligibility, but it is not by itself sufficient for patent eligibility. As the Federal Circuit explicitly recognized, “the absence of complete preemption does not demonstrate patent eligibility.” See *McRO*, 837 F.3d at 1315 (quoting *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015)); see also Ans. 11–12. Furthermore, “[w]here a patent’s claims are deemed only to disclose patent ineligible subject matter” under the

Alice/Mayo framework, “preemption concerns are fully addressed and made moot.” *See Ariosa*, 788 F.3d at 1379.

Because Appellant’s independent claims 1, 9, and 19 are directed to a patent-ineligible abstract idea and do not recite an “inventive concept” or provide a solution to a technical problem under the second step of the *Alice* analysis, we sustain the Examiner’s § 101 rejection of independent claims 1, 9, and 19, and their dependent claims 2–5, 10–12, and 20–23 not separately argued.

35 U.S.C. § 103 Rejection

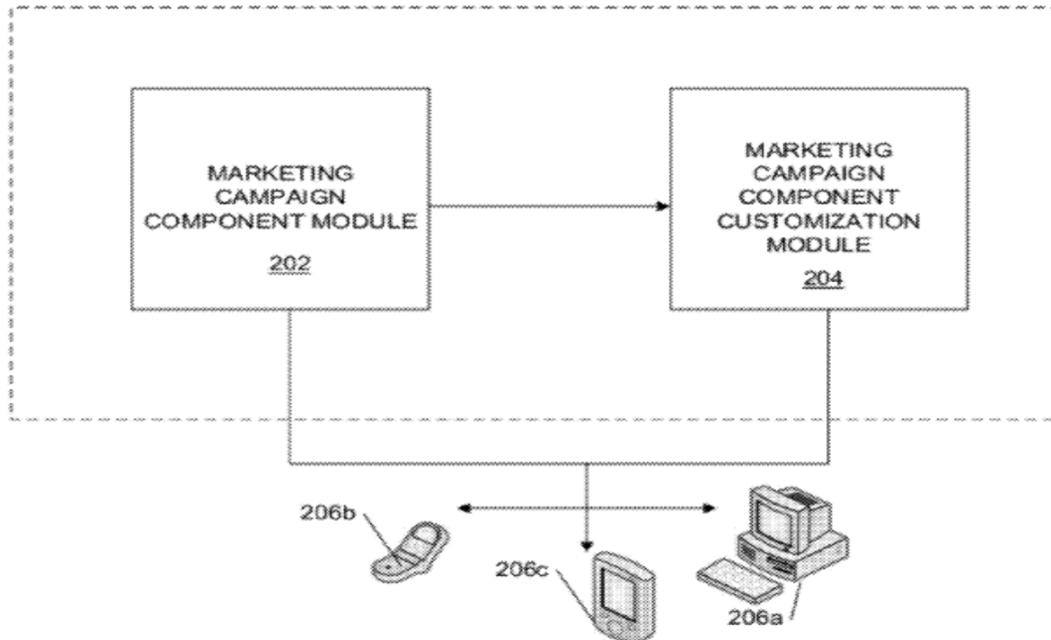
The Examiner, among other things, finds Catalahana teaches most aspects of Appellant’s claimed subject matter, including the following disputed limitations:

“wherein at least a first portion of the set of sitelink extensions available for use in the particular content item campaign are stored in a first data format that supports a particular set of features that each provide a particular content item management or visualization functionality,” and

“in response to receiving the update request updating only the proper subset of the set of sitelink extensions to the second data format while maintaining sitelink extensions from the set of sitelink extensions that are not included in the proper subset in the first data format, including updating the particular sitelink extension by performing operations”

as recited in claims 1, 9, and 19. Final Act. 9–10 (citing Catalahana ¶¶ 27, 31–33, 38–40) (emphasis added).

Catalahana teaches a system, shown in Figure 2, for creating a marketing campaign with customized components. Catalahana's Figure 2 is reproduced below:



Catalahana's Figure 2 show modular marketing campaign system 200 including marketing campaign component module 202 and customization module 204. According to Catalahana, "[u]pon selection of a marketing campaign component, the user may customize the selected marketing campaign component, such as by inserting text, modifying a font style, font color, adding graphics, and/or the like." Catalahana ¶ 6. In particular,

"a user may select various components to create a customized marketing campaign, such as by dragging and dropping the desired components onto a template. The desired components may then be customized, such as for text, font style, font color, background color, and the like."

Catalahana ¶ 27.

For instance, if Company A generally uses the colors blue, gray, white and red as its standard company colors for marketing and

advertising, a user having the third access level might be able to customize the color customization parameter within these preset bounds (e.g., may use only blue, gray, white, and red, and/or various shades thereof) when customizing components.

Catalahana ¶ 31; *see also* Catalahana ¶¶ 32–35, 40.

The Examiner has broadly interpreted (1) Appellant’s claimed “particular set of features” to encompass Catalahana’s customized “text, font style, font color, background color” and (2) Appellant’s claimed “sitelink extensions . . . stored in a first data format” and later updated into “a second data format that is different from the first data format” to encompass “user changes a component’s font style, font color, graphics color, etc.” Ans. 9.

We do not agree. During prosecution, claim terms are given their broadest reasonable interpretation consistent with the specification. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1369, (Fed. Cir. 2004). Under the rule of broadest reasonable interpretation, claim terms are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). However, “the broadest-construction rubric . . . does not give the PTO an unfettered license to interpret claims to embrace anything remotely related to the claimed invention,” but “[r]ather, claims should always be read in light of the specification and teachings in the underlying patent application.” *In re Suitco Surface Inc.*, 603 F.3d 1255, 1260 (Fed. Cir. 2010) (citing *Schriber-Schroth Co. v. Cleveland Trust Co.*, 311 U.S. 211, 217 (1940) (“The claims of a patent are always to be read or interpreted in light of its specifications.”)).

First, nowhere in Catalahana is there any disclosure of Appellant’s claimed “sitelink extensions.” As defined by Appellant’s Specification, “sitelink extensions [of a campaign entity]” are “multiple links to a site shown below a search result or advertisement that link to certain pages in addition to the landing page of the search result or the advertisement” and “new feature set for [these] sitelinks may provide flexibility in managing sitelinks,” including, for example, “more detailed reporting than available for an existing feature set, and so on.” (Spec. 4:28–5:1). These “sitelink extensions” cannot be broadly interpreted to encompass Catalahana’s customized components of a marketing campaign, such as “text, font style, background color, and the like.” Second, the ordinary and customary meaning of Appellant’s claimed “first data format” and “second data format” refer to a particular format for representing sitelink extensions and, as such, cannot be broadly interpreted to encompass the changing of a font’s color, as alleged by the Examiner (Ans. 9).

As secondary references, Oldham and Neal do not cure the deficiencies of Catalahana to arrive at Appellant’s claimed invention. Thus, for these reasons, we do not sustain the Examiner’s obviousness rejection of independent claims 1, 9, and 19, and claims 4, 6, 7, 11, 13, 14, 18, 20, and 21 dependent therefrom. Appeal Br. 20.

CONCLUSION⁶

On the record before us, we conclude Appellant has not demonstrated the Examiner erred in rejecting claims 1–5, 9–12, and 19–23 under

⁶ In the event of further prosecution, the Examiner is invited to review independent claims 1, 9, and 19 under 35 U.S.C. § 112 for lack of written

35 U.S.C. § 101, but has demonstrated the Examiner erred in rejecting (1) claims 4, 12, 22, and 23 under pre-AIA 35 U.S.C. § 112, first paragraph, for lack of written description, and (2) claims 1–5, 9–12, and 19–23 under 35 U.S.C. § 103. As such, we AFFIRM the Examiner’s 101 rejection of claims 1–5, 9–12, and 19–23, but REVERSE the Examiner’s rejection of (1) claims 4, 12, 22, and 23 under pre-AIA 35 U.S.C. § 112, first paragraph, and (2) claims 1–5, 9–12, and 19–23 under 35 U.S.C. § 103..

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–5, 9–12, 19–23	101	Eligibility	1–5, 9–12, 19–23	
4, 12, 22, 23	112, 1 st paragraph	Written Description		4, 12, 22, 23
1–5, 9–12, 19–23	103	Catalahana, Oldham, Neal		1–5, 9–12, 19–23
Overall Outcome			1–5, 9–12, 19–23	

support and enablement for several limitations added during prosecution, including (1) how an update request is received, “while maintaining sitelink extensions from the set of sitelink extensions that are not included in the proper subset in the first data format, including updating the particular sitelink extension by performing operations” and (2) how content is distributed with “a new version of the particular sitelink extension,” “while maintaining sitelink extensions that are not included in the proper subset in the first data format, and while the particular sitelink extension continues to be used in the first data format by the different content item campaign after updating the particular sitelink extension to the new version of the particular sitelink extension.”

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Because we have affirmed at least one ground of rejection with respect to each claim on appeal, the Examiner's decision is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

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

AFFIRMED