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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JESSICA OESTERHELD, ROBERT D. PATTERSON, and HOWARD C. COLEMAN

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Appeal 2019-002551
Application 14/163,993[1]
Technology Center 3600

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Before HUNG H. BUI, DAVID J. CUTITTA II, and SCOTT RAEVSKY, *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, 3, 4, 6–11, 13, 14, and 16–20, which are all the claims pending in the application. Claims 2, 5, 12, and 15 are cancelled. Appeal Br. 10–14 (Claims App.). We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.[2]

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[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 Youscript, Inc. Appeal Br. 3.

[2] Our Decision refers to Appellant's Appeal Brief ("Appeal Br.") filed July 24, 2018; Reply Brief ("Reply Br.") filed February 7, 2019; Examiner's Answer ("Ans.") mailed December 12, 2018; Final Office Action ("Final Act.") mailed January 24, 2018; and original Specification ("Spec.") filed January 24, 2014.

## STATEMENT OF THE CASE

### *Appellant's Invention*

Appellant's invention relates to "business models to support computerized implementation of systems [shown in Figure 1] designed [1] to store and process metabolic, pharmacologic, and pharmacogenetic data (herein 'metabolomics data'), [2] to interpret that data in the context of patient-specific factors such as age, pregnancy, smoking and use of alcohol (herein 'clinical factors,' or 'patient characteristics'), [3] to make available that data at the point of care, prioritized by relevance, and [4] to provide integrated reimbursement tools for the costs of the equipment, database updates and maintenance." Spec. ¶ 3.

Figure 1 is reproduced below:

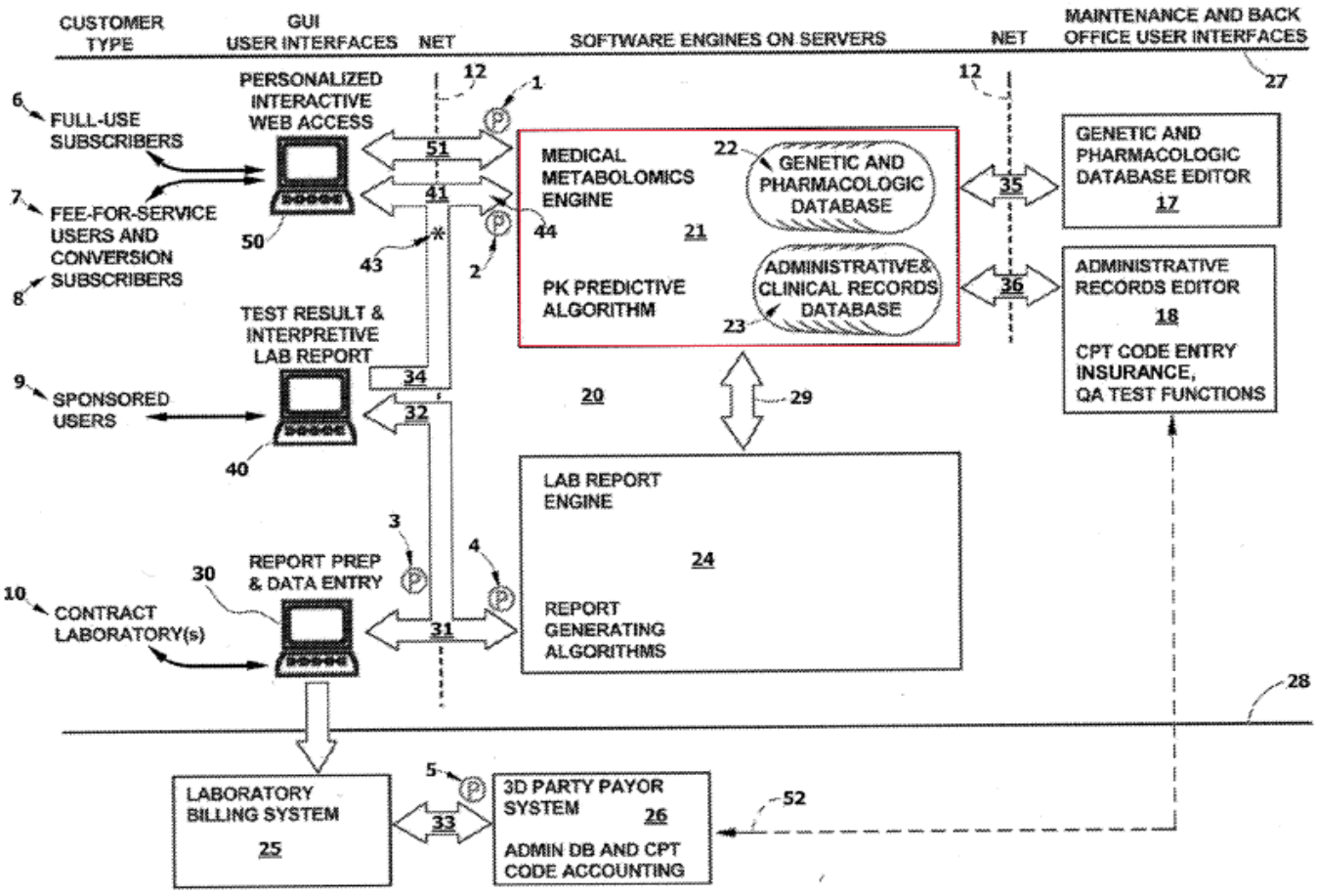

Figure 1 shows a computer-implemented system including host servers 20, predictive algorithms 21, 24 and databases 17, 18 for storing, collating, and interpreting genetic and pharmacologic data, and networks 31, 32, 34, 41, 51 for enabling client laboratory providers 10 and other customers 6–9 to access host servers 20 for genetic testing, test interpretation, test reporting, and preventing adverse drug reactions (ADRs) to prescribed drugs. Spec. ¶¶ 12, 13, 16, 80–85. According to Appellant, "predictive algorithms . . . can prevent many ADRs by issuing warnings on a graphical user interface at the point of care before the prescription is written [by a physician]." Spec. ¶ 12.

*Representative Claim*

Claims 1 and 11 are independent. Representative claim 1 is reproduced below:

1. A method comprising:

[1] receiving, at a computing system, an identification of a drug;

[2] identifying, using a processor of the computing system, metabolic routes used in metabolism of the drug;

[3] selecting, using the processor of the computing system, certain factors from a plurality of factors affecting exposure of a patient to the drug and which may cause or be subject to an interaction, wherein the plurality of factors are stored in at least one database accessible to the computing system, wherein the plurality of factors include other drugs, substances, characteristics of the patient, phenotypes of the patient, genotypes of the patient, clinical factors, or combinations or sub-combinations thereof;

[4] for each metabolic route of the metabolic routes, determining, using the processor of the computing system, an intensity of inhibition or induction of the respective metabolic route due to each of the certain factors;

> [5] summing, using the processor of the computing system, individual scores determined for each metabolic route of the metabolic routes to determine a total score, the individual scores determined based, at least in part, on a metabolic throughput of the respective metabolic route and the determined intensities of inhibition or induction of the respective metabolic route;
>
> [6] converting the total score to a predicted percent change in AUC for the drug by matching the total score with the predicted percent change in AUC in a lookup table; and
>
> [7] providing an indicator of total effect on metabolism of the drug due to the certain factors to another computing system for adjusting a dosage of the drug, the indicator comprising the predicted percent change in AUC.

Appeal Br. 10 (Claims App.) (bracketing added).

## EXAMINER'S REJECTION

Claims 1, 3, 4, 6–11, 13, 14, and 16–20 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 3–5; Ans. 3–4.

## ANALYSIS

In support of the § 101 rejection of claims 1, 3, 4, 6–11, 13, 14, and 16–20, the Examiner determines Appellant's claims recite limitations such as "receiving an identification of a drug," "identifying metabolic routes . . .", "selecting certain factors . . . ", "determining an intensity of inhibition or induction of the respective metabolic route," "summing individual scores," "converting the total score to a predicted percent change," and "providing an indicator" 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). Ans. 3–4; *see also* Final Act. 3–4.

The Examiner also determines the additional elements (i.e., "processor," "computing system," "database," and "electronic medical record") recited in claims 1 and 11, when analyzed individually and as an ordered combination, do not amount to significantly more than the abstract idea because these additional elements: (1) are "well-understood, routine and conventional activities previously known to the industry" and (2) do not improve "the functioning of a computer or improve[] any other technology." Final Act. 4.

*Eligibility Framework*

To determine whether claims are patent eligible under § 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. *Id.* 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 217–18 (alteration in original, internal 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); *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 the governing case law and establishing a prosecution framework for all patent-eligibility analysis under *Alice* and § 101 effective as of January 7, 2019. *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. 18, 2019) (updating the guidance promulgated in January 2019 with "examples as well as a discussion of various issues raised by the public comments") (collectively, the "2019 Revised Guidance").

*2019 Revised Guidance*

Under the 2019 Revised Guidance, we look under "Step 2A" (*Alice* step 1) 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)).[3]

*See* 2019 Revised Guidance, 84 Fed. Reg. at 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 whether the claim provides an "inventive concept" under *Alice* step 2 or "Step 2B." *See* 2019 Revised Guidance at 56; *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.

In the briefing, Appellant refers to prior USPTO guidance regarding § 101, including, for example: (1) May 2016 Subject Matter Eligibility Update ("2016 Update") and (2) USPTO Memorandum dated April 19, 2018 ("2018 Memo"). Appeal Br. 5. This prior guidance. *See* 2019 Revised

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

Guidance, 84 Fed. Reg. 52. As such, our analysis will not address the sufficiency of the Examiner's rejection against the cited prior guidance. Rather, our analysis will comport with the 2019 Revised Guidance as discussed below.

*Alice/Mayo—Step 1 (Abstract Idea)*
*Step 2A–Prongs 1 and 2 identified in the 2019 Revised Guidance*

Step 2A—Prong 1

Appellant does not dispute the Examiner's determination that claims recite an abstract idea. Ans. 3–4. As recognized by the Examiner, the limitations of Appellant's claim 1, under their broadest reasonable interpretation, recite nothing more than a series of steps collecting (receiving), analyzing (identifying "metabolic routes," selecting "certain factors . . . affecting exposure of a patient," determining "an intensity of inhibition or induction of the respective metabolic route," and "the total score to a predicted percent change in AUC for the drug), and providing "an indicator of total effect on metabolism of the drug, which are similar or analogous to the claims found by the Federal Circuit to be patent-ineligible in *Electric Power Group*. Ans. 4; *see also Electric Power Group*, 830 F.3d at 1355 ("[M]erely selecting information, by content or source, for collection, analysis, and display does nothing significant to differentiate a process from ordinary mental processes.").

Under the October 2019 Update: Subject Matter Eligibility, 84 Fed. Reg. 55942–53 (Oct. 17, 2019), we determine that these limitations are "mental processes" that could also be performed in the human mind or by a human using pen and paper (including an observation, evaluation, judgment, opinion), and therefore an abstract idea. *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, were precisely the holding of the Supreme Court in *Gottschalk v. Benson*.").

Thus, under Step 2A, Prong One, we agree with the Examiner that limitations (1)–(7) in Appellant's claim 1 recite a series of mental processes 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.

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.*, 788 F.3d at 1363; *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. Elecs. 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.*, 687 F.3d at 1278; *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. 584, 589–90 (1978); *Gottschalk v. Benson*, 409 U.S. at 67. And the Federal Circuit has 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 at 715.

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 and 11 that integrate(s) the judicial exception into a practical application. *See* 2019 Revised Guidance, 84 Fed. Reg. at 54–55 ("Prong Two").

Appellant argues, "the claims include multiple elements which, especially in combination, integrate the alleged abstract idea into a practical application of the idea." Reply Br. 3. For example, Appellant argues:

> Claim 1, for example, integrates metabolic, pharmacologic and pharmacogenetic data storage, processing and interpretation into a practical application thereof at least by "converting the total score to a predicted percent change in A UC for the drug by matching the total score with the predicted percent change in AUC in a lookup table; and providing an indicator of total effect on metabolism of the drug due to the certain factors to another computing system for adjusting a dosage of the drug, the indicator comprising the predicted percent change in AUC."

Reply Br. 3 (emphasis added).

Appellant's arguments are not persuasive. Neither limitation argued by Appellant is indicative of "integration into a practical application." Instead, these limitations are part of the recited judicial exception. *See SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1170 (Fed. Cir. 2018) (The abstract idea itself cannot supply the inventive concept, "no matter how groundbreaking the advance.").

Under the 2019 Revised Guidance, "integration into a practical application" 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. *See* 2019 Revised Guidance, 84 Fed. Reg. at 53–55; *id.* n.24 ("USPTO guidance uses the term 'additional elements' to refer to claim features, limitations, and/or steps that are recited in the claim beyond the identified judicial exception."). For example, additional elements that are indicative of "integration into a practical application" include:

1) Improvements to the functioning of a computer, or to any other technology or technical field – *see* MPEP § 2106.05(a);
2) Applying the judicial exception with, or by use of, a particular machine – *see* MPEP § 2106.05(b);
3) Effecting a transformation or reduction of a particular article to a different state or thing – *see* MPEP § 2106.05(c); and
4) Applying or using the judicial exception in some other 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(e).

*See* 20919 Revised Guidance, 84 Fed. Reg. at 53–55.

In contrast, additional elements that are not indicative of "integration into a practical application" include:

1) Adding the words "apply it" (or an equivalent) with the judicial exception, or mere instructions to implement an abstract idea on a computer, or merely uses a computer as a tool to perform an abstract idea – *see* MPEP § 2106.05(f);
2) Adding insignificant extra-solution activity to the judicial exception – *see* MPEP § 2106.05(g); and
3) Generally linking the use of the judicial exception to a particular technological environment or field of use – *see* MPEP § 2106.05(h).

*See* 2019 Revised Guidance, 84 Fed. Reg. at 54–55 ("Prong Two").

We determine Appellant's additional elements (i.e., "processor," "computing system," "database," and "electronic medical record") recited in claims 1 and 11, when analyzed individually or in combination, 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).

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 create "business models to support computerized implementation of systems [shown in Appellant's Figure 1] designed [1] to store and process metabolic, pharmacologic, and pharmacogenetic data (herein 'metabolomics data'), [2] to interpret that data in the context of patient-specific factors such as age, pregnancy, smoking and use of alcohol (herein 'clinical factors,' or 'patient characteristics'), [3] to make available that data at the point of care, prioritized by relevance, and [4] to provide integrated reimbursement tools for the costs of the equipment, database updates and maintenance." Spec. ¶ 3. Utilizing (1) generic servers 20, algorithms 21, 24 and databases 17, 18, shown in Appellant's Figure 1, for storing, collating, accessing, cross-referencing and interpreting genetic and pharmacologic data, and (2) known networks 31, 32, 34, 41, 51 for contracting client laboratory providers 10 of genetic testing services, and other customers 6–9 to access host servers 20 for genetic testing, test interpretation, test reporting, and preventing adverse drug reactions (ADRs) to prescribed drugs are 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 simply the automation of the abstract idea. *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015). "[M]erely requir[ing] generic computer implementation . . . does not move into [§] 101

eligibility territory." *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1354 (Fed. Cir. 2014).

For these reasons, we determine that Appellant's "additional elements" recited in claims 1 and 11 do not integrate the abstract idea into a practical application and, as such, Appellant's claims are directed to an abstract idea.

*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, 17, and 32 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 and 11 beyond the judicial exception that is not "'well-understood, routine, conventional' in the field" as per MPEP § 2106.05(d). Instead, Appellant argues the Examiner has not provided evidence to show that "any of the elements recited in the independent claims" is "well-understood, routine and conventional" as per *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1366 (Fed. Cir. 2018). Appeal Br. 5–8.

Appellant's argument is not persuasive. In *Berkheimer*, the Federal Circuit held "[w]hether something [(i.e., any 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." *Berkheimer*, 881 F.3d at 1369. However, *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. As previously discussed, we find the additional elements beyond the abstract idea recited in Appellant's claims 1 and 11 ((i.e., "processor," "computing system," "database," and "electronic medical record") 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, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) (citing *Alice*, 573 U.S. at 222).

Here, Appellant refers to limitations recited in claims 1 and 11 that are part of the abstract idea identified under *Alice* step 1 and argues the Examiner has to provide evidence to show these limitations are "well-understood, routine[,] and conventional" under *Alice* step 2. Appeal Br. 6–8; Reply Br. 2–4. However, 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 v. HP Inc.*, 890 F.3d 1369, 1374 (Fed. Cir. 2018) (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 § 101 inquiry." *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 591 (2013).

Lastly, Appellant argues "claims 1 and 11 amount to significantly more than an abstract idea" because (1) "the absence of similar technology in the medical field" and (2) "the novelty and non-obviousness of the claimed technology. Appeal Br. 6. However, this argument improperly conflates the test for 35 U.S.C. § 101 with the separate tests under 35 U.S.C. §§ 102 and 103. *See, e.g.*, *Genetic Techs. Ltd. v. Merial L.L.C.*, 818 F.3d 1369, 1376 (Fed. Cir. 2016) ("[U]nder the *Mayo*/*Alice* framework, a claim directed to a newly discovered law of nature (or natural phenomenon or abstract idea) cannot rely on the novelty of that discovery for the inventive concept necessary for patent eligibility."). As the Supreme Court emphasizes, "[t]he 'novelty' of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter." *Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981) (emphasis added). Thus, a novel and nonobvious claim directed to an abstract idea is, nonetheless, patent-ineligible. *See Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 89–91 (2012). Nor does the lack of any obviousness or anticipation rejections support Appellant's argument that "the limitations of claims 1, 13, and 20 are not routine or conventional activities."

Because Appellant's independent claims 1 and 11 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 and 11, and their dependent claims 3, 4, 6–10, 13, 14, and 16–20 not separately argued.

## CONCLUSION

On the record before us, we conclude Appellant has not demonstrated the Examiner erred in rejecting claims 1, 3, 4, 6–11, 13, 14, and 16–20 under 35 U.S.C. § 101. As such, we AFFIRM the Examiner's rejection of claims 1, 3, 4, 6–11, 13, 14, and 16–20.

## DECISION SUMMARY

| Claims Rejected | 35 U.S.C.§ | Reference(s)/Basis | Affirmed | Reversed |
|---|---|---|---|---|
| 1, 3, 4, 6–11, 13, 14, 16–20 | 101 | Eligibility | 1, 3, 4, 6–11, 13, 14, 16–20 | |

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