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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PHILLIP KIM, ALEX HASHA,
JAIDEV SHERGILL, HOMIN LEE,
and SIMON FREEDMAN

Appeal 2019-002839
Application 14/308,268
Technology Center 3600

Before KALYAN K. DESHPANDE, CHARLES J. BOUDREAU,
and SHARON FENICK, *Administrative Patent Judges*.

DESHPANDE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE[1]

Pursuant to 35 U.S.C. § 134(a), Appellant[2] appeals from the Examiner's decision to reject claims 1–2, 5–9, 12–16, and 19–23, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

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[1] This Decision refers to Appellant's Appeal Brief ("Appeal Br.," filed Aug. 17, 2018) and Reply Brief ("Reply Br.," filed Feb. 26, 2019), the Examiner's Final Office Action ("Final Act.," mailed Oct. 19, 2017) and Answer ("Ans.," mailed Dec. 26, 2018), and the original Specification ("Spec.," filed June 18, 2014).

[2] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies Capital One Financial Corporation as the real party in interest. Appeal Br. 3.

We AFFIRM.

INVENTION

Appellant's invention relates to providing business ratings based on transactions with consumers. Spec. ¶¶ 4, 18.

Claims 1, 8, and 15 are independent. Claim 1, reproduced below, is illustrative of the subject matter on appeal:

> 1. A system for providing an overall business rating score for a payee with respect to a plurality of payors, comprising:
>
> one or more memory devices storing software instructions; and
>
> one or more processors configured to execute the software instructions to:
>
> access spending transaction data regarding a plurality of consumer spending transactions, the spending transaction data comprising:
>
> a unique payor identifier,
>
> a transaction amount,
>
> a payee category code, and
>
> a postal code;
>
> when the spending transaction data for a first consumer spending transaction does not include a unique payee identifier, determine a payee identification for the spending transaction data for the first consumer spending transaction by:
>
> comparing the spending transaction data for the first consumer spending transaction to historical spending transaction data of known payees having the same payee category code as the spending

transaction data for the first consumer spending transaction;

determining match confidence for the known payees by comparing the spending transaction data for the first consumer spending transaction to a range of spending transaction amounts for the known payees; and

associating a unique payee identifier of a known payee with the spending transaction data for the first consumer spending transaction based on the known payee having a match confidence that exceeds a confidence threshold;

access spending transaction data for one or more historical consumer spending transactions matching a payee category code of a payee for which to provide the overall business rating score with respect to the payors;

determine a plurality of ratios for the plurality of payors, wherein a ratio determined for a payor from the plurality of payors is based on the payor's historical transactions with the payee relative to the payor's historical transactions associated with the payee category code;

determine a plurality of individual business rating scores for the payee with respect to the plurality of payors,

wherein an individual business rating score for the payee with respect to a payor is based on the ratio determined for the payor, and

wherein at least two of the plurality of individual business rating scores are weighted differently based on a location of the payee relative to a location of a first payor of the plurality of payors and the location of the payee relative to a location of a second payor of the plurality of payors; and

> generate the overall business rating score for the payee based on the plurality of individual business rating scores for the payee with respect to the plurality of payors.

Appeal Br. 31–33 (Claims App.).

REJECTIONS ON APPEAL

The Examiner rejects claims 1–2, 5–9, 12–16, and 19–23 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Act. 7–12.

ANALYSIS

An invention is patent-eligible if it claims a "new and useful process, machine, manufacture, or composition of matter, or [a] new and useful improvement thereof." 35 U.S.C. § 101. However, the U.S. Supreme Court has long interpreted § 101 to "contain[] an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable." *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 216 (2014) (quoting *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)).

In *Alice*, the Supreme Court reiterated the two-step framework previously set forth in *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012) "for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts." *Alice*, 573 U.S. at 217. The first step in this analysis is to "determine whether the claims at issue are directed to one of those patent-ineligible concepts," e.g., to an abstract idea. *Id.* Concepts determined to be abstract ideas include certain methods of organizing human activity, such as fundamental economic practices (*id.* at

219–20; *Bilski v. Kappos*, 561 U.S. 593, 611 (2010)); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)). If it is determined that the claims are directed to a patent-ineligible concept, the second step of the analysis requires consideration of 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." *Alice*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 78, 79). "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.* at 221 (alterations in original) (quoting *Mayo*, 566 U.S. at 77). In other words, the claims must contain an "inventive concept," or some element or combination of elements "sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [abstract idea] itself." *Id.* at 217–18 (quoting *Mayo*, 566 U.S. at 72–73). "[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention." *Id.* at 221.

In January 2019, the PTO published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) ("Revised Guidance").[3] "All

[3] In October 2019, in response to received public comments, the PTO issued a further memorandum clarifying the Revised Guidance. USPTO Memorandum, October 2019 Update: Subject Matter Eligibility (Oct. 17, 2019), *available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf* ("October 2019 Update")

USPTO personnel are, as a matter of internal agency management, expected to follow the guidance." Revised Guidance, 84 Fed. Reg. at 51; *see also* October 2019 Update at 1. Under that guidance, we first look to whether the claim recites:

> (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as fundamental economic practices, or mental processes) ("Step 2A, Prong 1"); and
>
> (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP §§ 2106.05(a)–(c), (e)–(h) (9th ed. Rev. 08.2017, Jan. 2018)) ("Step 2A, Prong 2").[4]

See Revised Guidance, 84 Fed. Reg. at 52–55.

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then (under "Step 2B") look to whether the claim:

> (3) adds a specific limitation beyond the judicial exception that is not "well-understood, routine, and 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 Revised Guidance, 84 Fed. Reg. at 56.

The Examiner determines that the claims "are directed to the abstract idea of generating an overall business rating score for a payee" and recite a

[4] This evaluation is performed by (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception, and (b) evaluating those additional elements individually and in combination to determine whether the claim as a whole integrates the exception into a practical application. *See* Revised Guidance, 84 Fed. Reg. at 54–55 (Section III.A.2).

fundamental economic practice and a certain method of organizing human activity. Final Act. 7–9; *see* Ans. 4. The Examiner further determines that the additional elements recited in the claims are well-understood, routine, and conventional (Final Act. 7, 10–11; Ans. 11–13, 15) and that "[t]he claims do not include additional elements that are sufficient to amount to significantly more than the judicial exception because the additional computer elements, which are recited at a high level of generality, provide conventional computer functions that do not add meaningful limits to practicing the abstract idea." (Final Act. 8).

Appellant argues that the claims as a whole are not directed to a judicial exception, but rather "describe a system directed to a specific technological improvement of electronic business rating systems." Appeal Br. 12–13; *see id.* at 18–20; Reply Br. 8–11. According to Appellant, current electronic business rating systems are limited because they rely on subjective data submitted by customers, whereas the claimed invention enables business rating systems to rely on objective data on spending transactions in addition to subjective data. Appeal Br. 12, 20 (citing Spec. ¶¶ 3, 18); Reply Br. 9, 12. Appellant argues that the claimed invention includes "technical details" that "amount to significantly more at least because they are not found in the prior art." Appeal Br. 27–28. Appellant further argues that the claims "do not preempt all ways of performing the alleged abstract ideas, but rather recite a specific, discrete method and system for improving current business rating systems." *Id.* at 22. Finally, Appellant argues that the Examiner fails to demonstrate that any claim elements are well-understood, routine, and conventional in accordance with

the PTO's "*Berkheimer* Memo"[5] (Appeal Br. 24; *see also* Reply Br. 14–18), and that the Examiner fails to properly analyze the dependent claims (Appeal Br. 28–30).

Step 2A, Prong 1

Under Step 2A, Prong 1 of the Revised Guidance, we agree with the Examiner that the claims recite a judicial exception, i.e., an abstract idea. *See* Final Act. 7. Specifically, we agree with the Examiner that the claims recite a fundamental economic practice – one of the certain methods of organizing human activity identified in the Revised Guidance as a judicial exception. *See* Final Act. 8–9; Ans. 4; Revised Guidance, 84 Fed. Reg. at 52. We additionally determine that the claims recite concepts that may be performed in the human mind, i.e., mental processes.

For example, independent claim 1 recites "determin[ing] a plurality of individual business rating scores for the payee with respect to the plurality of payors" and "generat[ing] the overall business rating score for the payee based on the plurality of individual business rating scores for the payee with respect to the plurality of payors." In reciting that "business rating scores" are determined/generated, claim 1 recites the fundamental economic practice of rating or evaluating the quality of a business (as do independent claims 8 and 15 with corresponding limitations). *See* Spec. ¶ 2 ("When consumers consider becoming customers of a business, they often research the quality of the business."). Notwithstanding Appellant's argument that generating an

[5] USPTO Memorandum, Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (Berkheimer v. HP, Inc.) (Apr. 19. 2018), available at https://www.uspto.gov/sites/default/files/documents/memo-berkheimer-20180419.PDF.

overall business rating score for a payee is not a *fundamental* economic practice (Appeal Br. 16–18), we have repeatedly found similar concepts to be fundamental economic principles or practices. *See, e.g.*, *Ex parte Stibel*, Appeal No. 2016-005234, at 4 (PTAB Apr. 24, 2018) (finding that "producing a credibility score to quantifiably represent reputation of a particular business" is a "fundamental economic practice long prevalent in our system of commerce"); *Ex parte Morton*, Appeal No. 2017-001754, at 7 (PTAB July 31, 2018) (finding that "ratings and reviews . . . aggregated and made available to other users to inform their decisions regarding whether to purchase a particular book" is a fundamental economic principle); *Ex parte Marshall*, Appeal No. 2016-008528, at 6 (PTAB Aug. 30, 2018) (finding that "rating mutual funds . . . is a fundamental economic principle because risk management is the bedrock of investing"); *Ex parte Greenstein*, Appeal No. 2017-002346, at 4–5 (PTAB Apr. 30, 2018) (finding that "providing recommendations for the purchase or lease of goods or services" is a fundamental economic practice), *aff'd*, *In re Greenstein*, 778 Fed.Appx. 935 (Fed. Cir. 2019) (unpublished). Thus, these limitations in claim 1 of determining and generating "business rating scores" recite certain methods of organizing human activity. *See* Revised Guidance, 84 Fed. Reg. at 52 (listing fundamental economic practices as one of certain methods of organizing human activity identified as a judicial exception). Indeed, independent claims 1, 8, and 15 as a whole recite a certain method of organizing human activity in that the claimed invention is a system or method for providing a business rating score, which is a fundamental economic practice. *See, e.g.*, claim 1 (preamble); Spec. ¶¶ 4–6.

With respect to mental processes, claim 1 recites, *inter alia*,

> when the spending transaction data for a first consumer spending transaction does not include a unique payee identifier, determine a payee identification for the spending transaction data for the first consumer spending transaction by:
>
> > comparing the spending transaction data for the first consumer spending transaction to historical spending transaction data of known payees having the same payee category code as the spending transaction data for the first consumer spending transaction;
> >
> > determining match confidence for the known payees by comparing the spending transaction data for the first consumer spending transaction to a range of spending transaction amounts for the known payees; and
> >
> > associating a unique payee identifier of a known payee with the spending transaction data for the first consumer spending transaction based on the known payee having a match confidence that exceeds a confidence threshold;

Under their broadest reasonable interpretation, the limitation of "determin[ing] a payee identification" by way of the "comparing," "determining," and "associating" limitations covers performance of the limitations in the mind (as do corresponding limitations in independent claims 8 and 15), but for the recitation of generic components. That is, other than the "memory devices storing software instructions" and "processors configured to execute the software instructions" recited in claim 1 (and, likewise, the "processors" recited in claim 8 and "non-transitory computer readable medium" and "processors" recited in claim 15) as performing the recited steps, nothing in the claims precludes those steps from being performed in the human mind. For example, but for the recitation of the "memory devices" and "processors," claim 1 encompasses *mentally*

determining a payee identification for spending transaction data by *mentally* comparing the spending transaction data to historical spending transaction data of known payees, *mentally* determining match confidence for the known payees by *mentally* comparing the spending transaction data to a range of spending transaction amounts for the known payees, and *mentally* associating a unique payee identifier of a known payee with the spending transaction data based on the known payee's match confidence exceeding a threshold. Thus, these limitations recite mental processes, and thus an abstract idea.

Claim 1 further recites, *inter alia*,

> determine a plurality of ratios for the plurality of payors, wherein a ratio determined for a payor from the plurality of payors is based on the payor's historical transactions with the payee relative to the payor's historical transactions associated with the payee category code;
>
> determine a plurality of individual business rating scores for the payee with respect to the plurality of payors,
>
> > wherein an individual business rating score for the payee with respect to a payor is based on the ratio determined for the payor, and
> >
> > wherein at least two of the plurality of individual business rating scores are weighted differently based on a location of the payee relative to a location of a first payor of the plurality of payors and the location of the payee relative to a location of a second payor of the plurality of payors; and
>
> generate the overall business rating score for the payee based on the plurality of individual business rating scores for the payee with respect to the plurality of payors.

Under their broadest reasonable interpretation, these limitations of "determin[ing] . . . ratios," "determin[ing] . . . individual business rating

scores," and "generat[ing] the overall business rating score" cover performance of the limitations in the mind (as do corresponding limitations in independent claims 8 and 15), but for the recitation of generic components. That is, other than the "memory devices storing software instructions" and "processors configured to execute the software instructions" recited in claim 1 (and, likewise, the "processors" recited in claim 8 and "non-transitory computer readable medium" and "processors" recited in claim 15) as performing the recited steps, nothing in the claims precludes those steps from being performed in the human mind. For example, but for the recitation of the "memory devices" and "processors," claim 1 encompasses *mentally* determining ratios for payors based on the payors' historical transactions, *mentally* determining individual business rating scores for the payee with respect to the payors based on the respective payors' ratios, *mentally* weighting individual business rating scores differently based on relative payee and payor locations, and *mentally* generating the overall business rating score for the payee based on the individual business rating scores. Thus, these limitations also recite mental processes, and thus an abstract idea.

Accordingly, the claims recite certain methods of organizing human activity and mental processes as identified in the Revised Guidance and, thus, an abstract idea.

Step 2A, Prong 2

Because the claims recite an abstract idea, we next look to whether the claims recite additional elements that integrate the abstract idea into a practical application. Revised Guidance, 84 Fed. Reg. at 54. Limitations that indicate integration into a practical application include additional

elements that reflect an improvement in the functioning of a computer, or an improvement to other technology or technical field. *Id.* at 55. When a claim recites a judicial exception and fails to integrate the exception into a practical application, the claim is "directed to" the judicial exception. *Id.* at 51.

We determine that the additional limitations recited in the claims on appeal do not integrate the recited judicial exception into a practical application. For example, claim 1 additionally recites "access[ing] spending transaction data regarding a plurality of consumer spending transactions, the spending transaction data comprising: a unique payor identifier, a transaction amount, a payee category code, and a postal code" and "access[ing] spending transaction data for one or more historical consumer spending transactions matching a payee category code of a payee for which to provide the overall business rating score with respect to the payors." These steps of "access[ing] spending transaction data" are recited at a high level of generality (i.e., as general means of gathering data used to generate the business rating scores) and amount to insignificant pre-solution activity. *See* Revised Guidance, 84 Fed. Reg. at 55; MPEP § 2106.05(g).

We agree with the Examiner that the claims otherwise merely recite generic computer components that similarly fail to integrate the recited abstract idea into a practical application. *See* Final Act. 10–11; Ans. 11. For example, claim 1's recited "memory devices storing software instructions" and "processors configured to execute the software instructions," claim 8's recited "processors," and claim 15's recited "non-transitory computer readable medium" and "processors" are recited at a high level of generality, i.e., as generic components performing generic computer functions of

storing software and computer processing. These generic limitations merely apply the abstract idea using generic computer components and indicate a field of use or technological environment (i.e., computing systems (*see* Spec. ¶¶ 20–27)) for the economic activity. *See* Revised Guidance at 55; MPEP § 2106.05(f), (h). The claim limitations do not include any particular machine that is integral to the claim. *See* Revised Guidance at 55; MPEP § 2106.05(b).

Appellant argues that the claims are "directed to a specific technological improvement of electronic business rating systems" and "solve problems related to 'big data' analysis by enabling these systems to rely on objective data, such as spending transaction data associated with one or more payors and one or more payor locations, in addition to subjective data." Appeal Br. 20 (citing Spec. ¶¶ 3, 18). Specifically, Appellant characterizes the recited steps of "access[ing] spending transaction data . . . comprising: a unique payor identifier, a transaction amount, a payee category code, and a postal code," "determin[ing] a plurality of individual business rating scores" that are "weighted differently" based on a location of the payee relative to locations of first/second payors, and "generat[ing] the overall business rating score . . . based on the plurality of individual business rating scores . . ." as a "technical solution." *Id.* at 26; *see also id.* at 12–13, 21–22; Reply Br. 9–10. As discussed above, those limitations recite an abstract idea ("determin[ing]" and "generat[ing]" steps) or amount to insignificant pre-solution activity ("access[ing]" step). Furthermore, we are unpersuaded by Appellant's arguments and agree with the Examiner that the claims do not recite a *technological* improvement in addition to the abstract idea, but rather a "business solution" to a "business problem." Final Act. 6;

see also id. at 12; Ans. 4, 8. For example, the claims "do not require an arguably inventive set of components or methods, such as measurement devices or techniques, that would generate new data. They do not invoke any assertedly inventive programming." *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016). That is, the claims do not reflect an improvement in computer functionality, or to any other technology or technical field. *See* Revised Guidance, 84 Fed. Reg. at 55; MPEP § 2106.05(a).

Even in combination, the additional limitations do not integrate the abstract idea into a practical application because they do not impose any meaningful limits on practicing the abstract idea.

As such, we are not persuaded by Appellant's argument that the Examiner fails to establish that the claims are directed to judicial exception. *See* Appeal Br. 14–19, 22; Reply Br. 2–8. Rather, in view of the Examiner's rejection through the lens of the Revised Guidance, and for the reasons above, we agree with the Examiner that the claims are directed to an abstract idea.

Step 2B

Under Step 2B of the Revised Guidance, we agree with the Examiner that there are no specific limitations beyond the judicial exception, i.e., the abstract idea, that are not well-understood, routine, and conventional in the field. *See* MPEP § 2106.05(d). For example, we agree with the Examiner that the additionally recited "memory devices," "software instructions," "processors" and "non-transitory computer readable medium" (*see* claims 1, 8, and 15) are mere recitations of generic computer structures performing generic computer functions that are well-understood, routine, and

conventional, and thus do not amount to significantly more than the abstract idea. *See* Final Act. 10–11; Ans. 11 (citing Spec. ¶¶ 30–34 (disclosing known examples of processors and databases including memory devices)); *see also* Spec. ¶¶ 57 (listing "many types of tangible computer-readable media"), 20 ("components of system 100 may include one or more computing devices . . . , memory storing data and/or software instructions (e.g., database(s), memory devices, etc.), and other known computing components"). As discussed above, those additional elements amount to no more than mere instructions to apply the abstract idea using generic computer components. Mere instructions to apply an abstract idea on a generic computer do not provide an inventive concept. *Alice,* 573 U.S. at 223–24.

Appellant argues that "the Examiner has failed to provide express support in writing to show that any of the 'additional elements' are 'well-understood, routine and conventional,' as required by the *Berkheimer* Memo." Reply Br. 14. In determining that the additional elements are "[g]eneric computer components recited as performing generic computer functions that are well-understood, routine and conventional activities," the Examiner cites the Specification. Ans. 11 (citing Spec. ¶¶ 30–34). As indicated above, the Specification discloses known examples of processors (¶ 31) and computer-readable media (¶ 57), and indicates that memory devices and software instructions are "known computing components" (¶ 20). We determine that the disclosure of the Specification supports, and we thus find no error in, the Examiner's determination that the additional

elements recited in claims 1–2, 5–9, 12–16, and 19–23 are well-understood, routine, and conventional.[6]

Reevaluating the extra-solution activity of "access[ing] spending transaction data regarding a plurality of consumer spending transactions, the spending transaction data comprising: a unique payor identifier, a transaction amount, a payee category code, and a postal code" and "access[ing] spending transaction data for one or more historical consumer spending transactions matching a payee category code of a payee for which to provide the overall business rating score with respect to the payors" (*see* Revised Guidance, 84 Fed. Reg. at 56 (stating that a conclusion under Step 2A that an additional element is insignificant extra-solution activity should be reevaluated in Step 2B)), we find nothing unconventional in these steps of gathering data used to generate the business rating scores.

Appellant argues that the recited steps of "determin[ing] a plurality of ratios . . . ," "determin[ing] a plurality of individual business rating scores . . . based on the ratio" that are "weighted differently" based on a location of

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[6] Appellant additionally argues that the Examiner's citation of Kramer et al. (US 2011/0022628 A1; pub. Jan. 27, 2011) ("Kramer") and Grimes (US 2010/0106568 A1; pub. Apr. 29, 2010) ("Grimes") fails to demonstrate that certain recited steps represent well-understood, routine, conventional activity. Reply Br. 14–18; *see* Ans. 12–13 (Examiner citing Kramer ¶¶ 46–47, 81 for "the spending transaction data comprising: a unique payor identifier, a transaction amount, a payee category code, and a postal code" and "determining . . . a payee identification" limitations, and citing Grimes ¶¶ 66, 81, 121, 168 for "determining match confidence" and "associating a unique payee identifier . . . with the spending transaction data" limitations). We need not reach this issue because, as discussed above, those limitations recite mental processes, and thus an abstract idea, or amount to insignificant pre-solution activity.

the payee relative to locations of first/second payors, and "generat[ing] the overall business rating score . . . based on the plurality of individual business rating scores . . ." amount to significantly more than an abstract idea "at least because they are not found in the prior art." Appeal Br. 27–28. However, those limitations cannot amount to significantly more than the abstract idea because, as discussed above, they themselves recite mental processes, and thus an abstract idea. Moreover, even if those steps are novel, that does not affect our determination that they are a patent-ineligible abstract idea. As the Examiner points out, novelty is irrelevant in determining § 101 patent subject matter eligibility. *See* Ans. 14; *Diamond v. Diehr*, 450 U.S. 175, 176, 188–89 (1981).

Although Appellant argues that "the claim elements, at least as an ordered combination, recite an inventive concept that solves problems related to 'big data' analysis and improves the technology of business rating in the electronic realm" (Reply Br. 12; *see also* Appeal Br. 28), Appellant has not shown that the claims on appeal add any specific limitation beyond the judicial exception that is not well-understood, routine, and conventional in the field. Appellant also provides no evidence of how the ordered combination is unconventional or amounts to significantly more than an abstract idea.

Appellant further argues that the claims "provide a particular manner of providing an overall business rating score" and "do not preempt all ways of performing the alleged abstract ideas." Reply Br. 10; Appeal Br. 22. This argument is unpersuasive. As noted by the Examiner (Final Act. 5–6, 10; Ans. 10), the absence of complete preemption is not dispositive. *See, e.g., Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed.

Cir. 2015) ("While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility."); *Ultramercial, Inc. v. Hulu, LLC*, 722 F.3d 1335, 1346 (Fed. Cir. 2013) ("[T]he Supreme Court has stated that, even if a claim does not wholly pre-empt an abstract idea, it still will not be limited meaningfully if it contains only insignificant or token pre- or post-solution activity—such as identifying a relevant audience, a category of use, field of use, or technological environment.") (citations omitted), *vacated and remanded*, *WildTangent, Inc. v. Ultramercial, LLC*, 573 U.S. 942 (2014) (remanding for further consideration in light of *Alice*). Thus, even if the claims do not preempt the abstract idea, that alone is insufficient to render the claims patent-eligible.

Finally, Appellant argues that "the Examiner fails to analyze the dependent claims separately from the independent claims in determining whether the dependent claims provide an improvement to computer functionality." Appeal Br. 29. As discussed above, we are unpersuaded by Appellant's arguments that the independent claims reflect an improvement in computer functionality, or to any other technology or technical field. Appellant provides no examples of how any limitations in the dependent claims recite such improvements, and our own review of the dependent claims accords with the Examiner's unrebutted determination that "[t]he dependent claims recite additional limitations which either further narrow the abstract idea, recite additional abstract ideas, or do not amount to significantly more [than] the abstract idea." *See* Final Act. 12; Ans. 15.

Accordingly, considering the claim elements individually and as an ordered combination, we agree with the Examiner that there are no

meaningful claim limitations that represent sufficiently inventive concepts to transform the nature of the claims into a patent-eligible application of the abstract idea.

For the foregoing reasons, we sustain the Examiner's rejection of claims 1–2, 5–9, 12–16, and 19–23 under 35 U.S.C. § 101.

CONCLUSION

The Examiner's rejection of claims 1–2, 5–9, 12–16, and 19–23 under 35 U.S.C. § 101 is affirmed.

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1–2, 5–9, 12–16, 19–23	101	Eligibility	1–2, 5–9, 12–16, 19–23	

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