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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAVID WEISS and ANTONIO PAPAGEORGIOU

Appeal 2019-003183
Application 12/210,826
Technology Center 3600

Before ERIC S. FRAHM, JOYCE CRAIG, and MATTHEW J. McNEILL,
Administrative Patent Judges.

CRAIG, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 10–13, 17, and 19–37. *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as CFPH, LLC. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The claims are directed to methods and systems that incorporate an order and/or quote engine that automatically adjusts bid, ask, or any other type of order prices to reflect some or all of the costs associated with a trade in an underlying item between a particular party receiving the order or orders and a particular counter-party or parties submitting the order or orders. Spec. ¶ 3. Claim 10, reproduced below, is illustrative of the claimed subject matter:

10. A method comprising:

receiving, by a processor, a request for market data on an item from a computing device associated with a first user;

receiving, by the processor, a request for market data on the item from a computing device associated with a second user;

retrieving, by the processor, market data for the item, the market data comprising a price associated with an order for the item;

retrieving, by the processor, user specific cost data associated with each of the first and second users;

determining, by the processor, a normalized price for the order for each of the first and second users based on the respective user specific cost data associated with each of the first and second users;

causing, by the processor, an interface screen to be displayed at the first and second user computing devices, the interface screen displayed for the first user comprising the normalized price for the first user and the interface screen displayed for the second user comprising the normalized price for the second user, wherein the normalized price for the first user differs from the normalized price for the second user;

wherein the market data comprises a price for each of a plurality of orders for the item;

wherein the method further comprises determining, by the processor, a normalized price for each of the plurality of orders for each of the first and second users;

wherein the interface screen displayed for the first user comprises a listing of the orders sorted by the normalized price, wherein the interface screen displayed for the second user comprises a listing of the orders sorted by the normalized price, and wherein the sorting for the first user differs from the sorting for the second user;

wherein the method further comprises refreshing and re-sorting, by the processor, the respective interface screens to reflect real time changes in the market data for the item; and

wherein the respective interface screens comprise at least one element therein for a user to alternatively re-sort the orders based on the non-normalized price and the normalized price.

REJECTION²

Claims 10–13, 17, and 19–38 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter. Final Act. 2–3.

ANALYSIS

Appellant argues that the Examiner’s rejection of claim 10 under 35 U.S.C. § 101 as directed to patent-ineligible subject matter is in error. Appeal Br. 6–15. To the extent Appellant has not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. 37 C.F.R. § 41.37(c)(1)(iv). Appellant argues claims 10–13, 17, and 19–37 as a group. Appeal Br. 13. Given our discretion under 37 C.F.R. § 41.37(c)(1)(iv), we decide the § 101 rejection of claims 10–13, 17, and 19–37 based on representative claim 10.

² In an Advisory Action, dated August 10, 2016, the Examiner withdrew a rejection of claim 38 under 35 U.S.C. § 112, second paragraph, because claim 38 was cancelled after the Final Action issued.

Principles of Law

“Whether a claim is drawn to patent-eligible subject matter is an issue of law that we review de novo.” *SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319, 1331 (Fed. Cir. 2010).

An invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101.

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

In determining whether a claim falls within an excluded category, we are guided by the Court’s two-part framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 219 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk.”); *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk.”).

Concepts determined to be abstract ideas, and thus patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)). Concepts determined to be patent eligible include physical and chemical processes,

such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1853))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Court held that “a claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (citation omitted) (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

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

requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

In January 2019, the U.S. Patent and Trademark Office (USPTO) published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“2019 Revised Guidance”).³ “All USPTO personnel are, as a matter of internal agency management, expected to follow the guidance.” *Id.* at 51; *see also* October 2019 Update at 1.

Under the 2019 Revised Guidance and the October 2019 Update, 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 a fundamental economic practice, or mental processes) (“Step 2A, Prong One”); 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 Two”).⁴

2019 Revised Guidance, 84 Fed. Reg. at 52–55.

³ In response to received public comments, the Office issued further guidance on October 17, 2019, clarifying the 2019 Revised Guidance. USPTO, *October 2019 Update: Subject Matter Eligibility* (the “October 2019 Update”) (available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf).

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* 2019 Revised Guidance - Section III(A)(2), 84 Fed. Reg. 54–55.

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

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

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

2019 Revised Guidance, 84 Fed. Reg. at 52–56.

Prima Facie Case

Appellant argues that the Examiner failed to make a prima facie case of subject matter ineligibility by overgeneralizing and ignoring certain claim elements. Appeal Br. 7–13.

We disagree. The procedural burden of establishing a prima facie case is carried when the rejection satisfies the requirements of 35 U.S.C. § 132. *In re Jung*, 637 F.3d 1356, 1363 (Fed. Cir. 2011). “Section 132 is violated when a rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection.” *Chester v. Miller*, 906 F.2d 1574, 1578 (Fed. Cir. 1990). That is, the Examiner must set forth the rejection’s statutory basis “in a sufficiently articulate and informative manner as to meet the notice requirement of § 132.” *Jung*, 637 F.3d at 1363.

This is not a case where the “rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection.” *Id.* at 1362. Rather, the Examiner has provided a rationale that identifies the abstract idea recited in the claim and why it is considered an

exception. *See* Final Act. 5–8. And Appellant clearly identifies the abstract idea identified by the Examiner. *See, e.g.*, Appeal Br. 9.

Accordingly, we are not persuaded that the Examiner has failed to set forth a prima facie case of patent ineligibility for representative claim 10.

Step 1

Claim 10, as a method claim, falls within the process category of § 101. *See* 2019 Revised Guidance, 84 Fed. Reg. at 53–54 (citing MPEP §§ 2106.03, 2106.06).

Step 2A(i): Does the Claim Recite a Judicial Exception?

The Examiner determined that claim 10 is directed to “transmitting data to conduct financial transactions,” which is a fundamental economic practice and, thus, an abstract idea. Final Act. 2–3. The Examiner identified the “receiving,” “retrieving,” “determining,” and “causing” steps as part of the recited abstract idea. *Id.* at 3.

Consistent with Appellant’s description of the claims (Spec. ¶ 3), we find that the limitations we summarize above describe transmitting data to conduct financial transactions, where the data includes a generated price that takes underlying costs into account, which is fairly characterized as a fundamental economic practice, and which falls into the certain methods of organizing human activity category of abstract ideas. *See* 2019 Revised Guidance, 84 Fed. Reg. at 52.

Appellant argues that the Examiner erred because the Examiner’s “generalized concept fails to even recognize that the claims are directed at orders presented at normalized prices.” Appeal Br. 9.

We are not persuaded that the Examiner erred. Our reviewing court has held similar fundamental economic business practices and methods of

organizing human activity to be abstract ideas, like a “method of pricing a product for sale” in *OIP*. See *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362 (Fed. Cir. 2015) (internal quotations and citation omitted. Like the fundamental economic practice of offer-based price optimization in *OIP*, Appellant’s claim 10 generates and displays price information. See *id.* Appellant’s arguments fail to demonstrate why the concept of generating and displaying prices based on user-specific cost data is dissimilar to other fundamental economic concepts found abstract by the Supreme Court and our reviewing court.

Moreover, at least the “determining . . . a normalized price” step, as recited in claim 10, recites a process that can be performed in the human mind or with pen and paper. The Office Guidance explains that “mental processes” include acts that people can perform in their minds or using pen and paper, even if the claim recites that a generic computer component performs the acts. See Guidance, 84 Fed. Reg. at 52 n.14 (“If a claim, under its broadest reasonable interpretation, covers performance in the mind but for the recitation of generic computer components, then it is still in the mental processes category unless the claim cannot practically be performed in the mind.”); see also *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016) (“[W]ith the exception of generic computer-implemented steps, there is nothing in the claims themselves that foreclose them from being performed by a human, mentally or with pen and paper.”), quoted in Office Guidance, 84 Fed. Reg. at 52 n.14.

Because we agree with the Examiner that the claim recites an abstract idea, we proceed to Prong Two of Step 2A to determine if the idea is

integrated into a practical application, in which case the claim as a whole would not be “directed to” merely an abstract idea.

Step 2A(ii): Judicial Exception Integrated into a Practical Application?

Because we determine that claim 10 recites a patent-ineligible concept, we next determine whether the recited judicial exception is integrated into a practical application of that exception by: (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception(s); and (b) evaluating those additional elements individually and in combination to determine whether they integrate the exception into a practical application.

We use the term “additional elements” for claim features, limitations, or steps that the claim recites beyond the identified judicial exception. *See* Revised Guidance at 55 n.24. In claim 10, the additional elements include the limitations “processor,” “interface screen,” and “user computer devices,” as well as the “receiving,” “retrieving,” “causing, by the processor, an interface screen to be displayed at the first and second user computing devices,” and “refreshing and re-sorting, by the processor, the respective interface screens to reflect real time changes in the market data for the item” limitations.

The Examiner determined that none of the additional elements is sufficient to amount to significantly more than the judicial exception because the additional generic computer elements do not add a meaningful limitation to the abstract idea. Final Act. 3; Ans. 16.

We agree with the Examiner. The use of generic computer elements like a processor, interface screen, or user computer device to perform conventional computer functions “do[es] not alone transform an otherwise

abstract idea into patent-eligible subject matter.” *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1096 (Fed. Cir. 2016) (citing *DDR Holdings v. Hotels.com*, 773 F.3d 1245, 1256 (Fed. Cir. 2014)). The Specification makes clear that the recited “processor” is a generic component performing known functions of receiving data, performing calculations using the input data, and outputting data. *See, e.g.*, Spec. ¶¶ 4, 19, 20. Similarly, the Specification describes generically that the “interface screen” displays data. *See, e.g.*, ¶¶ 4, 8. What data is displayed, and in what order, does not meaningfully limit the fundamental economic practice. The Specification also describes the “user computer devices” generically. *See* Spec. ¶¶ 19–20. The components, then, considered individually, do not link the abstract idea to a particular machine or technology or describe an improvement to the functioning of a computer.

The recited “receiving” and “retrieving” limitations amount to mere data gathering. These are common examples of inconsequential steps the courts have determined insufficient to render an otherwise ineligible claim patent-eligible. *See* MPEP § 2106.05(g); 2019 Revised Guidance, 84 Fed. Reg. at 55 n.31; *see also Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Can.*, 771 F. Supp. 2d 1054, 1066 (E.D. Mo. 2011), *aff’d*, 687 F.3d at 1266 (explaining that “storing, retrieving, and providing data . . . are inconsequential data gathering and insignificant post solution activity”). Similarly, the “causing” limitation, as recited in claim 10, is recited at a high level of generality and amounts to insignificant extra-solution activity. *See* 2019 Revised Guidance, 84 Fed. Reg. at 55; MPEP § 2106.05(g).

Appellant contends that the “causing” limitation combined with the last three “wherein” clauses of claim 10, which describe the order that

information is presented on the display and “refreshing and re-sorting, by the processor, the respective interface screens to reflect real time changes in the market data for the item” limitations, recite “significantly more” than the abstract idea. Appeal Br. 11.

Appellant, however, has not persuaded us that such limitations integrate the abstract idea into a practical application. Rather Appellant argues that “the lack of a prior art rejection indicates the claims must recite significantly more than ‘transmitting data to conduct financial transactions.’” *Id.*

Appellant’s prior art argument is not persuasive because the 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). Our reviewing court further guides that “[e]ligibility and novelty are separate inquiries.” *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1340 (Fed. Cir. 2017); *see also Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1263 (Fed. Cir. 2016) (holding that “[e]ven assuming” that a particular claimed feature was novel does not “avoid the problem of abstractness”).

In the Reply Brief, Appellant argues for the first time that the “causing” limitation, combined with the last three “wherein” clauses of claim 10, “improve computer performance by displaying on interface screens a listing of sorted orders and refreshing and re-sorting respective interface screens to reflect real time changes.” Reply Br. 3 (emphasis omitted). Appellant argues that “these techniques may help control activity over the network and control computer workload including computer

resources such as memory resources, processor resources, and network resources such as network bandwidth.” *Id.*

Appellant has waived these arguments because they were presented for the first time in the Reply Brief, without a showing of good cause. *See* 37 C.F.R. § 41.41(b)(2) (2012); *accord Ex parte Borden*, 93 USPQ2d 1473, 1473–74 (BPAI 2010 (informative opinion) (“[T]he reply brief [is not] an opportunity to make arguments that could have been made in the principal brief on appeal to rebut the Examiner’s rejections, but were not.”). The provisions of MPEP § 2106.05(a), entitled “Improvements to the Functioning of a Computer or To Any Other Technology or Technical Field,” on which Appellant’s arguments are based, have been used in determining patent eligibility well before the 2019 Revised Guidance issued and Appellant’s Appeal Brief was filed.

We note, however, that, while Appellant identifies paragraphs 29, 30, and 32 of the Specification as describing advantages (Reply Br. 4), Appellant fails to provide a citation to the Specification that provides sufficient details such that an artisan of ordinary skill would recognize the claimed invention as providing an improvement. *See* October 2019 Update at 12. Nor does Appellant identify any evidence that practicing the claimed invention conserves “memory resources, processor resources, and network resources such as network bandwidth,” as Appellant contends. It is well settled that mere attorney arguments and conclusory statements, which 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 Pearson*, 494 F.2d 1399, 1405 (CCPA 1974) (attorney argument is not evidence).

Appellant further argues that claim 10 is directed to an improved user interface that improves the efficiency of using electronic devices, as in *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1362 (Fed. Cir. 2018). Reply Br. 6.

We are not persuaded. In *Core Wireless*, the court stated that “[t]he disclosed invention improves the efficiency of using the electronic devices.” *Core Wireless*, 880 F.3d at 1363. However, the court also explained that “[w]e also ask whether the claims are directed to a specific improvement in the capabilities of computing devices” (*id.* at 1361), and then determine that “the claims are directed to an improvement in the functioning of computers” (*id.* at 1363). Thus, in *Core Wireless*, the improved efficiency of using the electronic devices was related to an identified improvement in the functioning of computers.

The claims here, however, do not recite an improvement in the functioning of computers or other technology. While a computer processor may provide a faster “real-time” graphical representation of data than a human performing calculations and manually providing data, the term “real-time” does not in itself demand a specific improvement in computer capabilities. That is, claim 10 does not embody a distinct computer process that enables a computer to perform a method differently than how the method would previously have been performed. *Cf. McRO, Inc. v. Bandai Namco Games Am.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016) (comparing a method for automatic lip sync animation of 3D characters that differed from the prior human method of animation to other cases “where the claimed computer-automated process and the prior method were carried out in the same way”). Here, the claim simply “includes instructions to implement an

abstract idea on a computer” and “does no more than generally link the use of a judicial exception to a particular technological environment or field of use.” 2019 Revised Guidance, 84 Fed. Reg. at 55.

By contrast, in *McRO*, the patent-eligible claim focused on a specific asserted improvement in computer animation. *McRO, Inc. v. Bandai Namco Games Am.*, 837 F.3d 1299 (Fed. Cir. 2016). The claims in *McRO* recited a “specific . . . improvement in computer animation” using “unconventional rules that relate[d] sub sequences of phonemes, timings, and morph weight sets.” *McRO*, 837 F.3d at 1302–03, 1307–08, 1314–15. In *McRO*, “the incorporation of the claimed rules, not the use of the computer,” improved an existing technological process. *Id.* at 1314. Appellant does not direct us to any evidence that the claimed steps correspond to unconventional rules.

Appellant further alleges claim 10 is patent-eligible because its practice does not preempt practice by others. Appeal Br. 12. While preemption may signal patent ineligible subject matter, the absence of complete preemption “does not demonstrate patent eligibility, . . . [w]here a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (“that the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract”); *see Ans.* 18–19.

Considering claim 10 as a whole, then, Appellant’s invention lacks a technical solution to a technical problem like the claims in these cases.

Claim 10 as a whole merely uses instructions to implement the abstract idea on a computer or, alternatively, merely uses a computer as a tool to perform the abstract idea. Here, the additional limitation(s) do not integrate the judicial exception into a practical application. More particularly, claim 10 does not recite (i) an improvement to the functionality of a computer or other technology or technical field (*see* MPEP § 2106.05(a)); (ii) a “particular machine” to apply or use the judicial exception (*see* MPEP § 2106.05(b)); (iii) a particular transformation of an article to a different thing or state (*see* MPEP § 2106.05(c)); or (iv) any other meaningful limitation (*see* MPEP § 2106.05(e)). *See* 84 Fed. Reg. at 55. Rather, claim 10 recites an abstract ideas as identified in Step 2A(i), *supra*, and none of the limitations integrates the judicial exception into a practical application.

Therefore, because the abstract idea is not integrated into a practical application, we conclude that the claim is directed to the judicial exception.

Step 2B — “Inventive Concept” or “Significantly More”

If the claims are directed to a patent-ineligible concept, as we conclude above, we proceed to the “inventive concept” step. For Step 2B we must “look with more specificity at what the claim elements add, in order to determine ‘whether they identify an “inventive concept” in the application of the ineligible subject matter’ to which the claim is directed.” *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1258 (Fed. Cir. 2016) (quoting *Elec. Power Grp.*, 830 F.3d at 1353). We look to see whether there are any “additional features” in the claims that constitute an “inventive concept,” thereby rendering the claims eligible for patenting even if they are directed to an abstract idea. *Alice*, 573 U.S. at 221. Those “additional

features” must be more than “well-understood, routine, conventional activity.” *Mayo*, 566 U.S. at 79.

Appellant does not direct our attention to anything in the Specification that indicates the computer components perform anything other than well-understood, routine, and conventional functions, such as receiving data, looking up data in a database, attempting to execute commands, and storing data in a database. *See buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (“That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive”); *In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 614 (Fed. Cir. 2016) (server that receives data, extracts classification information from the received data, and stores the digital images insufficient to add an inventive concept); *Alice*, 573 U.S. at 225-26 (receiving, storing, sending information over networks insufficient to add an inventive concept).

Because the Specification describes the additional elements in general terms, without describing the particulars, we conclude the claim limitations may be broadly but reasonably construed as reciting conventional computer components and techniques, particularly in light of Appellant’s Specification, as cited above. *See Berkheimer Memo*⁵ § III.A.1; Spec. ¶¶ 4, 8, 19, 20. We conclude claim 10 does not have an inventive concept because

⁵ “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*)” at 3 (Apr. 19, 2018) (explaining that a specification that describes additional elements “in a manner that indicates that the additional elements are sufficiently well-known that the specification does not need to describe the particulars of such additional elements to satisfy 35 U.S.C. § 112(a)” can show that the elements are well understood, routine, and conventional).

the claim, in essence, merely recites various computer-based elements along with no more than mere instructions to implement the identified abstract idea using the computer-based elements.

Because claim 10 is directed to a judicial exception, without significantly more, we sustain the Examiner's § 101 rejection of independent claim 10 and grouped claims 11–13, 17, and 19–38, not argued separately with particularity.

DECISION

We affirm the decision of the Examiner rejecting claims 10–13, 17, and 19–38.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
10–13, 17, 19–38	101	Eligibility	10–13, 17, 19–38	

TIME PERIOD FOR RESPONSE

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

AFFIRMED