UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte TONYA LADERER and JOHN LADERER

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Appeal 2019-004163
Application 15/604,056
Technology Center 3600

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Before JEFFREY N. FREDMAN, DEBORAH KATZ, and JOHN G. NEW,
Administrative Patent Judges.

FREDMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal[1,2] under 35 U.S.C. § 134(a) involving claims to a
workflow management platform for processing commercial advertising work
orders. The Examiner rejected the claims as obvious and as reciting non-
statutory subject matter. We have jurisdiction under 35 U.S.C. § 6(b). We
affirm.

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[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
vCreative, Inc. (*see* Appeal Br. 2).
[2] We have considered and herein refer to the Specification of Jan. 11, 2018
("Spec."); Final Office Action of Mar. 2, 2018 ("Final Act."); Appeal Brief
of Jan. 28, 2019 ("Appeal Br."); Examiner's Answer of Mar. 7, 2019
("Ans."); and Reply Brief of May 6, 2019 ("Reply Br.").

Statement of the Case

Background

"Commercial advertising is a form of communication used to inform and persuade an audience . . . to take action with respect to goods, services, or brands" (Spec. 2:1–3). "The creation and production of commercial advertising work orders . . . traditionally involves a paper-laden workflow process wherein a wide variety of paperwork forms are completed by hand, then submitted as a paper copy as it passes through various stages of the sales, promotion, creative, and production processes" (*id.* at 2:11–14). "[T]here exists a need in the art for an improved, internet-based work order and resource management/sharing system specifically adapted for submission, tracking, collaboration, centralization, archiving, and an overall non-linear workflow method to facilitate the creation and production of commercial advertising work orders" (*id.* at 7:2–5). "The present invention overcomes the limitations and disadvantages present in the art by providing a role-based workflow management platform which is accessed via a global computer network, namely the internet" (*id.* at 7:8–10).

The Claims

Claims 1, 3, 5, and 6 are on appeal.[3] Independent claim 1 is representative. Claim 1 is reproduced below, reformatted for clarity, and with bracketed letters added to identify certain language:

> 1. A non-transitory computer-readable medium storing a database-powered, programmatic application executed on a computer in conjunction with an internet-based application executed on the computer that provides a workflow management platform for creating, producing, and scheduling a commercial advertisement from any location over a global

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[3] Claims 2 and 4 were cancelled in the After-Final Amendment June 1, 2018.

computer network, wherein the programmatic application executes operations comprising:

    [a]   providing a work order generation interface that receives information relating to the creation of the commercial advertisement, and using the work order generation interface to generate a work order for the commercial advertisement, and designating at least a first user;

    [b]   displaying an inbox and folder interface that displays information relating to work orders, and permitting the first user to access the inbox and folder interface;

    [c]   providing a search and sort interface that provides the ability to further filter and sort the results of a folder to efficiently and accurately locate work order(s) required by a user;

    [d]   providing a talent search interface that provides intuitive, rapid search functionality to locate available and suitable talent for the purposes of procuring a performance, wherein said talent search interface is capable of filtering and searching for voice performers based on matching categories, groups, and criteria/attributes;

    [e]   providing a history interface that lists past actions relating to said work order, including the name of the person, date/time, and description of action(s) taken; and

    [f]   providing a customer relationship management interface that logs and tracks customer interactions and relationship actions.

(Claims App.).

The Rejections

A.   The Examiner rejected claim 1 under 35 U.S.C. § 103(a) as obvious over the combination of Humble,[4] Cohen,[5] and Hengel[6] (Final Act. 16–41).

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[4] Humble et al., US 2005/0261955 A1, published Nov. 24, 2005.
[5] Cohen et al., US 2006/0106675 A1, published May 18, 2006.
[6] Hengel et al., US 2008/0109305 A1, published May 8, 2008.

B.   The Examiner rejected claims 3, 5, and 6 under 35 U.S.C. § 103(a) as
obvious over the combination of Humble, Cohen, and Sayal[7] (Applicant
Admitted Prior Art) (Final Act. 41–45).

C.   The Examiner rejected claims 1, 3, 5, and 6 under 35 U.S.C. § 101 as
directed to an abstract idea (Final Act. 3–16).

A. & B.   35 U.S.C. § 103(a)

Because both of these rejections rely on the same combination of
references (Humble and Cohen), we will consider these rejections together.

The Examiner finds Humble teaches software for an advertising
agency to create a digital job jacket for all forms, contracts, and talent detail
for a broadcast production (*see* Final Act. 16–17). The Examiner finds
Humble teaches all of the limitations of claim 1 except for: (1) a computer
readable medium/memory, (2) displaying an inbox and folder interface and
permitting the first user to access the inbox, (3) providing a talent search
interface capable of filtering and searching for voice performers based on
matching categories, and (4) providing a customer relationship management
interface that logs and tracks customer interactions (*id.* at 16–23).

The Examiner finds Cohen teaches an electronic marketplace to
facilitate human performance tasks including software saved on a computer-
readable medium or memory (*id.* at 18–19). The Examiner finds Cohen
further teaches: 1) sending task performance results by email to authorized
users (*id.* at 20), 2) a search interface for identifying and filtering performers
by required qualifications (*id.* at 20–21), and 3) tracking a variety of
customer relationship actions in an database (*id.* at 23). The Examiner finds

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[7] Sayal et al., US 2003/0083910 A1, published May 1, 2003.

Hengel teaches a database for searching for live performers using voice-characteristic search parameters (*id.* at 21–22).

The Examiner finds a person of ordinary skill in the art would have been motivated to improve Humble's system with the functionalities taught by Cohen and Hengel (*see id.* at 23–25). The Examiner concludes that

> Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system and method of creating a job production file in Humble to further provide the ability to search for information as disclosed in Cohen, and explicitly search by voice characteristics as disclosed in Hengel since the claimed invention is merely a combination of old elements, and in combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable

(*id.* at 26).

The issue with respect to this rejection is: Does the evidence of record support the Examiner's conclusion that Humble, Cohen, Hengel, and Sayal render the claims obvious?

Findings of Fact ("FF")

1.   Humble teaches an Internet-based system for generating, organizing, managing, and facilitating the talent-related details of each phase of broadcast production by generating, storing, processing, and making accessible talent information to the various entities involved in the production process (Humble ¶ 22).

2.   Humble teaches "software will be provided that will be operative to generate and allow for the preparation for all contracts and forms associated with a specific broadcast production . . . such software will

be operative to create and allow for the input of data for each and every contract and form as may be required to hire performers for a given production" (Humble ¶ 14).

3.   Humble teaches "an advertising agency[ ] that is primarily responsible for the broadcast production will utilize the software to create a digital job jacket for all forms, contracts, and talent detail for the entire production. Such software will be made available to the production companies and casting agencies" (Humble ¶ 14; claim 3).

4.   Humble teaches a database accessible by "personal computers to gain access to the various contracts and standardized forms **206** utilized in relation to obtaining, tracking and processing performer talent information" (Humble ¶ 23).

5.   Humble teaches conventional methodologies for providing secured or limited access to users over a computer network, monitored by a system administrator (Humble ¶ 26).

6.   Humble teaches "the process is initiated by creating a new job/product file and thereafter assigning a file number and password(s) for the various entities that will be involved in a specific production." The system also provides audition report **208** to be completed online by a casting company (Humble ¶ 29).

7.   Cohen teaches electronic marketplace software for facilitating task performance. The software

> may track the progression of the tasks through various states (e.g., an "open" state for tasks that are available to be performed, an "assigned" state for each assignment of a task to one or more task performers, a "completed" state for an assignment after the task performer provides the results of performance of the task, etc.), and may further take various

actions corresponding to the tasks. In addition, in some
embodiments a task requester user may impose various criteria
regarding performance of a task (e.g., required and/or preferred
qualifications for task performers, time limits for task
completion, etc.) and/or may specify various actions associated
with task performance (e.g., payment of a specified fee under
specified conditions), and if so the electronic marketplace may
enforce those criteria and initiate those actions as appropriate
for the task

(Cohen ¶ 25).

8.   Cohen teaches the "system tracks information about the current
status of tasks, such as by updating information **145** about available tasks,
and stores results **150** from the performance of tasks that are received via
interface **135***b*." Task requesters may interact with interactive console **140***a*
to review results, or may receive the results email (Cohen ¶ 36).

9.   Cohen teaches "task requesters interact with the electronic
marketplace in a programmatic manner, such as by invoking defined
[application program interfaces] (APIs) of the marketplace (e.g., APIs based
on Web services provided by the electronic marketplace) to send messages
that request or supply information" (Cohen ¶ 27).

10.   Cohen teaches

The defined APIs may allow the task requesters to not only
submit tasks that are available to be performed, but also to
perform various other actions with respect to previously
submitted tasks (e.g., check on the status of pending tasks,
modify information about pending tasks, submit instructions
regarding handling of pending tasks, and interactively obtain
results for completed tasks)

(Cohen ¶ 27).

11.   Cohen teaches the system may include "Activity Tracking Manager module **138** that tracks a variety of types of activities [] and stores the tracked information in an activity log database," "Notification Manager module **139** that provides notifications to users," "Reward Manager module **142** that tracks information about compensation," and "Accounting Manager module **141** to perform various administrative functions" (Cohen ¶ 47).

12.   Cohen teaches searching a database for qualifications of task performers, including permissions, nicknames, pricing, qualification values, completion rates, and location (*see* Cohen ¶¶ 104–116).

13.   Cohen teaches "the system further provides functionality to assist in authenticating or otherwise corroborating information about users, such as identities of users, specified qualifications of users, and other kinds of attributes of users" (Cohen ¶ 117).

14.   Cohen teaches "tasks may be submitted by one or more task requesters for performance by a group of multiple task performers" (Cohen ¶ 140).

15.   Hengel teaches a database for searching "for live performers that have voice characteristics similar to those specified. Live performers are typically voice-over artists that can professionally read an advertisement script for a broadcast medium" (Hengel ¶ 59, Figure 7).

16.   Hengel teaches search parameters may include voice characteristics such as "male," "Brooklyn accent," and "youthful" (Hengel ¶ 44).

17.   Sayal teaches a "system for integrating workflow management systems (WfMSs) with business-to-business interaction standards" (Sayal ¶ 35).

18.   Sayal teaches "[a]n important step in the integration of interaction standards to a workflow management system of according to the present invention is the generation of templates in three detail levels: 1) process, 2) service, and 3) XML document formats" (Sayal ¶ 114).

Principles of Law

"The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007).

Analysis

We adopt the Examiner's findings of fact and reasoning regarding the scope and content of the prior art (Final Act. 16–45; FF 1–18) and agree that the claims are obvious over Humble, Cohen, Hengel, and Sayal. We address Appellant's arguments below.

Appellant argues that the prior art does not teach "that the work order generation interface is used to generate a work order for the commercial advertisement" (*see* Appeal Br. 16). Appellant contends Humble uses a "job record" for accounting and compensation purposes (*id.* at 17). Appellant argues that Humble's creating a new job/production file does not meet the limitation of generating a work order (*id.*). Appellant argues that Cohen and Hengel "do not overcome the deficiencies of Humble" (*id.*).

With respect to claim 3, Appellant contends that Humble's "digital job jacket for all forms, contracts, and talent detail," refers to forms "for hiring performers and for union purposes" (*id.* at 18). Appellant argues that Humble's forms, contracts, and talent detail "do not meet the work order of claim 3 . . . generated by using a work order creation screen" (*id.*). Appellant applies the same argument as to claims 5 and 6 (*id.* at 19).

We find these arguments unpersuasive. Although Appellant argues that the prior art does not teach the step of using a work order interface to generate a work order for a commercial advertisement, Appellant does not explain what features distinguish the claimed limitations from the prior art. Because, the plain and ordinary meaning of generating a work order appears to be taught by the prior art, we review the Specification for some limiting definition of "work order for commercial advertisement."

The Specification defines the term "commercial advertisement" as "any form of an advertisement, promotion, or campaign of a production or service that is broadcast, transmitted, or embedded within or on any platform or medium" (Spec. 7:15–16). The Specification describes conventional "commercial advertising work orders" as including a wide variety of paperwork forms filled out by hand (*id.* at 2:11–14; 3:12–20). In contrast, the claimed work order interface may include "a screen display for a typical work order for initial data entry" (*id.* at 23:20–21; *see* Fig. 4). The work order interface may include various constant data fields, e.g., client name, work order title, international standardization commercial identifier (ISCI) code, sales person of contact (POC), sold state, initial workflow status, and ad type (*id.* at 23:20–24:2). Variable data fields differ depending on the applied industry, and may include length, rotation percentage, due date, run dates, and time of day (*id.* at 23:3–8). "Work orders may also capture a client email address 436, one or more stations 438 for broadcast, and files 448 relevant to the work order" (*id.* at 24:9–16). The Specification acknowledges that the prior art teaches generating a work order in a database to produce a recorded announcement (*see id.* at 4:6–11).

The Specification does not include any limiting definition of "work order for commercial advertisement" outside of its plain and ordinary meaning. "[W]hile it is true that claims are to be interpreted *in light of* the specification and with a view to ascertaining the invention, it does not follow that limitations from the specification may be read into the claims." *Sjolund v. Musland*, 847 F.2d 1573, 1581 (Fed. Cir. 1988). Accordingly, we compare the broadest reasonable interpretation of the claims to the prior art. "[D]uring examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification." *In re Hyatt,* 211 F.3d 1367, 1372 (Fed. Cir. 2000).

Humble teaches software for inputting data for contracts and forms required for a given broadcast production (FF 2). Humble teaches that an advertising agency is responsible for the broadcast production, therefore, the production may be a commercial advertisement (FF 3). The agency will create a digital job jacket for all forms and contracts, and the digital job jacket is available to production companies and casting agencies (*id.*). Humble teaches initiating the process by creating a new job/production file (work order) (FF 6). The production file may include a file number (work order title), passwords for various entities (points of contact), and audition report (workflow status), among other types of information (*id.*).

Likewise, Cohen teaches software with application program interfaces for requesting tasks from task performers (work orders) (FF 7–10). The interfaces may include inputs for various data fields necessary to complete the tasks, and may track the actions of the various parties performing the tasks (*see* FF 11–14).

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The combined prior art teaches software for initiating a broadcast production by an advertising agency through an interface for inputting data and creating electronic forms. Accordingly, we agree with the Examiner that the combined prior art reasonably suggests "providing a work order generation interface that receives information relating to the creation of the commercial advertisement, and using the work order generation interface to generate a work order for the commercial advertisement," and the corresponding limitations of claims 3 and 5. "In determining whether obviousness is established by combining the teachings of the prior art, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art." *In re GPAC Inc.*, 57 F.3d 1573, 1581 (Fed. Cir. 1995) (internal quotations omitted).

Conclusion of Law

A preponderance of the evidence of record support the Examiner's conclusion that the combined prior art renders the claims obvious.

C. 35 U.S.C. § 101

The Examiner finds the claims recite multiple abstract ideas including: 1) *"collecting information, analyzing it, and displaying certain results of the collection and analysis,"* 2) "providing restricted access to resources," and 3) "'certain methods of organizing human activity' as it covers the management of business relations or relationships between people" (Ans. 4, 6–7). The Examiner further finds that "[t]here appears to be little, if any technological aspects to how these limitations are

functionally performed . . . and it is still akin to applying and implementing the abstract idea on a computer" (*id.* at 7).

> Appellant contends
>
> the claims on appeal do not recite a mathematical concept, a mental process, or any of the "[c]ertain methods of organizing human activity." The claims do not recite a fundamental economic principle or practice, a commercial (or legal) <u>interaction</u>, or management of personal behavior or relationships or interactions between people.

(Reply Br. 2).

Principles of Law

An invention is patent-eligible if it claims a "new and useful process, machine, manufacture, or composition of matter." 35 U.S.C. § 101. However, the 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 therefore 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) and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (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)) or software "purporting to improve the functioning of the computer itself" (*Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016)).

If the claim is "directed to" an abstract idea, we turn to the second step 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.*

The United States Patent and Trademark Office published revised guidance on the application of 35 U.S.C. § 101. USPTO's *2019 Revised Patent Subject Matter Eligibility Guidance* ("Revised Guidance").[8] Under the Guidance, in determining what concept the claim is "directed to," we first look to whether the claim recites:

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[8] 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50–57 (January 7, 2019).

(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) ("Guidance 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) ("Guidance Step 2A, Prong 2").

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look, whether the claim contains an "'inventive concept' sufficient to 'transform'" the claimed judicial exception into a patent-eligible application of the judicial exception. *Alice*, 573 U.S. at 221 (quoting *Mayo*, 566 U.S. at 82). In so doing, we thus, consider 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.

(Guidance Step 2B). *See* Guidance, 84 Fed. Reg. at 54–56.

Analysis

Applying the Revised Guidance to the facts on this record, we find Appellant's claims 1, 3, 5, and 6 are directed to patent-ineligible subject matter. Because the same issues are present in each of the claims, we focus our consideration on representative claim 1. The same analysis applied below to claim 1 also applies to the other rejected claims.

A.   Guidance Step 1

We consider whether the claimed subject matter falls within the four statutory categories set forth in § 101, namely "[p]rocess, machine, manufacture, or composition of matter." Guidance 53–54; *see* 35 U.S.C. § 101. Claim 1 recites a "medium," claim 3 recites a "method," and claim 5 recites "system" and, thus, fall within the "composition of matter," "process," and "machine," categories respectively. Consequently, we proceed to the next step of the analysis.

B.   Guidance Step 2A, Prong 1

The Revised Guidance instructs us first to determine whether any judicial exception to patent eligibility is recited in the claim. The Revised Guidance identifies three judicially-excepted groupings identified by the courts as abstract ideas: (1) mathematical concepts, (2) certain methods of organizing human behavior such as commercial or legal interactions, and (3) mental processes.

Claim 1 reasonably falls within two of the three of the judicially-excepted groupings listed in the Revised Guidance: fundamental economic practices involving business relations and mental processes.

Claim 1 is drawn to software (programmatic application executed on a computer) to facilitate workflow for producing a commercial advertisement. The application provides interfaces for a user to search for talent and log and track customer interactions (*see* Claim 1 [a], [d], [f]). This is reasonably understood as a fundamental economic practice, traditionally performed by a several interdependent parties as "a paper-laden workflow process wherein a wide variety of paperwork forms are completed by hand" (Spec. 2:11–13). According to the Specification, inefficient paper-based workflow

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"introduces further complications when completed advertisements must be approved by the buyer or advertiser," thus, directly implicating business relations between producers and buyers of commercial advertisements (*id.* at 3:2–5).

Moreover, the Specification states that, for previous work orders, "the many steps and persons involved directly increases the potential for human error (missing a submission deadline/cutoff, forgetfulness to pass work orders on to the next step in a workflow, relevant emails being marked as spam - thereby going unnoticed, or simply misplacing a paper copy of a work order)" (*id.* at 3:16–20). In other words, the Specification describes the various mental processes performed by the human mind that are replaced by the claimed workflow platform. For example, the platform replaces mental processes with an inbox and folder interface, search and sort interface, and history interface (*see* Claim 1, [b], [c], [e]). Accordingly, we conclude that the steps of claim 1 recite the judicial exceptions of fundamental economic practices and mental processes.

Appellant contends claim 1 does not recite a mathematical concept or a mental process (Appeal Br. 7). Appellant contends claim 1 does not recite "advertising," but rather "creating, producing and scheduling a commercial advertisement," which is a product itself (*id.*). Appellant argues that this is not a commercial interaction or legal interaction, and thus not a fundamental economic practice (*id.*).

We find this argument unpersuasive. We find the instant claims similar to those in *Credit Acceptance*, in which the Federal Circuit held that claims directed to a method of "processing an application for financing a purchase" did not satisfy *Alice* step one as the "specification itself

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demonstrate[d] that processing an application for financing a purchase is a fundamental economic practice long prevalent in our system of commerce.'" *See Credit Acceptance Corp. v. Westlake Servs.,* 859 F.3d 1044, 1054 (Fed. Cir. 2017). In *Credit Acceptance*, our reviewing court found that "mere automation of manual processes using generic computers does not constitute a patentable improvement in computer technology." *Id.* at 1055. The instant claim 1 is similar because claim 1 uses computers to automate manually-performed paper-based interactions for creating, producing, and scheduling a commercial advertisement.

Guidance Step 2A, Prong 2

Having determined that the claims recite a judicial exception, the Revised Guidance directs us to next consider whether the claims integrate the judicial exception into a practical application. Guidance Step 2A, Prong 2. "[I]ntegration into a practical application" requires that the claim recite an additional element or a combination of elements, that when considered individually or in combination, "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 judicial exception." Guidance at 54.

Appellant contends "the claim as a whole integrates any such judicial exception into a practical application" (Appeal Br. 8). Appellant contends "claim 1 integrates 'scheduling a commercial advertisement' into a practical application by combining it with a number of specific, practical steps ('displaying an inbox and folder interface,' 'designating at least a first user,' 'permitting the first user to access the inbox and folder interface,' and others)" (*id.*). Moreover, Appellant contends "the claim should not be said

to be directed merely to 'collecting information, analyzing it, and displaying it,' because the claim also refers to the concrete, physical step of 'permitting the first user [the same user who is designated in the recited designating step] to access the inbox and folder interface,' among other things" (*id.* at 11).

We find these arguments unpersuasive. "[T]he Alice inquiry . . . asks whether the focus of the claims is on the specific asserted improvement in computer capabilities . . . or, instead, on a process that qualifies as an 'abstract idea' for which computers are invoked merely as a tool." *Credit Acceptance*, 859 F.3d at 1055 (citing *Enfish*, 882 F.3d at 1335–36). Claim 1 is plainly of the second category, wherein the process as a whole is directed to an abstract idea, and the recited generic computer elements, e.g., inbox, interface, and user permissions, are invoked merely as tools for performing the abstract idea. *See id.*

Likewise, the step of permitting user access to an inbox and folder interface is not "a concrete physical step," apart from the abstract idea. Our reviewing court has found that claims reciting similar rules for the administrative review and processing of gated messages to be abstract ideas without a practical application. *See Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016). As applied to the instant claims, "with 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." *Id.*

Appellant contends that claim 1 "imposes meaningful limits on scheduling a commercial advertisement," and "would in no way monopolize scheduling a commercial advertisement" by controlling access to a

designated user (Appeal Br. 8, emphasis omitted). In other words, Appellant argues that the claim would not preempt other methods for scheduling a commercial advertisement.

We find Appellant's argument unpersuasive. While preemption is a concern underlying the judicial exceptions, it is not a stand-alone test for determining eligibility. *Rapid Litig. Mgmt. v. CellzDirect, Inc.*, 827 F.3d 1042, 1052, (Fed. Cir. 2016). "[W]e have consistently held that claims that are otherwise directed to patent-ineligible subject matter cannot be saved by arguing the absence of complete preemption." *Return Mail, Inc. v. United States Postal Service*, 868 F.3d 1350, 1370 (Fed. Cir. 2017).

C.   *Guidance Step 2B*

Having determined that the judicial exception is not integrated into a practical application, the Revised Guidance requires us to evaluate the additional elements individually and in combination to determine whether they provide an inventive concept, such as a specific limitation beyond the judicial exception that is not well-understood, routine, conventional in the field, or simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception. *See* 84 Fed. Reg. 51.

The Examiner has provided abundant evidence, particularly in the obviousness analysis, demonstrating that both the process steps and the structural components of the claim were well-understood, routine, conventional activities previously known to the industry (*see* FF 1–18). Indeed, the Specification itself states that workflow management systems for facilitating and promoting creative works were well-known (Spec. 4:6– 6:24). Because we affirmed the Examiner's obviousness rejection for the

reasons given above, we also rely on the evidence relied upon in that determination to show that the claim elements were well-understood, routine, and conventional.

The rejection of the claims under 35 U.S.C. § 101 is affirmed.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1	103(a)	Humble, Cohen, Hengel	1	
3, 5, 6	103(a)	Humble, Cohen, Sayal	3, 5, 6	
1, 3, 5, 6	101	Eligibility	1, 3, 5, 6	
Overall Outcome			1, 3, 5, 6	

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

AFFIRMED