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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte FATEN “FAY” HELLAL, FLETCHER JONES,
KAMAL ACHARYA, PETER GREMETT,
JAI-JEN CHANG, and MATTHEW CRAMPTON¹

Appeal 2019-004211
Application 13/620,510
Technology Center 3600

Before ULRIKE W. JENKS, JOHN G. NEW, and
MICHAEL A. VALEK, *Administrative Patent Judges*.

NEW, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ We use the term “Appellant” to refer to the “applicant” as defined in 37 C.F.R. § 1.142. Appellant identifies Facebook, Inc. as the real party-in-interest. App. Br. 1.

SUMMARY

Appellant files this appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 32–35, 37, 40–44, 46–49, and 51–57 as unpatentable under 35 U.S.C. § 101 as being directed to nonstatutory subject matter.

We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

NATURE OF THE CLAIMED INVENTION

Appellant's claimed invention is directed to a method that provides an Internet wish list for deferred purchasing. Abstr.

REPRESENTATIVE CLAIM

Claim 1 is representative of the claims on appeal and recites:

1. A method comprising:

maintaining, at a server, an electronic list associated with a user, wherein the electronic list includes a plurality of items added to the electronic list from different websites for deferred purchasing that the user is interested in, and wherein each of the plurality of items is linked with an associated product information page from a respective website;

identifying, using at least one processor and for each of the plurality of items in the electronic list, a stock keeping unit that identifies each respective item irrespective of which website an item is from;

providing, using the at least one processor, an option for the user to share the electronic list with one or more additional users;

providing a viewable user profile associated with the user to at least one other user;

utilizing, for each of the plurality of items in the electronic list, the stock keeping unit to validate a corresponding product information page for the item;

providing, to the at least one other user and using the at least one processor, access to the electronic list by way of the viewable user profile associated with the user; and

presenting the electronic list to the at least one other user.

App. Br. 17.

ISSUES AND ANALYSES

We adopt the Examiner's findings, reasoning, and conclusion that the claims on appeal are directed to nonstatutory subject matter. We address the arguments raised by Appellant below.

Issue 1

Appellant argues that the Examiner erred in finding that independent claims 1, 41, and 46 are directed to nonstatutory, and therefore patent—ineligible, subject matter.² App. Br. 6, 12.

² Appellant makes no arguments in the Appeal Brief concerning dependent claims 32–35, 37, 40, 42–44, 47–49, and 51–57. We therefore consider these claims as standing or falling with claims 1, 41, and 46, from which they severally depend.

Analysis

The Examiner first finds that the claims are directed to one of the four statutory categories of invention. Final Act. 3. The Examiner also finds, however, that the claims are directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without adding significantly more. *Id.*

Specifically, the Examiner finds that claims 1, 41, and 46 are directed to maintaining a list of items for deferred purchase by a user, identifying a stock keeping unit (“SKU”) for each item in the list, and sharing the list with at least one other user. Final Act. 3. The Examiner finds that these claims are directed to the abstract idea of collecting information (*viz.*, a list of items), analyzing it (i.e., identifying a SKU for each item), and displaying certain results of the collection and analysis (i.e., sharing the list with at least one other user). *Id.* The Examiner finds that the independent claims are directed to an abstract idea similar to that at issue in *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350 (2016) (i.e., collecting information, analyzing it, and displaying certain results of the collection and analysis) and that Appellant’s claims are therefore similarly directed to “a method of organizing a human activity.” *Id.*

The Examiner further finds that the claims also recite “providing a viewable user profile” and “utilizing ... the stock keeping unit to validate a corresponding product information page.” Final Act. 3. The Examiner finds that these limitations are directed to obtaining and comparing intangible data, and thus are directed to an abstract idea similar to that at issue in *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366 (2011), i.e., obtaining and comparing intangible data. *Id.* The Examiner finds that a

stock keeping unit (“SKU”) is nothing more than data, and that using such data to validate other data amounts to no more than obtaining and comparing intangible data. *Id.* at 4.

The Examiner next turns to an analysis of whether the claims recite additional limitations that amount to significantly more than the abstract idea. Final Act. 4. The Examiner finds that claims 1, 32–35, 37, 40, and 51–57 recite the additional limitations of a processor and a profile. *Id.* The Examiner finds that a “processor” is a generic computer component that performs the basic function of processing and storing data through a program that implements the abstract idea. *Id.* The Examiner finds that a “profile” is a collection of data, and that the use of a profile is routine and conventional in the art. *Id.*

The Examiner finds that claims 41–44 and 46–49 recite the additional limitations of a processor, a computer medium and a profile. Final Act. 4. The Examiner finds that a processor and a computer medium are generic computer components that are claimed to perform their basic functions of processing and storing data through a program that implements the abstract idea. *Id.* The Examiner finds that a profile is a collection of data, and the use of profiles is routine and conventional in the art. *Id.*

The Examiner further finds that claims 1, 32–35, 37, 40–44, 46–49, and 51–57 also recite the additional limitation of an electronic list that includes items added from different websites. Final Act. 4. The Examiner finds that this limitation is routine and conventional. *Id.* at 4–5. In support of this finding, the Examiner cites M. Masterson, *BuyWiz Unveils Universal Shopping Cart*, E-COMMERCE GUIDE 1–2 (1999), downloaded from: http://ecommerce.intemet.com/opinions/print/0.1282.3551_187441.00.html

(“Masterson”). *Id.* at 5. The Examiner finds that Masterson teaches that BuyWiz unveiled a universal shopping cart that allowed a shopper to add items from different websites to a single shopping cart. *Id.*

The Examiner concludes that, taking the additional elements individually, the computer components perform purely generic computer functions, and that, taking the additional elements in combination, the claims as a whole are directed to an abstract idea that is implemented using generic, routine and conventional computer components. Final Act. 5. The Examiner therefore concludes that there is no inventive concept sufficient to transform the claimed subject matter into a patent-eligible application, because the claim does not amount to significantly more than the abstract idea itself. *Id.*

The Examiner also concludes that, when considered separately and as an ordered combination, the claim elements do not: (1) provide an improvement to another technology or technical field; do not provide an improvement to the functioning of the computer itself; (2) do not apply the judicial exception by use of a particular machine; (3) do not effect a transformation or reduce a particular article to a different state or thing; and (4) do not add a specific limitation other than what is well-understood, routine and conventional in the operation of a generic computer. Final Act. 5.

Appellant argues that, applying the first step of the analysis set forth by the Supreme Court in *Alice Corp. Pty. Ltd. v. CLS Bank Intern.*, 573 U.S. 208 (2014), the claims are directed to an improvement in computer functionality in a manner similar to that of the claims found to be patent eligible in *Core Wireless Licensing S.A.R.L. v. LG Electronics, Inc.*, 880

F.3d 1356 (Fed. Cir. 2018). App. Br. 6. According to Appellant, in *Core Wireless*, the claims were directed to an improved user interface that implemented a particular manner of accessing data and application functionality on electronic devices. *Id.* (citing *Core Wireless*, 880 F.3d at 1359).

Specifically, Appellant argues, the claims in *Core Wireless* recited an “application summary” that provides access to a limited list of data offered within one or more applications, and where the application summary is displayed when the one or more applications are in an “unlaunched state.” *Id.* at 7 (citing *Core Wireless*, 880 F.3d at 1359). Appellant contends that the claims on appeal in *Core Wireless* recited limitations that addressed specific problems existing in conventional user interfaces, including providing the application summary that enabled a user to access data or functionality of unlaunched applications. *Id.* Appellant asserts that the claims in *Core Wireless* were directed to an improvement over conventional systems that required users “to scroll around and switch views many times to find the right data/functionality.” *Id.* (citing *Core Wireless*, 880 F.3d at 1359). Appellant notes that the *Core Wireless* patent explained that prior conventional user interfaces required users “to drill down through many layers to get to desired data or functionality,” thus resulting in a process that could “seem slow, complex, and difficult to learn.” *Id.* (citing *Core Wireless*, 880 F.3d at 1363). Therefore, Appellant argues, the claimed invention in *Core Wireless* permitted a user to access the data or functionality of an unlaunched application directly from the recited application summary, which resulted in a computer navigation improvement

that “is far faster and easier than conventional navigation approaches.” *Id.* at 7–8 (citing *Core Wireless*, 880 F.3d at 1359, 1365–66).

Appellant contends that, in holding that the *Core Wireless* claims were patent eligible, the Federal Circuit explained that, because the claimed invention increased the speed and ease that a user could navigate to data and functionality “improves the efficiency of using [an] electronic device.” App. Br. 8 (citing *Core Wireless*, 880 F.3d at 1363). Appellant argues that the Federal Circuit held the claims to be patent eligible because the claimed invention efficiently and easily “allows the user to see the most relevant data or functions,” and therefore, the claimed invention improved the “speed of a user's navigation through various views and windows” by reducing the number of steps needed to access the desired data or functionality. *Id.*

Similarly, Appellant argues, the claims presently on appeal improve the functioning of computers by increasing the ease and efficiency of user navigation in accessing data and functionality related to digital online shopping lists. App. Br. 8. Appellant points to the Specification as explaining that shopping lists of conventional systems work only on single websites and therefore require users to maintain and navigate between multiple shopping lists. *Id.* (citing Spec. 2). Appellant asserts that, as in the prior art in *Core Wireless*, conventional shopping list systems require the user “to scroll around and switch views many times to find the right data/functionality,” or “to drill down through many layers to get to desired data or functionality,” and provide a process that is “slow, complex, and difficult to learn.” *Id.* at 8–9 (citing *Core Wireless*, 880 F.3d at 1363). Appellant argues that claims on appeal recite unique user interface elements that reduce the number of user actions required to access data and or

functionality related to an electronic shopping list. App. Br. 9. Appellant asserts that the claims recite unique interface features and processes that allow a user to manage items from several distinct websites within an electronic list of a single user interface, thereby reducing the number of user actions required to manage shopping list items online. *Id.* Appellant contends that, for purposes of patent eligibility, the claimed “electronic list” here mimics the “limited list of ... commonly accessed stored data” held to be patent eligible in *Core Wireless*, because the electronic list shortens and obviates navigation in a user interface. *Id.* (citing *Core Wireless*, 880 F.3d at 1363. Appellant asserts that the claimed “electronic list” similarly shortens user navigation, albeit in a summary list of “items added to the electronic list from different websites for deferred purchasing,” as recited by the independent claims. *Id.*

Appellant argues further that the claims on appeal recite a unique user-interface element that increases the “speed of a user's navigation” to desired data and functionality by reducing the number of steps needed to access the desired data or functionality. App. Br. 11 (citing *Core Wireless*, 880 F.3d at 1363). Similarly, Appellant contends, the electronic list “saves the user from navigating to” an “application, opening it up, and then navigating within that application to enable the data of interest to be seen or a function of interest to be activated.” *Id.* Therefore, Appellant reasons, and consistent with the reasoning and holding in *Core Wireless*, the claimed electronic list is a unique interface element that increases the ease and efficiency of accessing data, and these increases in ease and efficiency of managing online products “clearly indicate[s] that the claims are directed to an improvement in the functioning of computers.” *Id.*

Finally Appellant argues, the fact that the data presented in the user interface element comprises an “electronic list” does not doom the claims to ineligibility. App. Br. 11. Appellant points again to *Core Wireless*, arguing that claims reciting user interface elements that present common data in a new way can still be patent eligible: “the disclosed invention improves the efficiency of using the electronic device by bringing together ‘a limited list of common functions and commonly accessed stored data,’ which can be access directly from the main menu.” *Id.* (citing *Core Wireless*, 880 F.3d at 1363) (quoting the ’020 patent)). Appellant argues that the claims in *Core Wireless* recited an “application summary” that was patent eligible despite the conventional nature of the underlying data displayed within the “application summary,” which is itself a type of list. *Id.*

We do not find Appellant’s arguments persuasive. In performing an analysis of patentability under Section 101, we follow the framework set forth by the Supreme Court in *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012). We are also mindful of, and guided by, the United States Patent and Trademark Office’s 2019 Revised Patent Subject Matter Eligibility Guidance, 84(4) Fed. Reg. 50 (January 7, 2019) (the “2019 Guidance”).

Appellant’s independent claim 1 recites: “A method comprising...” Independent claim 41 recites: “A non-transitory computer readable medium storing instructions thereon...” Independent claim 46 recites: “at least one server device comprising...” Following the first step of the *Mayo* analysis, we find that the claims are directed either to a method (claim 1) or a “machine, manufacture, or composition of matter” (claims 41 and 46), and

therefore fall into one of the broad statutory categories of patent-eligible subject matter under 35 U.S.C. § 101.

In the next step of the *Mayo*, we determine whether the claim at issue is directed to a nonstatutory, patent-ineligible concept, i.e., a law of nature, a phenomenon of nature, or an abstract idea. *Mayo*, 566 U.S. at 70–71. If the claim is so directed, we next consider the elements of the claim both individually and “as an ordered combination” to determine whether additional elements “transform the nature of the claim” into a patent-eligible application. *Id.* at 78–79; *see also Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1375 (Fed. Cir. 2015). Specifically, the Supreme Court considered this second step as determining whether the claim recites an element or combination of elements that is “sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.” *Mayo*, 566 U.S. at 72–73.

More specifically, in this second step of the *Mayo* analysis, we look to whether the claim recites one of the judicially-created exceptions to Section 101, i.e., an abstract idea, a law of nature, or a natural phenomenon. *See* 2019 Guidance 54 (Step 2A, Prong 1). If we determine that the claim recites a judicial exception, we then determine whether the limitations of the claim reciting the judicial exception are integrated into a practical application. *Id.* (Step 2A, Prong 2).

Finally, if we determine that the claim is directed to a judicially-created exception to Section 101, we evaluate the claim under the next step of the *Mayo* analysis, considering the elements of each claim both individually and “as an ordered combination” to determine whether

additional elements “transform the nature of the claim” into a patent-eligible application. *Mayo*, 566 U.S. at 78–79; 2019 Guidance at 56 (Step 2B).

Claim 1 recites the steps of: (1) maintaining, at a server, an electronic list including a plurality of items added to the electronic list from different websites associated with a user; (2) identifying a stock keeping unit that identifies each item on the list; (3) providing an option for the user to share the electronic list with other users; (4) providing a viewable user profile associated with the original user; (5) utilizing the stock keeping unit to validate a corresponding product information page for each item; (6) providing access to the electronic list by way of the user profile; and (7) presenting the electronic list to the at least one other user. Claims 41 and 46 rely upon functional claiming to recite essentially the same steps recited in claim 1.

We agree with the Examiner that the claims recite a series of abstract ideas, culminating in the creation of an electronically-maintained shopping list for a given user that lists items obtainable from different websites. As such, the claims are directed to a means of organizing human activity, i.e., the creation and sharing of a shopping list of items listed for sale by various different vendors.

Appellant’s Specification is elucidative in this regard, disclosing:

Throughout the history of man, there has been the desire to acquire possessions. At the early point of man’s existence, the main focus was acquiring such necessities as food and water. As man has developed over the eons, the constant drive to possess necessities has evolved to possessing non-necessities such as big screen TV’s [sic] and cellular phones. One method for acquiring such non-necessities has been the shopping list. Typically a shopping list is created by a person walking through a mall,

finding things that they like, and physically writing them down onto a piece of paper.

Spec. 1–2. The making of shopping lists is, therefore, a simple, well-known and conventional economic practice. Appellant’s Specification thus demonstrates that “the claimed systems and methods of screening messages are abstract ideas, ‘fundamental . . . practice[s] long prevalent in our system’ and ‘method[s] of organizing human activity.’” *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (2016) (quoting *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 219 (2014) (citations and internal quotation marks omitted)).

Appellant argues at length that the claims are directed to an improvement in computer functionality, pointing to *Core Wireless* as controlling in this case. *See, e.g.*, App. Br. 6. We disagree. In *Core Wireless*, the patents-in-suit “disclose[d] improved display interfaces, particularly for electronic devices with small screens like mobile telephones. The improved interfaces allow a user to more quickly access desired data stored in, and functions of applications included in, the electronic devices.” 880 F.3d at 1359. In its analysis, the Federal Circuit enquired whether “the claims are directed to a *specific improvement in the capabilities of computing devices*, or, instead, ‘a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.’” *Id.* at 1361–62 (emphasis added) (quoting *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016). In determining that the claims at issue were the former, the Federal Circuit held that “[t]he specification confirms that these claims disclose an improved user interface for electronic devices, particularly those with small screens” and that “[t]he disclosed invention

improves the efficiency of using the electronic device by bringing together ‘a limited list of common functions and commonly accessed stored data,’ which can be accessed directly from the main menu.” *Id.* at 1363 (quoting US 8,434,020 col. 2, ll. 55–59). The court therefore concluded that “the claims are directed to an improvement in the functioning of computers, particularly those with small screens.” *Id.*

We find that Appellant’s claims are not “directed to a specific improvement in the capabilities of computing devices,” but are directed, rather, to ‘a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Core Wireless*, 880 F.3d at 1361–62 (quoting *Enfish*, 822 F.3d at 1336). As acknowledged by Appellant’s Specification, shopping lists are well-known and conventional means of organizing human activity, and Appellant’s claims are thus directed to a method of implementing that abstract idea electronically as an application for increasing the ease and efficiency of online shopping. As such, it represents an electronic implementation of an abstract idea, rather than a specific improvement in the capability of a computing device.

Having identified the judicial exceptions recited by the claims, we determine whether the limitations of the claims reciting the judicial exceptions are integrated into a practical application. 2019 Guidance 54 (Step 2A, Prong 2). The Guidance provides additional context for this analysis, stating that: “A claim that integrates a judicial exception into a practical application will 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.” *Id.* at 53.

We conclude that the claims are not integrated into a practical application, because the claims recite no additional limitations that extend the scope of the claims beyond the abstract idea itself. In other words, the language of the claims provides no meaningful limitation upon the abstract idea of organizing a well-known and conventional human activity, *viz.*, constructing a shopping list by electronic means, and merely claims the abstract idea itself. We consequently conclude that the claims are not integrated into a practical application.

Claims directed to a judicial exception may be patent eligible if they recite additional elements that provide “significantly more” than the judicial exception. 2019 Guidance 56 (Step 2B). Appellant argues that, because the claimed technology maintains an electronic list of items from different websites to solve an exclusively online problem with an unconventional validation process, the claims are patent eligible according to the Federal Circuit’s reasoning in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (2014). App. Br. 12. According to Appellant, the independent claims cover a concrete invention that addresses “a problem specifically arising in the realm of computer networks” and presents a solution “necessarily rooted in computer technology,” similar to the claims in *DDR*. *Id.* (quoting *DDR*, 773 F.3d at 1257).

Appellant asserts that the independent claims address a problem that could not exist outside of a computer network application, *viz.*, managing and maintaining an electronic shopping list that includes items added from different websites. App. Br. 13. Appellant acknowledges that shopping lists are not necessarily tied to a computer network environment and exist on paper, “[i]t is not enough ... to merely trace the invention to some real-world

analogy” or to ask “whether anyone has ever used” shopping lists. *Id.* (quoting *Data Engine Techs. LLC v. Google LLC*, No. 2017-1135, slip op. at 20 (Fed. Cir. Oct. 9, 2018)). Appellant asserts that, in contrast to paper shopping lists, the claims on appeal are “directed to” a solution for a problem created specifically by Internet-based lists that did not exist before the Internet, i.e., prior online shopping lists that, by their nature, required excessive online navigation and computer management of independent lists for each individual website. *Id.* Appellant contends that the claimed “electronic list” bridges the gap created by conventional electronic list systems by providing a single list capable of maintaining online products/items added from multiple websites in a single, unified electronic interface. *Id.* at 13–14.

Appellant argues that, to maintain the “items added ... from different websites,” the claimed invention recites that the electronic list includes links to a “product information page” for a “respective website” for each item in the list. App. Br. 14. For each of the items in the list, the independent claims recite identifying a “stock keeping unit” that identifies each respective item “irrespective of which website an item is from.” *Id.* Appellant asserts that the claimed technology uses the stock keeping unit to “validate” a corresponding “product information page” for an item. *Id.* Appellant asserts that, with each item linked and corresponding product information validated against respective websites, the claimed technology provides and presents the electronic list. *Id.*

We are not persuaded by Appellant’s argument. The method claimed by the patent-in-suit in *DDR* permitted a host website to display a third-party merchant’s products, but to also retain its visitor traffic by displaying this

product information from within a generated web page that “gives the viewer of the page the impression that she is viewing pages served by the host” website. *DDR*, 773 F.3d at 1259. In holding that the claims were eligible, the court stated:

We caution, however, that not all claims purporting to address Internet-centric challenges are eligible for patent. For example, in our recently-decided *Ultramercial* opinion, the patentee argued that its claims were “directed to a specific method of advertising and content distribution that was previously unknown and never employed on the Internet before.” But this alone could not render its claims patent-eligible. In particular, we found the claims to merely recite the abstract idea of “offering media content in exchange for viewing an advertisement,” along with “routine additional steps such as updating an activity log, requiring a request from the consumer to view the ad, restrictions on public access, and use of the Internet.”

Id. at 1258 (internal citations omitted). The court continued:

The ’399 patent’s claims are different enough in substance from those in *Ultramercial* because they do not broadly and generically claim “use of the Internet” to perform an abstract business practice (with insignificant added activity). Unlike the claims in *Ultramercial*, the claims at issue here specify how interactions with the Internet are manipulated to yield a desired result—a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink.... When the limitations of the ’399 patent’s asserted claims are taken together as an ordered combination, the claims recite an invention that is not merely the routine or conventional use of the Internet.

Id. at 1258–59. The court concluded that the claims of the patent-in-suit:

[D]o [not] recite a commonplace business method aimed at processing business information, applying a known business process to the particular technological environment of the Internet, or creating or altering contractual relations using

generic computer functions and conventional network operations, such as the claims in *Alice*, *Ultramercial*, *buySAFE*, *Accenture*, and *Bancorp*.

Id. at 1259.

We conclude that Appellant’s claims on appeal are more similar to the latter cases cited *supra* than to the claims at issue in *DDR*. Like the claims in those cases, Appellant’s claims apply a known business process, *viz.*, making a shopping list of products from different websites, to the particular technological environment of the Internet. Furthermore, the claimed method is accomplished using generic computer functions and conventional network operations, e.g., “identifying a stock keeping unit that identifies each respective item irrespective of which website an item is from,” as well as providing a viewable user profile and the ability to share the profile and list.

Moreover, unlike the claims in *DDR*, Appellant’s claims do not “overcome a problem specifically arising in the realm of computer networks.” *DDR*, 773 F.3d at 1257. The desire for and generation of a single shopping list containing items from multiple stores arose long before the internet. Indeed, Appellant’s own Specification provides the illustration of “a person walking through a mall, finding things that they like, and physically writing them down onto a piece of paper.” Spec. 1–2. The mere fact that Appellant’s claims are directed to making a list for products available at multiple electronic, as opposed to brick and mortar, storefronts does not mean that those claims are “necessarily rooted in computer technology.” *DDR*, 773 F.3d at 1257.

Finally, Appellant’s claims recite generic computer processors and non-transitory storage media upon which the claimed method is practiced.

However, it is now well-established that recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible. *DDR*, 773 F.3d at 1256 (citing *Alice*, 573 U.S. at 222). We consequently conclude that Appellant’s claims do not recite additional elements that provide “significantly more” than the judicial exception, and that the claims are, therefore, not directed to statutory subject matter.

Issue 2

Appellant argues that the Examiner erred by failing to support its finding that using a stock keeping unit to validate a product information page for an item from the claimed electronic list is routine or conventional. App. Br. 15.

Analysis

Appellant contends that the Examiner cites neither evidence nor official notice in support of finding it routine or conventional to use “the stock keeping unit to validate a corresponding product information page for the item,” as recited by the independent claims and that this fails to meet the requirement set forth by the Federal Circuit in *Berkheimer v. HP Inc.*, 881 F.3d 1360 (2018).

Appellant argues that the Examiner does not cite sufficient evidence in support of its assertions that the claim limitations both “individually” and in “combination” recite computer functions that are well-understood, routine, and conventional activities. App. Br. 15 (citing Final Act. 5). Appellant acknowledges that the Examiner cites Masterson, which teaches an instance of a universal shopping cart with items from various online stores. *Id.* However, contends Appellant, neither the Examiner nor

Masterson provides any evidence that the relevant industry found it well-understood, routine, or conventional to use a stock keeping unit to validate a product information page for an item from an electronic list of items added from different websites for deferred purchasing, as recited by the independent claims. *Id.* at 15–16.

We are not persuaded. Appellant’s Specification provides no express definition of the claim term “stock keeping unit” (“SKU”). However, we find that it is well-known in the art that SKUs are “a scannable bar code, most often seen printed on product labels in a retail store. The label allows vendors to automatically track the movement of inventory. The SKU is composed of an alphanumeric combination of eight-or-so characters. The characters are a code that the price, product details, and the manufacturer.”

A. Bloomenthal, *Stock Keeping Unit*, INVESTOPEDIA available at: <https://www.investopedia.com/terms/s/stock-keeping-unit-sku.asp> (last visited May 28, 2020). Furthermore, businesses create different SKUs for its goods and services, and the SKUs for identical products vary among businesses. *Id.* Consequently, “if a company provides the SKU to advertise a certain discounted refrigerator, shoppers cannot easily view the same refrigerator at other sellers based on the SKU alone. This stops competitors from matching advertised prices and poaching customers.” *Id.*

Consequently, the use of SKUs to track merchandise from individual sellers in e-commerce is a well-known and conventional practice in e-commerce. We consequently affirm the Examiner’s rejection.

CONCLUSION

The Examiner's rejection of claims 1, 32–35, 37, 40–44, 46–49, and 51–57 under 35 U.S.C. § 101 is affirmed.

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).

AFFIRMED

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 32–35, 37, 40–44, 46–49, 51–57	101	Eligibility	1, 32–35, 37, 40–44, 46–49, 51–57	