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 LYNN C. HAMPER

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Appeal 2019-005356[1]
Application 14/511,868
Technology Center 3600

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

FRAHM, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF CASE

Introduction

Appellant[2] appeals under 35 U.S.C. § 134(a) from a final rejection of

claims 3, 4, and 8. Claims 1, 2, 5–7, and 9 have been canceled (*see*

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[1] Throughout this Opinion, we refer to: (1) the Final Office Action mailed
June 12, 2018 ("Final Act."); (2) the Appeal Brief filed January 29, 2019
("Appeal Br."); (3) the Examiner's Answer mailed May 2, 2019 ("Ans.");
and (4) the Reply Brief filed July 2, 2019 ("Reply Br.").
[2] We use the word "Appellant" to refer to "applicant" as defined in
37 C.F.R. § 1.42. "The word 'applicant' when used in this title refers to the
inventor or all of the joint inventors, or to the person applying for a patent as
provided in §§ 1.43, 1.45, or 1.46." 37 C.F.R. § 1.42(a). Appellant

Amendment filed May 8, 2018 (pp. 2–6)). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm the rejections under 35 U.S.C. § 101 and 35 U.S.C. § 103.

Appellant's Disclosed and Claimed Invention

Appellant's invention, entitled "System and Method for Ensuring Accurate Reimbursement for Travel Expenses" (Title), "relates generally to computing systems" (Spec. ¶ 2), and more specifically to an expense verification system (*see* Fig. 1, 100; Fig. 10). As noted by Appellant, "[c]hanges in the airline industry have increased the opportunities for inaccurate reimbursement requests" (Spec. ¶ 4), and there can be difficulty in complying with company policies that can either vary from company to company, or with a single company over time (Spec. ¶ 4). As such, "[t]hese factors place a particularly heavy burden on an employee, etc. to accurately report expenses to his/her employer, etc., and present ample opportunities for an ill-intentioned person to obtain unauthorized or excessive travel reimbursement, resulting in a loss to the company" (Spec. ¶ 4). With this in mind, Appellant's claimed invention concerns "[a] computer-implemented method" (claim 3), and "[a]n expense verification system" (claim 8), "for ensuring accurate reimbursement of travel expenses" (claims 3, 8).

Exemplary Claim

Independent claim 3 under appeal is exemplary. Claim 3, with bracketed lettering, formatting, and emphases added to key portions of the claim at issue, reads as follows:

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identifies the real party in interest as Biz Travel Solutions, LLC (Appeal Br. 2).

3. A computer-implemented method for ensuring accurate reimbursement of travel expenses by *a computerized expense verification system* comprising at least *a processor* and *a memory* operatively connected to the processor, the method comprising the computerized expense verification system operating the processor under control of processor-executable instructions stored in the memory to:

[A] store in the memory of the computerized expense verification system a plurality of rules for reimbursement of travel expenses consistent with a company's travel policy;

[B] receive from *an external system* via *a communications network*, at the computerized expense verification system, *travel reservation record data comprising a reference code for a ticketed travel reservation*;

[C] process, at the computerized expense verification system, the travel reservation record data to identify the reference code;

[D] query, by data transmission via a communications network, *a company-independent system* to retrieve passenger name record data corresponding to the parsed reference code;

[E] process, at the computerized expense verification system, the passenger name record data received via the communications network to *identify an agency identifier uniquely identifying a travel agent*;

[F] *determine*, at the computerized expense verification system, whether the agency identifier reflects *compliance with company policy* as determined by at least one of the plurality of stored rules; and

[G] issue an exception alert identifying non-compliance with the company's travel policy if the difference does not reflect compliance.

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Appeal Br. 17, Claims Appendix (emphases, formatting, and bracketed lettering added). Remaining independent claim 8 recites commensurate limitations pertaining to "[a]n expense verification system" (claim 8) for performing the method of claim 3.

Examiner's Rejections

(1) Claims 3, 4, and 8 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter (an abstract idea), without significantly more. Final Act. 4–8; Ans. 3–6.

(2) Claims 3, 4, and 8 stand rejected under 35 U.S.C. § 103 as being unpatentable over Fredericks et al. (US 2004/0167808 A1; published Aug. 26, 2004) (hereinafter, "Fredericks"), Mehovic (US 6,122,642; issued Sept. 19, 2000), Hurley et al. (US 2011/0231212 A1; published Sept. 22, 2011) (hereinafter, "Hurley"), Donnelly et al. (US 2002/0143621 A1; published Oct. 3, 2002) (hereinafter, "Donnelly"), and Official Notice. Final Act. 9–16; Ans. 6–8.

Appellant's Contentions

(1) With regard to the patent eligibility rejection, Appellant primarily makes arguments regarding claim 3, rely on those arguments for the eligibility of claims 4 and 8, and generally contends the claims are not directed to an abstract idea (e.g., math concepts, methods of organizing human activity, mental processes), but to improvements in computer function (*see* Appeal Br. 5–12; Reply Br. 2–4).

Therefore, based on Appellant's patent eligibility arguments, and because claims 3, 4, and 8 contain commensurate limitations, we select claim 3 as representative of claims 3, 4, and 8 rejected under 35 U.S.C.

§ 101 for patent-ineligibility.

(2) With regard to the obviousness rejection of claims 3, 4, and 8, Appellant primarily argues the merits of independent claim 3 and relies on those arguments for the patentability of independent claim 8 (*see* Appeal Br. 12–16; Reply Br. 4–6). Although Appellant argues dependent claim 4 separately (*see* Appeal Br. 15–16; Reply Br. 6), Appellant simply states what claim 4 recites, and contends this subject matter is neither taught nor suggested by the prior art, without any further explanation or citation to specific claim language or portions of the references. Such contentions are not considered a separate argument for patentability. *See* 37 C.F.R. § 41.37(c)(1)(iv) ("A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim."); *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) ("[W]e hold that the Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art."); *see also In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992) (conclusory assertions without supporting explanation or analysis particularly pointing out errors in the Examiner's reasoning fall well short of persuasively rebutting the Examiner's prima facie case of obviousness).

Therefore, we find the arguments regarding claim 3 dispositive of all claims rejected for obviousness, and select claim 3 as representative.

Principal Issues on Appeal

Based on Appellant's arguments in the Appeal Brief (Appeal Br. 5–16) and the Reply Brief (Reply Br. 2–7), the following two principal issues are presented on appeal:

(1) Has Appellant shown the Examiner erred in rejecting representative claim 3, as well as claims 4 and 8 grouped therewith, under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter (i.e., a judicial exception such as an abstract idea), without significantly more?

(2) Has Appellant shown the Examiner erred in rejecting representative claim 3, as well as claims 4 and 8 grouped therewith, under 35 U.S.C. § 103 as being unpatentable over the combination of Fredericks, Mehovic, Hurley, Donnelly, and Official Notice?

ANALYSIS

Patent Eligibility Under 35 U.S.C. § 101

Section 101 of the Patent Act provides "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title." 35 U.S.C. § 101. However, the 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 Supreme Court's two-step 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 water-proof cloth, vulcanizing India
rubber, smelting ores" (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S.
(15 How.) 252, 267–68 (1854))); 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
Supreme 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 176; *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 Supreme 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.* (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 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 (internal 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 PTO published revised guidance on the application of § 101. USPTO, *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) ("Guidance").[3] Under the Guidance, we first look to whether the claim recites:

> (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes) ("Step 2A, Prong 1"); and

> (2) additional elements that integrate the judicial exception into a practical application (*see* MANUAL OF PATENT EXAMINING

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[3] In response to received public comments, the Office issued further guidance on October 17, 2019, updating and clarifying the 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).

PROCEDURE ("MPEP") § 2106.05(a)–(c), (e)–(h)) (9th Ed., Rev.
08.2017, 2018) ("Step 2A, Prong 2").[4]

Only if a claim (1) recites a judicial exception and (2) does not

integrate that exception into a practical application, do we then look 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 ("Step 2B").

See Guidance, 84 Fed. Reg. at 54–56.

Even if the claim recites an abstract idea, the Federal Circuit explains

the "directed to" inquiry is not simply asking whether the claims involve a

patent-ineligible concept:

> The "directed to" inquiry . . . cannot simply ask whether the
> claims *involve* a patent-ineligible concept, because essentially
> every routinely patent-eligible claim involving physical
> products and actions *involves* a law of nature and/or natural
> phenomenon—after all, they take place in the physical world.
> *See Mayo*, 132 S.Ct. at 1293 ("For all inventions at some level
> embody, use, reflect, rest upon, or apply laws of nature, natural
> phenomena, or abstract ideas.") Rather, the "directed to"
> inquiry applies a stage-one filter to claims, considered in light
> of the specification, based on whether "their character as a
> whole is directed to excluded subject matter."

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[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* Guidance — Section III(A)(2), 84 Fed. Reg. 54–
55.

Enfish, LLC v. Microsoft Corp., 822 F.3d 1327, 1335 (Fed. Cir. 2016); *see also Diehr*, 450 U.S. at 188 ("In determining the eligibility of respondents' claimed process for patent protection under § 101, their claims must be considered as a whole."); *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016) (the question is whether the claims as a whole "focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery").

Step 1

Under Step 1 of the patent-eligibility inquiry under § 101, we determine whether a claim is directed to one of the four statutory categories of invention, i.e., a process, machine, manufacture, or composition of matter.

In the instant case on appeal, representative claim 3 recites "[a] computer-implemented method for ensuring accurate reimbursement of travel expenses" (claim 3, preamble) including a series of steps for determining compliance with company policy (claim 3, limitation F) and issuing an alert when non-compliance is identified (claim 3, limitation G). Therefore, claim 3, as a method claim reciting a process having a series of steps, recites at least one of the enumerated categories (e.g., process) of eligible subject matter in 35 U.S.C. § 101.

As a result, as to claim 3, as well as claims 4 and 8 grouped therewith, we continue our analysis under Step 2A, Prong 1 of the Guidance to determine whether claim 3 recites a judicial exception (a law of nature, natural phenomenon, or subject matter within the enumerated groupings of abstract ideas above).

Step 2A, Prong 1

Although claim 3 recites a "method for ensuring accurate reimbursement of travel expenses" (*see* claim 3, preamble) including storing and receiving reimbursement rules and travel reservation record data (claim 3, limitations A and B), querying to retrieve passenger name record data (claim 3, limitation D), and issuing an alert upon identifying non-compliance (claim 3, limitation G), the focus of claim 3 is on performing the steps of a mental process, e.g., processing travel reservations and reimbursing for travel expenses (*see Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)). The mental process includes steps C, E, and F set forth in the body of claim 3, that make up an organization of human activity, such as identifying a reference code in travel reservation record data (claim 3, limitation C), evaluating passenger name record data to identify an agency identifier unique to a travel agent (claim 3, limitation E), and evaluating whether there is compliance with company policy according to rules (claim 3, limitation F), which constitute a business relation between people or commercial transaction. As such, the claimed invention recites a mental process, which is an abstract idea. *See, e.g.*, *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1146 (Fed. Cir. 2016) ("[A]nalyzing information by steps people [can] go through in their minds, or by mathematical algorithms, without more [are] mental processes within the abstract-idea category."); *Clarilogic Inc. v. FormFree Holdings Corp.*, 681 F. App'x 950, 954–55 (Fed. Cir. 2017) (gathering, analyzing, and outputting financial data/assessment is an abstract idea that is patent ineligible); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1369 (Fed. Cir. 2015) (targeted marketing is a form of "tailoring information based on [provided] data," which has

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been previously held by the Federal Circuit to be an abstract idea, and a concept that is a "fundamental practice" that dates back to newspaper advertisements); *Morsa v. Facebook, Inc.*, 77 F. Supp. 3d 1007, 1014 (C.D. Cal. 2014) (finding that both "targeting advertisements to certain consumers, and using a bidding system to determine when and how advertisements will be displayed" are abstract ideas), *aff'd per curiam*, 622 F. App'x 915 (Fed. Cir. 2015); *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 714 (Fed. Cir. 2014) (determining that using an advertisement as an exchange or currency is an abstract idea).

At a high level, representative claim 3 recites a method operating on a "computerized expense verification system comprising at least a processor and a memory" (i.e., a computer device; *see* Fig. 1, expense verification system 100; Fig. 10, general purpose computer 102 and memory 118) for performing the method of "ensuring accurate reimbursement of travel expenses" in accordance with "rules for reimbursement of travel expenses" and "compliance with company policy" (claim 3; Spec. ¶¶ 25–27, 99, 100). As set forth in limitations A–G of claim 3, the method is performed by processing the rules consistent with company policies, travel reservation record data, and passenger name record data to determine compliance with company policy to issue an alert identifying non-compliance. The Examiner determines, and we agree, that claim 3 recites certain methods of organizing human activity and mental processes (*see* Ans. 3–4), such as "receiving, analyzing and processing travel reservation data to determine and issue alerts" (Final Act. 4).

Our reviewing court has also concluded that abstract ideas include the concepts of collecting data, recognizing certain data within the collected data

set, and storing the data in memory. *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014); *see also Smart Sys. Innovations, LLC v. Chicago Transit Auth.*, 873 F.3d 1364, 1372 (Fed. Cir. 2017) (concluding "claims directed to the collection, storage, and recognition of data are directed to an abstract idea"). Moreover, our reviewing court has concluded that acts of parsing, comparing, storing, and editing data are abstract ideas. *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1366 (Fed. Cir. 2018). In addition, the collection of information and analysis of information (e.g., recognizing certain data within the dataset) are also abstract ideas. *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). Similarly, "collecting, displaying, and manipulating data" is an abstract idea. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017); *see also SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1167 (Fed. Cir. 2018) ("[M]erely presenting the results of abstract processes of collecting and analyzing information . . . is abstract as an ancillary part of such collection and analysis") (quotations omitted).

In addition, our reviewing court has held that combining several abstract ideas (e.g., like a mental process and a fundamental economic activity as here) does not render the combination any less abstract. *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) ("Adding one abstract idea . . . to another abstract idea . . . does not render the claim non-abstract."); *see also FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016) (patent-ineligible claims were directed to a combination of abstract ideas).

In view of the foregoing, we conclude claim 3 recites processing

travel reservations and reimbursing for travel expenses, which is a mental process and method of organizing human activity, such as a commercial interaction and/or business relation between people. Because we conclude claim 3 *recites* an abstract idea and/or combination of abstract ideas, we proceed to Step 2A, Prong 2 of the Guidance to determine whether claim 3 is "directed to" the judicial exception, by determining whether additional elements of the claim integrate the abstract idea into a practical application. Such additional elements *may* reflect an improvement to a technology or technical field. *See* Guidance, 84 Fed. Reg. at 55.

Step 2A, Prong 2 – Practical Application

Under Step 2A, Prong 2, we determine whether the recited judicial exception is integrated into a practical application of that exception. If the recited judicial exception is integrated into a practical application, the claim is not directed to the judicial exception.

Appellant contends that claim 3 is not directed to an abstract idea, but "to an improvement in the functioning of a computer or other technology or technological field, and in particular, an[] improvement to computerized fraud/error detection systems" (Appeal Br. 9), and "an improved computerized expense verification system that provides for fraud/error detection" (Appeal Br. 9), and solves the technical problem of "permitting payment and/or reimbursement of travel expenses that should not occur, as they are contrary to company policy" (Appeal Br. 9), through the application of "novel instructions stored in its memory" (Appeal Br. 10). Appellant contends the claimed invention includes meaningful limitations "that provide[] a technological advance in the field of fraud detection" (Appeal Br. 11). Thus, Appellant argues the invention recited in claim 3 "recite[s] a

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particular methodology for performing a process for ensuring accurate reimbursement of travel expenses by performing certain audit-like processes in a unique and creative fashion to provide for more accurate fraud/error detection" (Reply Br. 3).

We disagree with Appellant (*see* Appeal Br. 7–11; Reply Br. 3–4) that the focus of claim 3 is on a technical improvement (or practical application of the abstract idea). "[M]erely selecting information, by content or source, for collection [and] analysis . . . does nothing significant to differentiate a process from ordinary mental processes." *Elec. Power*, 830 F.3d at 1355. Receiving and analyzing (or identifying data), by itself, does not transform an otherwise-abstract process or system of information collection and analysis. *See id.* Like the claims at issue in *Electric Power*, we find Appellant's claim 3 does not invoke "any assertedly inventive programming" or an "arguably inventive set of components or methods." *Id.*

The mere recitation of identifying and processing travel, passenger, and company information in claim 3 does not embody an improvement in computer capabilities as in *Enfish*. *See* 822 F.3d at 1336 ("[T]he plain focus of the claims is on an improvement to computer functionality itself, not on economic or other tasks for which a computer is used in its ordinary capacity."). Rather, the focus of claim 3 is on determining compliance with company policies concerning travel reimbursement. This is an improvement to help the *user* and/or *employer*, but not the *computer itself* (or in the case of claim 3, the memory and processor of the computing device, and/or the communications network, company-independent system, or external system set forth in the claim). Claim 3 does not recite a method that improves the

speed or efficiency of the communications network or computer systems, or otherwise improves any of these elements.

To the extent that the claimed method performs fraud detection in travel expense reimbursements faster or more accurately than other computerized methods, that would not provide an improvement to the computer itself. *See, e.g.*, *Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1335 (Fed. Cir. 2015) (explaining that in order for a machine to add significantly more, it must "play a significant part in permitting the claimed method to be performed, rather than function solely as an obvious mechanism for permitting a solution to be achieved more **quickly**") (emphasis added); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1095 (Fed. Cir. 2016) ("While the claimed system and method certainly purport to accelerate the process of analyzing audit log data, the speed increase comes from the capabilities of a general-purpose computer, rather than the patented method itself"); *Bancorp Servs., L.L.C. v. Sun Life Assurance Co. of Can. (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012) ("[T]he fact that the required calculations could be performed more efficiently via a computer does not materially alter the patent eligibility of the claimed subject matter").

The claimed invention (*see* claim 3) stores and receives/retrieves data (e.g., rules and travel reservation record data in limitations A and B, and passenger name record data in limitation E); analyzes data (e.g., processing in limitation C and E, and determining compliance in limitation F); and then issues an exception alert upon detection of non-compliance (e.g., limitation G). Thus, the steps of (i) limitations A, B, and E are merely conventional data gathering and analysis (*see* MPEP § 2106.05(g); *OIP Techs., Inc. v.*

Amazon.com, Inc., 788 F.3d 1359, 1363 (Fed. Cir. 2015); *Elec. Power*, 830

F.3d at 1354); and (ii) limitation G is insignificant extra-solution activity that

does not meaningfully limit the claim (*see* MPEP § 2106.05(g)). As such,

based on the record before us, we determine that the claimed invention is not

integrated into a practical application.

Merely adding a programmed computer to perform generic computer

functions does not automatically overcome an eligibility rejection. *Alice*,

573 U.S. at 223–24. Furthermore, the use of a general purpose computer to

apply an otherwise ineligible algorithm does not qualify as a particular

machine. *See Ultramercial*, 772 F.3d at 716–17; *In re TLI Commc'ns LLC*

v. AV Automotive, LLC, 823 F.3d 607, 613 (Fed. Cir. 2016) (mere recitation

of concrete or tangible components is not an inventive concept); *Eon Corp.*

IP Holdings LLC v. AT&T Mobility LLC, 785 F.3d 616, 623 (Fed. Cir. 2015)

(noting that *Alappat*'s rationale that an otherwise ineligible algorithm or

software could be made patent-eligible by merely adding a generic computer

to the claim was superseded by the Supreme Court's *Bilski* and *Alice*

decisions). In the instant case, using a computer to more accurately ensure

reimbursement of travel expenses is nothing more than the abstract idea

itself.

For the reasons discussed above, we conclude Appellant's claim 3

(and claims 4 and 8 grouped therewith) invokes generic computer

components (computer systems, memory, processor, communications

network) merely as tools in which the computer instructions apply the

judicial exception and, thus, the abstract idea is not integrated into a

practical application. Because Appellant has not persuaded us the

Examiner's determination that claim 3 recites an abstract idea under Step 2A

is in error, and claim 3 recites a judicial exception (i.e., the abstract idea of a method of organizing human activity and/or mental process) that is not integrated into a practical application, in accordance with the Guidance, we conclude claim 3 and claims 4 and 8 grouped therewith, are directed to an abstract idea under Step 2A, and the eligibility analysis with regard to claims 3, 4, and 8 proceeds to Step 2B.

Step 2B — Inventive Concept

Having determined claim 3 and claims 4 and 8 grouped therewith are directed to an abstract idea that is not integrated into a practical application, we now evaluate whether the additional elements, whether examined alone or as an ordered combination, add a specific limitation that is not well-understood, routine, or conventional activity in the field, or simply append well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the abstract idea. *See generally* Guidance.

Here, claim 3 recites the additional elements of "a computerized expense verification system comprising at least a processor and a memory" (claim 3, preamble) connected to "a company-independent system" (claim 3, limitation D) and "an external system via a communications network" (claim 3, limitation B). Considering claim 3 as a whole, none of the additional elements applies or uses the abstract idea in a meaningful way such that the claim as a whole is more than a drafting effort designed to monopolize the exception.

Although Appellant contends the instructions performing the recited method stored in the memory are novel (*see* Appeal Br. 10–12), we agree with the Examiner (Ans. 3) that at least paragraph 25 and Figure 10

(showing a general purpose computer 102) support the Examiner's finding
in this regard. In addition, the Examiner determines, and we agree, that the
only elements beyond the abstract idea are *generic* computer components or
combinations of generic components used to perform *generic* computer
functions (Final Act. 7–8; Ans. 3, 5–6) — a determination that is supported
by Appellant's Figures 1 and 10 and the accompanying descriptions found in
the Specification (*see* Spec. ¶¶ 25–27, 99, 100). Appellant's Specification
only shows (*see* Figs. 1, 10) and describes (*see e.g.*, Spec. ¶¶ 25–27, 99, 100)
well-understood, routine, conventional computer components used for
ensuring accurate reimbursement of travel expenses (e.g., a computing
device/system, processor, memory, and communications network) that are in
a general purpose computing environment in a manner that indicates the
components and the functions they perform were well-known in the art.
See Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1384
(Fed. Cir. 1986) (explaining that "a patent need not teach, and preferably
omits, what is well known in the art"); *see also* USPTO, Memorandum on
Changes in Examination Procedure Pertaining to Subject Matter Eligibility,
Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*) at 3
(Apr. 19, 2018), available at https://www.uspto.gov/sites/default/files/
documents/memo-berkheimer-20180419.PDF (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); *Intellectual Ventures I LLC v. Erie
Indem. Co.*, 850 F.3d 1315, 1331 (Fed. Cir. 2017) ("The claimed mobile

interface is so lacking in implementation details that it amounts to merely a generic component (software, hardware, or firmware) that permits the performance of the abstract idea, i.e., to retrieve the user-specific resources.").

Specifically, Appellant's Specification states that "[s]uch systems are well-known in the art" (Spec. ¶¶ 26, 27, 31; *see also* Spec. ¶¶ 29, 30), and "may include conventional computerized hardware and software" (Spec. ¶ 32). Further, regarding the expense verification system recited in claim 3, Appellant describes that:

> the expense verification system 100 of Figure 10 includes a *general purpose processor* and a bus 104 employed to connect and enable communication between the processor 102 and the components of the expense verification system 100 *in accordance with known techniques*.

Spec. ¶ 99 (emphases added). And, Appellant states that "[s]uch configurations, as well as the appropriate communications hardware and software, are known in the art" (Spec. ¶ 100).

As a result, we are not persuaded that the travel reimbursement and compliance determinations recited in claim 3 are anything beyond generic computer functions as opposed to an improvement to a fundamental economic practice and/or method of organizing human activity. Considering the elements of claim 3 individually and as an ordered combination, claim 3 does no more than simply instruct the practitioner to implement the abstract idea on a generic computer, processor, and/or user interface. *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333–34 (Fed. Cir. 2012) ("Simply adding a 'computer aided' limitation to a claim covering an abstract concept, without more, is insufficient to render [a] claim patent eligible.")

Additionally, as noted in MPEP § 2106.05(d)(II), the courts have previously recognized that using computer processors and memories to collect data and keep records, perform repetitive calculations, and/or receive/send data are well-understood, routine, and conventional functions when they are claimed in a merely generic manner (e.g., at a high level of generality) or as insignificant extra-solution activity (*see* MPEP § 2106.05(d)(II)(i)–(iv)). *See also Berkheimer*, 881 F.3d at 1366 (acts of parsing, comparing, storing, and editing data are abstract ideas); *SAP Am., Inc. v. InvestPic, LLC*, 898 1161, 1167 (Fed. Cir. 2018) ("[M]erely presenting the results of abstract processes of collecting and analyzing information . . . is abstract as an ancillary part of such collection and analysis"); *Intellectual Ventures I*, 850 F.3d at 1340 ("collecting, displaying, and manipulating data" is an abstract idea); *Smart Sys.*, 873 F.3d at 1372 (concluding "claims directed to the collection, storage, and recognition of data are directed to an abstract idea.").

As a result, Appellant has not persuaded us the Examiner erred with respect to the Guidance's Step 2B analysis. *See* Guidance, 84 Fed. Reg. at Step 2B.

Summary

As explained above, under the USPTO's Revised Patent Eligibility Guidance, based on the record before us, and informed by our governing case law concerning 35 U.S.C. § 101, Appellant has not sufficiently shown the Examiner erred in rejecting representative claim 3, as well as claims 4 and 8 grouped therewith, as being directed to patent-ineligible subject matter without significantly more, and we sustain the rejection of claims 3, 4, and 8 under 35 U.S.C. § 101.

Obviousness Under 35 U.S.C. § 103

We have reviewed the Examiner's obviousness rejections of claims 3, 4, and 8 (Final Act. 9–16), and response to Appellant's arguments in the Appeal Brief (Ans. 6–8), in light of Appellant's arguments in the Appeal Brief (Appeal Br. 12–16) and the Reply Brief (Reply Br. 4–6) that the Examiner has erred. With regard to representative claim 3, Appellant has not persuasively shown the Examiner erred in rejecting the claim for obviousness (*see* Final Act. 9–15). Our reasoning follows.

The USPTO "must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal quotation marks and citation omitted); *see Synopsys, Inc. v. Mentor Graphics Corp.*, 814 F.3d 1309, 1322 (Fed. Cir. 2016) (stating that, as an administrative agency, the PTAB "must articulate logical and rational reasons for [its] decisions" (internal quotation marks and citation omitted)).

In the instant case on appeal, the Examiner has met this burden (*see* Final Act. 9–15; Ans. 6–8). Based on the record before us, we find that the Examiner has properly established factual determinations and articulated reasoning with a rational underpinning to support the legal conclusion of obviousness for claim 3, resulting in establishing a prima facie of obviousness.

An appellant may attempt to overcome an examiner's obviousness rejection on appeal to the Board by submitting arguments and/or evidence to show that the examiner made an error in either (1) an underlying finding of

fact upon which the final conclusion of obviousness was based, or (2) the reasoning used to reach the legal conclusion of obviousness. Similarly, the applicant may submit evidence of secondary considerations of non-obviousness. *Ex Parte Frye*, 94 USPQ2d 1072 (BPAI 2010) (precedential); *see also In re Kahn*, 441 F.3d 977, 985–86 (Fed. Cir. 2006) (citing *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)) (Appellant has the opportunity on appeal to the Board to demonstrate error in the Examiner's position).

Appellant argues that Mehovic, and thus the cited prior art alone or in combination, fails to teach or suggest (i) a company-independent system for retrieving passenger name record data as recited in limitation D; and (ii) performing the querying step set forth in limitation D using an expense verification system, without explaining, by citation to Mehovic and/or Fredericks, why (*see* Appeal Br. 13; Reply Br. 4).

It is well settled that mere lawyer's 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; *In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984)), and that the arguments of counsel cannot take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602 (CCPA 1965). Therefore, we accord very little probative value to Appellant's conclusory statements that Mehovic, and thus the combination fails to teach or suggest an expense verification system for querying as set forth in limitation D.

On the other hand, the Examiner makes explicit findings, citing to Mehovic's Figures 3 and 8, column 2, lines 7 through 20, and column 9, lines 30–35 (*see* Final Act. 11; Ans. 6–7), along with reasoning as to how the

combination of Fredericks and Mehovic "teach[es] the expense verification system querying a company independent system to retrieve PNR data corresponding to the parsed reference code" (Ans. 7). In addition, the Examiner relies on Fredericks, and not Mehovic, as teaching the claimed "computerized expense verification system" (claim 3, preamble), as stated at pages 9 through 10 of the Final Rejection. Specifically, the Examiner maps Fredericks' "expense management system 110" (Final Act. 10), shown in Figure 2 and described in paragraphs 41 and 44, to the recited "computerized expense verification system" (claim 3). Appellant does not dispute this finding.

With regard to limitations E and F, Appellant argues the cited prior art does not disclose the subject matter set forth in these limitations (*see* Appeal Br. 14; Reply Br. 4–5). However, we agree with the Examiner that the combination of Hurley and Donnelly teaches or suggests limitations E and F (*see* Final Act. 12–14; Ans. 7–8).

The Examiner relies on Hurley (*see* Final Act. 12; Ans. 7 both citing Hurley ¶ 214) as teaching identifying a travel agency identifier in a passenger name record (PNR) as recited in limitation E of claim 3. Table 1 of Hurley, listed as part of paragraph 214, shows data fields 12 and 13 corresponding to data categories respectively entitled "Travel agency" and "Travel agent" (*see* ¶ 214, Table 1). Appellant admits that "[t]his is well-known in the art" (Appeal Br. 14), and is disclosed by Hurley.

The Examiner relies on Donnelly (*see* Final Act. 13–14; Ans. 7–8 both citing Donnelly ¶ 123) as teaching determining compliance with a company policy as recited in limitation F of claim 3. The Examiner also cites Hurley for teaching enforcement of policies using agency identifiers

(*see* Final Act. 14). Donnelly describes a voucher approval page 3300 (*see* ¶ 123; Figs. 33A–G) for review and approval, where approval is "based upon a preferred list of travel agents or 3rd party vendors" (¶ 123). Appellant does not dispute these findings.

Instead, Appellant contends that Donnelly allows for a person to intentionally or erroneously misidentify the travel agent when inputting the information (*see* Appeal Br. 14; Reply Br. 5 both citing Donnelly ¶ 115; Fig. 26). Notably, the Examiner did not rely on the alternative embodiment described in paragraph 115 and shown in Figure 26, which allows modification of field 2602 as Appellant asserts. Again, Appellant has provided no evidence on this record to contradict the Examiner's findings regarding Donnelly, apart from mere conclusory statements that Donnelly would introduce error in an alternative embodiment not relied on by the Examiner. *Geisler*, 116 F.3d at 1470; *In re De Blauwe*, 736 F.2d at 705.

Moreover, Appellant does not provide evidence, such as by way of affidavit or declaration, to establish that one of ordinary skill in the art would understand that the method steps performed in claim 3 would "dramatically impact the results of the audit analysis" (Appeal Br. 15; Reply Br. 5), or provide various other benefits (*see* Appeal Br. 14–15; Reply Br. 5–6). Rather, only attorney argument was presented regarding the unexpected results and benefits.

In view of the foregoing, Appellant has not adequately shown the Examiner's prima facie case of obviousness as to representative claim 3 to be in error.

CONCLUSIONS

(1) As explained above, under the USPTO's Revised Patent Eligibility Guidance, based on the record before us, and informed by our governing case law concerning 35 U.S.C. § 101, Appellant has not shown the Examiner erred in rejecting representative claim 3, as well as claims 4 and 8 grouped therewith, as being directed to patent-ineligible subject matter without significantly more, and we sustain the rejection of claims 3, 4, and 8 under 35 U.S.C. § 101.

(2) In addition, Appellant has not shown the Examiner erred in rejecting representative claim 3, as well as claims 4 and 8 grouped therewith, as being unpatentable under 35 U.S.C. § 103, and we sustain the obviousness rejection of claims 3, 4, and 8 as being obvious over the combination of Fredericks, Mehovic, Hurley, Donnelly, and Official Notice.

In summary, for all of the reasons above, we affirm the Examiner's decision to reject claims 3, 4, and 8, and we hold as follows:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
3, 4, 8	101	Eligibility	3, 4, 8	
3, 4, 8	103	Fredericks, Mehovic, Hurley, Donnelly, Official Notice	3, 4, 8	
Overall Outcome			3, 4, 8	

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)(1)(iv). *See* 37 C.F.R. §§ 41.50(f), 41.52(b) (2013).

AFFIRMED