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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JAKUB DANIELAK, LAUREN VAN HEERDEN,
GUNALAN NADARAJAH, ORIN DEL VECCHIO,
PAUL MON-WAH CHAN, JONATHAN K. BARNETT,
ASHRAF METWALLI, MATTHEW HAMILTON,
CLARA BOR, and WALLACE BARBOUR

Appeal 2020-001446
Application 14/755,786
Technology Center 3600

Before CARL W. WHITEHEAD JR., DAVID M. KOHUT, and
IRVIN E. BRANCH, *Administrative Patent Judges*.

PUR CURIAM

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject pending claims 1–14, 16, 17, 19–21, 23–28, 31, 33, and 35–42. Final Act. 2. Claims 15, 18, 22, 29, 30, 32, and 34 are canceled. *Id.* We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ We use “Appellant” to reference the applicant as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as “Toronto-Dominion Bank.” Appeal Br. 3.

STATEMENT OF THE CASE

Appellant's Invention

Appellant's invention "relates to . . . methods and systems that identify and remedy shortfall events associated with stored account data . . . operated by financial institutions." Spec. ¶ 1. Claim 1, reproduced below with emphasis, is the sole representative independent claim. *See infra* 4 (selecting claim 1 as representative).

1. A system, comprising:

a communications unit;

a memory storing instructions; and

one or more processors coupled to the communications unit and the memory, the one or more processors being configured to execute the instructions to perform operations including:

loading, ***from the memory***, first data identifying a first scheduled funds transfer from a first investment account to a destination account, second data identifying a shortfall account associated with the first investment account, and repayment data characterizing at least one scheduled payment to the shortfall account, the first scheduled funds transfer being associated with a first funds transfer amount and a first scheduled transfer time, and the shortfall account being associated with a period of temporal validity;

detecting an occurrence of a shortfall event based on the first data, the shortfall event indicating that the first funds transfer amount exceeds an amount of funds available from the first investment account;

determining that a first portion of a shortfall amount is available for transfer from the shortfall account based on the repayment data, the shortfall amount reflecting a difference between the amount of available funds and the

first funds transfer amount, and the first portion of the shortfall amount being consistent with the at least one scheduled payment to the shortfall account;

performing operations that trigger an electronic funds transfer of the first portion of the shortfall amount from the shortfall account to the destination account when the first scheduled transfer time falls within the period of temporal validity; and

generating and transmitting, *via the communications unit*, a first signal to a client *device* associated with the first investment account, the first signal comprising a notification of the triggered electronic transfer, and the notification causing the client *device* to present information characterizing the triggered electronic transfer within a corresponding interface;

modifying the repayment data in accordance with at least one of the first funds transfer amount or the first scheduled transfer time of triggered electronic funds transfer, the modified repayment data characterizing one or more additional scheduled transfers of funds from the first investment account to the shortfall account, and

generating and transmitting, *via the communications unit*, a second signal to the client *device* that includes the modified repayment data, the second signal comprising additional data causing the client *device* to modify the information presented *within the corresponding interface* to include at least a portion of the modified repayment data.

Appeal Br., Claims Appendix.

Rejection

Claims 1–14, 16, 17, 19–21, 23–28, 31, 33, and 35–42 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent–ineligible subject matter. Final Act. 2–5.

OPINION

Appellant addresses the claims as three groups: (1) all independent claims (Appeal Br. 16–28); (2) dependent claims 41 and 42 (*id. at* 29–30); and (3) the remaining claims (*id. at* 28–29). We select claims 1, 41, and 2 as respectively representative of groups (1) to (3). *See* 37 C.F.R.

§ 41.37(c)(1)(iv). For the below reasons, we are unpersuaded of error in the rejections of the representative claims. We accordingly sustain the § 101 rejection for all claims.

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 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) (citation omitted).

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*. *Alice*, 573 U.S. 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. 252, 267–68 (1853))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the 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 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the 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.”) (emphasis omitted).

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 (citation 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.* (quoting *Mayo*, 566 U.S. at 77) (alteration in original). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

PTO Guidance

The PTO provides guidance for 35 U.S.C. § 101. USPTO’s 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Guidance”). 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, and mental processes); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* Manual of Patent Examining Procedure (MPEP) § 2106.05(a)–(c), (e)–(h) (9th ed. 2018)).

84 Fed. Reg. at 52–55. Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then

conclude the claim is directed to a judicial exception (*id. at 54*) and 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.

Id. at 56.

*Analysis for the Independent Claims (First Group)
Representative Claim 1*

Step 1: Does Claim 1 Fall within a Statutory Category?

There is no dispute that the claimed subject matter falls within a § 101 category of patentable subject matter. Final Act. 2; *see also* Guidance, 84 Fed. Reg. at 53–54 (“Step 1”).

Step 2A(1):² Does Claim 1 Recite Any Judicial Exceptions?

We agree with the Examiner’s determination that claim 1 recites judicial exceptions. *See* October 2019 Patent Eligibility Guidance Update

² The Guidance separates the above issues (1) to (4) (*supra* 6–7) into Steps 2A(1), 2A(2), and 2B, as follows:

[T]he revised procedure . . . focuses on two aspects [of whether a claim is “directed to” a judicial exception under the first step of the Alice/Mayo test (USPTO Step 2A)]: (1) [w]hether the claim recites a judicial exception; and (2) whether a recited judicial exception is integrated into a practical application. . . . [W]hen a claim recites a judicial exception and fails to integrate the exception into a practical application, . . . further analysis pursuant to the second step of the Alice/Mayo test (USPTO

(“Guidance Update”) at 1 (meaning of “describe”), *available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf*; see also 84 Fed. Reg. 55942 (Oct. 18, 2019) (notifying the public of the Guidance Update). Specifically, we agree the unemphasized limitations of herein-reproduced claim 1 constitute judicially-expected (JE) subject matter. Final Act. 4.³ We further agree these limitations encompass, more particularly, “transferring funds” (Final Act. 2), a “time-dependent effect of scheduled transfers on an investment account and a shortfall account” (Ans. 5), and a consequent “[s]elective modification of the information presented within [an] interface” (*id. at* 6). We also agree that, because these features constitute a “fundamental economic practice” (Final Act. 6) and “commercial or legal interactions” (Ans. 3), they fall within the Guidance’s judicial-exceptions category for “Certain Methods of Organizing Human Activity” (Final Act. 3; Ans. 6). *See also* Guidance, 84 Fed. Reg. at 52 (categories of judicial exceptions “JE”).

We add that the Examiner correctly identifies the claim’s recitations of “data,” “electronic,” and “signal” as part of the claimed JE subject matter. Final Act. 4. *See In re Nuijten*, 500 F.3d 1346 (Fed. Cir. 2007) (Labeling

Step 2B) . . . is needed . . . in accordance with existing USPTO guidance as modified in April 2018.[footnote omitted]

84 Fed. Reg. at 51 (referencing, via the omitted footnote, “USPTO Memorandum of April 19, 2018, ‘Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*)’ (Apr. 19, 2018), *available at <https://www.uspto.gov/sites/default/files/documents/memo-berkheimer-20180419.PDF>* [. . . ‘USPTO *Berkheimer* Memorandum’].”).

³ The Examiner identifies the claimed “additional elements” (*id. at* 4) and thereby implicitly identifies the claimed JE subject matter.

information as electronic, data, a signal, or the like—e.g., “signal with embedded digital watermark encoded”—does not restrict the information to statutory subject matter.).

For the foregoing reasons, claim 1 recites JE subject matter.

Step 2A(2): Are the Recited Judicial Exceptions Integrated Into a Practical Application?

We agree with the Examiner’s determination that the claimed additional elements do not integrate the claimed judicial exceptions (i.e., claim 1’s judicially-expected activities identified above) into a practical application. Final Act. 4; *see also* Guidance, 84 Fed. Reg. at 53 (describing a “practical application” as a “meaningful limit on the [recited judicial exceptions], such that the claim is more than a drafting effort designed to monopolize the [exceptions]”); *id.* at 55 (“exemplary considerations . . . indicative [of] a practical application”). Specifically, we agree the emphasized limitations of herein-reproduced claim 1 constitute “the additional elements of[:] a communications unit[:] a memory storing instructions[:] one or more processors coupled to the communications unit and . . . configured to execute the instructions[:] and] a client device.” Final Act. 4. We also agree these claim features “are all recited at a high level of generality[,]. . . comprise[] a generic computing arrangement,” and accordingly “result in no more than simply applying the abstract idea using generic computer elements.” *Id.*; *see also* Ans. 4 (citing MPEP § 2106.05(f), Mere Instructions To Apply An Exception). We further agree the claimed “updating [of] data . . . is not technical in nature,” but rather “a business process” that ultimately “displays data on [an] interface.” Final Act. 6 (citing MPEP § 2106.05(g), Insignificant Extra-Solution Activity). We also agree “mere automation of manual processes, such as using [] generic

computer [technology] to process . . . financing,” does not constitute a technological improvement. *Ans. 6* (citing *Credit Acceptance Corp. v. Westlake Services*, 859 F.3d 1044, 1055 (Fed. Cir. 2017) and *Lending Tree, LLC v. Zillow, Inc.*, 656 Fed. App’x 991, 996–97 (Fed. Cir. 2016) (non-precedential)); *see also* MPEP § 2106.05(a)(I), Improvements to Computer Technology, at 2100-53 (citing *Credit Acceptance* and *Lending Tree* for the Examiner’s above position).

We add that MPEP § 2106.05(a)–(c) and (e)–(h) support the Examiner’s determination that the claimed additional elements do not confer a practical application. *See* Guidance 84 Fed. Reg. at 55, nn.25–32 (citing these MPEP sections).

MPEP § 2106.05(a) concerns “Improvements to the Functioning of a Computer or To Any Other Technology or Technical Field.” MPEP at 2100-50. Specifically, it concerns “whether the claim purports to improve computer capabilities or, instead, invokes computers merely as a tool.” *Id.* at 2100-51–52. There is no indication that the claimed invention improves a technology. The claimed technology merely allocates the claimed JE activities to the three most basic components of a server—memory, processors, and a communications unit. The memory stores and provides the needed financial data. The processors perform all analysis and the communications unit transmits the results to a client device for display. Claim 1 therefore does not recite a mechanism or configuration of computer technology (e.g., a way of programing or designing software), much less an improvement to computer technology. *See McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016) (“The abstract idea exception prevents patenting a result where ‘it matters not by what process

or machinery the result is accomplished.” (citation omitted); *see also* MPEP § 2106.05(a) at 2100-50–51, 53 (discussions of *McRO*).

MPEP § 2106.05(b) and (c) respectively concern use of a “Particular Machine” and “Particular Transformation.” MPEP at 2100-54, 56 (transformation must be “of an article”). Claim 1 does not recite a particular machine; the above hardware is generic. Nor does claim 1 recite a transformation, much less a particular transformation. MPEP § 2106.05(e) concerns “Other Meaningful Limitations.” MPEP at 2100-62. Specifically, it concerns whether the claim “limitations [go] beyond generally linking the use of the judicial exception to a particular technological environment.” *Id.* It also describes, as an example of limitations falling short of this threshold, a “data processing system and communications controllers . . . [that] merely linked the use of the abstract idea to . . . implementation via computers.” *Id.* (quoting *Alice*, 573 U.S. at 226 (internal quotation marks omitted)). For the reasons discussed with respect to MPEP § 2106.05(a), the claimed additional elements merely link the claimed JE subject matter to data processing and communication.

MPEP § 2106.05(f) concerns “Mere Instructions To Apply An Exception.” MPEP at 2100-63. Specifically, it concerns the “particularity or generality of the application of the judicial exception.” *Id.* at 2100-66–67. It explains that “generically recit[ing] an effect of the judicial exception[,] or claim[ing] every mode of accomplishing that effect, amounts to . . . merely adding the words ‘apply it’ to the judicial exception.” *Id.* at 2100-66 (citation omitted). The claimed invention accomplishes the JE subject matter via only generic computer elements performing their

generic functions in a generic server architecture (*see supra* 10–11) and therefore claim 1 constitutes a mere instruction to apply judicial exceptions.

MPEP § 2106.05(g) concerns “Insignificant Extra Solution Activity.” MPEP at 2100-67–69. Specifically, it concerns whether “the additional elements add more than . . . activities incidental to the primary process or product.” *Id.* at 2100-67. “[L]imitations . . . recite only insignificant extra-solution activity . . . [if] unrelated to how the solution is achieved.” *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1311 (Fed. Cir. 2016). Such limitations include mere “natural consequence[s] of carrying out the abstract idea in a computing environment.” *Intellectual Ventures I LLC v. Erie Indem. Co.*, 850 F.3d 1315, 1329 (Fed. Cir. 2017) (cited by MPEP § 2106.05(g) at 2100-68). The claimed additional elements are merely incidental, natural consequences of the claimed object and solution—i.e., of determining and reporting a future shortfall event. For example, the claimed loading of data—namely “first data identifying a first scheduled funds transfer . . . , second data identifying a shortfall account . . . , and repayment data characterizing at least one scheduled payment to the shortfall account”—constitutes an incidental, natural consequence of gathering the data needed to anticipate shortfall events. *See* MPEP § 2106.05(g) at 2100-67 (describing insignificant “pre-solution activity”), 68 (“mere data gathering”). Similarly, the claimed “generating and transmitting . . . [a] signal to the client device . . . to modify the information presented within the corresponding interface” constitute an incidental, natural consequence of sending a notification to a bank customer. *See* MPEP at 2100-67 (insignificant “post-solution activity”), 69 (“printing or downloading”).

MPEP § 2106.05(h) concerns “Field of Use and Technological Environment.” MPEP at 2100-69. Specifically, it concerns whether an industry-specific claim limitation “simply . . . acquiesce[s] to limiting the reach of the patent” by reciting a field of use or technological environment. *Id.* It identifies, as an example, limitations that do “not alter or affect how the process steps . . . were performed.” *Id.* at 2100-70. There is no indication that claim 1’s industry-specific limitations—e.g., a “scheduled funds transfer” and “shortfall account”—alter how claim 1’s non-JE activities are performed.

For the foregoing reasons, claim 1 is directed to judicial exceptions—not to a practical application.

Step 2B: Does Claim 1 Recite Anything That Is Beyond the Recited Judicial Exceptions and Not a Well-Understood, Routine, Conventional (“WURC”) Activity?

We agree with the Examiner’s determination that all claim features, i.e., all limitations alone and in combination, constitute either the claimed JE subject matter or WURC activity. 84 Fed. Reg. at 56. Specifically, we agree the claimed computer technology is entirely generic (*see supra* 10–12) and thus WURC. *See* Ans. 6–7; Final Act. 6. We also agree the Specification shows the claimed additional elements, as arranged and performing the claimed JE activities, can achieve all claim features via a typical personal computer, server, or the like. Ans. 7 (citing Spec. ¶¶ 19, 23).

We add a claim’s additional elements do not confer “significantly more” to an invention by: (i) adding the words “apply it” or an equivalent to an abstract idea (*Alice*, 573 U.S. at 221–23); (ii) instructing to implement an abstract idea on a computer (*id.* at 222–23); or (iii) requiring a generic

computer to perform generic computer functions (*id. at* 225). *See also Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016) (“The patent discloses only generic computers performing generic functions” and “thus confirms that the implementation of the abstract idea is routine and conventional.”). The claimed additional elements squarely fall within these categories (i) to (iii) of WURC activity. *See supra* 10–12. Indeed, claim 1 prefaces the invention as being a generic server (communications unit, memory, and processors) configured to perform the claimed JE activities. The only other recitations of technology just state the processed data is “load[ed] from the memory” and “transmitt[ed] via the communications unit.”

Appellant’s Arguments

Our above determinations address most of Appellant’s arguments. Only the below arguments need discussion.

Appellant contends the Examiner did not “predicate the determination in [the Guidance’s Step 2A(1)] on any ‘computer functionality or technical/technology improvement’ offered by [claim 1].” Reply Br. 3 (citing Ans. 5, which addresses the Guidance’s Step 2A(2)). We are unpersuaded because the Guidance’s Step 2A(1) is not predicated on technology. *See supra* 7–8 (Step 2A(1)).

Appellant contends claim 1 “recite[s] a specific, concrete, and tangible improvement in an ability of a user to interact with one or more of the claimed devices or systems through a digital interface, which dynamically presents, and selectively modifies, interface elements without user instruction.” Reply Br. 4; *see also* Appeal Br. 23–24. In support, Appellant emphasizes claim 1’s recitations of signals that modify the display

of an interface, states claim 1 recites a “specific method” for visual tracking of scheduled fund transfers, and cites to paragraphs of the Specification. Reply Br. 4–6 (citing Spec. ¶¶ 2–3, 44, 188–191; Fig. 10 (elements 1000, 1010)). Appellant also identifies the improvement as a “provisioned capability . . . to visually perceive and track” time-dependent effects of scheduled transfers on investment and shortfall accounts. *Id.* at 6 (emphasis omitted); *see also id.* at 7–8 (contending this alleged improvement adds “significantly more” to the JE activities).

We are unpersuaded because the argued improvement lies in JE banking information—not in a manner of processing (e.g., collecting, analyzing, transmitting, or displaying) that information. *See SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1163 (Fed. Cir. 2018) (“[An] advance [that] lies entirely in the realm of abstract ideas . . . is ineligible for patenting.”); *see also e.g., Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1241 (Fed. Cir. 2016) (“[T]he claims . . . are directed to an abstract idea [of] . . . menus with particular features. They do not claim a particular way of programming or designing the software to create menus that have these features.”). Claim 1 does not restrict the display of banking information to the interface structures shown by Appellant’s Figure 10. *Compare e.g., Trading Techs. Int’l, Inc. v. CQG, INC.*, 675 F. App’x 1001, 1004 (Fed. Cir. 2017) (“[T]he challenged patents do not simply claim displaying information on a graphical user interface. The claims require a specific, structured graphical user interface paired with a prescribed functionality directly related to the graphical user interface’s structure.”).

Appellant also contends the Examiner does not explain why the claimed additional elements are WURC. Reply Br. 8–10; Appeal Br. 25–26.

We are unpersuaded because the Examiner identifies each claimed additional element as generic or as shown to be WURC by the Specification. *Supra* 14–15.

Appellant further contends the Examiner does not link various claim elements to one of the Guidance’s categories of JE subject matter. Appeal Br. 16–20. We are unpersuaded because the Examiner clearly identifies all claim features as constituting JE banking activity or additional elements. *Supra* 8–9.

Appellant also contends the claimed processors, communication unit, memory, and client device integrate the claimed JE activities into a practical application inasmuch that “it would be impossible to carry out any of the quoted claim elements and functionalities absent these hardware-based components.” Appeal Br. 22 (emphasis omitted); *see also id. at 23*. We are unpersuaded because the claimed process can be achieved by having a personal accountant, banker, etc., monitor a customer’s financial accounts and notify the customer if an impending fund transfer will cause a shortfall event. We find the claimed computer technology is not essential to performing these claimed JE activities (nor essential to performing the claim’s more detailed JE activities). *Compare SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319, 1333 (Fed. Cir. 2010) (“We are not dealing with a situation in which there is a method that can be performed without a machine. . . . [T]he use of a GPS receiver is essential.”).⁴

⁴ In addition to finding GPS “essential” to the claimed process, *SiRF* found the claimed GPS technology distinguished over conventional GPS technology. *SiRF*, 601 F.3d at 1322–23.

Appellant also contends claim 1 patentably distinguishes over the prior art and, therefore, the Examiner cannot show the claimed additional elements were WURC. Appeal Br. 27. We are unpersuaded because overcoming 35 U.S.C. §§ 102 and 103 is not a dispositive consideration for 35 U.S.C. § 101. As the Federal Circuit has explained, a “claim for a *new* abstract idea is still an abstract idea.” *Synopsis, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1151 (Fed. Cir. 2016). Even assuming the technique claimed was “[g]roundbreaking, innovative, or even brilliant,” that would not be enough for the claimed abstract idea to be patent eligible. *See Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 591 (2013).

*Analysis for Dependent Claims 41 and 42 (Second Group);
Representative Claim 41*

Appellant contends claim 41 recites additional elements that, “when taken as a whole, extend beyond any of the . . . patent-ineligible abstract ideas enumerated within the 2019 Guidance.” Appeal Br. 29. Appellant also contends claim 41 recites “a specific technological improvement.” *Id.* at 30 (emphasis omitted).

We are unpersuaded because the argued claim features are not additional elements, but rather JE subject matter. *See id.* at 29 (emphasized claimed features). Specifically, the argued signals and visual characteristic of interface elements are abstractions of the processed banking information and thus constitute JE subject matter. *See supra* 9 (discussing similar abstractions for claim 1).

The argued automation—claimed “without intervention from a user of the device”—is perhaps an additional element. *See id.* at 29. However, the limitation does not indicate a particular way of automating. *Amdocs*,

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841 F.3d at 1311–12 (Fed. Cir. 2016) (“Because such elements cannot restrict a claim to a particular way of automating, . . . [they] do not meaningfully limit claim scope for purposes of patent eligibility.” (internal quotation marks and citation omitted)).

Analysis for the Remaining Claims (Second Group)

Appellant contends all dependent claims are insufficiently examined because:

[R]ather than analyzing actual language recited by Appellant’s dependent claims, the Office simply concludes that “[Applicant’s dependent claims] further define the abstract idea that is [allegedly] present in their respective independent claims . . . and hence are abstract.” [Final Act. 5.] This deficiency continues to be inconsistent with the Office’s examination guidelines, and for these reasons, the § 101 rejection should be withdrawn. See M.P.E.P. § 2106.07(a) (stating that “the Office Action must provide [a clear and specific] explanation as to why each claim is unpatentable”).

Appeal Br. 28 (emphasis omitted). We are unpersuaded of Examiner error. The Examiner determines the dependent claims merely “further define the abstract idea that is present in their respective independent claims” (Final Act. 5 (also above block quote)) and therefore the Examiner clearly and specifically explains that each dependent claim adds only JE banking information and activities.

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OVERALL CONCLUSION

We sustain the Examiner’s § 101 rejection of claims 1–14, 16, 17, 19–21, 23–28, 31, 33, and 35–42.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C.	Basis	Affirmed	Reversed
1–14, 16, 17, 19–21, 23–28, 31, 33, 35–42	§ 101	Subject Matter Eligibility	1–14, 16, 17, 19–21, 23–28, 31, 33, 35–42	

TIME PERIOD FOR RESPONSE

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

AFFIRMED