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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SUNDER RAJAN RAMKUMAR,
MICHAEL JOHN FREDERICKS, and
MICHAEL OLEGOVICH PENSKY

Appeal 2020-001499
Application 14/181,620
Technology Center 3600

Before RICHARD M. LEBOVITZ, FRANCISCO C. PRATS, and RACHEL H. TOWNSEND, *Administrative Patent Judges*.

LEBOVITZ, *Administrative Patent Judge*.

DECISION ON APPEAL

The Examiner rejected the claims under 35 U.S.C. § 101 as reciting patent ineligible subject matter. Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's decision to reject the claims. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as BlackRock Index Services, LLC. Appeal Br. 2.

STATEMENT OF THE CASE

Claims 1–4, 7–11, and 14–20[2] stand finally rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Ans. 3.

There are two independent claims, claims 1 and 10. We select claim 1 as representative. Claim 1 is reproduced below. The claim is annotated with bracketed numbers for reference to the claim limitations.

> 1. A computer-implemented method for managing asset decumulation performed by a decumulation management system, the method comprising:
>
> [1] establishing a plurality of spending amounts for decumulation of a portfolio over a decumulation period of time, the portfolio including a portfolio value invested in assets with a risk profile, each spending amount indicating a different constant value to be withdrawn from the portfolio value at designated times during the decumulation period;
>
> [2] determining, by the processor, for each point in time of a plurality of points in time, a threshold portfolio value for each spending amount of the plurality of spending amounts, wherein each threshold portfolio value is a portfolio value at which a probability of successfully withdrawing the spending amount for a duration of the decumulation period is at a threshold probability;
>
> [3] selecting, by the processor, an initial spending amount that is one of the established plurality of spending amounts;
>
> [4] monitoring, by the processor, the portfolio value during the decumulation of the portfolio at the initial spending amount of the established plurality of spending amounts;
>
> [5] identifying, by the processor, at a point in time of the plurality of points in time, that the portfolio value during

[2] The Final Action included claims 18–20 in the rejection; the Answer omitted the claims, but we understand this to be an inadvertent error arising from the fact that claims 18–20 were added during prosecution by amendment. Final Act. 2.

> decumulation of the portfolio is below the threshold portfolio value for the initial spending amount at the point in time; and
>
> [6] responsive to the identification, automatically reducing, by the processor, the spending amount from the initial spending amount to a lower spending amount selected from the established plurality of spending amounts.

PRINCIPLES OF LAW

Under 35 U.S.C. § 101, an invention is patent-eligible if it claims a "new and useful process, machine, manufacture, or composition of matter." However, not every discovery is eligible for patent protection. *Diamond v. Diehr*, 450 U.S. 175, 185 (1981). "Excluded from such patent protection are laws of nature, natural phenomena, and abstract ideas." *Id.* The Supreme Court articulated a two-step analysis to determine whether a claim falls within an excluded category of invention. *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208 (2014); *Mayo Collaborative Servs. v. Prometheus Labs, Inc.*, 566 U.S. 66, 75–77 (2012).

In the first step, it is determined "whether the claims at issue are directed to one of those patent-ineligible concepts." *Alice*, 573 U.S. at 217. If it is determined that the claims are directed to an ineligible concept, then the second step of the two-part analysis is applied in which it is asked "[w]hat else is there in the claims before us?" *Id.* (citation omitted) (alteration in original). The Court explained that this step involves

> a search for an 'inventive concept' — *i.e.,* 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.'

Alice, 573 U.S. at 217–218 (citing *Mayo*, 566 U.S. at 75–77) (alteration in original).

Alice, relying on the analysis in *Mayo* of a claim directed to a law of nature, stated that in the second part of the analysis, "the elements of each claim both individually and 'as an ordered combination'" must be considered "to determine whether the additional elements 'transform the nature of the claim' into a patent-eligible application." *Alice*, 573 U.S. at 217 (citation omitted).

The PTO published revised guidance on the application of 35 U.S.C. § 101. USPTO's January 7, 2019 Memorandum, *2019 Revised Patent Subject Matter Eligibility Guidance,* 84 Fed. Reg. 50, 51–57 (2019) ("Eligibility Guidance"). This guidance provides additional direction on how to implement the two-part analysis of *Mayo* and *Alice*.

Step 2A, Prong One, of the 2019 Guidance, looks at the specific limitations in the claim to determine whether the claim recites a judicial exception to patent eligibility. In Step 2A, Prong Two, the claims are examined to identify whether there are additional elements in the claims that integrate the exception into a practical application, namely, is there a "meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception." 84 Fed. Reg. 54 (2. Prong Two).

If the claim recites a judicial exception that is not integrated into a practical application, then as in the *Mayo/Alice* framework, Step 2B of the Eligibility Guidance instructs us to determine whether there is a claimed "inventive concept" to ensure that the claims define an invention that is significantly more than the ineligible concept, itself. 84 Fed. Reg. 56.

With these guiding principles in mind, we proceed to determine whether the claimed subject matter in this appeal is eligible for patent protection under 35 U.S.C. § 101.

DISCUSSION

Claim 1 is directed to a computer-implemented method. Following the first step of the *Mayo/Alice* analysis, we find that the claim is directed to a "method" which is also a "process" and therefore falls into one of the broad statutory categories of patent-eligible subject matter recited in 35 U.S.C. § 101. We, thus, proceed to Step 2A, Prong One, of the Eligibility Guidance.

Step 2A, Prong One

In Step 2A, Prong One, of the Eligibility Guidance, the specific limitations in the claim are examined to determine whether the claim recites a judicial exception to patent eligibility, namely whether the claim recites an abstract idea, law of nature, or natural phenomenon.

The claim is directed to a computer-implemented method for "managing asset decumulation performed by a decumulation management system." Asset decumulation is explained in the Specification as withdrawing an amount of assets from an account over a desired period of time. Spec. ¶ 3. "For example, an advisor may suggest withdrawing a specific percentage of the original assets every year, such as 6.5% of the original value, with a target of depleting the account after 20 years." *Id.*

The Examiner found that the claim recites a fundamental economic practice and a method of organizing human activity (Ans. 6),[3] one of the categories of abstract ideas identified by the courts and listed in the Eligibility Guidance (84 Fed. Reg. 52). Appellant challenges this determination, stating that "the claims of the present application are not directed to an abstract idea, because they do not simply automate an existing conventional method on a computer, and do not monopolize all potential solutions to the problem of asset decumulation." Appeal Br. 8; Reply Br. 3.

We agree with the Examiner's determination. Step [1] of claim 1 establishes a plurality of spending amounts to withdraw from a portfolio ("for decumulation of a portfolio"). Each spending amount is of "constant value."

In step [2] of the claim, the processor determines "a threshold portfolio value for each spending amount of the plurality of spending amounts." This value is defined in the claim as "a portfolio value at which a probability of successfully withdrawing the spending amount for a duration of the decumulation period is at a threshold probability." The Specification explains that probabilities of success means "decumulation without premature asset exhaustion." Spec. ¶ 15. Thus, for each spending amount, a portfolio value threshold is determined to make sure that the spending amounts withdrawn over the selected period of time does not deplete the account below the threshold value.

[3] The Final Office Action was mailed on Apr. 30, 2018, before the publication of the Eligibility Guidance. The Examiner's Answer, however, was mailed Oct. 18, 2019, after the Eligibility Guidance was published.

An initial spending amount is selected in step [3] from the spending amounts in step [1]. The processor identifies that "the portfolio value during decumulation of the portfolio is below the threshold portfolio value" set in step [2]. Steps [5] and [6] recites that "responsive to the identification," the processor carries out the step of "automatically reducing . . . the spending amount from the initial spending amount to a lower spending amount selected from the established plurality of spending amounts." Thus, the processor determines at a certain point in time when the initial spending amount withdrawn from the account will deplete the account below a threshold value, and then readjusts the spending amount to a lower amount. As explained in the Specification: "When assets perform well, spending levels are maintained and may be increased to the next spending tier. When assets perform poorly, spending is reduced to a lower spending tier." Spec. ¶ 4.

The method therefore is managing the assets of an account from which spending amounts are being withdrawn over a period of time to protect the account from being depleted early. We agree with the Examiner that, under the principles enunciated in *Bancorp Services, L.L.C. v. Sun Life Assur. Co. of Canada (U.S.)*, 687 F.3d 1266 (Fed. Cir. 2012), the claimed method is ineligible for a patent.

In *Bancorp*, the claim 9 of the '037 patent was "for managing a life insurance policy." *Bancorp*, 687 F.3d at 1271. The first step of the claim comprised "generating a life insurance policy including a stable value protected investment with an initial value based on a value of underlying securities of the stable value protected investment." *Id.* Thus, like the "stable value protected investment" of *Bancorp*, the claimed method comprises steps in which a portfolio value is protected by lowering spending amounts when the portfolio value declines below a determined threshold (steps [2], [5], and [6] of rejected claim 1). The court found that *Bancorp's* claims were an attempt to patent the abstract idea of managing a stable value protected life insurance policy and "'then instruct the use of well-known [calculations] to help establish some of the inputs into the equation.'" *Id.* at 1278 (citation omitted) (brackets in the original). Likewise in claim 1, input values of spending amounts in steps [1] and [3], and the threshold portfolio value in step [2], are used to manage asset decumulation and prevent the portfolio value from falling below a certain threshold. The rejected claims recite an abstract idea because they manage the portfolio asset value in a similar fashion to how the claims in *Bancorp* managed the value of the life insurance policy. The Eligibility Guidance lists *Bancorp's* claims as falling in the abstract idea category of "[c]ertain methods of organizing human activity." 84 Fed. Reg. 52 (n. 13). Therefore, the same category of abstract ideas applies to the rejected claims in this appeal.

In sum, for the foregoing reasons, we find that claim 1 recites an abstract idea. Accordingly, we proceed to Step 2A, Prong Two, of the Eligibility Guidance.

Step 2A, Prong Two

Prong Two of Step 2A under the 2019 Eligibility Guidance asks whether there are additional elements that integrate the exception into a practical application. We must look at the claim elements individually and "as an ordered combination" to determine whether the additional elements integrate the recited abstract idea into a practical application. "A claim that integrates a judicial exception in 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." Eligibility Guidance, 84 Fed. Reg. 54. Integration into a practical application is evaluated by identifying whether there are additional elements individually, and in combination, which go beyond the judicial exception. *Id.* at 54–55.

Appellant argues that "the claims on appeal provide for a technological improvement by allowing for computer automation of asset decumulation strategies in a specific way that reduces a risk of premature asset exhaustion in comparison to conventional asset decumulation." Appeal Br. 9. Appellant also contends that the claims

> recite a practical application of the judicial exception that addresses a specific challenge in asset management, namely, how to automate of a decumulation strategy by dynamically adjusting the spending and/or risk of the portfolio between different spending amounts and/or risk profiles in a way that minimizes a user's risk of premature asset exhaustion.

Id. at 11; *see also* Reply Br. 7. Appellant contends that the claims are analogous to those in *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016). Appeal Br. 8; Reply Br. 3–4.

We first address Appellant's argument that the claims are patent eligible for the same reasons as in *McRO*. In *McRO*, the claim was directed to a "method for automatically animating lip synchronization and facial expression of three-dimensional characters." *McRO*, 837 F.3d, 1307–08. The claim recited a series of steps that "produce[d] lip synchronization and facial expression control of said animated characters." *Id.* at 1308. The court found that the claimed "automation goes beyond merely 'organizing [existing] information into a new form' or carrying out a fundamental economic practice." *McRO*, 837 F.3d at 1315 (citation omitted) (alteration in original). Instead, the court found that "[t]he claimed process uses a combined order of specific rules that renders information into a specific format that is then used and applied to create desired results: a sequence of synchronized, animated characters." *Id. McRO* found that the recited rules "are limiting in that they define morph weight sets as a function of the timing of phoneme sub-sequences." *McRO*, 837 F.3d at 1313. The claims were found to be directed to a "technological improvement over the existing, manual 3-D animation techniques." *McRO*, 837 F.3d at 1316.

We do not agree with Appellant that the claims are like those in *McRO*. Specifically, Appellant identifies step [1] and [2] as enabling the method to dynamically adjust the spending amounts "in a way that minimizes a user's risk of premature asset exhaustion." Appeal Br. 10. Step [1], however, does not identify how the spending amounts are established. Only the result is recited in the claim, but not a "specific rule" as asserted by Appellant, for choosing these amounts. Indeed, the Specification discloses that the "initial spending level [step [3] of claim 1 in which the amount is selected from step [1]] may be provided by the account holder," indicating that steps [1] and [3] can accomplished by the user's mental preference.

In step [2], a threshold portfolio value is determined. The step recites that the value is "a portfolio value at which a probability of successfully withdrawing the spending amount for a duration of the decumulation period is at a threshold probability," but does not explain how such value is specifically determined. The Specification explains that thresholds can be calculated and gives one example of using Monte-Carlo simulations to do so. Spec. ¶¶ 15–16, 18. However, step [2] of the claim merely recites that the threshold values are determined, but without describing how the determination is accomplished.

The subsequent steps are no different. In step [4], the value of the account is monitored using a processor, and in step [5] the point in time when the portfolio drops below the threshold is identified. No rule is recited in the claim that dictates how the monitoring and threshold identification is made. The last step [6] of the claim automatically reduces the spending amount to a lower amount from the established spending amounts of step [1]. This last step does not explain how the lower spending amount is determined.

In sum, we cannot discern a specific rule in any of the claim steps that determines how the decumulation is performed. For this reason, we find that the claims are unlike those in *McRO*, 837 F.3d at 1313, where specific rules were followed to create a sequence of synchronized, animated characters (e.g., "morph weight sets as a function of the timing of phoneme sub-sequences").

The steps of the claim in combination have the same deficiency. Spending amounts are determined in the claim and applied to an asset portfolio until a threshold portfolio value is crossed, and then a lower spending amount is selected. The rules are stated with such generality, that the recited abstract idea of managing the value of the portfolio would be preempted. As explained in *McRO*, the "limitations in claim 1 prevent preemption of all processes for achieving automated lip-synchronization of 3–D characters." *McRO*, 837 F.3d at 1315. The court held that "[t]he specific structure of the claimed rules would prevent broad preemption of all rules-based means of automating lip synchronization." *Id. McRO* noted that "[t]he abstract idea exception has been applied to prevent patenting of claims that abstractly cover results where 'it matters not by what process or machinery the result is accomplished.'" (quoting *O'Reilly v. Morse*, 56 U.S. 62, 113 (1853)); *see also Mayo*, 566 U.S. at 83." *McRO*, 837 F.3d at 1314. *McRO* stated that therefore, a court must "look to whether the claims in these patents 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." *McRO*, 837 F.3d at 1314.

Here, as explained above, the claim recites the desired result of [1] establishing spending amounts, [2] determining threshold portfolio value, [5] identifying when the portfolio value is below the threshold, and then [6] automatically reciting the spending amount. Each of the steps state the desired *result* without claiming the specific implementation of how the result is accomplished. Therefore, *McRO* is distinguishable.

Appellant contends that the claims are patent-eligible because they do not simply automate an *existing conventional* method on a computer. Appeal Br. 8, 10. This argument is not persuasive. A claim is not patent-eligible merely because the recited method is not conventional. As explained in *Diamond v. Diehr*, 450 U.S. 175, 188–189 (1981), "[t]he 'novelty' of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter." Thus, it is not determinative that the art-based rejections were withdrawn by the Examiner. Appeal Br. 10; Ans. 9 (response by Examiner). Rather, the question under the *Mayo/Alice* framework is "[w]hat else is there in the claims before us" other than the recited abstract idea. *Mayo* 566 U.S. at 78. *Alice*, referring to the "what else" as "additional elements," directed the § 101 analysis to be a search for the additional elements, apart from the abstract idea that would transform the claim into a patent-eligible practical application. *Alice* 573 U.S. at 217.

The steps that Appellant identifies as unconventional are integral to the method of organizing human activity. Specifically, steps [1] and [2] of picking spending amounts and threshold portfolio are necessary to accomplish the management asset decumulation and are not accomplished by specific rules which would confer eligibility as in *McRO*. Step [1] is not even limited to being performed on a processor and therefore could be accomplished by a mental process by the aid of pen and paper, a category of abstract ideas listed in the Eligibility Guidance. 84 Fed. Reg. 52. *See also* PEG Update[4] C.iii.

Steps [5] and [6] of identifying when the portfolio is below the threshold and then lowering the spending amount is tantamount to asset decumulation management and therefore cannot serve as the additional elements described in *Alice*. Moreover, because the claim does not specify the rules to implement these steps, we find that they could be accomplished mentally by human evaluation and observation and therefore constitute an abstract idea. Eligibility Guidance, 84 Fed. Reg. 52 ("(c) Mental processes--concepts performed in the human mind (including an observation, evaluation, judgment, opinion" (footnote omitted)).

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[4] October 2019 Update: Subject Matter Eligibility, Available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf (last accessed Nov. 15, 2019) ("PEG Update").

Appellant argues that the recited limitations

> ensure that the claims are limited to a specific way of dynamically adjusting a spending value and/or a risk profile of a portfolio based upon a current portfolio value and its relationship to *one or more predetermined spending or risk bands* defined by different threshold portfolio values, in order to reduce a risk of premature asset exhaustion.

Appeal Br. 13 (emphasis added). Appellant also describes the asserted improvement in the claims as "creat[ing] spending bands" and "risk bands." Appeal Br. 10. The terms "spending bands" and "risk bands," however, do not appear in the claim and Appellant has not explained how the recited steps in the claim correspond to the asserted "bands."

Appellant asserts that the claims provide for a technological improvement "by allowing for computer automation" of asset decumulation management. Appeal Br. 9. This argument is not persuasive. "Steps that do nothing more than spell out what it means to 'apply it on a computer' cannot confer patent-eligibility. *Alice*, 134 S.Ct. at 2359." *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370–71 (Fed. Cir. 2015); *see also Credit Acceptance Corp. v. Westlake Servs*., 859 F.3d 1044, 1055 (Fed. Cir. 2017) ("mere automation of manual processes using generic computers does not constitute a patentable improvement in computer technology.").

BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC, 827 F.3d 1341 (Fed. Cir. 2016), cited by Appellant (Appeal Br. 14), does not lead to a different result. The court in *BASCOM* found the claimed process eligible because the claims were found to "carve out a specific location for the filtering system (a remote ISP server) and require the filtering system to give users the ability to customize filtering for their individual network accounts." *BASCOM*, 827 F.3d at 1352. While filtering content was "already a known concept," the court found the claims "recite a specific, discrete implementation of the abstract idea of filtering content." *Id*. at 1350. In contrast, the claims here do not "carve out" a specific way of accomplishing asset decumulation, but rather would preempt all ways of doing so. *Id.* at 1352 ("As explained above, construed in favor of *BASCOM* as they must be in this procedural posture, the claims of the '606 patent do not preempt the use of the abstract idea of filtering content on the Internet or on generic computer components performing conventional activities.").

Appellant criticizes the Examiner as having "not properly described why the claims are not directed to a method that provides a 'technological' improvement." Appeal Br. 14. Appellant contends that "the claimed invention resolves a problem in the realm of asset management involving asset decumulation and the risk for premature asset exhaustion." *Id*.

The issue in this analysis is "how" the problem is solved and whether the asserted solution recited in the claim constitutes an "additional element" alone, or in combination with the abstract ideas in the claim, to impart patent eligibility to the claims and integration of the abstract idea into a practical application. As discussed in detail above, while it might be true that the method resolves a problem in asset decumulation, the steps in the claim that accomplish this result are not stated with sufficient specificity, as they were in *McRO* and *BASCOM*, to avoid reading on the abstract idea, itself. Moreover, the portfolio threshold could be monitored without a computer by human observation, and spending amount selection and lowering could be done by human evaluation.

Appellant contends “the present claims are analogous to Claims 2 and 3 of Example 46” of the PEG Update. Reply Br. 6. Appellant states that the additional elements in claims 2 and 3 of the example take control of a feed dispenser and operate a gate mechanism which provide meaningful limitations to the claim. *Id.* at 6–7. In analogy, Appellant argues that “automatically reducing, by the processor, the spending amount from the initial spending amount to a lower spending amount selected from the established plurality of spending amounts” is corrective action that constitutes a meaningful limitation to the claims. *Id.* at 7.

As discussed by Appellant, the additional element in claim 2 of Example 46 of the PEG Update is a feed dispenser which is automatically operated to dispense supplements to the animals, and in claim 3, it is a sorting gate which is automatically operated. These claims were determined to be patent-eligible because they do not attempt to patent the abstract ideas recited in claims 2 and 3, but rather are drawn to a process in which “corrective action” is taken to control a food dispenser and gate, respectively. PEG Update, Appendix 1, pp. 37, 40. Appellant attempts to analogize these claims to claim 1, where the corrective action is lowering the spending amount (claim 1, step [6]).

We do not agree with Appellant that operating a food dispenser and sorting gate is the same type of action as lowering a spending amount. Reducing the spending amount to maintain the portfolio value is in the realm of abstract ideas because it is integral to the method of organizing human behavior. The step, itself, could be performed mentally by picking “a lower spending amount selected from the established plurality of spending amounts.” *Id*.

In sum, we have not been guided to an additional element in the claim, beyond the abstract idea, that integrates the judicial exception in practical application.

Step 2B

Because we determined that the judicial exception is not integrated into a practical application, we proceed to Step 2B of the Eligibility Guidelines, which asks whether there is an inventive concept. In making this Step 2B determination, we must consider whether there are specific limitations or elements recited in the claim "that are not well-understood, routine, conventional activity in the field, which is indicative that an inventive concept may be present" or whether the claim "simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception, which is indicative that an inventive concept may not be present." Eligibility Guidance, 84 Fed. Reg. 56 (footnote omitted). We must also consider whether the combination of steps perform "in an unconventional way and therefore include an 'inventive step,' rendering the claim eligible at Step 2B." *Id.* In this part of the analysis, we "consider the elements of each claim both individually and 'as an ordered combination' to determine "whether the additional elements 'transform the nature of the claim' into a patent-eligible application." *Alice*, 573 U.S. at 217 (citation omitted).

Appellant argues that Examiner "acknowledges that the claims contain elements that are not present in the prior art, indicating that the claimed element include those that are not simply routine or conventional elements. As such, the additional limitations of the claims thus cannot be described as simply generic computer functions." Appeal Br. 13. Appellant further states "the claim as a whole demonstrates inventive concept, consistent with the Step 2B analysis articulated by the USPTO in the 2019 Guidance." *Id*.

Appellant has not identified an additional element in the claim. Appellant points to steps [1], [2], [5], and [6] of the claim, but fails to explain why these steps are not part of the abstract idea, as opposed to an additional element of the claim. Appellant essentially repeats the same argument throughout the briefs that the claim recites specific rules that provide a technological improvement and inventive practical application. However, we disagree with Appellant's conclusion because each step, alone, and in combination, is stated as a result and is not restricted to how the steps are accomplished. The aspects of the claim asserted to be unconventional correspond to the abstract idea, itself. Step [2] defines the threshold portfolio value, but not how it is determined or calculated. The "identifying" step [5] is comparing the portfolio value to a threshold, which the Eligibility Guidance in Example 40 characterized as a mental process ("The claim recites the limitation of comparing at least one of the collected traffic data to a predefined threshold. This limitation, as drafted, is a process that, under its broadest reasonable interpretation, covers performance of the limitation in the mind but for the recitation of generic computer components."). Subject Matter Eligibility Examples: Abstract Ideas. Step [6] does not inform how the lower spending amount is determined. These same type of steps were found in *Bancorp* to be an abstract idea: "without the computer limitations nothing remains in the claims but the abstract idea of managing a stable value protected life insurance policy by performing calculations and manipulating the results." *Bancorp*, 687 F.3d at 1280.

Summary

For the foregoing reasons, we affirm the rejection of claim 1 under § 101. Independent claim 10 has substantially the same limitations as claim 1 and the rejection of it is affirmed, as well. Claims 2–4, 7–9, 11, and 14–20 fall with claims 1 and 10 because separate reasons for their patentability were not provided. 37 C.F.R. § 41.37(c)(1)(iv).

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–4, 7–11, 14–20	101	Eligibility	1–4, 7–11, 14–20	

TIME PERIOD

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).

AFFIRMED