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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JOANNE DIPAOLO, BILL CAREY, DAN CARETTA,  
BRAD ARROWOOD, and JEANINE TABACZYNSKI

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Appeal 2020-001603  
Application 12/335,056  
Technology Center 3600

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Before ST. JOHN COURTENAY III, JOHN A. EVANS, and  
STACY B. MARGOLIES, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant<sup>1</sup> appeals under 35 U.S.C. § 134(a) from a final rejection of claims 1, 3–7, 9–13, 15, 17, 18, 21, 23, and 24. Claims 2, 8, 14, 16, 19, 20, and 22 are canceled. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). According to Appellant, the real party in interest is Wells Fargo. *See* Appeal Br. 3.

STATEMENT OF THE CASE<sup>2</sup>

*Introduction*

Appellant’s claimed invention relates generally to “systems (and methodologies) that put consumers in control of NSF/OD (Not Sufficient Funds/Overdraft) fee management, where fees are solely dependent on time to cure a negative balance.” Spec. ¶ 5.

*Evidence*

The prior art relied upon by the Examiner as evidence is:

<b>Name</b>	<b>Reference</b>	<b>Date</b>
Horvitz	US 2002/0087649 A1	Jul. 4, 2002
LeClaire, Jennifer (“LeClaire”)	Non-patent Literature: “A costly courtesy: overdraft privilege,” The Christian Science Monitor. Boston, Mass., page 15.	Mar 3, 2003
Cahill et al. (“Cahill”)	US 6,535,855 B1	Mar.18, 2003
Moebs et al. (“Moebs”)	US 2005/0065872 A1	Mar. 24, 2005
Rep. Carolyn B. Maloney (“Maloney”)	Non-patent Literature: “Rep. Maloney’s E- Newsletter”	Oct. 7 2005
“Lloyds TSB” (“Lloyds”)	Non-patent Literature:	June 30, 2008

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<sup>2</sup> We herein refer to the Final Office Action, mailed November 23, 2018 (“Final Act.”); the Appeal Brief, filed May 28, 2019 (“Appeal Br.”); the Examiner’s Answer, mailed October 17, 2019 (“Ans.”); and the Reply Brief, filed December 17, 2019.

	“Lloyds TSB Launches 2008 Student Account”	
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*Rejections*

Rej	Claims Rejected	35 U.S.C. §	References/Basis
A	1, 3–7, 9–13, 15, 17, 18, 21, 23, 24	101	Eligibility
B <sup>3</sup>	1, 3–5, 7, 9–13, 15, 17, 18, 21, 23	103(a)	LeClaire, Maloney, Cahill, Moebs
C	6	103(a)	LeClaire, Maloney, Cahill, Moebs, Lloyds
D	24	103(a)	LeClaire, Maloney, Cahill, Moebs, Horvitz

*Rejection A under 35 U.S.C. § 101*

USPTO § 101 Guidance

The U.S. Patent and Trademark Office (USPTO) has published revised guidance on the application of 35 U.S.C. § 101. *See* USPTO

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<sup>3</sup> We have corrected a typographical error in the Examiner’s listing of claims for Rejection B under 35 U.S.C. § 103(a) on page 17 of the Final Action. Although the Examiner indicates that claims 1–5, 7, 9–13, 15, 17, 18, 21, 23, and 24 are rejected, claim 2 was canceled, and the detailed rejection for claim 24 is instead found on page 36 of the Final Action, as part of the rejection over LeClaire, Maloney, Cahill, Moebs, and Horvitz (Rejection D above). As corrected above, only claims 1, 3–5, 7, 9–13, 15, 17, 18, 21, and 23 are rejected under Rejection B.

January 7, 2019 Memorandum, 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (“January 2019 Memorandum”).<sup>4</sup>

Under that 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) (*see* January 2019 Memorandum *Step 2A – Prong One*); and
- (2) any additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)) (*see* January 2019 Memorandum *Step 2A – Prong Two*).<sup>5</sup>

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

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<sup>4</sup> The Office issued a further memorandum on October 17, 2019 (the “October 2019 Memorandum”) clarifying guidance of the January 2019 Memorandum in response to received public comments. *See* [https://www.uspto.gov/sites/default/files/documents/peg\\_oct\\_2019\\_update.pdf](https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf). Moreover, “[a]ll USPTO personnel are, as a matter of internal agency management, expected to follow the guidance.” January 2019 Memorandum at 51; *see also* October 2019 Memorandum at 1.

<sup>5</sup> 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* 2019 October Memorandum, Section III(A)(2), page 10, *et seq.*

- (4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

*See* January 2019 Memorandum *Step 2B*.

Because there is no single definition of an “abstract idea” under *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208 (2014) Step 1, the January 2019 Memorandum synthesizes, for purposes of clarity, predictability, and consistency, key concepts identified by the courts as abstract ideas to explain that the “abstract idea” exception includes the following three groupings:

1. Mathematical concepts—mathematical relationships, mathematical formulas or equations, mathematical calculations;
2. Mental processes—concepts performed in the human mind (including an observation, evaluation, judgment, opinion); and
3. Certain methods of organizing human activity—fundamental economic principles or practices (including hedging, insurance, mitigating risk); commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations); managing personal behavior or relationships or interactions between people (including social activities, teaching, and following rules or instructions).

*See* January 2019 Memorandum, 84 Fed. Reg. at 52.

According to the January 2019 Memorandum, “[c]laims that do not recite [subject] matter that falls within these enumerated groupings of abstract ideas should not be treated as reciting abstract ideas,” except in rare circumstances. Even if the claims recite any one of these three groupings of abstract ideas, these claims are still not “directed to” a judicial exception (abstract idea), and thus are patent eligible, if “the claim as a whole

integrates the recited judicial exception into a practical application of that exception.” *See* January 2019 Memorandum, 84 Fed. Reg. at 53.

For example, limitations that are indicative of *integration into a practical application* include:

1. Improvements to the functioning of a computer, or to any other technology or technical field — *see* MPEP § 2106.05(a);
2. Applying the judicial exception with, or by use of, a particular machine — *see* MPEP § 2106.05(b);
3. Effecting a transformation or reduction of a particular article to a different state or thing — *see* MPEP § 2106.05(c); and
4. Applying or using the judicial exception in some other meaningful way beyond generally linking the use of the judicial exception to a particular technological environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception — *see* MPEP § 2106.05(e).

In contrast, limitations that are not indicative of *integration into a practical application* include:

1. Adding the words “apply it” (or an equivalent) with the judicial exception, or merely including instructions to implement an abstract idea on a computer, or merely uses a computer as a tool to perform an abstract idea — *see* MPEP § 2106.05(f);
2. Adding insignificant extra-solution activity to the judicial exception — *see* MPEP § 2106.05(g); and
3. Generally linking the use of the judicial exception to a particular technological environment or field of use — *see* MPEP § 2106.05(h).

*See* 2019 January Memorandum, 84 Fed. Reg. at 54–55 (“Prong Two”).

## ANALYSIS

### *January 2019 Memorandum, Step 2A, Prong One The Judicial Exception*

We reproduce *infra* independent claim 1 in Table One. We have considered all of Appellant’s arguments and any evidence presented. We highlight and address specific findings and arguments for emphasis in our analysis below.<sup>6</sup>

The Examiner finds independent claim 1 recites an abstract idea:

Claim recites a system which performs a process of fee management. The concept of fee management corresponds to a method of organizing human activities, as it is a concept that relates to managing relationships or transactions between parties. The concept is not meaningfully different from concepts found by the courts to be abstract ideas such as creating and managing a contractual relationship (*BuySafe*), where here fee assessment is part of contractual agreement between parties, where information about an account is being collected/monitored, evaluated against rules that dictate certain results, i.e., fee assessment.

Final Act. 9–10.<sup>7</sup>

Under the January 2019 Memorandum, we begin our analysis by first considering whether the claims recite any judicial exceptions, including certain groupings of abstract ideas, in particular: (a) mathematical concepts, (b) certain methods of organizing human activity, and (c) mental processes.

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<sup>6</sup> Throughout this opinion, we give the claim limitations the broadest reasonable interpretation (BRI) consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

<sup>7</sup> The Examiner is citing to *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014).

*Independent Claim 1*

For ease of reference in connection with our analysis of Step 2A, Prongs One and Two, in Table One below, we identify in *italics* the specific claim limitations that we conclude recite an abstract idea. We also identify in **bold** the additional claim elements that we find are generic computer components:

TABLE ONE

<b>Independent Claim 1</b>	<b>January 2019 Memorandum</b>
[a] A system that <i>facilitates balance exception fee management</i> , comprising: <sup>8</sup>	Abstract Idea: <i>Facilitating balance exception fee management</i> is a method of organizing human activity, in particular a fundamental economic practice (i.e., a commercial interaction); alternatively, <i>facilitating balance exception fee management</i> can be performed by a person and thus is a mental process. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52.

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<sup>8</sup> A system (i.e., apparatus) falls under the statutory subject matter class of a machine. *See* 35 U.S.C. § 101 (“Whoever 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.”).

Independent Claim 1	January 2019 Memorandum
<p>[b] a fee accrual processing component having <b>one or more processors</b> configured to:</p>	<p><b>One or more processors</b> is/are generic computer components. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52 n.14.</p>
<p>[c] receive balance event information associated with a financial account;</p>	<p>Receiving balance event information associated with a financial account is insignificant extra-solution activity (i.e., data gathering). <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 55 n.31; <i>see also</i> MPEP § 2106.05(g).</p>
<p>[d] <i>determine that a balance exception event has occurred based, at least in part, on the received balance event information;</i></p>	<p>Abstract Idea: <i>Determining that a balance exception event has occurred based, at least in part, on the received balance event information</i> is a method of organizing human activity, in particular a fundamental economic practice (i.e., a commercial interaction) that can be performed alternatively by a person as a mental process. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52.</p>
<p>[e] <i>initiate a balance exception cycle in response to the determination that the balance exception event has occurred, wherein the balance exception cycle is divided into periods; and</i></p>	<p>Abstract Idea: <i>Initiating a balance exception cycle in response to the determination that the balance exception event has occurred</i> is a method of organizing human activity, in particular a fundamental economic practice (i.e., a commercial interaction) that can be performed alternatively by a person as a mental process. <i>See</i> January</p>

Independent Claim 1	January 2019 Memorandum
	2019 Memorandum, 84 Fed. Reg. at 52.
<p>[f] <i>generate a periodic fee to assess on the financial account, wherein the periodic fee increases by a fixed amount at prescribed periods throughout the balance exception cycle;</i></p>	<p>Abstract Idea: <i>Generating a periodic fee to assess on the financial account, wherein the periodic fee increases by a fixed amount at prescribed periods throughout the balance exception cycle</i> is a method of organizing human activity, in particular a fundamental economic practice (i.e., a commercial interaction) that can be performed alternatively by a person as a mental process. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52.</p>
<p>[g] <i>terminate the periodic fee when a maximum aggregate fee has been reached;</i></p>	<p>Abstract Idea: <i>Terminating the periodic fee when a maximum aggregate fee has been reached</i> is a method of organizing human activity, in particular a fundamental economic practice (i.e., a commercial interaction) that can be performed alternatively by a person as a mental process. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52.</p>
<p>[h] a notification administration component having <b>one or more processors</b> configured to:</p>	<p><b>One or more processors</b> is/are generic computer components, as shown in bold. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52 n.14.</p>

Independent Claim 1	January 2019 Memorandum
<p>[i] generate a notification to a first contact identity of a user when the periodic fee is generated by the fee accrual processing component based on a delivery notification preference;</p>	<p>Generating a notification when the periodic fee is generated is insignificant extra-solution activity (i.e., data transmission). <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 55 n.31; <i>see also</i> MPEP § 2106.05(g).</p>
<p>[j] execute the notification over a <b>server</b> to the first contact identity;</p>	<p>Executing the notification to the first contact is an insignificant extra-solution activity (i.e., data transmission). <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 55 n.31; <i>see also</i> MPEP § 2106.05(g).</p> <p><b>A server</b> is a generic computer component. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52 n.14.</p>
<p>[k] <i>determine the notification was not delivered to the first contact identity;</i></p>	<p>Abstract Idea: <i>Determining the notification was not delivered to the first contact identity</i> can be performed alternatively (to a computer implementation) by a person, and thus is a mental process. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52.</p>
<p>[l] <i>determine a second contact identity based on the delivery notification preference; and</i></p>	<p>Abstract Idea: <i>Determining a second contact identity based on the delivery notification preference</i> can be performed by a person, and thus is a mental process. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52.</p>

Independent Claim 1	January 2019 Memorandum
<p>[m] execute the notification over <b>the server</b> to the second contact identity,</p>	<p>Executing the notification to the second contact identity is insignificant extra-solution activity (i.e., data transmission). <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 55 n.31; <i>see also</i> MPEP § 2106.05(g).</p> <p><b>The server</b> is a generic computer component. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52 n.14.</p>
<p>[n] wherein the period is one day and <i>a single fee is assessed per period</i> regardless of the number of balance exception events in a single day.</p>	<p>Abstract Idea: <i>Assessing a single fee per period</i> is a method of organizing human activity, i.e., a fundamental economic practice (i.e., a commercial interaction) that can be performed alternatively by a person as a mental process. <i>See</i> January 2019 Memorandum, 84 Fed. Reg. at 52.</p>

*Abstract Idea*

As discussed above, the Examiner finds that claim 1 recites a method of organizing human activity, and specifically, “managing relationships or transactions between parties.” Final Act. 9. The Examiner further explains in the Answer that claim 1 recites “a method of organizing human activity – a commercial interaction.” Ans. 4–5; *see also* Advisory Act. 2 (finding that the claims recite “commercial or legal interactions,” which fall under the “certain methods of organizing human activity” grouping).

Appellant notes that the January 2019 Memorandum was issued after the Final Action mailed. *See* Appeal Br. 9–10. Appellant further notes the

Advisory Action (mailed February 21, 2019), in which the Examiner first clarifies the section 101 rejection under the January 2019 Memorandum.<sup>9</sup> *Id.* Appellant urges that “prior attempts at designating an ‘abstract idea’ or ‘method of organizing human activities’ misstates the claim at a far too high level of generality, an action warned against by the courts, and explicitly outside of the binding guidance on patent eligible subject matter.” Appeal Br. 10.

However, as identified above in Table One, we conclude the system functions recited in limitations (a), (e), (f), and (g) are methods of organizing human activity, in particular, a fundamental economic practice (i.e., a commercial interaction involving a banking business relationship) that can be performed alternatively (to a computer implementation) by a person as a mental process. We conclude these functions can be performed practically in the human mind. *See* January 2019 Memorandum, 84 Fed. Reg. at 52.

We also conclude the “determining” functions in limitations (d), (k) and (l), and the “assessing” function in limitation (n) of claim 1 can be performed alternatively (to a computer implementation) by a person as a mental process. We conclude these functions can be performed practically in the human mind. *See* January 2019 Memorandum, 84 Fed. Reg. at 52; *see also* October 2019 Memorandum, Section II.C. Mental Processes, page 7.

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<sup>9</sup> The Examiner determines: “Regarding applicant arguments re 35 USC 101 (pgs 8, 9), under 2019 PEG, applicant claims would be grouped in certain methods of organizing human activity as commercial or legal interactions, with limitations that are not indicative of integration into a practical application as no improvement in technology is reflected. Nor are limitations indicative of an inventive concept. Claims remain rejected under 35 U.S.C. § 101.” Advisory Action, mailed February 21, 2019.

Although claim 1 requires the recited functions to be performed by “one or more processors,” this generic computer implementation of a mental process is insufficient to take the invention out of the realm of abstract ideas. *See also* independent computer-readable medium claim 21, which similarly recites that “a computer” and “a server” perform the recited steps.

“That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*.” *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1375 (Fed. Cir. 2011). If a method can be performed by human thought alone, or by a human using pen and paper, it is merely an abstract idea and is not patent eligible under § 101. *See id.* at 1372–73; *see also Versata Dev. Grp. v. SAP Am., Inc.*, 793 F.3d 1306, 1335 (Fed. Cir. 2015) (“Courts have examined claims that required the use of a computer and still found that the underlying, patent-ineligible invention could be performed via pen and paper or in a person’s mind.”); *Alice*, 573 U.S. at 223 (“Stating an abstract idea while adding the words ‘apply it with a computer’” is insufficient to confer eligibility.).

Moreover, “[u]sing a computer to accelerate an ineligible mental process does not make that process patent-eligible.” *Bancorp Servs., L.L.C. v. Sun Life Assurance Co. of Can.* (U.S.), 687 F.3d 1266, 1279 (Fed. Cir. 2012); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015) (“[R]elying on a computer to perform routine tasks more quickly or more accurately is insufficient to render a claim patent eligible.”).

Because claim 1 considered as a whole recites an abstract idea, as identified in Table One, *supra*, and because remaining independent claims 15 and 21 recite similar language of commensurate scope, we conclude all

claims 1, 3–7, 9–13, 15, 17, 18, 21, 23, and 24 recite an abstract idea, as identified above, under *Step 2A, Prong One*. Therefore, we proceed to *Step 2A, Prong Two*.

*January 2019 Memorandum, Step 2A, Prong Two*  
*Integration of the Judicial Exception into a Practical Application*<sup>10</sup>

The Examiner finds: “The claim does not include additional elements that are sufficient to amount to significantly more than the abstract idea – fee management – because the additional elements when considered both individually and as an ordered combination do not amount to significantly more than the abstract idea.” Final Act. 12. The Examiner also finds that “[a]s a whole, the claim simply instructs one to implement the concept of fee management using processors and a server, which are generic computing devices.” *Id.* (citing Spec., Figs. 9–11, ¶¶ 83, 95, 101).

Pursuant to the January 2019 Memorandum, we consider whether there are additional elements set forth in the claims that integrate the judicial exception into a practical application. *See* January 2019 Memorandum, 84 Fed. Reg. at 54–55.

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<sup>10</sup> Under the January 2019 Memorandum, at *Step 2A, Prong Two*, we determine whether the claims recite:

- (i) an improvement to the functioning of a computer;
- (ii) an improvement to another technology or technical field;
- (iii) an application of the abstract idea with, or by use of, a particular machine (for method or process claims);
- (iv) a transformation or reduction of a particular article to a different state or thing (for method or process claims); or
- (v) other meaningful limitations beyond generally linking the use of the abstract idea to a particular technological environment.

As emphasized in bold in Table One, *supra*, we note the additional generic computer components recited in claim 1, i.e., the “one or more processors” and “a server.” We further note the supporting exemplary, non-limiting descriptions of generic computer components found in the Specification, such as the following:

[T]hose skilled in the art will appreciate that the inventive methods can be practiced *with other computer system configurations*, including single-processor or multiprocessor computer systems, minicomputers, mainframe computers, as well as personal computers, hand-held computing devices, microprocessor-based or programmable consumer electronics, and the like, each of which can be operatively coupled to one or more associated devices.

Spec. ¶ 84 (emphasis added); *see also id.* at ¶¶ 83, 95, 101.

We emphasize that *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299 (Fed. Cir. 2016), guides: “The abstract idea exception prevents patenting a *result* where ‘it matters not by what process or machinery the result is accomplished.’” 837 F.3d at 1312 (quoting *O’Reilly v. Morse*, 56 U.S. 62, 113 (1854)) (emphasis added). *See supra* Table One.

Thus, we conclude Appellant’s claimed invention merely implements the abstract idea using *instructions* executed on generic computer components, as depicted in Table One (above), and as supported in Appellant’s Specification, for example, at paragraphs 83, 84, 95, and 101. Therefore, we conclude Appellant’s claims merely use a generic programmed computer as a tool to perform an abstract idea. *See* MPEP § 2106.05(f).

We note “the prohibition against patenting abstract ideas ‘cannot be circumvented by attempting to limit the use of the formula to a particular

technological environment’ or [by] adding ‘insignificant postsolution activity.’” *Bilski v. Kappos*, 561 U.S. 593, 610–12 (2010) (quoting *Diamond v. Diehr*, 450 U.S. 175, 191–92 (1981)). See MPEP § 2106.05(h).

As mapped in the right column of Table One, *supra*, we conclude that independent claim 1 recites several additional limitations that are extra-solution activities the courts have determined to be insufficient to transform judicially excepted subject matter into a patent-eligible application. See MPEP § 2106.05(g); January 2019 Memorandum, 84 Fed. Reg. at 55 n.31.

For example, see claim 1, Table One, *supra*, limitation (c): we conclude that receiving “balance event information” associated with a financial account is insignificant extra-solution activity (i.e., data gathering). See January 2019 Memorandum, 84 Fed. Reg. at 55 n.31; see also MPEP § 2106.05(g). See *buySAFE*, 765 F.3d at 1355 (“That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive.”).

These extra or post-solution limitations use a generic computer component that performs a generic computer function as a tool to perform an abstract idea. Thus, these limitations do not integrate the abstract idea into a practical application. See *Alice*, 573 U.S. at 223–24. Instead, these limitations merely perform insignificant extra-solution activities. Cf. *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1242 (Fed. Cir. 2016) (agreeing with the Board that limitations for printing and downloading generated menus are insignificant post-solution activities).

We consider next the question of whether there are any claimed improvements to the functioning of a computer or to any other technology or technical field, applying the January 2019 Memorandum and the guidance

set forth under MPEP § 2106.05(a).

The Examiner finds:

[C]onsidering the claim elements individually and in combination, the claim does not amount to significantly more than the abstract idea itself because the additional elements — the processors, server — do not effect an *improvement* to another technology or technical field, the additional elements do not amount to an improvement to the functioning of a computer system itself, and the additional elements do not move beyond a general link of the use of an abstract idea to a particular technological environment.

Final Act. 12–13 (emphasis added).

Appellant does not agree with the Examiner. Appellant urges that “the claims are directed to a computing-centric issue, do provide *improvements* to conventional computing systems through the addition of components that are not themselves conventional (as claimed, require *configuring*), and are not merely []an [abstract] idea that is stated to be ‘applied on a computer.’” Appeal Br. 11–12 (emphasis added in italics, underlining in original omitted).

But without more specific argument regarding the claimed *configuring* features, such conclusory statements that 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).

In the Appeal Brief, Appellant does not sufficiently explain what the claimed “configuring” refers to or how it is an improvement to conventional computing systems, as asserted. In the Reply Brief, Appellant provides some explanation by arguing that “the claim language requir[es] execution of components resulting in a configuring (change) in the processor.” This

argument, however, is unpersuasive because Appellant does not identify any improvement in the computer system that is separate from the abstract idea of a commercial interaction. Regarding independent claims 1, 15, and 21, our reviewing court provides further applicable guidance: The “‘mere automation of manual processes using generic computers’ . . . ‘does not constitute a patentable improvement in computer technology.’” *Trading Techs. Int’l, Inc. v. IBG LLC*, 921 F.3d 1378, 1384 (Fed. Cir. 2019) (quoting *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1055 (Fed. Cir. 2017)).

Simply adding generic hardware and computer components to perform abstract ideas does not integrate those ideas into a practical application, because the “‘mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.’” *Alice*, 573 U.S. at 223; *see* January 2019 Memorandum, 84 Fed. Reg. at 55, n.30; *see id.* at 55 (“‘merely includ[ing] instructions to implement an abstract idea on a computer’” is an example of when an abstract idea has not been integrated into a practical application).

To the extent Appellant claims an improved approach to “balance exception fee management (which we conclude involves a commercial interaction in banking business relationship — *see* claim 1), an improved abstract idea is still an abstract idea. *See Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 90 (2012) (holding that a novel and nonobvious claim directed to a purely abstract idea is, nonetheless, patent ineligible); *see also Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1151 (Fed. Cir. 2016) (“[A] claim for a *new* abstract idea is still an abstract idea.”).

As set forth under MPEP § 2106.05(a):

To show that the involvement of a computer assists in *improving the technology*, the claims *must recite the details regarding how a computer aids the method, the extent to which the computer aids the method, or the significance of a computer to the performance of the method . . .* Merely adding generic computer components to perform the method is not sufficient. Thus, the claim must include more than mere instructions to perform the method on a generic component or machinery to qualify as an improvement to an existing technology.

(emphasis added).

Here, we find Appellant has not persuasively shown how the claims “recite the details regarding how a computer aids the method, the extent to which the computer aids the method, or the significance of a computer to the performance of the method.” *Id.* (emphasis added).

Accordingly, on this record, we conclude independent claims 1, 15, and 21, which recite similar limitations of commensurate scope, do not recite an improvement to the functionality of a computer or other technology or technical field. *See* MPEP § 2106.05(a).

Further, Appellant advances no arguments that any method claims on appeal are tied to a particular machine, or transform an article to a different state or thing. *See* MPEP § 2106.05(b), 2106.05(c).

The Examiner further concludes that “there are no meaningful limitations in the claims that transform the judicial exception into a patent eligible application such that the claims amount to significantly more than the judicial exception itself.” Final Act. 13.<sup>11</sup>

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<sup>11</sup> *See* January 2019 Memorandum, 84 Fed. Reg. at 55, citing MPEP

We agree with the Examiner, for the reasons discussed above.

To the extent that Appellant nominally argues, in the Reply Brief (at page 7), that “[t]here is no ‘long-standing’ practice pre-empted by the present claims,” our reviewing court provides applicable guidance: “[w]hile preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (“that the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract”).

Thus, under *Step 2A, Prong Two* (MPEP § 2106.05(a)–(c) and (e)–(h)), we conclude claims 1, 3–7, 9–13, 15, 17, 18, 21, 23, and 24 do not integrate the judicial exception into a practical application.

#### *The Inventive Concept – Step 2B*

Under the January 2019 Memorandum, 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 adds a specific limitation beyond the judicial exception that is not “well-understood, routine,

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§ 2106.05(e) (stating that one exemplary consideration indicative that an additional element may have integrated the exception into a practical application is that the additional element “applies or uses the judicial exception in some other *meaningful* way beyond generally linking the use of the judicial exception to a particular technological environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception”) (emphasis added).

conventional” in the field (*see* MPEP § 2106.05(d)); or, simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

*Berkheimer* was decided by the Federal Circuit on February 8, 2018. On April 19, 2018, the PTO issued the Memorandum titled: “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*)” (hereinafter “*Berkheimer* Memorandum”).<sup>12</sup> The *Berkheimer* Memorandum provided specific requirements for an Examiner to support with evidence any finding that *claim elements* (or a *combination of elements*) are well-understood, routine, or conventional.

In particular, the Examiner must find, and expressly support a rejection in writing, with one or more of the following:

1. A citation to an express statement in the specification or to a statement made by an applicant during prosecution that demonstrates the well-understood, routine, conventional nature of the additional element(s). . . .
2. A citation to one or more of the court decisions discussed in MPEP § 2106.05(d)(II) as noting the well-understood, routine, conventional nature of the additional element(s).
3. A citation to a publication that demonstrates the well-understood, routine, conventional nature of the additional element(s). . . .
4. A statement that the examiner is taking official notice of the well-understood, routine, conventional nature of the additional element(s). . . .

*Berkheimer* Memorandum at 3–4.

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<sup>12</sup> Available at <https://www.uspto.gov/sites/default/files/documents/memo-berkheimer-20180419.PDF>.

Here, the Examiner finds, under *Step 2B* of the 2019 Memorandum, that: (1) the processors function to “receive and process data,” and (2), “maintaining an account” are *routine and conventional* functions. Final Act. 12 (noting that routine and conventional functions include “receiving, processing, storing data, electronic recordkeeping (also see *Alice* for maintaining accounts), automating mental tasks; [and] receiving or transmitting data over a network”) (emphasis added). The Examiner also finds “[a]s a whole, the claim simply instructs one to implement the concept of fee management using processors and a server, which are generic computing devices (see, e.g., specification figs 9-11, paras 83, 95, 101).” *Id.*; see also Ans. 5.

Appellant disagrees, and contends the Examiner has not complied with the *Berkheimer* Memorandum. See Appeal Br. 10–11. However, as noted above, the Examiner cited to Appellant’s Specification, Figures 9–11, and paragraphs 83, 95, and 101, as *Berkheimer* evidence under category one of the the four types of factual evidence acceptable under the *Berkheimer* Memorandum at 3–4. See Final Act. 12. We emphasize that Appellant has not specifically traversed the *Berkheimer* evidence provided by the Examiner.

In the Reply Brief, Appellant contends:

[T]he Examiner continues to attempt to apply an analysis solely on a “piece part” basis of individual computer component “functionalities,” and simply makes no showing of conventionality of an ordered combination. Such is not what the *Berkheimer* Memorandum calls for when the Appellant challenges the assertion of the Examiner as to alleged conventionality of an **ordered combination**. Rather, the Examiner is required to provide appropriate evidence that the **ordered combination** itself is conventional. Appellant

respectfully reminds the Office that such evidence of conventionality is beyond merely of anticipation or of obviousness of individual elements. Yet, there is no analysis or finding even remotely close to satisfying the APA and *Berkheimer* Memorandum for any assertion of mere generic computer component (in actual comparison to the claims as a whole, an ordered combination, and requiring specific configuration).

Reply Br. 7 (*italics and bold emphases added*).

However, Appellant again does not specifically traverse the *Berkheimer* evidence provided by the Examiner. *See* Reply Brief 1–8. As noted above, the Examiner specifically cited to Appellant’s Specification, Figures 9–11, and paragraphs 83, 95, and 101, as *Berkheimer* evidence. *See* Final Act. 12.

Moreover, because Appellant does not advance substantive, persuasive arguments regarding any *claimed* nonconventional and non-generic *arrangement* of known computer components, we find no inventive concept in any purported ordered combination of these limitations.

Thus, we find Appellant’s claims are unlike the claims considered by the court in *BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016)), in which the court found “an inventive concept . . . in the *non-conventional* and *non-generic arrangement* of known, conventional pieces.” 827 F.3d at 1350 (*emphases added*). Here, we do not find a claimed *non-conventional* and *non-generic arrangement* of known, conventional structures (generic computer components).

Turning to the independent claims, we particularly note that system claim 1 merely recites structure as “one or more processors” and “a server,” without specifying any non-generic and non-conventional arrangement of

processors and/or servers. We agree with the Examiner that such processors and server are described in the Specification as generic, conventional components. *See* Spec. ¶¶ 83, 95, 101; Final Act. 12 (citing same).

Likewise, we find no inventive concept in any purported ordered combination, because claim 1 does not require any particular order or structural arrangement of the processors and/or server(s). Claims 15 and 21 are also silent regarding any mention of structural elements arranged in an ordered combination. Method claim 15 merely recites “a server” as a generic computer component. Although medium claim 21 recites “a computer” and “a server” as structural elements, no particular arrangement or ordered combination of computers or servers is required by the language of claim 21.

Also in the Reply Brief (2–3), Appellant cites to an intervening (November 15, 2019) case authority: *Koninklijke KPN N.V. v. Gemalto M2M GmbH*, 942 F.3d 1143 (Fed. Cir. 2019). Appellant urges that *Koninklijke* is “on point” and the claims in *Koninklijke*

(as here) do in fact provide an ordered combination of computer implemented data processing steps (even ones that in the provided case, may for argument’s sake be characterized there as merely process[ing] data through ‘conventional’ computer components), and that[,] as such, the claims provided do contain an inventive concept and are directed to patent eligible material.

Reply Br. 2–3.

We have reviewed *Koninklijke*. Contrary to Appellant’s arguments, we find it distinguishable from Appellant’s claims. The subject claim in *Koninklijke* reorders *information* by performing “a permutation of bit position relative to said particular ordered sequence for at least some of the bits in each of said blocks making up said original data without reordering

any blocks of original data” (*Koninklijke* claim 1), for the purpose of detecting systematic data errors. *See Koninklijke*, 942 F.3d at 1147–48, 1153. This is a purported improvement over existing checksum, cyclic redundancy check (CRC), and parity-bit data verification measures, because “certain generating functions coincidentally produce the same check data for a corrupted data block and an uncorrupted data block.” *Koninklijke*, 942 F.3d at 1145.

In contrast to the present claims, the *Koninklijke* court held that the subject claims were “patent-eligible because they [were] directed to a non-abstract *improvement* in an existing technological process (i.e., error checking in data transmission).” *Koninklijke*, 942 F.3d at 1150 (emphasis added). In particular, the *Koninklijke* court found the subject claims recited varying the way that “check data” is generated by modifying the permutation that is applied to different data blocks, and this specific solution provided an improvement that was patent eligible. *Koninklijke*, 942 F.3d at 1151 (emphasis added).

Here, we have not found any similar improvement in Appellant’s claims, as discussed above under our analysis applying the guidance under MPEP § 2106.05(a), as set forth in the January 2019 Memorandum. Nor has Appellant substantively and persuasively explained how the “ten identified” claimed steps mentioned on page three of the Reply Brief provide any improvement similar to that found by the court in *Koninklijke*.

Further regarding the method claims on appeal, “although a method claim necessarily recites the steps of the method in a particular order, as a general rule the claim is not limited to performance of the steps in the order recited, unless the claim explicitly or implicitly requires a specific order.”

*Baldwin Graphic Sys., Inc. v. Siebert, Inc.*, 512 F.3d 1338, 1345 (Fed. Cir. 2008).

For these reasons, we find unavailing Appellant’s attempt to analogize the claims here to the subject claims considered patent-eligible by the court in *Koninklijke*.

In light of the foregoing, and under the January 2019 and October 2019 Memoranda, we conclude that each of Appellant’s claims 1, 3–7, 9–13, 15, 17, 18, 21, 23, and 24, considered as a whole, is directed to a patent-ineligible abstract idea that is not integrated into a practical application, and does not include an inventive concept. Therefore, we sustain the Examiner’s Rejection A under 35 U.S.C. § 101 of claims 1, 3–7, 9–13, 15, 17, 18, 21, 23, and 24.<sup>13</sup>

#### *Rejection B*

Under 35 U.S.C. § 103(a), we focus our analysis on the argued “wherein” clause limitation that is recited identically in each of independent claims 1, 15, and 21.

**Issue 1:** Did the Examiner err by finding that LeClaire, Maloney, Cahill, and Moebs collectively teach or suggest the disputed “wherein” clause limitation—“wherein the period is one day and a single fee is assessed per period regardless of the number of balance exception events in a single day”—within the meaning of independent claim 1?

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<sup>13</sup> Regarding Rejection A under 35 U.S.C. § 101, grouped claims 3–7, 9–13, 15, 17, 18, 21, 23, and 24 (not argued separately) fall with representative independent claim 1. See 37 C.F.R. § 41.37(c)(1)(iv).

**Issue 2:** We also address, *infra*, Appellant’s argument that the Examiner has engaged in impermissible hindsight in formulating the rejections under 35 U.S.C. § 103(a). *See* Appeal Br. 14.

The Examiner notes that LeClaire (page 2) teaches charging a fee “once every 5 business days (periodic fee) until [the] account balance becomes positive, where the periodic fee is assessed every five days, which is the prescribed period throughout the balance exception cycle.” Final Act. 17–18.

But the Examiner (Final Act. 18) also reads the disputed dispositive limitation of claim 1 on LeClaire, at page 1, last paragraph, which expressly describes: “While some programs charge a single flat fee of \$25 to \$35 for each overdraft, other banks impose *daily fees* until the account balance is out of the red.” (Emphasis added).

The Examiner additionally finds:

As the example specifically showed a period of five days for charging fee until [the] account *is in red* and further recites that fees are imposed per item while other banks impose daily fees, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified LeClaire describing a five day example by the institution of a single day fee following the example as shown regarding a five day fee, as *a simple substitution* depending on the particular requirements as established by a banking facility.

Final Act. 18 (emphasis added).<sup>14</sup>

Appellant disagrees:

The [E]xaminer errs with the view that LeClaire teaches a single day used in place of the five day period. LeClaire does

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<sup>14</sup> We understand the Examiner’s reference to “*is in red*” to actually refer to “is out of the red,” as expressly stated in LeClaire. (emphasis added).

not teach this aspect as the applicant's claims read. The [E]xaminer attempts to impute this material change as a "simple substitution" and claims that the reference teaches this change as being a permissible one based on a "depending on the particular requirements as established by a banking facility." Applicant cannot find this teaching in the cited reference. Furthermore, not only is this feature is not actually taught by the reference at all, the [E]xaminer could only arrive at this view by using the applicant's teaching as a roadmap.

Appeal Br. 14 (emphases omitted).

As an initial matter of claim construction, we note that the Specification describes a balance exception event as follows:

For instance, balance event information can be received and analyzed to determine if a balance exception event occurred. More particularly, at 204, a determination is made to establish if an NSF or OD situation occurred. If a balance exception (*e.g.*, negative balance) is determined not to have occurred, the methodology returns to 202 to monitor additional balance event information.

Spec. ¶ 42; *see also id.* ¶ 1 (defining "NSF/OD" as "Not Sufficient Funds/Overdraft"). Thus, we construe a "balance exception event" within the meaning of claim 1 as an event that occurs at least when an insufficient funds/overdraft event occurs.

As positively recited in claim 1, a "balance exception cycle" is initiated "in response to the determination that the balance exception event has occurred, wherein the balance exception cycle is divided into periods." Claim 1 further requires that "the periodic fee increases by a fixed amount at prescribed periods throughout the balance exception cycle" and the periodic fee is terminated "when a maximum aggregate fee has been reached."

The Examiner finds LeClaire teaches that there are essentially two known banking practices for imposing fees for insufficient funds or

overdraft events. *See* Final Act. 18. Specifically, the Examiner finds that “fees are imposed per item while other banks impose daily fees.” *Id.* Given the evidence (LeClaire pages 1–2), the Examiner finds that the institution of a single day fee (i.e., a daily fee) *or* a five day fee is “*a simple substitution* depending on the particular requirements as established by a banking facility.” Final Act. 18 (emphasis added).

In accordance with our claim construction above, we understand Appellant’s claim 1 to require generating a periodic fee that “increases by a fixed amount at prescribed periods throughout the balance exception cycle” and the periodic fee is terminated “when a maximum aggregate fee has been reached.” The disputed “wherein” clause expressly defines the duration of each period as being “one day,” and a single fee is thus assessed per day “regardless of the number of balance exception events in a single day.”

Claim 1.

Appellant additionally contends:

When the claim is taken as a whole, and the different claim terms are read in light of the specification (without incorporating any new claim terms), the period of time as a maximum time coupled with a maximum aggregate is not taught by LeClaire. LeClaire expressly teaches that the maximum aggregate (LeClaire’s actually taught period) is necessarily more than a single day’s fee.

Appeal Br. 14.

We disagree with Appellant that “LeClaire expressly teaches that the maximum aggregate (LeClaire’s actually taught period) is necessarily more than a single day’s fee” (*id.*), because (as discussed above), LeClaire expressly describes: “While some programs charge a single flat fee of \$25 to \$35 for each overdraft, other banks impose *daily fees* until the account

balance is out of the red.” LeClaire page 1, last paragraph, (emphasis added).

Thus, in the latter case of *daily fees*, if the account balance in LeClaire was positive at the end of the first day of overdraft, a bank that imposed a *daily fee* until the account balance was “out of the red” (i.e., positive), would charge the overdraft fee for only a single period of one day (“regardless of the number of balance exception events in a single day” – claim 1), and the “maximum aggregate fee” would be the overdraft fee amount charged by the bank for the single-day period.

Although claim 1 recites terminating “the periodic fee when a maximum aggregate fee has been reached,” claim 1 provides no details regarding *how* the “maximum aggregate fee” is determined. In accordance with the “daily fee” disclosure in LeClaire (page 1), if the overdraft problem is cured by the end of a single day, it logically follows that the maximum fee (maximum aggregate fee) is the bank’s overdraft fee (daily fee), as charged for that single day. There is no language in claim 1 that precludes the maximum aggregate fee from being equal to the daily overdraft fee in LeClaire, when the balance exception event is terminated at the end of a single day.

We also agree with the Examiner that varying the number of days in a period would have merely been a simple substitution that would have yielded a predictable result. *See* Final Act. 18. Where the claimed subject matter is no more than “the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement,” and, the combination does no more than yield

predictable results, the claim is unpatentable under 35 U.S.C. § 103(a). *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 401 (2007).

Therefore, we find that terminating the periodic fee when a “maximum aggregate fee” has been reached would merely yield a predictable result, regardless of how the “maximum aggregate fee” is determined. Claim 1. Further, “the question under 35 USC 103 is not merely what the references expressly teach but what they would have *suggested* to one of ordinary skill in the art at the time the invention was made.” *Merck & Co. v. Biocraft Labs., Inc.*, 874 F.2d 804, 807 (Fed. Cir. 1989) (quoting *In re Lamberti*, 545 F.2d 747, 750 (CCPA 1976)). (emphasis added); *see also* MPEP § 2123. This reasoning is applicable here.

However, Appellant additionally urges that the Examiner could only arrive at the view of a simple substitution “by using the applicant’s teaching as a roadmap.” Appeal Br. 14. But Appellant has not identified knowledge gleaned only from the present application that was not within the level of ordinary skill at the time the claimed invention was made. *See In re McLaughlin*, 443 F.2d 1392, 1395 (CCPA 1971). Moreover, Appellant has not provided any objective evidence of secondary considerations (e.g., unexpected results), which our reviewing court guides “operates as a beneficial check on hindsight.” *Cheese Sys., Inc. v. Tetra Pak Cheese & Powder Sys., Inc.*, 725 F.3d 1341, 1352 (Fed. Cir. 2013).

Nor does Appellant point to any evidence of record that shows combining the teachings of LeClaire, Maloney, Cahill, and Moebs in the manner found by the Examiner (Final Act. 17–21) would have been “uniquely challenging or difficult for one of ordinary skill in the art” or would have “represented an unobvious step over the prior art.” *Leapfrog*

*Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418).

Therefore, on this record, we find the Examiner has provided a sufficient “rational underpinning to support the legal conclusion of obviousness.” *KSR*, 550 U.S. at 418 (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Based upon a preponderance of the evidence, we are not persuaded of error regarding the Examiner’s underlying factual findings and ultimate legal conclusion of obviousness regarding Rejection B of independent representative claim 1.

Accordingly, we sustain the Examiner’s obviousness Rejection B of independent representative claim 1. We note independent claims 15 and 21 recite the disputed “wherein” clause limitation using identical language. The remaining grouped dependent claims also rejected under Rejection B (and not argued separately) fall with representative independent claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv). Accordingly, we sustain the Examiner’s obviousness Rejection B of claims 1, 3–5, 7, 9–13, 15, 17, 18, 21, and 23.

*Rejections C and D under 35 U.S.C. § 103(a)*

The remaining dependent claims 6 and 24, as rejected under Rejections C and D respectively, were not argued separately. Arguments not made are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). Accordingly, for the reasons explained above regarding Rejection B, we sustain the Examiner’s obviousness rejections C and D of remaining dependent claims 6 and 24.

*Additional Issues*

We additionally note that the Examiner mailed a second Advisory Action on December 26, 2019, after the Reply Brief was received, clarifying that box 7 (entry of the claim amendment on appeal) was intended to be checked in the previous after-final Advisory Action, mailed February 21, 2019. This is confirmed by a Miscellaneous Communication (PTO-90C), also mailed on December 26, 2019, and separately entered into the record. The Examiner indicates in the second Advisory Action that Appellant's arguments are not found persuasive and the rejections under 35 U.S.C. §§ 101, 103(a) remain for Board review on appeal.

CONCLUSIONS

Under the January and October 2019 Memoranda, we conclude that claims 1, 3–7, 9–13, 15, 17, 18, 21, 23, and 24, rejected under 35 U.S.C. § 101, are directed to patent-ineligible subject matter.

We also conclude the Examiner did not err in rejecting claims 1, 3–7, 9–13, 15, 17, 18, 21, 23, and 24 as being obvious under pre-AIA 35 U.S.C. § 103(a), over the cited combinations of prior art.

DECISION SUMMARY

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1, 3–7, 9–13, 15, 17, 18, 21, 23, 24	101	Eligibility	1, 3–7, 9–13, 15, 17, 18, 21, 23, 24	
1, 3–5, 7, 9–13, 15, 17, 18, 21, 23	103(a)	LeClaire, Maloney, Cahill, Moebs	1, 3–5, 7, 9–13, 15, 17, 18, 21, 23	
6	103(a)	LeClaire, Maloney, Cahill, Moebs, Lloyds	6	
24	103(a)	LeClaire, Maloney, Cahill, Moebs, Horvitz	24	
<b>Overall Outcome</b>	103(a)		1, 3–7, 9–13, 15, 17, 18, 21, 23, 24	

FINALITY AND 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).

**AFFIRMED**