

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

IN RE GREGORY JOHN WENKMAN,
Appellant

2026-1424

Appeal from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in No. 18/424,833.

Decided: October 28, 2026

GREGORY JOHN WENKMAN, Travelers Rest, SC, pro se.

ROBERT MCBRIDE, Office of the Solicitor, United States
Patent and Trademark Office, Alexandria, VA, for appellee
John A. Squires. Also represented by KAKOLI CAPRIHAN,
WILLIAM LAMARCA, NICHOLAS THEODORE MATICH, IV,
AUSTIN PHILIP MAYRON, ROBERT J. McMANUS.

Before MOORE, *Chief Judge*, DYK and PROST, *Circuit
Judges*.

PER CURIAM.

Gregory Wenkman appeals from a decision of the Patent Trial and Appeal Board (“Board”) affirming the rejection of all pending claims of U.S. Patent Application No. 18/424,833 (“the ’833 application”). For the following reasons, we affirm.

BACKGROUND

The ’833 application relates to a computer-implemented method allowing a business to enter into barter transactions. App’x 1223 ¶ 20.¹ The application describes a business bartering groceries and other goods to a customer in exchange for silver or gold. App’x 1223 ¶ 20. The specification explains that the steps include use of a computer-implemented program to assign a “BARTERED VALUE, that is NOT FRN currency, or any other currency or money of any Country or Nation,” to “a BARTERED VALUE CARD (BVC), or a BARTERED VALUE TOKEN (BVT), or a BARTERED VALUE MOBILE DEVICE (BVMD).” App’x 1223 ¶ 20. The specification further explains that “it is NOT the electronically activated physical devices used in the ‘claims’ (i.e. computer, magnetic strip card, etc.) that are patentable, but rather the computer-implemented process (aka: method) and ‘inventive concept’ (aka: ‘significantly more’) produced by a special computer program implemented on a computer to perform the cited inventive method.” App’x 1219 ¶ 14. There is no further description of the “special computer program.” See App’x 1284 ¶ 168 (specification stating that the claimed method is executed “using a special computer program (not shown)”).

The present appeal results from the Board’s affirmance of the rejection of all pending claims (1–20) of the ’833 application. In the final office action, the examiner rejected

¹ Citations to “App’x” refer to the appendix filed by Mr. Wenkman.

IN RE WENKMAN

3

claims 1–20 as patent ineligible under 35 U.S.C. § 101. App’x 880–920. The Board affirmed the rejection, adopted the examiner’s findings, and added an additional ground for rejecting all claims: lack of written description under 35 U.S.C. § 112(a). *See* App’x 66–99. Mr. Wenkman requested rehearing. *See* App’x 18–65. The Board denied that request. *See* App’x 3–17. Mr. Wenkman timely appeals. We have jurisdiction under 28 U.S.C. § 1295(a)(4)(A).

DISCUSSION

Mr. Wenkman argues that the Board erred in its § 101 and written-description determinations. We begin by addressing § 101.

I

“We review decisions of § 101 patent eligibility *de novo*. Patent eligibility is a question of law that may be based on underlying factual findings.” *Broadband iTV, Inc. v. Amazon.com, Inc.*, 113 F.4th 1359, 1366 (Fed. Cir. 2024) (cleaned up). “Under [the *Alice Corp. v. CLS Bank International*, 573 U.S. 208 (2014)] two-step approach, at step one ‘we determine whether a claim is directed to a patent-ineligible concept, here an abstract idea,’ and if the answer is yes, at step two ‘we review whether the claim recites elements sufficient to transform it into a patent-eligible application of the abstract idea.’” *GoTV Streaming, LLC v. Netflix, Inc.*, 166 F.4th 1053, 1060 (Fed. Cir. 2026) (quoting *Broadband*, 113 F.4th at 1367). “The ‘directed to’ inquiry of *Alice* step one ‘requires that we look to the character of the claims as a whole.’” *Id.* at 1063 (quoting *Broadband*, 113 F.4th at 1367). “A telltale sign of abstraction is when the claimed functions are mental processes that can be performed in the human mind or using a pencil and paper.” *Trinity Info Media, LLC v. Covalent, Inc.*, 72 F.4th 1355, 1361–62 (Fed. Cir. 2023) (cleaned up). “[I]t is not enough . . . to merely improve a fundamental practice or abstract

process by invoking a computer merely as a tool.” *Custome-dia Techs., LLC v. Dish Network Corp.*, 951 F.3d 1359, 1364 (Fed. Cir. 2020).

“At *Alice* step two, the court must examine the elements of each claim, both individually and as an ordered combination, to determine whether it contains an inventive concept, beyond what was well-understood, routine, and conventional, that transforms the nature of the claim into a patent-eligible application.” *Optis Cellular Tech., LLC v. Apple Inc.*, 139 F.4th 1363, 1380 (Fed. Cir. 2025) (cleaned up). Further, “[i]n conducting the step-two inquiry, we have repeatedly emphasized that it is not sufficient, in order to pass muster, for a claim to use functional, result-focused language or to encompass ordinary computers and networks to perform their ordinary functions in carrying out an abstract idea.” *GoTV*, 166 F.4th at 1067. This is true “even when narrowed to a particular use or environment (such as particular subject matter), without going further to require a specific implementation to improve *how* those functions are carried out.” *Id.* (emphasis in original).

A

As a preliminary matter, the Board designated claim 1 as representative of the claims on appeal. *See* App’x 74 (citing 37 C.F.R. § 41.37(c)(1)(iv)). We do not disturb that determination. Claim 1 is reproduced below:

1. A computer-implemented business method for bartering groceries and other goods for silver and gold, comprising:

where the bartering is between (1) a business that (a) SELLS groceries and other goods, and also (b) BARTERS groceries and other goods, and (2) a customer that BARTERS silver and or gold with the business for groceries and other goods;

IN RE WENKMAN

5

where the business is a retailer or wholesaler that: (1) *SELLS to its customers groceries and other goods* for debt-based Federal Reserve Note (FRN) currency, in physical or digital form, or Central Bank Digital Currency (CBDC), or a currency authorized by the United States of America, or its successor, in a SALES TRANSACTION, and (2) *BARTERS groceries and other goods for a customer's silver and or gold* that is in at least one of the following forms: coin, token, bar, or bill, each made having at least 90-percent silver or gold content, in a BARTER TRANSACTION;

where the customer presents their silver and or gold for barter, inspection and evaluation at the authorized customer service counter of the business;

whereafter inspection and evaluation of the silver and gold by the business, using a computer-implemented program, a BARTER VALUE is determined or redetermined by the business and accepted or rejected by the customer for some or all the customer's silver and or gold;

whereafter acceptance of the BARTER VALUE by the customer, BARTERED VALUE is agreed upon by the business and customer;

where the customer is informed, by the business, that the BARTER VALUE, or BARTERED VALUE is NOT MONEY OR CURRENCY, nor is it exchangeable or refundable for money or currency, but simply

is a BARTERED VALUE that can be exchanged for groceries and other goods, at the business, as an intermediate step in the BARTER TRANSACTION;

where the business, using a computer-implemented program, assigns electronically the BARTERED VALUE, as an intermediate step in the BARTER TRANSACTION, to a BARTERED VALUE CARD (BVC), or a BARTERED VALUE TOKEN (BVT), or a BARTERED VALUE MOBILE DEVICE (BVMD), each having a unique identifying code that has been electronically scanned or recorded and assigned to the business' closed-loop electronic communications network system programmed to process BARTER TRANSACTIONS involving BARTERED VALUE, separate or apart from any SALES TRANSACTIONS involving currency or money;

where (1) the BVC is an electronically activated card that is known as a magnetic stripe card, or a mag-stripe card, or a passive transponder card, or a contactless card, or a proximity card, or a RFID card, or a EMV card, or a smart-chip card, or a two-dimensional matrix card, or a UPC card, or a barcode card, or any combination thereof, (2) the BVT is an electronically activated 3-dimensional device known as a RFID token, or passive transponder token, a contactless token, or proximity token, and (3) the BVMD is a customer's electronic smartphone, or smart tablet, or smart watch, where each, BVC, or BVT, or BVMD, having a unique identifying code,

IN RE WENKMAN

7

and each capable of electronically communicating with the business' closed-loop electronic communications network system programmed to credit or debit BARTERED VALUE assigned to the BVC, or BVT, or BVMD;

where the computer-implemented program is designed so the BARTERED VALUE is NOT exposed to any payment service provider, or bank, or financial institution;

where the business presents the customer with the BVC, or BVT, or BVMD assigned with the BARTERED VALUE, as an intermediate step in the BARTER TRANSACTION; and

whereafter the customer selects, in the present, or in the future, or in the future online, groceries and or other goods from the business that issued the BARTERED VALUE, and at checkout the business exchanges or debits BARTERED VALUE from the BVC, or BVT, or BVMD for the selected groceries and other goods, by scanning or reading the BVC, or BVT, or BVMD with an electronic scanner or reader connected to the closed-loop electronic communications network system.

'833 application claim 1 (capitalization in original) (emphasis added); App'x 346–47.

We agree with the Board's determination that the claim is directed to the abstract idea of organizing human activity in the context of a fundamental economic practice (bartering). *See* App'x 79. The claim describes using a computer to conduct a bartering process. Processes directed toward a fundamental economic practice—like the one

claimed here—are abstract. *See Alice*, 573 U.S. at 219–20 (concluding that claims involving “intermediated settlement” were directed to “a fundamental economic practice long prevalent in our system of commerce,” and, thus were directed to an “abstract idea beyond the scope of § 101” (cleaned up)); *Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (concluding that “[t]he concept of hedging . . . is an unpatentable abstract idea”); *cxLoyalty, Inc. v. Maritz Holdings Inc.*, 986 F.3d 1367, 1376–77 (Fed. Cir. 2021) (concluding that claims directed to “facilitating, or brokering, a commercial transaction (i.e., the sale and purchase of goods and services) between a purchaser using a first form of value (i.e., a rewards program participant using points in whole or in part) and a seller transacting in a second form of value (i.e. a vendor system which transacts purchases in currency)” were “directed to transfers of information relating to a longstanding commercial practice” and, thus, “directed to an abstract idea”); *Smart Sys. Innovations, LLC v. Chi. Transit Auth.*, 873 F.3d 1364, 1372 (Fed. Cir. 2017) (concluding that claims “directed to the formation of financial transactions in a particular field (i.e., mass transit) and data collection related to such transactions” that were “not directed to a new type of bankcard, turnstile, or database,” and that did not “provide a method for processing data that improves existing technological processes” were “directed to an abstract idea”).

B

The claim does not contain an inventive concept that transforms it into patent-eligible subject matter at *Alice* step two. The claim elements invoke the use of a generic computer and electronically-activated card (or mobile device or tablet) to perform basic computer functions (like

data receipt, transmission, processing, and display).² See *Alice*, 573 U.S. at 225 (“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea . . . on a generic computer.”); *BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349 (Fed. Cir. 2016) (the elements of a computer-related claim “must be significantly more than the abstract idea itself, and cannot simply be an instruction to implement or apply the abstract idea on a computer” (cleaned up)). That is insufficient to provide the requisite inventive concept. See *Alice*, 573 U.S. at 223 (explaining that “mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention”); *GoTV*, 166 F.4th at 1067 (“[W]e have repeatedly emphasized that it is not sufficient, in order to pass muster, for a claim to use functional, result-focused language or to encompass ordinary computers and networks to perform their ordinary functions in carrying out an abstract idea.”).

The Board correctly affirmed the examiner’s rejection of the ’833 application’s claims under § 101.

² As previously noted, the specification makes clear that “[t]he applicant claims it is NOT the electronically activated physical devices used in the ‘claims’ (i.e., computer, magnetic strip card, etc.) that are patentable, but rather the computer-implemented process (aka: method) and ‘inventive concept’ (aka: ‘significantly more’) produced by a special computer program implemented on a computer to perform the cited inventive method in a specific way that provides a technical solution to a technical problem that is cited in the patent application and ‘claims’ which makes the ‘patent eligible subject matter.’” App’x 1219–20 ¶ 14.

II

Because we affirm the Board's § 101 determination, we need not reach Mr. Wenkman's challenge to the written-description ruling.

CONCLUSION

We have considered Mr. Wenkman's remaining arguments and find them unpersuasive. For the foregoing reasons, we affirm.

AFFIRMED

COSTS

No costs.