

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-81669-CIV-MARRA

ELECTRONIC COMMUNICATION
TECHNOLOGIES, LLC

Plaintiff,

v.

MINTED, LLC

Defendant.

JUDGMENT FOR DEFENDANT

This case involves an asserted patent claim directed to providing advance notification about the pickup or delivery of a good or service. Defendant has filed a Motion to Dismiss the Amended Complaint (“Motion”), arguing that the asserted claim is invalid because it covers subject matter ineligible for patent protection under 35 U.S.C. § 101. (ECF No. 25.) Plaintiff filed a response in opposition to Defendant’s Motion (ECF No. 26), and Defendant filed a reply (ECF No. 27). In addition, the Court heard oral argument from the parties. (ECF No. 28.) The Court has considered the arguments of counsel and is otherwise fully advised in the premises. Applying the approach to section 101 adopted by the Supreme Court in *Alice Corp. Pty. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014), this Court concludes, as a matter of law, that the asserted claim is invalid because it is directed to a well-known and widely-understood concept, that is, automated notification of travel status, using conventional technology. Accordingly, judgment in Defendant’s favor is appropriate.

I. BACKGROUND

U.S. Patent No. 9,373,261, owned by Plaintiff Electronic Communication Technologies, LLC, claims methods and systems for automating notification of delivery or pickup of a good or service. In 2016, Plaintiff sued Defendant Minted, LLC, alleging that Defendant's order and shipping confirmation systems infringe Claim 11 of the '261 patent. In a Motion to Dismiss, which the Court construes as a motion for judgment on the pleadings, Defendant challenges the validity of the asserted claim, arguing that it covers subject matter ineligible for patent protection under 35 U.S.C. § 101.¹

Claim 11 recites a system comprised of, in addition to transceivers, memories, and processors, computer code that: (1) enables a first party to input authentication information; (2) stores the authentication information; (3) monitors the location of a mobile thing; (4) initiates notification to the first party in advance of arrival of the mobile thing based in part on the location of the mobile thing; (5) provides the authentication information to the first party; and (6) enables the party to select whether or not to communicate with a second party having access to particulars of the pickup or delivery. Specifically, Claim 11 states:

An automated notification system, comprising:
one or more transceivers designed to communicate data;
one or more memories;
one or more processors; and
computer program code stored in the one or more memories and executed by the
one or more processors, the computer program code comprising:

¹ Plaintiff initially argued that Defendant had waived its argument attacking the validity of Claim 11 by failing to raise the argument in its first Rule 12(b) motion to dismiss. However, at oral argument, Plaintiff acknowledged that Defendant could attack the validity of Claim 11 in a motion for judgment on the pleadings, as was done by ShoppersChoice.com, LLC in related Case No. 16-81677. Therefore, the Court will construe Defendant's Motion to Dismiss as a Rule 12(c) motion for judgment on the pleadings.

code that enables a first party associated with a personal communication device (PCD) to input or select authentication information for use in connection with a subsequent notification communication session involving advance notice of a delivery or pickup of a good or service at a stop location by a mobile thing (MT);
code that causes storage of the authentication information;
code that monitors location or travel information in connection with the MT;
code that causes initiation of the notification communication session to the PCD with the one or more transceivers, in advance of arrival of the MT at the stop location, based at least in part upon the location or travel information associated with the MT;
code that, during the notification communication session, provides the authentication information to the PCD that indicates to the first party that the notification communication session was initiated by an authorized source; and
code that, during the notification communication session, enables the first party to select whether or not to engage in a communication session with a second party having access to particulars of the pickup or delivery.

(ECF 23-1 at 103.)

II. LEGAL STANDARD

“After the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings.” Fed. R. Civ. P. 12(c). Judgment on the pleadings is appropriate where, based on the pleadings, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Scott v. Taylor*, 405 F.3d 1251, 1253 (11th Cir. 2005) (citing *Cannon v. City of West Palm Beach*, 250 F.3d 1299, 1301 (11th Cir. 2001)).

III. DISCUSSION

Section 101 of the Patent Act defines the subject matter eligible for patent protection. That section provides:

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.

35 U.S.C. § 101. It has been long held that, generally, abstract ideas do not fall within the patent protection afforded by Section 101. *Alice Corp. Pty. v. CLS Bank Int'l*, 573 U.S. 208, 216 (2014). The rationale behind this implicit exception is that monopolization of abstract ideas, which are the basic tools of scientific and technological discovery, would impede innovation rather than promote it. *Id.* This exclusionary principle, however, does not preclude an invention based upon an abstract idea from being patented if the invention offers a new and useful application of an abstract idea. *Id.*

To distinguish patents that are based upon abstract ideas from those that claim transformative applications of those ideas, the Supreme Court has outlined a two-step framework. *Id.* at 217 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 78 (2012)). First, the court must determine whether the claims at issue are directed to a patent-ineligible concept, such as an abstract idea. *Id.* Second, the court must determine whether the claim elements—considered individually and as an ordered combination—contain an “inventive concept” that transforms the nature of the claim into a patent-eligible application. *Id.* at 217-18.

Patent eligibility under section 101 presents an issue of law for the court. *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1312 (Fed. Cir. 2016).

A. Abstract Idea

The Court must first determine whether Claim 11 is directed to an abstract idea. “The ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether ‘their character as a whole is directed to excluded subject.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). “If a claimed invention only performs an abstract idea on a generic computer, the invention is directed to an abstract idea at step one.” *BSG Tech LLC v.*

Buyseasons, Inc., 899 F.3d 1281, 1285–86 (Fed. Cir. 2018) (citing *Alice*, 573 U.S. at 217-21). “Stating an abstract idea while adding the words ‘apply it’ is not enough for patent eligibility.” *Alice*, 573 U.S. at 223 (citation and internal quotation marks omitted). Relatedly, it has been “consistently held . . . that claims are not saved from abstraction merely because they recite components more specific than a generic computer.” *BSG Tech*, 899 F.3d at 1286; *In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 613 (Fed. Cir. 2016) (holding claims were directed to an abstract idea despite the claims’ recitation of telephone units and servers); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (holding claims were directed to an abstract idea despite the claims’ recitation of a scanner). If, however, the software or hardware components “make non-abstract improvements to computer technology,” then the invention is directed to patent-eligible subject matter. *Enfish*, 822 F.3d at 1335. Thus, the issue is whether “the ‘focus of the claims’ is on a ‘specific asserted improvement in computer capabilities . . . , or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.”” *BSG Tech*, 899 F.3d at 1286 (quoting *Enfish*, 822 F.3d at 1336).

By way of example, in *Alice*, the Supreme Court held that claims drawn to the concept of exchanging financial obligations between two parties using a third-party intermediary to mitigate settlement risk were directed to an abstract idea. 573 U.S. at 217-18. The claims recited a method, a system, and a computer-readable medium containing computer program code for monitoring the value of accounts held by each party at exchange institutions, tracking multiple transactions, and issuing automated instructions to the exchange institutions to carry out financial transactions for which the parties had adequate funds. *Id.* at 213-14. In holding that the claims were directed to an abstract idea, the Court reasoned that intermediated settlement was “a fundamental economic

practice long prevalent in our system of commerce.” *Id.* at 219 (citation and internal quotation marks omitted); *see also Bilski v. Kappos*, 561 U.S. 593 (2010) (concluding that claims describing a method for hedging against the financial risk of price fluctuations were directed to a patent-ineligible abstract idea for similar reasons).

Here, viewing the claim in light of the specification, the Court finds that Claim 11 is directed to the abstract idea of providing advance notification of the pickup or delivery of a mobile thing. Without purporting to construe the claims, the claim language recites computer code that: (1) enables a first party to input authentication information; (2) stores the authentication information; (3) monitors the location of a mobile thing; (4) sends notification to the first party in advance of arrival of the mobile thing; (5) sends the authentication information to the first party; and (6) enables the party to select whether or not to communicate with a second party about the status of the mobile thing.

The patent’s background information states that the invention relates to “systems and methods that notify a party of travel status associated with one or more mobile things.” (ECF No. 23-1 at 57.) The patent’s abstract describes the invention as “[s]ystems and methods . . . for automated computer based notification systems.” (*Id.* at 2.) The patent background section explains, by way of example, that “it would be desirable to know, with substantial accuracy, the expected arrival or departure time of a mobile thing (MT) (for example but not limited to, a bus, automobile, truck, train, ship, plane, aircraft, etc.) with respect to a stop location for the pickup or delivery.” (*Id.* at 57.) The patent’s background section identifies the purposes of the invention as “allowing better preparation and scheduling,” and explains that it would “improve customer service” and help airline employees, for example. (*Id.*) In addition, the patent’s background section acknowledges that

“notification systems have been developed . . . and some are known in the art.” (*Id.*)

“[B]usiness practices designed to advise customers of the status of delivery of their goods have existed at least for several decades, if not longer. Delivery notification is therefore the kind of conventional business practice long ‘prevalent in our system of commerce’ that *Alice Corp.* found unpatentable.” *Mobile Telecommunications Techs., LLC v. United Parcel Serv., Inc.*, 173 F. Supp. 3d 1324, 1331 (N.D. Ga. 2016), *aff’d*, 708 F. App’x 684 (Fed. Cir. 2018). Likewise, the concept of advising travelers of the travel status of a commercial vehicle has been a basic tool used in the public transportation and airline industries for decades. (*See* ECF No. 23-1 at 57-58 (discussing airline tracking available to users since 1996).)

The business practice of providing reliable travel information about a tracked item is similar to the “fundamental economic concepts” and other well-known activities that the Supreme Court and the Federal Circuit have found to be abstract ideas. *Alice*, 573 U.S. at 219 (intermediated settlement); *Bilski*, 561 U.S. at 611 (risk hedging); *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1314 (Fed. Cir. 2016) (screening e-mails and other data files for unwanted content); *Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1333 (Fed. Cir. 2015) (determining a price using organizational and product group hierarchies); *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (using advertising as an exchange or currency); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (collecting data); *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1346 (Fed. Cir. 2013) (generating task lists in an insurance organization); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (guaranteeing a party’s performance in a transaction); *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1373 (Fed. Cir. 2011) (verifying the

validity of a credit card transaction).

Although certain additional features, such as the use of authentication information and the option to communicate with the pickup or delivery representative, add a degree of particularity to the invention, the concept embodied by the invention is only the abstract idea of notifying a party of the travel status of a good or service. *Ulramercial*, 772 F.3d at 715 (“Although certain additional limitations, such as consulting an activity log, add a degree of particularity, the concept embodied by the majority of the limitations describes only the abstract idea of showing an advertisement before delivering free content.”). Because the concept of communicating with a party about the status of a tracked item in a communication session is a conventional business tool, the asserted claim is directed to an abstract idea. *See Eclipse IP LLC v. McKinley Equip. Corp.*, No. SACV 14-154-GW AJWX, 2014 WL 4407592, at *9 (C.D. Cal. Sept. 4, 2014) (holding that patents directed to the idea of notifying parties regarding a tracked item were invalid under section 101).

Relying upon *Vehicle IP, LLC v. AT&T Mobility LLC*, No. CV 09-1007-LPS, 2016 WL 5662004, at *5-6 (D. Del. Sept. 29, 2016), Plaintiff suggests that the claim in this case is directed not to an abstract idea but a technological improvement. In *Vehicle IP*, the asserted claims were “directed to improving vehicle navigation systems through more efficient distribution of navigation functions between a remote dispatch and a mobile unit located at the vehicle.” 2016 WL 5662004, at *5-6. *Id.* In concluding that the claims at issue there were not directed to an abstract idea, the court reasoned that “[t]he claims reflect[ed] deliberate choices about which equipment plays which part in the overall system.” *Id.* The court found that the “overall arrangement improve[d] upon shortcomings of existing methods of calculating ETA by proposing an improvement in the process for doing so.” *Id.* In addition, the court found that the system required the use of specialized

equipment that performed technical functions, not a generic computer environment. *Id.* The court distinguished the “situation where general-purpose computer components are added post-hoc to a fundamental economic practice or mathematical equation.” *Id.* (quoting *Enfish*, 822 F.3d at 1339).

In this case, unlike *Vehicle IP*, the claim does not propose a specific organization of components, much less how that arrangement improves upon existing methods. Instead, the claim recites a list of equipment as follows: “one or more transceivers designed to communicate data; one or more memories; one or more processors; and computer program code.” (ECF No. 23-1 at 103.) While the drawings in the patent specification require concrete components, such as a “base station manager” that can receive, store and transmit notification messages, the patent specification makes clear the recited physical components provide a generic, well-known environment to carry out the claimed abstract idea. (*See e.g., id.* at 61 (“The claimed systems (and methods) of the invention can be implemented in many other known notification systems, messaging systems, or tracking systems, that notify a party of travel status associated with one or more moving things that are not specifically referenced, shown, or described in this document for reasons of simplicity.”).) Further, the recitation of computer code to perform the steps of Claim 11 does not make the invention any less abstract, since the patent does not provide any technical detail about the claimed computer code (*See id.* at 2 (“an embodiment of a related system, among others, [that] has a computer-based architecture with computer software, or code, that is stored in one or more processors for performing the foregoing steps”).)

In essence, while Claim 11 requires physical components, the recited physical components merely provide “a generic environment in which to carry out the abstract idea.” *See In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016) (“While claim 17 requires

concrete, tangible components such as ‘a telephone unit’ and a ‘server,’ the specification makes clear that the recited physical components merely provide a generic environment in which to carry out the abstract idea of classifying and storing digital images in an organized manner.”). Rather than proposing a technological invention, the “general-purpose computer components are added post-hoc to a fundamental economic practice.” *Enfish*, 822 F.3d at 1339.

B. Inventive Concept

The second step in the analysis requires the Court to determine whether the claims do significantly more than simply describe an abstract method. *Alice*, 573 U.S. at 218. The Court must examine the claim to determine whether the claim contains an “inventive concept” to transform the claimed abstract idea into patent-eligible subject matter. *Id.* at 221. The transformation of an abstract idea into patent-eligible subject matter “requires more than simply stat[ing] the [abstract idea] while adding the words ‘apply it.’” *Id.* “A claim that recites an abstract idea must include additional features to ensure that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].” *Id.* (citation and internal quotation marks omitted). Those “additional features” must be more than “well-understood, routine, conventional activity.” *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014).

In *Alice*, the Supreme Court held that none of the patents at issue there contained a sufficient “inventive concept” to transform the abstract idea of intermediated settlement into a patent-eligible invention. 573 U.S. at 223-226. As to the method claims, the Court held that the functions to be performed at each step of the process, i.e. creating shadow accounts, obtaining data, tracking transactions, adjusting the account balances, and issuing automated instructions, were “purely conventional.” *Id.* at 225. Viewing the method claims as a whole, the Court found that the claims

did not improve the functioning of the computer or purport to improve any other technology. *Id.* The Court further concluded that the system and media claims “add[ed] nothing of substance to the underlying abstract idea.” *Id.* at 227.

Here, as in *Alice*, the Court concludes that the elements of Claim 11 do not transform the abstract idea that they recite into a patent-eligible subject matter. The claim recites generic computer components that can be configured to perform purely conventional computer functions. The patent recites the use of “one or more transceivers designed to communicate data,” “one or more memories,” “one or more processors,” “a personal communication device,” and “computer program code stored in the one or more memories and executed by the one or more processors . . . comprising: code that enables” the steps of the notification process. (ECF No. 23-1 at 103.) These components, in turn, obtain and store authentication data, monitor the status of an item, send notification and the authentication data, and then enable the parties to communicate. As explained in further detail below, the Court finds, looking at the elements of Claim 11 individually and collectively, that both the technology used and the function performed at each step of the process are conventional.

The claim’s recitation of one or more transceivers, memories, and processors represents purely generic and conventional computer equipment. *See Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1348 (Fed. Cir. 2014) (holding that there is no “inventive concept” in plaintiff’s use of generic scanner and processing technology); *Maxon, LLC v. Funai Corp., Inc.*, 726 F. App’x 797, 799 (Fed. Cir. 2018) (“The district court correctly found that the claims recite only generic computing processes using functional language. Analyzing the physical components of the claims, the district court noted that the specifications do not limit the

breadth of elements such as ‘computer-readable medium,’ ‘logic,’ ‘processor,’ or ‘transceiver.’”); *Cloud Satchel, LLC v. Amazon.com, Inc.*, 76 F. Supp. 3d 553, 564 (D. Del. 2014) (“[E]ven the recitation of specific hardware elements such as a ‘processor,’ a ‘solid state memory,’ and a ‘transceiver’ is insufficient to confer specificity.”), *aff’d sub nom.*, 626 F. App’x 1010 (Fed. Cir. 2015).

The claim’s recitation of a “personal communication device (PCD)” that provides and receives data is generic equipment that does not supply an inventive concept. *Eclipse IP LLC v. McKinley Equip. Corp.*, No. SACV 14-154-GW AJWX, 2014 WL 4407592, at *7 (C.D. Cal. Sept. 4, 2014); *see also Silver State Intellectual Techs. v. Facebook Inc.*, 314 F. Supp. 3d 1041, 1048 (N.D. Cal. 2018) (“discern[ing] no inventive concept that transforms the abstract idea of selectively storing and sharing location-based information in the area of personal communication devices into a patent-eligible application of that abstract idea”).

The claim language also recites the use of “code that enables” or “causes” the steps in the claim to occur. However, “[a] component that ‘can be configured’ to perform the claimed function is neither sufficiently described nor sufficiently innovative” to transform the invention into patent-eligible subject matter. *YYZ, LLC v. Hewlett-Packard Co.*, 137 F. Supp. 3d 675, 687 (D. Del. 2015). For example, in *Planet Bingo*, the claims directed to the abstract idea of managing a bingo game required the use of “a computer with a central processing unit,” “a memory,” “an input and output terminable,” “a printer” and “a program . . . enabling” the step of managing a game of bingo. *Planet Bingo, LLC v. VKGS LLC*, 576 F. App’x 1005, 1008–09 (Fed. Cir. 2014). The court held that the claim recited only a generic computer implementation of an abstract idea and was therefore not patent-eligible. *Id.* The plaintiff had argued that the patent recited “significantly more” than an

abstract idea of managing a bingo game because the invention included “complex computer code with three distinct subparts.” *Id.* However, the court rejected that argument, reasoning that the patents did not claim the specific computer programs but instead recited a program used for the generic functions of storing, retrieving, and verifying bingo numbers. *Id.*

Plaintiff suggests that the “inventive concept” is supplied in this case by the “structures and elements of the claims and over 100 pages of disclosure by the inventor of the invention which includes very detailed specific diagrams of the structure of the invention and its computer program code.” (Pl.’s Resp. 11, ECF 26 at 11.) However, in *Accenture Glob. Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1345 (Fed. Cir. 2013), the Court of Appeals for the Federal Circuit rejected the argument that detailed information in the specification can transform a claim reciting an abstract idea into patent-eligible matter:

Regarding Accenture’s argument concerning the complexity of the specification, including the specification’s detailed software implementation guidelines, the important inquiry for a § 101 analysis is to look to the claim. “When the insignificant computer-based limitations are set aside from those claims that contain such limitations, the question under § 101 reduces to an analysis of what additional features remain in the claims.” *Bancorp*, 687 F.3d at 1279 (citing *Mayo*, 132 S.Ct. at 1297). The limitations of claim 1 are essentially a database of tasks, a means to allow a client to access those tasks, and a set of rules that are applied to that task on a given event. Although the specification of the '284 patent contains very detailed software implementation guidelines, the system claims themselves only contain generalized software components arranged to implement an abstract concept on a computer. The limitations of the system claims of the '284 patent do not provide sufficient additional features or limit the abstract concept in a meaningful way. In other words, the complexity of the implementing software or the level of detail in the specification does not transform a claim reciting only an abstract concept into a patent-eligible system or method.

Id.; *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1149 (Fed. Cir. 2016) (“While Synopsys may be correct that the inventions of the Gregory Patents were intended to be used in

conjunction with computer-based design tools, the Asserted Claims are not confined to that conception. The § 101 inquiry must focus on the language of the Asserted Claims themselves.” (citing *Accenture*, 728 F.3d at 1345)).

In addition to generic computer components, the functions that the claim recites are also aptly described as routine and conventional. The first two elements of Claim 11 consist of computer code that allows a party to input authentication data and then causes storage of that data. The Federal Circuit has held that data recognition and storage are conventional steps that do not supply an inventive concept. See *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1345 (Fed. Cir. 2014) (holding that recognizing and storing data from specific data fields are “well-understood, routine, and conventional activities commonly used in industry”).

The next step of Claim 11 involves monitoring the movement of a mobile thing. The elements of monitoring and recording the movement of a package or vehicle represents insignificant “data-gathering steps.” *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011); *Wireless Media Innovations, LLC v. Maher Terminals, LLC*, 100 F. Supp. 3d 405, 416 (D.N.J. 2015) (“[T]he process of monitoring and moving shipping containers and collecting the relevant data as to the location of the shipping containers. . . . comprises only conventional steps, specified at a high level of generality, which is insufficient to supply an ‘inventive concept.’” (internal citation and quotation marks omitted)), *aff’d*, 636 F. App’x 1014 (Fed. Cir. 2016).

The next steps of Claim 11 involve initiation of a notification communication session and provision of the authentication information during the session. As noted above, the process of providing customers notification is a common business activity. *Mobile Telecommunications Techs., LLC v. United Parcel Serv., Inc.*, 173 F. Supp. 3d 1324, 1335 (N.D. Ga. 2016), *aff’d*, 708 F. App’x

684 (Fed. Cir. 2018). A patent directed to the abstract idea of providing delivery notification that can be implemented with general computer components does not contain an “inventive concept.” *Id.* Likewise, the use of authentication information to indicate to the party that the notification is legitimate also does not introduce an “inventive concept.” *Williamson v. Citrix Online, LLC*, 212 F. Supp. 3d 887, 906 (C.D. Cal. 2016) (“Finally, dependent claim 22 recites “a module for authenticating a user of the presenter computer system to prevent unauthorized use of the content selection control.” The specification describes the use of a conventional username and password to authenticate the user, and limiting the invention in this manner does not render the claim patent-eligible.” (internal citation omitted)), *aff’d sub nom.*, 683 F. App’x 956 (Fed. Cir. 2017).

Finally, the last step of Claim 11 enables the first party to select whether or not to engage in a communication session with a second party about the pickup or delivery. Requiring the notified party to select whether or not to communicate with a delivery or pickup representative is a conventional step, specified at a high level of generality. *Ultramercial*, 772 F.3d at 716 (invalidating patent and finding that individual steps of the asserted claim, including the step that required the consumer to select whether or not to view an advertisement, was a conventional step, specified at a high level of generality, which was insufficient to supply an inventive concept). That the system is interactive and responsive, rather than passive, is not sufficient to transform an otherwise patent-eligible abstract idea into a patent-eligible subject matter. *See id.*

Moreover, the Court rejects Plaintiff’s argument that the claim here combines conventional computer components in an unconventional manner. Plaintiff suggests that the claim creates “a system that transforms computer components into a specific technological mechanism that improves the system to prevent phishing communications.” (Pl.’s Resp. 10, ECF No. 26 at 10.) While the

claim attempts to help customers distinguish between an authentic communication and fake one through the use of authentication information, the solution depends upon conventional components and does not propose any inventive arrangement.

Plaintiff's attempt to liken the claim here to the claims in *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1300–01 (Fed. Cir. 2016), is also rejected. In *Amdocs*, the Federal Circuit held that claims relating to solving accounting and billing problems faced by network service providers recited an inventive concept based upon the invention's distributed architecture. *Id.* The court reasoned that the claim language could be construed to require a "distributed architecture," which processed network data near the source of the information. The court further explained that such a distributed design was an unconventional technological solution to the technological problem of massive record flows and thereby transformed the claims into patentable subject matter. *Id.* The court emphasized that "the claim's enhancing limitation necessarily require[d] that these generic components operate in an unconventional manner to achieve an improvement in computer functionality." *Id.*

Here, unlike the case in *Amdocs*, the claim language does not contain any limitation that requires the components of the system to operate in an unconventional manner. Instead, the claim contains a general recitation to the use of "one or more transceivers designed to communicate data; one or more memories; one or more processors; and computer program code." (ECF No. 23-1 at 103.) Moreover, the specification makes clear that the components and processes are well-known and that the components are not arranged in any specific or limiting way. (*See e.g., id.* at 63 ("Several nonlimiting exemplary embodiments of possible response systems will be described in detail . . .").) As a result, the Court concludes, as a matter of law, that the elements of Claim 11 do

not, individually and as an ordered combination, supply an “inventive concept” that transforms the abstract nature of the claim to a patent-eligible application.

IV. CONCLUSION

For these reasons, the Court concludes, as a matter of law, that Claim 11 is directed to an abstract idea and lacks an inventive concept. Claim 11 is therefore invalid. Based on the pleadings, there is no genuine issue of material fact and Defendant is entitled to judgment as a matter of law.

Accordingly, it is **ORDERED AND ADJUDGED** that Defendant’s Motion to Dismiss (ECF No. 25) is **GRANTED**. Judgment on the pleadings is entered in Defendant’s favor. The Clerk shall **CLOSE** this case. Any pending motions are **DENIED** as moot.

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida,
this 18th day of January, 2019.



KENNETH A. MARRA
United States District Judge