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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STEFAN MARTINOVIC and EDWARD R. SWITZER

Appeal 2016–005137¹
Application 13/792,464²
Technology Center 3600

Before BRADLEY B. BAYAT, MATTHEW S. MEYERS, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

MEYERS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner’s Final Rejection of claims 1, 4, 8, 9, 12–14, 17, 18, 20, and 25–33. We have jurisdiction under 35 U.S.C. § 6(b).

¹ Our decision references Appellants’ Appeal Brief (“Appeal Br.,” filed October 5, 2015) and Reply Brief (“Reply Br.,” filed March 11, 2016), the Examiner’s Answer (“Ans.,” mailed February 10, 2016), and Final Office Action (“Final Act.,” mailed May 5, 2015).

² Appellants identify “Creat LLC” as the real party in interest (Appeal Br. 1). We note that “Create Inc.” is the assignee recorded (Sept. 5, 2014) with the USPTO as per reel/frame number 033673/0793.

We AFFIRM.

CLAIMED INVENTION

Appellants' claims relate generally to "systems and processes for an analysis tool for use in the real estate industry that provides consistent, transparent, and efficient analysis of a real estate development project" (Spec. ¶ 2).

Claims 1, 9, and 17 are the independent claims on appeal. Claim 1, reproduced below with minor formatting changes and added bracketed notations, is illustrative of the subject matter on appeal:

1. A computer-implemented method comprising:

[a] providing a user interface for specifying details of a development project;

[b] receiving, through the user interface, first user-input from a first user specifying (i) a type for the development project, and (ii) a location for the development project;

[c] determining one or more projected outcomes for the development project based on data for the specified type, location, zoning regulations data, and land use data, where the land use data comprises floor space or parking specifications for development projects having the specified type; and

[d] generating, an analysis of each of the one or more projected outcomes, wherein generating the analysis comprises generating a first rendering of a building of the development project, generating the first rendering comprising:

[e] identifying a boundary of a parcel for the building based on the location and the zoning regulations data, where the boundary is positioned with respect to a public street;

[f] determining maximum size data for the building from the land use data and the zoning regulations data, where the maximum size data for the building comprises constraints of lot occupancy, a building height, a number

of stories, and at least one of floor space or parking requirements;

[g] generating an external shape of the building from the boundary and the maximum size data; and

[h] generating the first rendering from the external shape;

[i] receiving second user-input specifying adjustments to dimensions of the first rendering;

[j] generating a second rendering from the second user-input and the first rendering; and

[k] providing, through the user interface, the second rendering of the building.

REJECTIONS³

Claims 1, 4, 8, 9, 12–14, 17, 18, 20, and 25–33 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement (*see* Final Act. 6).

Claims 1, 4, 8, 9, 12–14, 17, 18, 20, and 25–33 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter (*see* Final Act. 8–10).

Claims 1, 8, 9, 17, 18, 25–31, and 33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bleakley (US 2013/0346151 A1, pub. Dec. 26, 2013) and Sigaty (US 2013/0132041 A1, pub. May 23, 2013) (*see* Final Act. 10–19).

Claims 4, 12, and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bleakley, Sigaty, and Ponce de Leon (US 2008/0195452 A1, pub. Aug. 14, 2008) (*see* Final Act. 19–21).

³ The rejection under 35 U.S.C. § 112, second paragraph, was withdrawn by the Examiner (*see* Ans. 3).

Claims 13, 14, and 32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bleakley, Sigaty, and Settino (US 2013/0290052 A1, pub. Oct. 31, 2013) (*see* Final Act. 21–24).

ANALYSIS

Non-statutory subject matter

Independent claims 1, 9, and 17, and dependent claims 4, 8, 12–14, 18, 20, and 25–33

Appellants argue claims 1, 4, 8, 9, 12–14, 17, 18, 20, and 25–33 as a group (*see* Appeal Br. 6–7). We select independent claim 1 as representative. Claims 4, 8, 9, 12–14, 17, 18, 20, and 25–33 stand or fall with independent claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

The Supreme Court in *Alice* reiterated the two-step framework, set forth previously in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 78–79 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014). The first step in that analysis is to “determine whether the claims at issue are *directed to* one of those patent-ineligible concepts.” *Id.* (citing *Mayo*, 566 U.S. at 79) (emphasis added). If so, the second step is to consider the elements of the claims “individually and ‘as an ordered combination’” to determine whether the additional elements “‘transform the nature of the claim’ into a patent-eligible application.” *Id.* (quoting *Mayo*, 566 U.S. at 78–79).

In other words, the second step is to “search for an ‘inventive concept’—*i.e.*, an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent

upon the [ineligible concept] itself.” *Id.* (alteration in original) (quoting *Mayo*, 566 U.S. at 72–73). The Court acknowledged in *Mayo*, that “all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Mayo*, 566 U.S. at 71. We, therefore, look to whether the claims focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea, and merely invoke generic processes and machinery. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016).

Appellants argue that the Examiner’s rejection is in error because the Examiner fails establish a prima facie case of subject matter ineligibility (*see* Appeal Br. 6–7). More particularly, Appellants argue the Examiner “does not identify a single previously known application of the alleged abstract ideas that would be preempted by the presently claimed combination of features” (*id.*) and the Examiner “merely provides conclusory statements without identifying any particular facts in the record of this application that support the stated conclusion” (*id.* at 7). Appellants’ arguments are not persuasive.

In rejecting the pending claims under 35 U.S.C. § 101, the Examiner analyzes the claims using the *Mayo/Alice* two-step framework. Ans. 4–6. Here, the Examiner maintains the claims are directed to

determining one or more projected outcomes, generating an analysis for each of the one or more projected outcomes, identifying a boundary, determining a maximum size data, generating an external shape, generating the first rendering, and generating a second rendering) using a computer and generic hardware/software, and is considered to amount to nothing more

than requiring a computer workstation and generic hardware/software to merely carry out the abstract idea itself.

(Ans. 22–23). More particularly, the Examiner looks to the language of the claims and determines the

claims are directed to “receiving first user input, generating an external shape, generating the first rendering, receiving second user input” (organizing human activities, using categories to organize store and transmit information, and comparing new and stored information and using rules to identify options), “determining one or more projected outcomes, generating an analysis for each of the one or more projected outcomes, identifying a boundary, and determining a maximum size data” (mathematical equation/formula and organizing information through mathematical correlations) which is considered to be an abstract idea. For example, the claimed limitations “determining . . .”, “receiving . . .”, “generating . . .”, “providing . . .”, and “identifying . . .” etc. can be performed manually.

(Final Act. 8–9; *see also* Ans. 20–21). The Examiner cites abstract ideas from previous judicial decisions and compares the present idea to the abstract ideas in those decisions (*see* Final Act. 8–10; *see also* Ans. 10; 20–23). The Examiner further determines that the additional elements of the claims, taken alone and as an ordered combination, do not ensure that the claims amount to significantly more than the abstract idea (*see* Ans. 21). The Examiner, thus, has clearly followed the two-part framework specified by the Supreme Court in *Mayo/Alice* consistent with Office guidelines.

In this regard, the Examiner has articulated the reasons for the rejection and has notified Appellants of the reasons for the rejection “together with such information and references as may be useful in judging of the propriety of continuing the prosecution of [the] application.”

35 U.S.C. § 132. And we find that, in doing so, the Examiner sets forth a

prima facie case of subject matter ineligibility. See *In re Jung*, 637 F.3d 1356, 1362 (Fed. Cir. 2011); *Chester v. Miller*, 906 F.2d 1574, 1578 (Fed. Cir. 1990) (Section 132 “is violated when a rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection.”).

We also agree with the Examiner that under step one of the framework set forth in *Mayo/Alice*, the claimed invention is directed broadly to the concept of “determining one or more projected outcomes” (Final Act. 8; see also Ans. 22), and similar to certain methods of organizing human activities that our reviewing court has found patent ineligible, such as “unpatentable mental processes” including “steps [that] can be performed in the human mind, or by a human using a pen and paper” in *CyberSource Corp. v. Retail Decisions, Inc.* 654 F.3d 1366, 1372–73 (Fed. Cir. 2011), and the concept of collecting information, analyzing it, and displaying certain results of the collection and analysis in *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016).

In making this determination, we note that the present invention is described as an “analysis tool for use in the real estate industry that provides consistent, transparent, and efficient analysis of a real estate development project” (Spec. ¶ 2). The Specification discloses that “the performance of real estate transactions and development may not be based on insider knowledge or trade secrets but rather on the ability to have awareness of and to deftly manipulate a finite set of inputs and data in the most advantageous way in order to optimize project returns” (*id.* ¶ 10). Further, the Specification acknowledges that “software products can provide a user with real estate development project modeling tools that can perform a series of

calculations based on a wide array of user inputs” (*id.* ¶ 11), and identifies that many of these software products “can lead to inaccuracies based on user errors that can result in ‘garbage in, garbage out’” and require highly skilled users (*id.*). To address these deficiencies, the present invention

allow[s] users to manually input assumptions as real-world data become[] available, replacing calculated assumptions and reflecting the iterative process of real estate development. The changes to project assumptions can be logged and can allow the user to monitor any fluctuation in the value of the real estate development project over time, as the information transitions from assumption to hard data and as real-time data is updated. A range of anticipated project outcomes can be executed through a Monte Carlo simulation that takes into account a random sampling of variable parameters to yield a distribution of projected returns. The integration of real-time data with a statistically significant financial model with change tracking can provide a transparent, consistent, and accurate baseline from which to analyze a project

(*id.* ¶ 14).

Independent claim 1 recites “[a] computer-implemented method comprising” the steps of “providing a user interface,” “receiving . . . first user-input from a first user,” “determining one or more projected outcomes,” and “generating, an analysis of each of the one or more projected outcomes” by “identifying a boundary of a parcel,” “determining maximum size data,” “generating an external shape of the building,” “and generating the first rendering from the external shape.” The method includes additional steps for “receiving second user-input,” “generating a second rendering from the second user-input and the first rendering,” and “providing . . . the second rendering of the building.” Thus, independent claim 1 involves collecting data and information through the user interface, analyzing the collected data, and displaying certain results of the collection and analysis through the user

interface, without any particular inventive technology. *Cf. Elec. Power Grp.*, 830 F.3d at 1354.

We are also unpersuaded by Appellants' contention that the claimed invention "is rooted in computer technology in order to overcome a problem and is inherently tied to a computer-related activity" based on the limitation "generating a first rendering of a building of the development project" (Appeal Br. 7). At the outset, we note that the claimed invention does not address a problem unique to the Internet or computer networks. *Cf. Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1371 (Fed. Cir. 2015) (explaining that the "claims here do not address problems unique to the Internet, so *DDR* has no applicability"). Here, the Specification discloses that the invention determines projected outcomes by plugging "manually input" data into a well-known randomized algorithm (Spec. ¶ 14) using a "computing system" which "encompasses all apparatus, devices, and machines for processing data" (*id.* ¶ 110). As such, the focus of independent claim 1 is not on any technological advancement, but rather on the implementation of the abstract idea, "for which computers are invoked merely as a tool." *See Enfish*, 822 F.3d at 1336.

Turning to the second step of the *Mayo/Alice* framework, rather than reciting additional elements that amount to "significantly more" than the abstract idea, exemplary independent claim 1, at best, adds only "a user interface," i.e., "a client computer having a graphical user interface or a Web browser through which a user may interact with an implementation" (*see, e.g.*, Spec. ¶ 115), which lacks an inventive concept. Although the steps of independent claim 1 may be "tied to a computer-related activity" (Appeal Br. 7), that is not sufficient by itself to transform the abstract idea into

patent-eligible subject matter. *See, e.g., DDR Holdings*, 773 F.3d at 1256 (internal quotation marks omitted) (“[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible. . . . The bare fact that a computer exists in the physical rather than purely conceptual realm ‘is beside the point.’”).

And, similar to *Electric Power*, we are not apprised of anything other than off-the-shelf, conventional computer and display technology for gathering, analyzing, and presenting the desired information to remove the claim from the class of subject matter ineligible for patenting. As the court explained in *Electric Power*, “merely selecting information, by content or source, for collection, analysis, and display does nothing significant to differentiate a process from ordinary mental processes, whose implicit exclusion from § 101 undergirds the information-based category of abstract ideas.” *Elec. Power Grp.*, 830 F.3d at 1355.

We also are not persuaded of Examiner error by Appellants’ argument that the claims are not directed to an abstract idea because the Examiner “fails to show that the specific combination of features recited by the claims will ‘disproportionately [tie] up the use of the underlying idea,’ thereby preempting all applications of the abstract idea” (Appeal Br. 6 (citing *Alice*, 134 S. Ct. at 2355)).

The Supreme Court has made clear that the principle of preemption is the basis for the judicial exceptions to patentability. *Alice*, 134 S. Ct. at 2354 (“We have described the concern that drives this exclusionary principle as one of pre-emption[.]”). For this reason, questions on preemption are inherent in and resolved by the § 101 analysis.

Ariosa Diagnostics, Inc. v. Sequenom, Inc., 788 F.3d 1371, 1379 (Fed. Cir. 2015). Preemption concerns are, thus, fully addressed and rendered moot where a claim is determined to disclose patent ineligible subject matter under the two-part framework described in *Mayo* and *Alice*. Although “preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility” (*id.*).

In view of the foregoing, we sustain the Examiner’s rejection under 35 U.S.C. § 101 of independent claim 1, and claims 4, 8, 9, 12–14, 17, 18, 20, and 25–33, which fall with independent claim 1.

Written Description

In rejecting claims 1, 4, 8, 9, 12–14, 17, 18, 20, and 25–33 under 35 U.S.C. § 112(a), the Examiner finds that there is no written description support in the Specification for “a ‘second user’ and ‘second user input,’” as recited in claims 1, 9, 17, 25, 27, and 30 (Final Act. 6). More particularly, the Examiner acknowledges that paragraphs 99 and 104 of the Specification disclose “interfacing with other users” (Ans. 20), but finds that the cited portions “do[] not disclose a second user inputting data to generate a second rendering and do[] not disclose that a second user is even inputting data. Interfacing with a user can be allowing a user to view data and does not require a user to input data” (*id.*).

Appellants maintain that the rejection is improper because the terms “‘second user’ and ‘second user input’ [are] disclosed in at least paragraphs [0086], [0090]–[0099], and [0104] of the [S]pecification” (*see* Appeal Br. 5).

Whether a Specification complies with the written description requirement of 35 U.S.C. § 112, first paragraph, is a question of fact and is assessed on a case-by-case basis. *See, e.g., Purdue Pharma L.P. v. Faulding, Inc.*, 230 F.3d 1320, 1323 (Fed. Cir. 2000) (citing *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1561 (Fed. Cir. 1991)). The disclosure, as originally filed, need not literally describe the claimed subject matter (i.e., using the same terms or *in haec verba*) in order to satisfy the written description requirement. But the Specification must convey with reasonable clarity to those skilled in the art that, as of the filing date, Appellants were in possession of the claimed invention. *See id.*

Here, as Appellants point out, the Specification discloses

[t]he mobile user interface can allow **users** (e.g., project team members) to take the CREĀT into the field and update project assumptions in real time. When the user makes an adjustment to an assumption using the mobile user interface, those changes are similarly logged and reflected in the analytic package in real time. In this way, changes that users make in the field are instantly reflected and viewable by other team members who have access to the project analytics

(Appeal Br. 5 (citing Spec. ¶ 99)). Thus, we agree with Appellants that a person of ordinary skill in the art would reasonably understand from the Specification, as originally filed, that the Specification provides support for the claim terms “second-user input” and “second user” as recited by claims 1, 9, 17, 25, 27, and 30, at the time the application was filed, given that the Specification describes multiple users can update project assumptions in real time.

Therefore, we do not sustain the Examiner's rejection of claims 1, 4, 8, 9, 12–14, 17, 18, 20, and 25–33, under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Obviousness

Independent claims 1, 9, and 17, and dependent claims 8, 13, 14, 18, 28, 29, and 31–33

We are not persuaded by Appellants' argument that the Examiner erred in rejecting independent claims 1, 9, and 17 under 35 U.S.C. § 103(a) because Sigaty does not disclose or suggest "identifying a boundary of a parcel for the building based on the location and the zoning regulations data, where the boundary is positioned with respect to a public street," as recited by limitation [e] of independent claim 1 (*see* Appeal Br. 7–8), and similarly recited by independent claims 9 and 17 (*see id.* at 13). Instead, we agree with the Examiner that Sigaty discloses the argued limitations (*see* Final Act. 11–14 (citing Sigaty ¶¶ 4, 40, 41, 47, 58, Fig. 10); *see also* Ans. 24 (citing Sigaty ¶¶ 33, 41, Figs. 3, 10, 14)).

We find that Sigaty is directed to "a computer-based system for 3-D massing of a building envelope" (Sigaty ¶ 4). Sigaty discloses that its system

receive[s] a property address, obtain[s] data from the database based on the address, convert[s] the address to a parcel identifier identifying a parcel, display[s] a land area diagram including the parcel, determine[s] a floor area allowance value for the parcel, calculate[s] a lot coverage amount for the parcel, calculate[s] a rear yard requirement amount for the parcel, determine[s] a priority between the lot coverage amount and the rear yard requirement, calculate[s] a rear yard line based on the priority, calculate[s] a building envelope for the parcel, calculate[s] a floor area ratio for the parcel, and calculate[s] an investment viability value for the parcel

(*id.*). Sigaty further discloses that “[i]n order to identify the areas on a parcel where zoning conditions are met, each zoning parameter must be digitized so that the geometric area of the parcel can be determined” (*id.* ¶ 41). In one example, Sigaty discloses “there are two types of streets by zone: wide streets and narrow streets. Wide and narrow streets allow different setbacks, which can be defined as a distance between a building’s street-facing wall and the front edge of the lot” (*id.* ¶ 47). Sigaty also discloses that “system **100** then compiles the parameters and zoning code information and places the data into the zone database **112**. This allows the system **100** to access all of the zoning code information in response to a user entering the address of a site” (*id.* ¶ 58).

We also are not persuaded by Appellants’ argument that Sigaty fails to disclose or suggest the argued limitations because “the setback distance [in Sigaty] is defined inside a boundary of the parcel and does not define the boundary itself” (Appeal Br. 8). Instead, we find that Sigaty discloses “identifying a boundary of a parcel . . . positioned with respect to a public street” (*see* Sigaty ¶¶ 4, 47, 58). That is, Sigaty discloses that its system displays a land area diagram of a parcel that takes into account “all of the zoning code information in response to a user entering the address of a site” (*id.* ¶ 58; *see also id.* ¶ 4). Here, we note that the Examiner’s interpretation of “boundary,” as identified in Sigaty, is reasonable and consistent with Appellants’ Specification which discloses that “[w]ithin the boundaries of the selected parcels, the CREĀT can assume that the structure can be positioned as close to the busiest (based on traffic counts) public street fronting the project as possible while still adhering to the zoning-mandated setback requirements” (Spec. ¶ 86).

In view of the foregoing, we sustain the Examiner's rejection of independent claims 1, 9, and 17 under 35 U.S.C. § 103(a). We also sustain the Examiner's rejections of claims 8, 13, 14, 18, 28, 29, and 31–33, which are not separately argued.

Dependent claims 4, 12, and 20

Each of claims 4, 12, and 20 recites “wherein determining one or more projected outcomes for the development project comprises executing a simulation that randomly samples outcomes from a probability distribution of projected outcomes.”

Appellants argue that Ponce de Leon fails to disclose this limitation because

Ponce de Leon uses “input values selected at random from . . . possible durations. . . to calculate the distribution of possible completion dates.” In contrast, claim 4 recites “randomly [sampling] outcomes from a probability distribution of projected outcomes” to “[determine] one or more projected outcomes [based on data for the **specified type, location, zoning regulations data, and land use data**]” . . . as recited in claim 4

(Appeal Br. 9). However, Appellants' argument is not persuasive at least because claims 4, 12, and 20 are rejected as unpatentable over the combination of Bleakley, Sigaty, and Ponce de Leon, and not over Ponce de Leon alone. *See In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (“Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references.”).

Here, the Examiner relies on a combination of Bleakley, Sigaty, and Ponce de Leon, not Ponce de Leon alone, as disclosing the argued limitation

(*see* Final Act. 19–20; *see also* Ans. 24–25). More particularly, the Examiner relies on Ponce de Leon, as discussed above, to disclose “determining one or more projected outcomes for the development project comprises executing a simulation that randomly samples outcomes from a probability distribution of projected outcomes” (Ans. 25 (citing Ponce de Leon ¶¶ 92, 177)), but relies on Bleakley and Sigaty for the specific type of data required by claims 4, 12, and 20 (*id.*).

In view of the foregoing, we sustain the Examiner’s rejection of claims 4, 12, and 20 under 35 U.S.C. § 103(a).

Dependent claims 25, 27, and 30

Claims 25, 27, and 30 recite:

storing the second rendering and the analysis in an analytic package;

exporting the analytic package to a standardized format for display in a portal, the portal being an interface for a plurality of users to access the analysis and analysis of other development projects;

receiving user-input from a second user that accesses the analytic package from the user-interface; and

providing the development project for the analytic package for display at the user-interface.

Appellants argue that Sigaty fails to disclose or suggest this claimed subject matter because “exporting this ‘clean new GIS file’” (Appeal Br. 10) is not the same as ““exporting the analytic package to a standardized format for display in a portal, the portal being an interface for a plurality of users to access the analysis and analysis of other development projects,”” as recited by claims 25, 27, and 30 (*id.* 10–11; *cf.* Final Act. 16). However, we agree with the Examiner that Sigaty discloses the argued subject matter (*see* Ans.

25–26 (citing Sigaty, Abs., ¶¶ 40, 95, Figs. 1, 2); *see also* Final Act. 15–16 (citing Sigaty ¶¶ 40, 59, 60, 71–73, 95, Figs. 7, 12)). In this regard, we agree with the Examiner that the “GIS file” and “system 100,” disclosed in Sigaty, constitute an “analytic package” and “portal” (*see* Sigaty ¶ 40) within the meaning of claims 25, 27, and 39, under a broad, but reasonable, interpretation (*see, e.g.*, Spec. ¶ 92).

In view of the foregoing, we sustain the Examiner’s rejection of claims 25, 27, and 30 under 35 U.S.C. § 103(a).

Dependent claim 26

Claim 26 recites “where the user-input from the second user comprises a search query of attributes for a particular development project, and further comprising: providing, through the user interface, one or more search results of matching development projects in response to the search query.”

Appellants argue that the combination of Bleakley and Sigaty fails to disclose or suggests the subject matter of claim 26 because Bleakley does not disclose or suggest the “search query” is received from, and the “search results” are provided through, “the user interface [of the portal]” (Appeal Br. 12–13). However, we agree with the Examiner that Bleakley discloses the argued subject matter (*see* Ans. 26–27 (citing Bleakley ¶ 36); *see also* Final Act. 16–17).

In view of the foregoing, we sustain the Examiner’s rejection of claim 26 under 35 U.S.C. § 103(a).

DECISION

The Examiner's rejection of claims 1, 4, 8, 9, 12–14, 17, 18, 20, and 25–33 under 35 U.S.C. § 101 is affirmed.

The Examiner's rejection of claims 1, 4, 8, 9, 12–14, 17, 18, 20, and 25–33 under 35 U.S.C. § 112, first paragraph, is reversed.

The Examiner's rejections of claims 1, 4, 8, 9, 12–14, 17, 18, 20, and 25–33 under 35 U.S.C. § 103(a) are affirmed.

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

AFFIRMED