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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JEFFREY LEE MCLAREN,
WILLIAM DYER RODES II,
and JOHN MALCOLM TOUPS

Appeal 2017-000619
Application 12/789,962
Technology Center 3600

Before ANTON W. FETTING, MICHAEL C. ASTORINO, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE¹

Jeffrey Lee McLaren, William Dyer Rodes II, and John Malcolm Troups
(Appellants²) seek review under 35 U.S.C. § 134 of a final rejection of
claims 1–6, 8–14, 16–22, and 24, the only claims pending in the application

¹ Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed March 7, 2016) and Reply Brief ("Reply Br.," filed November 28, 2016), and the Examiner's Answer ("Ans.," mailed September 28, 2016), and Final Action ("Final Act.," mailed October 8, 2015).

² The real party in interest is Medaxion, LLC. App. Br. 3.

on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

The Appellants invented a way of managing medical case and chronology information for one or more medical practices. Specification para. 2.

An understanding of the invention can be derived from a reading of exemplary claim 9, which is reproduced below (bracketed matter and some paragraphing added).

9. A method comprising:

[1] displaying a list of patient tracking records received from a medical information management system,

the central medical information management system maintaining a plurality of patient tracking records for patients receiving care,

wherein each of the patient tracking records includes a patient identifier, medical personnel assignments indicating, for those patient tracking records with assigned personnel, one or more assigned medical providers and, for each assigned medical provider, one of a plurality of caregiver case roles, and case status information indicating a current state of the care for the patient,

wherein each of the caregiver case roles corresponds to a responsibility of the one or more assigned medical providers with respect to a stage in the active administration of medical care of the patient;

[2] identifying, using a processor, a selected one of the patient tracking records based on a user input;

[3] displaying indications of at least one of the caregiver case roles;

- [4] receiving a case role selection for the selected patient tracking record based on user input,
the case role selection indicating a desire to assume one of the caregiver case roles for the selected patient tracking record;
- [5] communicating the case role selection and the user identifier to the medical information management system;
- [6] if the case role selection violates role handoff rules maintained by the medical information management system,
receiving a message indicating the case role selection violation
and
displaying a message indicating failure of the case role selection;
- and
- [7] if the case role selection does not violate role handoff rules maintained by the medical information management system,
receiving an information update from the medical information management system,
the information update reflecting that the medical information management system has updated the assigned medical providers for the selected patient tracking entry to reflect the case role selection.

The Examiner relies upon the following prior art:

Cohen	US 2005/0021369 A1	Jan. 27, 2005
Wager	US 2006/0149589 A1	July 6, 2006
Buist	US 2007/0073555 A1	Mar. 29, 2007
Morgan	US 2007/0192133 A1	Aug. 16, 2007
Besterman	US 2008/0249386 A1	Oct. 9, 2008
Pall	US 2009/0157570 A1	June 18, 2009

Claims 1–6, 8–14, 16–22, and 24 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

Claims 1–6, 8–14, 16–22, and 24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Cohen, Wager, Buist, Morgan, Besterman, and Pall.

ISSUES

The issues of eligible subject matter turn primarily on whether the claims recite more than abstract conceptual advice of what a computer is to provide without implementation details.

The issues of obviousness turn primarily on whether data limitations discernable only to the human mind are worthy of patentable weight and whether the references describe the limitations and their teachings are properly used together.

FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

Facts Related to the Prior Art

Cohen

01. Cohen is directed to “delivery and interaction with information based on context, and more specifically, to wireless information management and display based on a user’s identity, location, and proximity to other location-identified devices, objects, and users.”
Cohen para. 2.

02. Cohen allows for the management of information based on context and relevance. The term context, as used by Cohen, is the intersection of the user's identity, the user's physical location, and the user's proximity to other people and objects. Therefore, context relevant information is information that is based on a user's identity, physical location, and proximity to other persons and objects. Cohen para. 13.

Wager

03. Wager is directed to the field of clinical information technology, and more particularly to a "management interface which presents a charge nurse or other staffing manager with an intuitive, visual interface for generating patient-to-care provider assignments, including capacity computation, skill set matching, ratio management and other parameters as part of that interface." Wager para. 3.
04. Wager describes "a clinical workforce management interface, in which a staff manager may be presented with a suite of provider assignment options and alternatives, to automatically organize and drive assignment ratios and other assignment parameters and options with compliance, capacity, best practice and other criteria taken into account."

[A] visual or graphical interface or other presentation layer may present a charge nurse or other staff manager with a patient list including graphical or iconic representations of the continuity and types of assigned provider care for each patient, for instance in a slider bar showing

continuity of provider assignments or any gaps therein, for example over a shift, 24 hours, week or other periods. . . . The interface may likewise indicate the acuity or amount of work which a given patient's care will demand of a provider, and generate aggregate totals of the amount of capacity in a clinical unit available to serve the patient population. Mandated patient-to-provider ratios may automatically be monitored, and alerts may be presented when those or other compliance, operational or other criteria are violated.

Wager para. 6.

05. Wager describes a workforce management interface and associated logic to monitor or condition patient assignments based on regulatory compliance, clinical best practices or other clinical or operational criteria. Thus, for example,

the workforce management interface [] may monitor for mandatory or other state, federal, industry or other compliance criteria regarding or limiting the acceptable ratio of care providers to patients or requiring staffing based on quantitative levels of acuity. When an attempt is made, for instance by selecting, dragging and dropping a care provider by name to an assignment bar [] for a patient which would result in that provider's reaching a level of, for example, five (or other) patients for a given shift or period, the workforce management interface [] may generate and display an alert [] indicating that exception to a charge nurse or other manager. According to embodiments, in the event of an alert [] the workforce management interface [] may present the staff manager (or other user) with options for instance to temporarily accept an assignment to remedy the violation later, to cancel that

assignment, to suggest alternative assignments, or take other actions or options. Other regulatory, compliance, clinical, operational, industry or other criteria or guidelines may be used, monitored or accessed to trigger alert.

Wager para. 17.

Buist

06. Buist is directed to facilitating the provision of health care to one or more patients. Buist para. 1.
07. Buist describes receiving patient data relating to the health of a patient; processing said patient data to determine a risk status providing an indication of risk to the patient's health; selecting a health care provider to attend said patient on the basis of said risk status; and transmitting a direction to said health care provider to attend the patient. Buist paras. 12–16.
08. The administration system 105 maintains a log of approvals and updates. Buist para. 180.

Morgan

09. Morgan is directed to a patient records system. Morgan para. 2.
10. Morgan describes

a patient record system operable to store a patient record corresponding to a patient and comprising patient information, the patient record system being operable, as part of a medical process, to receive a request for patient information from an input/output device, retrieve patient information from the patient record, transmit the patient information to the input/output device, receive

verification information from the input/output device, and identify the patient as being ready for a next stage of the medical process in accordance with the verification information.

Morgan para. 4.

11. Morgan describes relying on the roles of various medical personnel, such as anesthetist, to perform tasks associated with those roles to ensure patient safety. Morgan paras. 84–86.

Besterman

12. Besterman is directed to improved management of medical procedures for patients on medical protocols. Besterman para. 2.
13. Besterman describes a method for adapting management of medical procedures for a patient assigned to a medical protocol.

A report of a patient's monitored physiological data and confirmed medical procedures is periodically received at a management process from a patient's monitoring station. An instruction for management of the medical procedures for the patient is adapted in response to an evaluation of the patient's periodic reports. The adapted instruction is sent from the management process to the patient's monitoring station or to selected other monitoring stations based on the evaluation.

Besterman para. 5.

Pall

14. Pall is directed to systems and/or methods that facilitate implementing data access within an environment based upon a role with at least one defined right. Pall para. 5.

15. Pall discloses

[a] role component can enforce data access within an environment based upon a role assigned to an entity. In other words, the role component can enable seamless data interaction, distribution, and access in accordance with an entity's assigned role within the environment. The role can be indicative of a position or status associated with the entity within the environment. In general, the role can correspond to a position or status with correlating rules, rights, or privileges that can be utilized within the environment for various entities and/or users. The role component can further allow multiple users or entities to share or log into a role for seamless data distribution, sharing, and/or access. Thus, data can be uniformly available to entities sharing a role.

Pall para. 5.

16. Pall discloses the role component can utilize an evaluation component that can automatically evaluate the environment in order to generate a role-based model that includes a role layout or structure.

The role component can assign entities to the various roles within the role-based model and provide data access or interaction based on such model. Moreover, the role-based model automatically created can be manually configured, changed, and/or updated. In other aspects of the claimed subject matter, methods are provided that facilitates evaluating an environment to identify at least one role utilized for data accessibility.

Pall para. 6.

17. Pall discloses that data access can be employed within the environment utilizing the role-based model. The data access for each individual or entity within the environment can be in accordance with rights or privileges related to the assigned role. Seamless interaction for entities assigned to a role within the model can be enabled. In other words, a plurality of users or entities can seamlessly interact, hand-off, share, distribute, etc. data within the environment based on each user or entity logging into a role. Pall para. 50.

ANALYSIS

Claims 1–6, 8–14, 16–22, and 24 rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter

Method claim 9 recites displaying a list of patient tracking records, identifying a selected patient tracking record, displaying caregiver case roles, receiving and communicating a case role selection, and depending on whether the selection violates some criterion, either receiving and displaying a message of violation or updating the data based on the selection and communicating accordingly. Thus, claim 9 recites displaying a list, making a selection, and updating data if the selection is proper, otherwise notifying as to the impropriety. None of the limitations recite implementation details for any of these steps, but instead recite functional results to be achieved by any and all possible means. Data reception, analysis and modification, and display are all generic, conventional data processing operations to the point they are themselves concepts awaiting implementation details. The sequence of data reception-analysis-display is equally generic and

conventional. In fact, this is the prototypical conventional data editing sequence of display-select-update (if proper). The ordering of the steps is therefore ordinary and conventional. The remaining claims merely describe additional data and messages, with no implementation details.

The Supreme Court

set forth a framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts. First, [] determine whether the claims at issue are directed to one of those patent-ineligible concepts. [] If so, we then ask, “[w]hat else is there in the claims before us? [] To answer that question, [] consider the elements of each claim both individually and “as an ordered combination” to determine whether the additional elements “transform the nature of the claim” into a patent-eligible application. [The Court] described step two of this analysis as a search for an “‘inventive concept’”—*i.e.*, an element or combination of elements that is “sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.”

Alice Corp. Pty. Ltd. v CLS Bank Int’l, 134 S. Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012)).

To perform this test, we must first determine whether the claims at issue are directed to a patent-ineligible concept. The Examiner finds the claims directed to comparing new and stored information and using rules to identify options. Final Act. 3.

Although the Court in *Alice* made a determination as to what the claims were directed to, we find that this case’s claims themselves and the

Specification provide enough information to inform one as to what they are directed to.

The preamble to claim 9 does not recite what it is directed to, but the steps in claim 9 result in updating data according to some selection if the update is proper. The Specification at paragraph 2 recites that the invention relates to managing medical case and chronology information for one or more medical practices. Thus, all this evidence shows that claim 9 is directed to editing medical data according to specified criteria, i.e., updating data using data validity checks. This is consistent with the Examiner's finding.

It follows from prior Supreme Court cases, and *Bilski* (*Bilski v Kappos*, 561 U.S. 593 (2010)) in particular, that the claims at issue here are directed to an abstract idea. The use of updating data using data validity checks is a building block of ingenuity in data processing. Thus, updating data using data validity checks, like hedging, is an "abstract idea" beyond the scope of § 101. *See Alice Corp.*, 134 S. Ct. at 2356.

As in *Alice Corp.*, we need not labor to delimit the precise contours of the "abstract ideas" category in this case. It is enough to recognize that there is no meaningful distinction in the level of abstraction between the concept of risk hedging in *Bilski* and the concept of updating data using data validity checks at issue here. Both are squarely within the realm of "abstract ideas" as the Court has used that term. *See Alice Corp.*, 134 S. Ct. at 2357.

Further, claims involving data collection, analysis, and display are directed to an abstract idea. *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d

1350, 1353 (Fed. Cir. 2016) (holding that “collecting information, analyzing it, and displaying certain results of the collection and analysis” are “a familiar class of claims ‘directed to’ a patent-ineligible concept”); *see also In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016). Claim 9, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data retrieval, analysis, and display and does not recite an improvement to a particular computer technology. *See, e.g., McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314–15 (Fed. Cir. 2016) (finding claims not abstract because they “focused on a specific asserted improvement in computer animation”). As such, claim 9 is directed to the abstract idea of receiving, analyzing, and displaying data.

The remaining claims merely describe additional data and messages. We conclude that the claims at issue are directed to a patent-ineligible concept.

The introduction of a computer into the claims does not alter the analysis at *Mayo* step two.

the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. Stating an abstract idea “while adding the words ‘apply it’” is not enough for patent eligibility. Nor is limiting the use of an abstract idea “‘to a particular technological environment.’” Stating an abstract idea while adding the words “apply it with a computer” simply combines those two steps, with the same deficient result. Thus, if a patent’s recitation of a computer amounts to a mere instruction to “implement[t]” an abstract idea “on . . . a computer,” that addition cannot impart patent eligibility. This conclusion accords with the preemption concern that undergirds our § 101 jurisprudence. Given the ubiquity of computers, wholly generic computer

implementation is not generally the sort of “additional feature[e]” that provides any “practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.”

Alice Corp., 134 S. Ct. at 2358 (citations omitted).

“[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.” *Alice Corp.*, 134 S. Ct. at 2359. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer for displaying a list, making a selection, and updating data if the selection is proper, or otherwise notifying as to the impropriety amounts to electronic data query and retrieval—one of the most basic functions of a computer. All of these computer functions are well-understood, routine, conventional activities previously known to the industry. *See Elec. Power Grp. v. Alstom S.A., supra.* In short, each step does no more than require a generic computer to perform generic computer functions.

Considered as an ordered combination, the computer components of Appellants’ method add nothing that is not already present when the steps are considered separately. The sequence of data reception-analysis-display is equally generic and conventional or otherwise held to be abstract. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction), *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (sequence of data retrieval, analysis, modification, generation, display, and

transmission), *Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) (sequence of processing, routing, controlling, and monitoring). The ordering of the steps is therefore ordinary and conventional.

Viewed as a whole, Appellants' method claims simply recite the concept of updating data using data validity checks as performed by a generic computer. To be sure, the claims recite doing so by advising one to select data to update and then enter the update and let one know when the update is improper. But this is no more than abstract conceptual advice on the parameters for such updating data using data validity checks and the generic computer processes necessary to process those parameters, and do not recite any particular implementation.

The method claims do not, for example, purport to improve the functioning of the computer itself. Nor do they effect an improvement in any other technology or technical field. The Specification spells out different generic equipment and parameters that might be applied using this concept and the particular steps such conventional processing would entail based on the concept of updating data using data validity checks under different scenarios. They do not describe any particular improvement in the manner a computer functions. Instead, the claims at issue amount to nothing significantly more than an instruction to apply the abstract idea of updating data using data validity checks using some unspecified, generic computer. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice Corp.*, 134 S. Ct. at 2360.

As to the structural claims, they

are no different from the method claims in substance. The method claims recite the abstract idea implemented on a generic computer; the system claims recite a handful of generic computer components configured to implement the same idea. This Court has long “warn[ed] ... against” interpreting § 101 “in ways that make patent eligibility “depend simply on the draftsman’s art.”

Alice Corp., 134 S. Ct. at 2360.

We are not persuaded by Appellants’ argument that “Appellants’ claims are patent eligible because they present no risk of preempting building blocks of human ingenuity.” App. Br. 14–15 (emphasis omitted). That the claims do not preempt all forms of the abstraction or may be limited to the abstract idea in the some setting do not make them any less abstract. *See OIP Technologies, Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1360–1361 (Fed. Cir. 2015). “Where a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Mayo* [*Alice*] framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015).

Appellants’ argument regarding the use of the Office’s streamlined analysis (App. Br. 15–16) is predicated on the aforementioned preemption argument.

We are not persuaded by Appellants’ argument that “Appellants’ claims are patent eligible because they contain limitations that demonstrate that they are directed to significantly more than an abstract idea and that they are tied to a particular application.” App. Br. 17. As we find *supra*, claim 9 recites displaying a list, making a selection, and updating data if the

selection is proper, otherwise notifying as to the impropriety. None of the limitations recite implementation details for any of these steps, but instead recite functional results to be achieved by any and all possible means. Data reception, analysis and modification, and display are all generic, conventional data processing operations to the point they are themselves concepts awaiting implementation details.

Appellants further argue that the asserted claims are akin to the claims found patent-eligible in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014). App. Br. 17–18. In *DDR Holdings*, the Court evaluated the eligibility of claims “address[ing] the problem of retaining website visitors that, if adhering to the routine, conventional functioning of Internet hyperlink protocol, would be instantly transported away from a host’s website after ‘clicking’ on an advertisement and activating a hyperlink.” *Id.* at 1257. There, the Court found that the claims were patent-eligible because they transformed the manner in which a hyperlink typically functions to resolve a problem that had no “pre-Internet analog.” *Id.* at 1258. The Court cautioned, however, “that not all claims purporting to address Internet-centric challenges are eligible for patent.” *Id.* For example, in *DDR Holdings* the Court distinguished the patent-eligible claims at issue from claims found patent-ineligible in *Ultramercial*. *See id.* at 1258–59 (citing *Ultramercial*, 772 F.3d at 715–16). As noted there, the *Ultramercial* claims were “directed to a specific method of advertising and content distribution that was previously unknown and never employed on the Internet before.” *Id.* at 1258 (quoting *Ultramercial*, 772 F.3d at 714). Nevertheless, those claims were patent-ineligible because they “merely recite[d] the abstract

idea of ‘offering media content in exchange for viewing an advertisement,’ along with ‘routine additional steps such as updating an activity log, requiring a request from the consumer to view the ad, restrictions on public access, and use of the Internet.’” *Id.*

Appellants’ asserted claims are analogous to claims found ineligible in *Ultramercial* and distinct from claims found eligible in *DDR Holdings*. The ineligible claims in *Ultramercial* recited “providing [a] media product for sale at an Internet website;” “restricting general public access to said media product;” “receiving from the consumer a request to view [a] sponsor message;” and “if the sponsor message is an interactive message, presenting at least one query to the consumer and allowing said consumer access to said media product after receiving a response to said at least one query.” 772 F.3d at 712. Similarly, Appellants’ asserted claims recite reading, receiving, analyzing, sending, and displaying data. This is precisely the type of activity found ineligible in *Ultramercial*.

We are not persuaded by Appellants’ argument that “the Pending Claims describe a special purpose computer because the computer is specifically programmed to perform a number of claimed functions.” Reply Br. 5. The claims only recite what the computer is to perform with no implementation details of how to perform it. Thus, the computer itself is generic and no particular programming implementation is recited. Indeed the Specification describes using conventional personal computers. Specification para. 33.

Claims 1–6, 8–14, 16–22, and 24 rejected under 35 U.S.C. § 103(a) as unpatentable over Cohen, Wager, Buist, Morgan, Besterman, and Pall

As we find *supra*, claim 9 recites displaying a list, making a selection, and updating data if the selection is proper, otherwise notifying as to the impropriety. This much Wager describes, albeit in the context of listing a workforce and selecting medical personnel based on patient condition. The Examiner applies Cohen for the various hardware components recited in the structural claims. The remainder of the limitations are contextual. Cohen allows for the management of information based on context and relevance and so provides a reason for combining art based on context. This much of a showing is likely sufficient as context in data processing is in the mind of the beholder, which is generally given no patentable weight. *See In re Bernhart*, 417 F.2d 1395, 1399 (CCPA 1969).

But the Examiner goes further to fill in the contextual details, applying Buist to show it was known to select a particular role and communicate and make that assignment accordingly, Morgan to show it was known that particular roles were important in a given patient case for safety reasons, Besterman to show it was known that such roles frequently were in relation to responsibility for a particular stages in patient treatment, and Pall to show it was known to warn of a role violation and at least temporarily stop the process until the violation was somehow cleared. Thus, the Examiner did not so much combine the processes and structures of the various references as show all of the relevant contextual relationships already known about roles caregivers take on. In such a context, the limitations as applied to Buist's already known process on Buist's portable hardware was notoriously predictable.

We are not persuaded by Appellants' argument that "[t]he cited references do not disclose 'case roles correspond[ing] to a responsibility . . . with respect to a stage in the active administration of medical care of the patient.'" App. Br. 20–21 (emphasis omitted). First, as we find *supra*, as this is a limitations discernable only to the human mind, it is undeserving of patentable weight. Second, the limitation in context is

displaying a list of patient tracking records . . . wherein each of the patient tracking records includes . . . one or more assigned medical providers and, for each assigned medical provider, one of a plurality of caregiver case roles . . . wherein each of the caregiver case roles corresponds to a responsibility of the one or more assigned medical providers with respect to a stage in the active administration of medical care of the patient.

Claim 9. Claim 1 is similar, except for reciting a wireless network interface coupling to a central medical information management system, wherein the system then is recited as having the tracking records and what follows in claim 9. Claim 17 is similar to claim 1 except it goes into the management system directly. Accordingly, all of the claims only recite the responsibility correspondence limitation under contention as an attribute of a case role. This correspondence does not functionally affect the structure or process and so is undeserving of patentable weight. *King Pharmaceuticals, Inc. v. Eon Labs, Inc.*, 616 F.3d 1267, 1279 (Fed. Cir. 2010). (The relevant inquiry here is whether the additional instructional limitation has a "new and unobvious functional relationship" with the method, that is, whether the limitation in no way depends on the method, and the method does not depend on the limitation).

Further, in a medical context such as the claim and references, a role such as anesthetist (described by Morgan) defines responsibilities with

respect to a stage in the active administration of medical care of the patient, and so the responsibility limitation is inherent.

We are not persuaded by Appellants' argument that

The independent claims are allowable because the cited references do not disclose "if the case role selection violates role handoff rules maintained by the medical information management system, [] receiv[ing] a message indicating the case role selection violation and [] display[ing] a message indicating failure of the case role selection."

App. Br. 21–22 (emphasis omitted). Again, this limitation is no more than receiving and displaying a message on selection failure. This much is conventional user interface design as anyone using Microsoft Windows or Apple computers over the last quarter century is aware. As we find *supra*, the content of any message is undeserving of patentable weight for being both discernable only to the human mind and as having no functional effect. Certainly, it is predictable for any such message to be contextually relevant. Therefore, the recited message would be predictable when a role selection was improper according to selection criteria. Further, the Examiner finds that Pall describes receiving and displaying a message on selection failure. To the extent Appellants contend the criteria are not exactly as recited, again, the Examiner applied the other references for such context and the recited criteria would be predictable in that context.

We are not persuaded by Appellants' argument that "[i]t would not have been obvious to combine the six cited references." App. Br. 22–24 (emphasis omitted). Appellants' arguments are those against conventional combining of physical inventions in different references. As we find *supra*, the Examiner does not combine the references so as much as show what was

known about using a user interface in a medical context. The claims are not combinations of different processes or structures, but instead recite a classic and notoriously old user interface for selecting data. The arguments go the context and data referred to, which in a medical context would be similar for all references.

Appellants go on to separately argue each of claims 3, 6, and 8, along with their similar counterparts. App. Br. 24–26. Claim 3 recites displaying a confirmation message. Claim 6 recites sending a message to someone currently assigned. Claim 8 recites criteria for what some rule prohibits. Each of these are predictable and generally known in the message sending arts. Besterman describes sending and displaying messages. Criteria such as in claim 8 to prohibit over burdening particular staff, particularly in specialized situations where safety is at stake, is common sense.

CONCLUSIONS OF LAW

The rejection of claims 1–6, 8–14, 16–22, and 24 under 35 U.S.C. § 101 as directed to non–statutory subject matter is proper.

The rejection of claims 1–6, 8–14, 16–22, and 24 under 35 U.S.C. § 103(a) as unpatentable over Cohen, Wager, Buist, Morgan, Besterman, and Pall is proper.

DECISION

The rejection of claims 1–6, 8–14, 16–22, and 24 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED