



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
11/684,228 03/09/2007 C. Cameron Brackett CRNI.132951 2374

46169 7590 07/19/2018
SHOOK, HARDY & BACON L.L.P.
(Cerner Corporation)
Intellectual Property Department
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Table with 1 column: EXAMINER

REYES, REGINALD R

Table with 2 columns: ART UNIT, PAPER NUMBER

3626

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

07/19/2018

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPDOCKET@SHB.COM
IPRCDKT@SHB.COM
BPARKERSON@SHB.COM

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* C. CAMERON BRACKETT

---

Appeal 2017-000664  
Application 11/684,228  
Technology Center 3600

---

Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and  
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*

DECISION ON APPEAL

STATEMENT OF THE CASE<sup>1</sup>

C. Cameron Brackett (Appellant) seeks review under 35 U.S.C. § 134 of a Final Rejection of claims 21–40, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

The Appellant invented a way of associating the identification of a patient specimen with a radiology image. Spec. para. 7.

---

<sup>1</sup> Our decision will make reference to the Appellant’s Appeal Brief (“Br.,” filed February 23, 2016) and the Examiner’s Answer (“Ans.,” mailed August 12, 2016), and Final Action (“Final Act.,” mailed March 19, 2015).

An understanding of the invention can be derived from a reading of exemplary claim 37, which is reproduced below (bracketed matter and some paragraphing added).

37. Non-transitory computer readable storage media having computer-executable instructions embodied thereon that, when executed by a computing device with a processor coupled to a memory,

perform a computer implemented method for linking a region of a radiology image with a biological specimen and a laboratory report,

the method comprising:

[1] receiving the radiology image for a patient and an electronic identification number of the biological specimen, the biological specimen being a fluid or tissue that is extracted from the body of a patient;

[2] storing the radiology image in an image database in the patient's electronic medical record;

[3] creating an electronic order, in the patient's electronic medical record, for a laboratory test in view of the radiology image;

and

[4] linking

an electronic identification of the region of the radiology image

with

the electronic identification number of the biological specimen,

and

linking the electronic identification of the region of the radiology image

with

the laboratory report of the biological specimen

- and
- [5] storing in the patient's electronic medical record,  
the region of the radiology image  
being smaller than the radiology image  
and  
the radiology image being stored in a database,  
the electronic identification of the region of the radiology  
image  
comprising one or more coordinates of the region  
in the radiology image.

The Examiner relies upon the following prior art:

Wang	US 2003/0007598 A1	Jan. 9, 2003
Lipscher	US 2007/0192136 A1	Aug. 16, 2007

Claims 21–40 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

Claims 21–40 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Wang and Lipscher.

### 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 the art describes some linkage or association between a biological specimen and a region of an image.

## 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 Claim Construction*

01. The disclosure contains no lexicographic definition of “link.”

### *Facts Related to Appellant’s Disclosure*

02. The image received is associated with the patient’s electronic medical record. This may be done by adding a link or reference to the image in the patient’s records. Spec. para. 37.
03. The image may be referenced or linked to an electronic medical record for the patient. Spec. para. 45.
04. If the order is linked to the first image, as described with reference to FIG. 3B, the accession number of the specimen collected is associated with the first image. For example, with reference to FIG. 5, the accession number of the specimen collected and the image identification may be maintained in a database or table. If the order is linked to more than one region, the accession number of the specimen collected from the region identified in the image is associated with the appropriate region. For example, with reference to FIG. 5, accession number 0001 for a specimen collected for the first mass defined by region 1 is associated with region 1 and accession number 0002 for the specimen collected for the second mass defined by region 2 is associated with region 2. Thus, any report for the specimen accession number and any associated pathology images are now linked by

accession number to the appropriate region of the radiology image for the patient. Spec. para. 46.

05. The association of the radiology image with the specimen accession number links the radiology image to the laboratory report for the specimen. Originally filed claims 12 and 20.

*Facts Related to the Prior Art*

*Wang*

06. Wang is directed to medical imaging systems and processes. Wang para. 2.

07. Wang describes the acquisition and display of breast ultrasound information in a manner that complements traditional x-ray mammogram-based breast cancer screening methods. Wang para. 2.

08. Wang describes an adjunctive ultrasound display apparatus that provides an array of thick-slice thumbnail images, each thick-slice thumbnail image comprising information integrated from a plurality of adjacent ultrasound slices and representing a thick-slice or slab-like portion of the breast volume substantially parallel to the standard x-ray mammogram view. Wang para. 33.

09. Wang describes three-dimensional features being extracted from a three-dimensional thick-slice volume corresponding to each thick-slice image. In one preferred embodiment, the three-dimensional features are determined by (i) determining region-of-interest (ROI) locations in the thick-slice volume, (ii) segmenting the borders of candidate lesions at each ROI location, and (iii) extracting

a set of three-dimensional features for each candidate lesion.

Preferably, the ROI location step takes advantage of the known two-dimensional ROI locations computed for the thick-slice images, for example, by using them as starting points in locating the three-dimensional ROI locations within the thick-slice volume. Wang para. 41.

10. Wang describes a second adjunct display being provided to form an adjunct display pair, each side corresponding to the nearest mammogram view being displayed at x-ray viewing station. A bar code reader reads a bar code of the x-ray mammogram, wherein the associated adjunctive ultrasound data for that breast is automatically retrieved from the ultrasound server and displayed on the adjunct displays. Wang para. 95.

11. Wang describes an adjunct display with a control panel displaying the thumbnail thick-slice images. The term thumbnail image is used primarily to denote their information summarizing and linkage functionalities, and is not to be construed as limiting their size. Wang para. 128.

12. Wang describes a bar code being assigned to the patient for the screening session. This is often done in large clinics by handing the patient a set of bar-coded stickers that are used to identify the patient in a plurality of tests on that visit such as blood tests, urine tests, etc. in addition to x-ray mammogram. Wang para. 139.

13. Wang describes an adjunct ultrasound display according to a preferred embodiment, which may be used alternatively or in

conjunction with the adjunct ultrasound displays. The adjunct ultrasound display is designed to interactively and intuitively display image information relating to a breast ultrasound scan. The precomputed images are stored, for example, in BMP format on a FAT32 or NFS file system and are associated by filename, with a first portion of the filename containing patient and scan data information and a second portion of the filename identifying the type of ultrasound image stored. Wang para. 161.

*Lipscher*

14. Lipscher is directed to facilitating medical order fulfillment. Lipscher para. 2.

15. Lipscher describes its orders interface selecting a particular portion of the findings or the findings as a whole to accompany the order. The findings selection data indicates particular findings that may accompany the order. For example, the findings selection data may indicate that current discrete medical findings associated with the current patient visit may be attached to the order data forwarded to a service provider. In another example, the findings selection data may indicate that all of the patient's medical history is to be included with or attached to the communication of the order data. In a further example, a healthcare provider may select a subset of the discrete medical findings associated with the patient to be included with the order data. The order data may, for example, include an order identifier and specific information about the order, such as which tests are to be performed, which methodologies are to be followed, and

contact information for the patient. For example, a laboratory order may include an order identifier, such as an identification number, patient information, such as a contact number or insurance information, and specific data associated with the order, such as, for an exemplary blood test, a request for performing a blood glucose level, an HIAC test, a total cholesterol test, and a triglyceride test. For an exemplary radiological order, the order data may include an order identifier, patient contact information, the type of radiological test, such as X-ray, CAT scan, or MRI, and an anatomical location. In a particular embodiment, radiological order data may include an anatomical drawing of a body or a portion of the body with an indicator of the location of which the healthcare provider desires imaging. Lipscher para. 30.

#### ANALYSIS

*Claims 21–40 rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter*

Independent claims 21, 36, and 37 are all process by product claims, reciting a process that is driven by instructions on computer readable media. Hence they are both process and product claims.

Method claim 37 recites receiving and storing a radiology image, creating an electronic order, and linking an electronic identification of the region of the radiology image with the electronic identification number of the biological specimen. Thus, claim 37 recites receiving, storing, and creating data, and somehow linking an image to data. 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 linking are all generic, conventional data processing operations to the point they are themselves concepts awaiting implementation details. The sequence of data reception-analysis-linking is equally generic and conventional. The ordering of the steps is therefore ordinary and conventional. The other independent claims are similar. The remaining claims merely describe various associations and data interpretations, 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) (internal citations omitted) (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72, 73, 78, 79 (2012)).

To perform this test, we must first determine whether the claims at issue are directed to a patent-ineligible concept. The Examiner determines the claims directed to “determining the biological specimen collected from the patient corresponds to the region of the radiology image, based on this determination, linking the electronic identification of the biological

specimen with[] the electronic identification of the region, which is a method of human activity/mathematical relationship/formula.” Final Act. 3.

Although the Court in *Alice* made a determination as to what the claims are 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 37 recites that it is a method for linking a region of a radiology image with an identification number of a biological specimen and a laboratory report. The steps in claim 37 result in linking a region of a radiology image with a biological specimen and a laboratory report. The Specification at paragraph 7 recites that the invention relates to associating the identification of a patient specimen with a radiology image. Thus, all this evidence shows that claim 37 is directed to linking an image with other information, i.e., indexing. This is consistent with the Examiner’s determination.

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. Like the risk hedging in *Bilski*, the concept of indexing is a fundamental business practice long prevalent in our system of commerce. The use of indexing is also a building block of ingenuity in research. Thus, indexing, like hedging, is an “abstract idea” beyond the scope of §101. *See Alice Corp. Pty. Ltd.*, 134 S. Ct. at 2356.

As in *Alice Corp. Pty. Ltd.*, 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 indexing at

issue here. Both are squarely within the realm of “abstract ideas” as the Court has used that term. *See Alice Corp. Pty. Ltd.*, 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 37, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data retrieval, analysis, and association 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) (determining claims not abstract because they “focused on a specific asserted improvement in computer animation”). As such, claim 37 is directed to the abstract idea of receiving, analyzing, and associating data.

The remaining claims merely describe various associations and data interpretations. 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.

[T]he 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 “implemen[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 featur[e]” that provides any “practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.”

*Alice Corp. Pty. Ltd.*, 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. Pty. Ltd.*, 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 to receive, store, and link data amounts to electronic data query and retrieval—one of the most basic functions of a computer. The limitation of the region of the radiology image being smaller than the radiology image and the radiology image being stored in a database, the electronic identification of the region of the radiology image comprising one or more coordinates of the region in the radiology image is not a step, but a recitation of data attributes, which is aspirational rather than functional. All of these computer functions are well-understood, routine, conventional activities previously known to the industry. *See Elec. Power Grp., LLC v. Alstom S.A.*, *supra*. Also see *In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1316 (Fed.Cir. 2011) (“Absent a possible narrower construction of the terms ‘processing,’ ‘receiving,’ and ‘storing,’ . . . those

functions can be achieved by any general purpose computer without special programming”). In short, each step does no more than require a generic computer to perform generic computer functions. As to the data operated upon, “even if a process of collecting and analyzing information is ‘limited to particular content’ or a particular ‘source,’ that limitation does not make the collection and analysis other than abstract.” *SAP Am. Inc. v. InvestPic LLC*, 890 F.3d 1016, 1022 (Fed. Cir. 2018).

Considered as an ordered combination, the computer components of Appellant’s method add nothing that is not already present when the steps are considered separately. The sequence of data reception-analysis-linking 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, Appellant’s method claims simply recite the concept of indexing as performed by a generic computer. To be sure, the claims recite doing so by advising one to store image data with some other data linking the image to some specimen. But this is no more than abstract conceptual advice on the parameters for such indexing 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 16 ½ pages of Specification do not bulge with disclosure, but only spell 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 indexing 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 indexing 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. Pty. Ltd.*, 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. Pty. Ltd.*, 134 S. Ct. at 2360 (citation omitted).

We are not persuaded by Appellant’s argument that the Examiner failed to present a prima facie case. Br. 8–9. The Examiner determines that:

The claim(s) is/are directed to the abstract idea of determining the biological specimen collected from the patient corresponds to the region of the radiology image, based on this determination, linking the electronic identification of the

biological specimen with the electronic identification of the region, which is a method of human activity/mathematical relationship/formula. The additional element(s) or combination of elements in the claim(s) other than the abstract idea per se amount(s) to no more than: mere instructions to implement the idea on a computer. Viewed as a whole, these additional claim element(s) do not provide meaningful limitation(s) to transform the abstract idea into a patent eligible application of the abstract idea such that the claim(s) amounts to significantly more than the abstract idea itself.

Final Act. 3.

Appellant is therefore put on sufficient notice as to the reason for the rejection. The notice requirement is set forth by 35 U.S.C. § 132.

[T]he PTO carries its procedural burden of establishing a prima facie case when its rejection satisfies 35 U.S.C. § 132, in “notify[ing] the applicant ... [by] stating the reasons for [its] rejection, or objection or requirement, 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. That section “is violated when a rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection.” *Chester v. Miller*, 906 F.2d 1574, 1578 (Fed.Cir.1990).

*In re Jung*, 637 F.3d 1356, 1362 (Fed. Cir. 2011).

We are not persuaded by Appellant’s argument that “[u]nder part 1 of the *Alice* analysis, the claims are not directed to an abstract idea ‘on the face’ of the claims.” Br. 11–13. We presented the analysis as to why the claims are directed to an abstract idea *supra*. Appellant takes each limitation and alleges that it is not abstract in a conclusory manner. Each limitation, however, is a common and generic data processing operation. Again, the claims recite abstract conceptual advice as to what is to be done with no technical implementation details as to how to do so. None of the steps are

medical procedures performed on a patient or anything else physical beyond computer memory.

Appellant further argues 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). Br. 13–14. 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 709, 715–16 (Fed. Cir. 2014)). 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 715–16). 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.*

Appellant's asserted claims are analogous to claims found ineligible in *Ultramerical* and distinct from claims found eligible in *DDR Holdings*. The ineligible claims in *Ultramerical* 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, Appellant's asserted claims recite reading, receiving, and linking data. This is precisely the type of Internet activity found ineligible in *Ultramerical*.

We are not persuaded by Appellant's argument that "the claims recite meaningful limitations that transform the abstract idea into a patent eligible application." Br. 16–17. Appellant contends that the Office's computer "is not capable of performing these functions. Rather, the recited processors must be programmed to perform the specific functions of the claims, making the computer a special-purpose computer that is programmed in a special way." *Id.* This contention would have some pertinence if the claims recited how the recited operations were actually performed. Appellant is arguing only that the specification for any program is eligible for patent protection as, after programming, it turns the computer into a special purpose computer. But simply specifying what the computer is to do using generic computer operations is insufficient. *See Elec. Power Grp., LLC v. Alstom S.A, supra.*

We are not persuaded by Appellant's argument that the claims pose no risk of preempting an abstract idea, itself. Br. 17–18. Although

preemption may be the concern driving the exclusion of abstract ideas from patent-eligible subject matter, preemption is not the test for eligibility. “The Supreme Court has made clear that the principle of preemption is the basis for the judicial exceptions to patentability” and “[f]or 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) (citing *Alice*, 134 S. Ct. at 2354).

*Claims 21–40 rejected under 35 U.S.C. § 103(a) as unpatentable over Wang and Lipscher*

As a matter of claim construction, we first find that the claims do not recite any particular implementation for the recited identifications, and in particular do not recite that the identifications uniquely identify their targets. We also find that the claims do not recite any particular implementation for the recited linkings, but that the Specification describes using a link or reference for the linking and that the linking is some manner of associating.

We are not persuaded by Appellant’s argument that “Lipscher does not teach ‘*based on this determination, **linking** the electronic identification of the biological specimen with the electronic identification of the region of the radiology image; **storing the linkage** of the biological specimen and **communicating the linked** biological specimen.’” Br. 19. The Examiner finds that Wang describes an identifier for a biological specimen exemplified on stickers attached to blood or urine tests. These stickers may be scanned, and thus the identifier is electronic in the database the scan compares to. Final Act. 4. Wang also discusses electronic links, albeit between thumbnail images and the actual image related to the thumbnail.*

The claims do not recite any particular implementation for performing the linking, but only suggest using some number such as an accession number.

The Examiner finds that Lipscher describes using an order number to associate (link) an order for images and biological specimens in the same order. The Examiner also finds that Lipscher describes including an anatomical drawing of a body or a portion of the body with an indicator of the location of which the healthcare provider desires imaging in the same order. Final Act. 5–6. Thus the order number associates (links) a biological specimen with the region of the radiology image and is thus an electronic identifier for each. Wang describes associating a smaller two dimensional region of an anatomical image with a larger three dimensional one and linking the two with the patient bar code.

#### CONCLUSIONS OF LAW

The rejection of claims 21–40 under 35 U.S.C. § 101 as directed to non-statutory subject matter is proper.

The rejection of claims 21–40 under 35 U.S.C. § 103(a) as unpatentable over Wang and Lipscher is proper.

#### DECISION

The rejection of claims 21–40 is affirmed.

Appeal 2017-000664  
Application 11/684,228

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