UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/826,858	03/14/2013	Scott A. Moskowitz	SCOT0020-3	3105

31518   7590   07/19/2018
NEIFELD IP LAW, PC
5400 Shawnee Road
Suite 310
ALEXANDRIA, VA 22312-2300

EXAMINER
OBEID, MAMON A

ART UNIT	PAPER NUMBER
3685	

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):

general@neifeld.com
rneifeld@neifeld.com
rhahl@neifeld.com

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

Ex parte SCOTT A. MOSKOWITZ[1]

_____

Appeal 2017–000680
Application 13/826,858
Technology Center 3600

_____

Before ANTON W. FETTING, BIBHU R. MOHANTY, and
KENNETH G. SCHOPFER, *Administrative Patent Judges.*

FETTING, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE[2]

Scott A. Moskowitz (Appellant) seeks review under 35 U.S.C. § 134 of a
final rejection of claims 20–42, the only claims pending in the application on
appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

_____

[1] Real party in interest Blue Spike, Inc.
[2] Our decision will make reference to the Appellant's Appeal Brief ("App.
Br.," filed March 16, 2015) and Reply Brief ("Reply Br.," filed October 11,
2016), and the Examiner's Answer ("Ans.," mailed August 17, 2016), and
Final Action ("Final Act.," mailed August 18, 2014).

The Appellant invented a way to transfer information between parties. Specification para. 5.

An understanding of the invention can be derived from a reading of exemplary claim 20, which is reproduced below (bracketed matter and some paragraphing added).

> 20. A method for conducting a trusted transaction between two of a plurality of parties who have reached an agreement to transact, comprising:
>
> [1] establishing a secure transmission channel over a public network between the two parties,
>
>> using at least one device comprising a processor, a memory designed to store data in non-transitory form, an input device, and an output device, said at least one device comprising a serialized ciphered software application unique to said at least one device,
>>
>> wherein said serialized ciphered software application securely stores in said memory a collection of value-added digital information;
>
> [2] approving,
>
>> using said at least one device, said serialized ciphered software application, and at least one of
>>
>>> a predetermined key,
>>>
>>> a predetermined message, or
>>>
>>> a predetermined cipher,
>>
>> an identity[3] of at least one of the two parties;
>
> [3] determining an amount of value–added information to be exchanged between the parties;

---

[3] The insertion markings in the amendment filed April 21, 2014 indicate that "identity" is the object of the verb "approving."

and

[4] transmitting,

> from one of the parties to the transaction,
>
> over said public network,
>
> to another one of the parties,
>
> using, at least one device comprising a processor, a memory designed to store data in non–transitory form, an input device, and an output device,

the value–added information.

The Examiner relies upon the following prior art:

Lee	US 5,790,783	Aug. 4, 1998
Ginter	US 5,892,900	Apr. 6, 1999
Hawkins	US 6,029,146	Feb. 22, 2000

Claims 20–42 stand rejected under 35 U.S.C. § 101 as directed to non–statutory subject matter.

Claims 20–42 stand rejected under 35 U.S.C. § 112(a) as not enabling a person of ordinary skill in the art to make and use the claimed subject matter from the original disclosure.

Claims 20, 24, 27–31, and 35–40 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Ginter and Lee.

Claims 21–23, 25, 26, 32–34, 41, and 42 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Ginter, Lee, and Hawkins.

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 enablement matter turn primarily on whether the Examiner has applied the *Wands* factors in finding lack of enablement.

The issues of obviousness turn primarily on the breadth of the claims and whether the art fits within their scope.

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. Value-Adding Component (VAC) is an attachment to the content that enhances the user's experience of the content. Spec. para. 73.

02. The agglomeration of value-adding components is "value-added information." Spec. para. 75.

03. Value-added components represent an atomic unit of data that is defined as the least amount of data that can either add functionality or be perceptibly recognized to a system for trusted transactions. Spec. para. 116.

04. The disclosure contains no lexicographic definition of "serialize."

05. The disclosure contains no lexicographic definition of "amount."

Facts Related to Appellant's Disclosure

06. Another advantage of the present invention is the ability to
serialize or individualize "personal secrets" that are shared
between parties to boost confidence and transparency of
transactions. That control, and the inherent uniqueness of personal
entropy, constructed from such information as a hometown,
favorite restaurant, or high school sweetheart, is a means for
perceptible representations of "secret data" that enhances the ease-
of-use and application of appropriate shared secrets to be
exchanged in conducting trusted transactions. Associating such
secrets with primary value-added information or value-added
components being transacted is an additional novel feature of the
present invention. Essentially, the present invention provides the
ability to personalize or ***serialize***, informationally, an actual
"transaction event," including: the buyer; the seller; primary
information; value-added components and tangible assets created,
manufactured, or manipulated; and any additional reference that
can be made perceptible and secure to any observer. Bridging
cryptographic with real world perception is a benefit over the prior
art. Spec. para. 120

07. The only paragraphs in which the Specification describes
serialization are paragraphs 120, 123, 124, 203, 206, 230, and 242,
and claims 154 and 164 as originally filed. All serialization
references are in the context of protecting data.

Facts Related to the Prior Art

Ginter

08. Ginter is directed to secure transaction management. Ginter 1:9–10.

09. Ginter describes a new kind of "virtual distribution environment" (VDE) that secures, administers, and audits electronic information use. VDE has capabilities for managing content that travels "across" the "information highway." These capabilities comprise a rights protection solution that serves all electronic community members. These members include content creators and distributors, financial service providers, end-users, and others. VDE is the first general purpose, configurable, transaction control/rights protection solution for users of computers, other electronic appliances, networks, and the information highway. Ginter 2:20–32.

10. Ginter describes a user who has purchased a copy of a novel as being permitted to open and read the novel as many times as she wants to without any further metering, billing or budgeting. In this simple example, the "event process" may request metering, billing and/or budgeting processes the first time the user asks to open the protected novel (so the purchase price can be charged to the user). Ginter 58:39–46.

11. Ginter describes two parties establishing a communication channel that is known by both parties to be secure from eavesdropping, secure from tampering, and to be in use solely by the two parties

6

whose identities are correctly known to each other. Standard public-key or secret-key cryptographic techniques can be used to implement this process. The first two steps ensure that each party has a means of making claims that can be validated by the other party, for instance, by using a public key signature scheme in which both parties maintain a private key and make available a public key that itself is authenticated by the digital signature of a certification authority. Ginter 225:61–226:38.

Lee

12. Lee is directed to use of a microprocessor serial number to provide a software lock. Lee 1:6–7.

13. Lee defines serializing as providing a CPU serial number to a given set of software. Lee .11:49–50

14. Lee describes permitting software to be serialized to a particular processor. Lee 2:19–20.

ANALYSIS

Claim Construction

Method claim 20 recites "at least one device comprising a serialized ciphered software application unique to said at least one device, wherein said serialized ciphered software application securely stores in said memory a collection of value-added digital information" and "determining an amount of value-added information to be exchanged between the parties." The Specification does not define or even suggest what the terms "serialized"

7

and "amount" mean in the context of the disclosure. The Specification defines value added information as an agglomeration of value-adding components. The Specification defines a value adding component as the least amount of data that can either add functionality or be perceptibly recognized to a system for trusted transactions.

The Examiner construes "serialized" to mean using a device serial number (Ans. 14). The Examiner finds that the art in the form of Lee describes using the word "serialize" as the Examiner interprets the term, evidencing usage of the term in that way. Appellant argues that "serialized" means to make a sequence of values, each based upon the prior value. App. Br. 22. The problem for Appellant is that the Specification does not define "serialize" nor does it offer any implementation examples. Most of the occurrences of the word "serialize" are in the phrase "personalize or serialize," implying that each accomplishes something similar. To that end, we find that the Examiner's construction of serialize as using a device serial number accomplishes protections similar to personalization because a serial number is generally personal to a user. At the very least, the Examiner's construction is not divorced from the record and makes total sense in the context of the Specification and claims. To the extent Appellant has a different meaning in mind, the inventor's mental perception is unworthy of patentable weight in the absence of corroboration in the Specification and claims. We thus construe "serialize" as at least including using a device serial number within its scope.

The Examiner determines that "value-added information" is not lexicographically defined. Ans. 12. This is in error as we find supra. Value-added information is an agglomeration of the least amount of data that

can either add functionality or be perceptibly recognized to a system for trusted transactions. FF 02 and 03. The Examiner construes value-added information as digital content. Ans. 12. We find the Examiner's error in finding no lexicographic definition of "value-added information" to be harmless, as the Examiner's construction, i.e. digital content, is a quantitative agglomeration of bits, the least amount of data that can be perceptibly recognized to a system for trusted transactions.

The Examiner construes "amount" to mean to be a cost or price of a product. Appellant does not offer a proposed construction for "amount," but instead argue that whatever its construction, it differs from price. App. Br. 13–20. We are persuaded by Appellant's argument that amount is distinguishable from price. App. Br. 13. But again we find this Examiner error harmless, as the price for an amount of data is a pointer to that data. Thus, where the Examiner finds art describing a price for data, the art necessarily also describes that amount of data to which the price attaches.

Claims 20–42 rejected under 35 U.S.C. § 101 as directed to non–statutory subject matter

Method claim 20 recites establishing a secure transmission channel over a public network, approving an identity, determining an amount of value added information, and transmitting that information. Thus, claim 20 recites setting up some communication channel, making a decision to approve data, determining some amount of data, and transmitting 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

9

communications set up, reception, analysis and modification, and transmission are all generic, conventional data processing operations to the point they are themselves concepts awaiting implementation details. The sequence of data communications set up-reception-analysis-transmission is equally generic and conventional. The ordering of the steps is therefore ordinary and conventional. The remaining claims merely describe parameters as to who performs steps and what the content may be, 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 Intl, 134 S.Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Services v. Prometheus Laboratories, 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 conducting a transaction between two parties, which is a

fundamental economic practice and a method of organizing human activities and thus, an abstract idea. Ans. 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 20 recites that it is a method for conducting a trusted transaction between two of a plurality of parties who have reached an agreement to transact. The steps in claim 20 result in transmitting data resulting from a transaction. The Specification at paragraph 5 recites that the invention relates to transfer of information between parties. Thus, all this evidence shows that claim 20 is directed to trusted transfer of information between parties, i.e. trusted communication. 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. Like the risk hedging in *Bilski*, the concept of trusted communication is a fundamental business practice long prevalent in our system of commerce. The use of trusted communication is also a building block of ingenuity in societal integration. Thus, trusted communication, like hedging, is an "abstract idea" beyond the scope of §101. *See Alice Corp. Pty. Ltd.* 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 trusted communication at issue here. Both are squarely within the realm of "abstract ideas" as the Court has used that term. *See Alice Corp. Pty. Ltd.* at 2357.

Further, claims involving data collection, analysis, and display,without more, are directed to an abstract idea. *Elec. Power Grp. 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 20, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data communication set up, retrieval, analysis, and transmission 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 20 is directed to the abstract idea of setting up communications for, receiving, analyzing, and transmitting data.

The remaining claims merely describe parameters as to who performs steps and what the content may be. 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. 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 set up communications, receive, analyze, and transmit data 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. Also see In re Katz*

Interactive Call Processing Patent Litigation, 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 America Inc. v. InvestPic LLC*, 890 F.3d 1016, 1022 (Fed. Cir. 2018).

The limitation of

> using at least one device comprising a processor, a memory designed to store data in non-transitory form, an input device, and an output device, said at least one device comprising a serialized ciphered software application unique to said at least one device, wherein said serialized ciphered software application securely stores in said memory a collection of value- added digital information

is not a step, but a recitation of what is supposed to be somehow used in performing a step, with no recitation of how to do so. Each of the enumerated devices is part of a conventional computer (the limitation itself defines a serialized ciphered software application as something that securely stores data. i.e. computer memory). The two remaining "use" clause limitations are similarly generic and only describe what to use without reciting how to do so.

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 communications set up-reception-analysis-transmission 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 Communications, 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 trusted communication as performed by a generic computer. To be sure, the claims recite doing so by advising one to use a computer to establish a secure channel, approve a party to the communication, determine an amount of data and transmit the data. But this is no more than abstract conceptual advice on the parameters for such trusted communication 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 trusted communication 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 trusted communication 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.

We are not persuaded by Appellant's argument that the examiner fails to show that claim 20 is directed to an "abstract idea" as that term is defined by binding case law. Reply Br. 3. We show supra that sufficient intrinsic evidence supports the determination that claim 20 is directed to an abstract idea.

We are not persuaded by Appellant's argument that

> the examiner has failed to consider that the specification discloses using unique serial numbers of transmitting devices as one of the inputs in addition to using as one input a "predetermined key, a predetermined message, or a predetermined cipher" to a software application to encode an identity of a party (see "approving" step).

Id. What the Specification describes as embodiments is not at issue.

> Though understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.

Superguide Corp. v. DirecTV Enterprises, Inc., 358 F.3d 870, 875 (Fed. Cir. 2004). More to the point, even were these embodiments in the claims, the claims do nothing with the data other than transmit the data. Thus, the data are non-functional within the scope of the claims and undeserving of

patentable weight. *King Pharm., Inc. v. Eon Labs, Inc.*, 616 F.3d 1267, 1279 (Fed. Cir. 2010).

We are not persuaded by Appellant's argument that "the examiner has failed to consider that the specification discloses that the admittedly novel (no rejection under 102) claimed invention is an improved technological process," citing *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016) as describing improved character image and voice syncing animation. Reply Br. 4.

Novelty is not at issue. A novel abstract idea remains abstract. "A claim for a new abstract idea is still an abstract idea. The search for a § 101 inventive concept is thus distinct from demonstrating § 102 novelty." *Synopsys, Inc. v. Mentor Graphics Corporation*, 839 F.3d 1138, 1151 (Fed. Cir. 2016). Further, the Court in McRO found claims not abstract because they "focused on a specific asserted improvement in computer animation." *McRO* at 1314–1315. No such animation is recited in the instant claims.

We are not persuaded by Appellant's argument that the claims allow for numerous benefits. Reply Br. 5. Appellant does not contend that the method recited produces such benefits, but only that the method provides a context in which benefits might accrue in the presence of non-recited other steps. Good advice generally allows for substantial benefits, but advice, being an abstract concept, is not patentable.

We are not persuaded by Appellant's argument that the disclosure clarifies that a unique device serial number is an input to the algorithm that encodes the shared secret. Reply Br. 6. Again, we do not import limitations from the Specification into the claims.

Claims 20–42 rejected under 35 U.S.C. § 112(a) as not enabling a person of ordinary skill in the art to make and use the claimed subject matter from the original disclosure

We are persuaded by Appellant's argument that the Examiner failed to present a prima facie case. The Examiner determines that one of ordinary skill would be unable to practice the invention in a conclusory manner. The Examiner had provided no analysis under *Wands*. "Whether undue experimentation is needed is not a single, simple factual determination, but rather is a conclusion reached by weighing many factual considerations." *In re Wands*, 858 F.2d 731, 737 (Fed. Cir. 1988).

Claims 20, 24, 27–31, and 35–40 rejected under 35 U.S.C. § 103(a) as unpatentable over Ginter and Lee

We are not persuaded by Appellant's argument that Ginter does not teach or suggest determining an amount of value-added information to be exchanged between the parties. App. Br. 13–19. Ginter describes determining the amount of value-added information in a novel as an exemplary embodiment. The Examiner points to the price for the novel as the amount, but as we find supra, the price points to the quantitative amount of data itself, viz. the novel.

We are not persuaded by Appellant's argument that Lee does not teach or suggest a "serialized ciphered software application." App. Br. 21–24. Appellant argues the meaning of "serialized." We construe, supra, this term to at least encompass the use of a serial number. Appellant does not contend that Lee fails to describe an application using a serial number. Lee uses a

18

serial number to protect data by serializing data to a processor. The Examiner finds Lee's software application to be ciphered by virtue of its binding and encoding into machine interpretable language. Ans. 14.

We are not persuaded by Appellant's argument that Lee does not teach or suggest "a collection of value-added digital information." App. Br. 24–27. This is a subset of the above argument regarding an amount of value-added information and is similarly unpersuasive.

We are not persuaded by Appellant's argument that The Examiner has apparently misread the limitation "approving, using said at least one device, said serialized ciphered software application, and at least one of a predetermined key, a predetermined message, or a predetermined cipher, an identity of at least one of the two parties." App. Br. 27–28. Appellant contends the Examiner does not appreciate that the object of "approving" is "an identity." *Id.* As the Examiner responds, Ginter uses a predetermined cryptographic cipher to validate and hence approve the identity of the holder of the key to the cryptographic cipher. Ans. 17; FF 11. As Ginter's key holder is one of the parties to the transaction, the claim limitation is met.

We are not persuaded by Appellant's argument that the Examiner has not presented a proper motivation to include Lee to attempt to overcome the deficiencies of Ginter. App. Br. 28–34. Appellant contends "there is no reason for a person of ordinary skill in the art to add to Ginter Lee's alleged disclosures of: (1) ensuring its software is running on an authorized processor; and (2) to provide processor upgrade reauthorization when necessary, because Ginter discloses these methods." App. Br. 29. Lee adds a completely different and complementary form of securing data to Ginter.

Just because Ginter describes forms of security does not imply that the security cannot be improved. Security is never 100% and those of ordinary skill generally look for ways of improving it.

Claims 21–23, 25, 26, 32–34, 41, and 42 rejected under 35 U.S.C. § 103(a)
as unpatentable over Ginter, Lee, and Hawkins

These claims depend from claim 20.

CONCLUSIONS OF LAW

The rejection of claims 20–42 under 35 U.S.C. § 101 as directed to non–statutory subject matter is proper.

The rejection of claims 20–42 under 35 U.S.C. § 112(a) as not enabling a person of ordinary skill in the art to make and use the claimed subject matter from the original disclosure is improper.

The rejection of claims 20, 24, 27–31, and 35–40 under 35 U.S.C. § 103(a) as unpatentable over Ginter and Lee is proper.

The rejection of claims 21–23, 25, 26, 32–34, 41, and 42 under 35 U.S.C. § 103(a) as unpatentable over Ginter, Lee, and Hawkins is proper.

DECISION

The rejection of claims 20–42 is 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). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

<u>AFFIRMED</u>