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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TERRENCE G. CLARK, PETER J. GILBERT,
JAMES B. MERCER, and JANNE M.P. KOPONEN

Appeal 2017-000992
Application 12/766,027
Technology Center 3600

Before ERIC S. FRAHM, JAMES W. DEJMEK, and
JOYCE CRAIG, *Administrative Patent Judges*.

FRAHM, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants¹ appeal under 35 U.S.C. § 134(a) from a rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

¹ According to Appellants, the real party in interest is CA, Inc., and the assignee is Computer Associates Think, Inc. App. Br. 3.

We reverse the rejection of claims 1–20 under 35 U.S.C. § 112, first paragraph, and affirm the remaining rejections of claims 1–20 under 35 U.S.C. §§ 101, 103(a), and 112, second paragraph.

Appellants’ application relates to managing environmental sustainability of an organization by comparing actual emissions data to objective emission data. *See* Spec. 1:6–7, 2:2–13, 3:2–25; Title; Abstract. Claim 1, reproduced below with emphases added to disputed portions of the claim, is illustrative of the claimed subject matter:

1. A computer-implemented method for managing sustainability for an organization, the method comprising:

receiving information regarding environmental sustainability objectives for an organization and information about a stakeholder associated with an endeavor of the organization;

storing a plurality of instances of an ecoActivity object in a memory, each instance of the plurality of instances of the ecoActivity object representing an activity of the organization affecting environmental sustainability;

storing a plurality of instances of an emission factor object in the memory, each instance of the plurality of instances of the emission factor object at least partially quantifying a green house gas emission based on *a respective metric* associated with the instance of the plurality of instances of the emission factor object;

establishing a computer-based logical link between each instance of the plurality of instances of the ecoActivity object and a particular instance of the plurality of instances of the emission factor object;

receiving data associated with *a particular metric* corresponding to the particular instance of the plurality of instances of the emission factor object, the particular metric being the respective metric associated with the particular

instance of the plurality of instances of the emission factor object;

for each one of the plurality of instances of the ecoActivity object, *calculating a green house gas emission quantity* using the received data associated with the particular metric;

determining aggregate emission data, which represents an aggregation of the green house gas emission quantities calculated for at least two of the plurality of instances of the ecoActivity object;

comparing the aggregate emission data with the information regarding the environmental sustainability objectives for the organization;

determining trend data indicating whether the organization is achieving the environmental sustainability objectives for the organization based on a result of the comparison of the aggregate emission data with the information regarding the environmental sustainability objectives for the organization;

determining score data indicating the extent to which an interest of the stakeholder aligns with an interest of the organization based on the information about the stakeholder and the information regarding the environmental sustainability objectives for the organization; and

providing, by a processing system including one or more processors, a dashboard that graphically represents the aggregate emission data, the trend data, and the score data and that functions as a user interface.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Hill, Jr.	US 2007/0250377 A1	Oct. 25, 2007
McConnell	US 2008/0255899 A1	Oct. 16, 2008

REJECTIONS

The Examiner made the following rejections:

(1) Claims 1–20 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Final Act. 2–4. Specifically, the Examiner found that the Specification did not support combining stakeholder scoring and emissions calculations/comparisons in a single dashboard, as recited in independent claims 1, 9, and 17. Final Act. 3–4.

(2) The Examiner rejected claims 1–20 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellants regard as the invention. Final Act. 4–5. Specifically, the Examiner rejected claims 1–20 as being indefinite because it is unclear (a) what is meant by “respective metric” and “particular metric,” and (b) whether these two terms refer to different metrics, or the same metrics (Final Act. 5).

(3) The Examiner rejected claims 1–20 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter, because claims 1, 9, and 17 are drawn to a fundamental economic activity (e.g. managing a business by comparing actual performance data to objective data, or managing environmental sustainability of an organization by comparing actual emissions data to objective emission data), which is an abstract idea. Final Act. 6–8.

(4) The Examiner rejected claims 1–20 under 35 U.S.C. § 103(a) as being unpatentable over McConnell and Hill, Jr. Final Act. 9–22.

Principal Issues on Appeal

Based on Appellants' arguments in the Appeal Brief (App. Br. 15–28) and the Reply Brief (Reply Br. 2–8), the following principal issues are presented on appeal:

(1) Did the Examiner err in rejecting claims 1–20 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement with regard to the limitations of combining stakeholder scoring and emissions calculations/comparisons in a single dashboard, as recited in independent claims 1, 9, and 17;

(2) Did the Examiner err in rejecting claims 1–20 under 35 U.S.C. § 112, second paragraph, for being indefinite because it is unclear (a) what is meant by “respective metric” and “particular metric,” and (b) whether these two terms refer to different metrics, or the same metrics;

(3) Did the Examiner err in rejecting claims 1–20 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter, because representative claim 1, taken as a whole in light of the Specification, is directed to an abstract idea or combination of abstract ideas implemented on generic computer equipment without reciting an element or combination of elements that is (are) significantly more than the abstract idea(s) itself(themselves); and

(4) Did the Examiner err in rejecting claims 1–20 under 35 U.S.C. § 103(a) over the combination of McConnell and Hill, Jr. because the combination fails to teach or suggest the computer-implemented method for managing sustainability for an organization, including determining and displaying trend and score data on a graphical user interface (GUI), as recited in representative claim 1?

ANALYSIS

Issue (1): Written Description

Section 112, first paragraph's² written-description requirement serves to "clearly allow persons of ordinary skill in the art to recognize that [the inventor] invented what is claimed." *Ariad Pharm., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc) (alteration in original) (quoting *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563 (Fed. Cir. 1991)); see *Blue Calypso, LLC v. Groupon, Inc.*, 815 F.3d 1331, 1344 (Fed. Cir. 2016). "[T]he test for sufficiency is whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date." *Ariad*, 598 F.3d at 1351; *Mentor Graphics Corp. v. EVE-USA, Inc.*, 851 F.3d 1275, 1296 (Fed. Cir. 2017). The "test requires an objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art." *Ariad*, 598 F.3d at 1351. The written-description requirement does not, however, "demand any particular form of disclosure" or require that "the specification recite the claimed invention *in haec verba*." *Id.* at 1352. The analysis for sufficiency of disclosure may consider "such descriptive means as words, structures, figures, diagrams, formulas, etc." *Lockwood v. Am. Airlines, Inc.*, 107 F.3d 1565, 1572 (Fed. Cir. 1997).

² Appellants filed the application on appeal on April 23, 2010, based on priority to a non-provisional application filed on September 9, 2009, which is before September 16, 2012, and thus, the pre-Leahy-Smith America Invents Act ("AIA"), Pub. L. No. 112-29, 125 Stat. 284 (2011), version of § 112 applies. See 35 U.S.C. § 112, first paragraph (2006); AIA, 125 Stat. at 297.

The Examiner finds the Specification fails to provide descriptive support for the claim 1 limitations of combining stakeholder scoring and emissions calculations/comparisons in a single dashboard, as recited in independent claims 1, 9, and 17. Final Act. 2–4; Ans. 2–5. More specifically, the Examiner finds that the Specification does not provide specifics as to how stakeholder scoring and aggregate emissions would be combined in the same dashboard (i.e., user interface). Ans. 2–3. The Examiner’s determination is based on a finding that: (1) Figure 9 shows a dashboard for stakeholder scoring; (2) Figures 6, 7, and 10 show a dashboard containing aggregate emission; and (3) Figure 8 shows a dashboard with trend data, and therefore “no dashboard combines these features or demonstrates that Appellant[s] [were] in possession of a dashboard that could combine all three features” (Ans. 5).

Appellants contend explicit support for the disputed limitations is provided by the Specification. App. Br. 15–18 citing Figs. 6–10; Spec. 19:30–32, 20:1–4 and 15–32, 21:1–16, 22:5–31, 24:11–12; Reply Br. 2–3 citing Spec. 20:9–13, 21:17–18, 22:27–28. We agree with Appellants.

The Specification describes, and the drawings show, a dashboard containing all three features (i.e., stakeholder scoring aggregate emissions, and trend data). *See* Figs. 6–10; Spec. 19:30–23:15, 24:11–12. According to Appellants, “reports are generated” (Spec. 19:30), and “the term ‘report’ generally refers to any collection of information provided to a user” (Spec. 19:30–31). Further, “the report can comprise, for example, an aggregation and/or a dis-aggregation of information” (Spec. 19:32–20:1) that can be “provided to the user in a computer-displayable format (*e.g.*, in a

PDF dashboard 152” or in any “suitable format for display to a user” (Spec. 20:1–4). The different dashboards shown in Figures 6–10 support the limitations recited in claims 1, 9, and 17 of displaying the data on a dashboard of a user interface. Additionally, the Specification supports combining the data for display in any format desired by a user. For example, “customizable reports may be generated in step 218 using a variety of different software objects that may be logically linked together” (Spec. 22:27–28), and “particular assessments may include the ability to . . . provide dashboard-type reporting of assessment progress” (Spec. 23:25–31). Additionally, Appellants disclose that “[t]he components of the systems and apparatuses disclosed herein may be integrated or separated” and “the operations of the systems and apparatuses may be performed by more, fewer, or other components” (Spec. 24:11–13).

In view of the foregoing, we conclude the Specification and Drawings “clearly allow persons of ordinary skill in the art to recognize that [Appellants] invented what is claimed.” *Ariad*, 598 F.3d at 1351. Specifically, one of ordinary skill in the art would understand that the different dashboards shown in Figures 6–10 could be displayed together in various combinations, including all at once, to simplify display and allow users to gather the information more efficiently. Accordingly, we find the Specification provides adequate written description support for the claim 1 limitations of combining stakeholder scoring and emissions calculations/comparisons in a single dashboard, and displaying a dashboard containing aggregate emission data, trend data, and score data as recited in independent claims 1, 9, and 17.

We, thus, find the Examiner erred in rejecting independent claims 1, 9, and 17, which recite the disputed limitations, and dependent claims 2–8, 10–16, and 18–20, for failing to comply with the written description requirement.

Issue (2): Indefiniteness

Under 35 U.S.C. § 112, second paragraph, the Specification must conclude with “one or more claims particularly pointing out and distinctly claiming the subject matter” regarded as the invention.³ The essence of the requirement under 35 U.S.C. § 112, second paragraph, is that the language of the claims must make it clear what subject matter the claims encompass — i.e., “whether those skilled in the art would understand what is claimed when the claim is read in light of the specification.” *Star Scientific, Inc. v. R.J. Reynolds Tobacco Co.*, 655 F.3d 1364, 1380 (Fed. Cir. 2011) (quoting *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986)).

The Examiner rejected claims 1–20 as being indefinite because it is unclear (a) what is meant by “respective metric” and “particular metric,” and (b) whether these two terms refer to different metrics, or the same metrics (Final Act. 5), as set forth in independent claims 1, 9, and 17.

Appellants argue claims 1, 9, and 17 make clear the differences between the terms “respective metric” and “particular metric” (App. Br. 18–19), and that a person of ordinary skill in the art would clearly understand

³ Appellants filed the application on appeal on April 23, 2010, based on a provisional application filed on September 9, 2009, which is before September 16, 2012, and thus, the pre-Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284 (2011), version of § 112 applies. See 35 U.S.C. § 112, second paragraph (2006); AIA, 125 Stat. at 297.

the meanings of the disputed terms (Reply Br. 4). In making these arguments, Appellants notably fail to cite any specific portion of the Specification that clearly defines these terms. Although we agree with Appellants that page 18, lines 35–40 describes “particular instances” (App. Br. 8, Summary of Claimed Subject Matter for claim 1), and page 15, line 27 through page 16, line 15 of the Specification mentions the term “respective metric” (App. Br. 8, Summary of Claimed Subject Matter for claim 1), we do not find these portions of the Specification define or sufficiently inform to one of ordinary skill in the art the metes and bounds of the terms “respective metric” and/or “particular metric” as recited in claims 1, 9, and 17 on appeal. And notably, Appellants have not addressed or otherwise rebutted the Examiner’s determination that claims 1, 9, and 17 particularly point out and distinctly claim the subject matter regarded as the invention, i.e., whether these two terms refer to different metrics, or the same metric(s).

In view of the foregoing, Appellants have not established that the Examiner erred in rejecting claims 1–20 as being indefinite, and we sustain the § 112, second paragraph rejection of claims 1–20.

Issue (3): Patent-Ineligible Subject Matter

In *Alice*, the Supreme Court reiterated the two-step framework set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 132 S. Ct. 1289 (2012), for determining whether claimed subject matter is judicially-excepted from patent eligibility under § 101. *Alice Corp. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014). Assuming that a claim nominally falls within one of the statutory categories of machine, manufacture, process, or composition of matter, the first step in the analysis is to determine if the claim is directed to a law of nature, a natural phenomenon, or an abstract

idea (judicial exceptions). *Alice*, 134 S. Ct. at 2355. For example, abstract ideas include, but are not limited to, fundamental economic practices, methods of organizing human activities, an idea of itself, and mathematical formulas or relationships. *Id.* at 2355–57. If the claim is directed to a judicial exception, such as an abstract idea, the second step is to determine whether additional elements in the claim “transform the nature of the claim’ into a patent-eligible application.” *Id.* at 2355 (quoting *Mayo*, 132 S. Ct. at 1297). This second step is described as “a search for an “inventive concept””—*i.e.*, an element or combination of elements that is ‘. . . significantly more than . . . the [ineligible concept] itself.’” *Id.* at 2355 (alteration in original) (quoting *Mayo*, 132 S. Ct. at 1294).

“The first step in the *Alice* inquiry . . . asks whether the focus of the claims is on the specific asserted improvement in computer capabilities . . . or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016). “The abstract idea exception prevents patenting a result where ‘it matters not by what process or machinery the result is accomplished.’” *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016) (quoting *O’Reilly v. Morse*, 56 U.S. (15 How.) 62, 113 (1854)). “We therefore look to whether the claims . . . focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.” *McRO*, 837 F.3d at 1314.

Further, as our reviewing court noted in *McRO*, it is important to determine “whether the claims . . . focus on a specific means or method that

improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.” 837 F.3d at 1314. In other words, a claim that defines the way by which a computer-related result is achieved is distinguishable from a patent-ineligible claim that simply describes a result.

The second step in the *Alice* analysis requires a search for an “inventive concept” that “must be significantly more than the abstract idea itself, and cannot simply be an instruction to implement or apply the abstract idea on a computer.” *Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349 (2016). There must be more than “computer functions [that] are ‘well-understood, routine, conventional activit[ies]’ previously known to the industry.” *Alice*, 134 S. Ct. at 2359 (second alteration in original) (quoting *Mayo*, 132 S. Ct. at 1294).

Step One of *Alice*

Regarding step one of *Alice*, *Enfish* held that the “directed to” inquiry asks not whether “the claims *involve* a patent-ineligible concept,” but instead whether, “considered in light of the specification, . . . ‘their character as a whole is directed to excluded subject matter.’” *Enfish*, 822 F.3d at 1335. Regarding improvements to computer-related technology, the Court in *Enfish* held as follows:

We do not read *Alice* to broadly hold that all improvements in computer-related technology are inherently abstract and, therefore, must be considered at step two. Indeed, some improvements in computer-related technology when appropriately claimed are undoubtedly not abstract, such as a chip architecture, an LED display, and the like. Nor do we think that claims directed to software, as opposed to hardware, are inherently abstract and therefore only properly analyzed at the second step of the *Alice* analysis. Software can make non-

abstract improvements to computer technology just as hardware improvements can, and sometimes the improvements can be accomplished through either route. We thus see no reason to conclude that all claims directed to improvements in computer-related technology, including those directed to software, are abstract and necessarily analyzed at the second step of *Alice*, nor do we believe that *Alice* so directs. Therefore, we find it relevant to ask whether the claims are directed to an improvement to computer functionality versus being directed to an abstract idea, even at the first step of the *Alice* analysis.

Enfish, 822 F.3d at 1335. Thus, we determine whether the claims “focus on a specific means or method that improves the relevant technology” or are “directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.” *McRO*, 837 F.3d at 1314.

We agree with the Examiner (Final Act. 6–8) that claims 1, 9, and 17 are drawn to a fundamental economic activity (e.g., managing a business by comparing actual performance data to objective data, or managing environmental sustainability of an organization by comparing actual emissions data to objective emission data), which is an abstract idea. We agree with the Examiner because the numerous claim limitations recite generally the use of a general purpose computer including: a method to manage sustainability for an organization (computer-implemented method claims 1–8); a data processing system with a memory module, processor, and dashboard that function as a user interface (claims 17–20); and a non-transitory computer-readable medium with software to perform the method (claims 9–16). Thus, we find the claims are not directed to an improvement to computer functionality, but are directed to an abstract idea.

Claims 1, 9, and 17 require the functional results of “receiving,” “storing,” “establishing,” “calculating,” “determining,” “comparing,”

and “providing ... a dashboard . . . that functions as a user interface” to represent data “graphically,” but do not sufficiently describe how to achieve these results in a non-abstract way (*see e.g.*, claim 1). *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1258 (Fed. Cir. 2016) (holding that claims were directed to an abstract idea where they claimed “the function of wirelessly communicating regional broadcast content to an out-of-region recipient, not a particular way of performing that function”).

For example, independent claim 1 merely recites “[a] computer-implemented method for managing sustainability for an organization” (claim 1) that is performed by generic computer elements (a “memory,” “computer-based logical link,” and a “dashboard . . . that functions as a user interface”) for their basic functions and thus do not transform the claimed abstract idea into eligible subject matter under *Alice*. *See Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1348 (Fed. Cir. 2014) (finding that there is no inventive concept in using a generic computer “to perform well-understood, routine, and conventional activities commonly used in industry”).

Thus, we conclude claims 1, 9, and 17 are drawn to little more than automating the abstract idea of managing a business by comparing actual performance data to objective data, or managing environmental sustainability of an organization by comparing actual emissions data to objective emission data, which we conclude is a fundamental economic practice and, therefore, constitutes patent-ineligible subject matter. *See Alice*, 134 S. Ct. at 2357; *Bilski v. Kappos*, 561 U.S. 593, 611 (2010); *Enfish*, 822 F.3d at 1335 (“fundamental economic and conventional business

practices are often found to be abstract ideas, even if performed on a computer”).

Appellants do not rebut the Examiner’s conclusion that the claims are directed to a fundamental activity that is an abstract idea for commercial purposes—and that such an abstract idea or ideas is/are similar to other concepts found to be abstract. Ans. 8 citing *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1351–53 (collecting information, analyzing it, and displaying results is an abstract idea).

Instead, Appellants contend (App. Br. 20–21) that because the claims are non-obvious over the combination of McConnell and Hill, Jr., the claims require more than a general purpose computer to perform generic computer functions. We find these contentions unpersuasive in light of the following.

In the recent *Two-Way Media v. Comcast* decision (Fed. Cir. 2017), the Federal Circuit affirmed a district court’s holding that evidence of non-obviousness was irrelevant to patent eligibility under the Supreme Court’s two-step *Alice* framework. *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329 (Fed. Cir. 2017). The Federal Circuit’s holding in *Two-Way Media* is consistent with the prior Federal Circuit and Supreme Court cases holding that novelty and even groundbreaking brilliance may be irrelevant to patent eligibility. In addition, eligibility and novelty are separate inquiries. *Affinity Labs* 838 F.3d at 1263 (holding that “even assuming” that a particular claimed feature was novel does not “avoid the problem of abstractness”).

In this light, we are not persuaded by Appellants’ contention (App. Br. 20–21) that whether or not the claims are non-obvious over the combination of McConnell and Hill, Jr. is determinative of subject matter

patent-eligibility (i.e., whether or not the claims require more than a general purpose computer to perform generic computer functions).

Having concluded the claims are directed to an abstract idea that is patent-ineligible, we turn to step two of the *Alice* test.

Step Two of *Alice*

Regarding step two of *Alice*, Appellants argue that the independent claims recite “significantly more” than any alleged abstract idea(s) because they go beyond conventional computer operations and improve the technology area of providing convenient access to environmental performance information about an organization by producing a concerted result as a holistic combination. *See generally* App. Br. 20–22. We are not persuaded by Appellants’ arguments. Although the claims recite multiple computer operations, they do not provide details of how these operations are performed and, therefore, they do not go beyond conventional computer operations or affect computer interface and inventory management technology. In other words, we are not persuaded that the operations in the claims are an improvement to any *technology* as opposed to an improvement to a fundamental economic practice.

As the Examiner finds, and we agree, the claims merely recite a data processing system and/or a non-transitory computer-readable medium with software executed by a processor to perform basic commercial/economic functions of managing a business by comparing actual performance data to objective data, or managing environmental sustainability of an organization by comparing actual emissions data to objective emission data. Final Act. 6–8; *see also* Ans. 6–8. Given that the claims are directed to the fundamental economic practice of managing a business by comparing actual

performance data to objective data, or managing environmental sustainability of an organization by comparing actual emissions data to objective emission data, the claimed elements of a method to manage sustainability for an organization (computer-implemented method claims 1–8); a data processing system with a memory module, processor, and dashboard that function as a user interface (claims 17–20); and a non-transitory computer-readable medium with software to perform the method (claims 9–16), are not enough to transform the abstract idea into a patent-eligible invention. *See Alice*, 134 S. Ct. at 2358. Considering the claimed *elements* individually and as an ordered combination, the claims do no more than simply instruct the practitioner to implement the abstract idea on a generic computer or processor. *Id.* at 2359; *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333–34 (Fed. Cir. 2012) (“Simply adding a ‘computer aided’ limitation to a claim covering an abstract concept, without more, is insufficient to render [a] claim patent eligible.”).

We agree with the Examiner’s findings and conclusions (Ans. 7–8) that (i) Appellants’ Specification supports the understanding that the claimed invention can be performed on a general purpose computer (*see* Spec. 8:14–11:7); and (ii) the gathering and storing of the claims is insignificant extra-solution activity, the calculating and comparing of the claims are a mental processes, and publishing the data in an interface is insignificant post-solution activity (Final Act. 8; Ans. 7–8). Appellants do not dispute these findings and conclusions with evidence or argument (*see generally* App. Br. 19–22; Reply Br. 4–6).

Further, we note that examining earlier cases can have a role in deciding whether a concept that claims are found to be directed to is an

abstract idea. *See Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016) (“Instead of a definition [for what an ‘abstract idea’ encompasses], then, the decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen—what prior cases were about, and which way they were decided.”). Our conclusion that claims 1, 9, and 17 are directed to an abstract idea is supported by analogy to the Federal Circuit’s decision in *Electric Power Group*, where the court concluded claims that focused on “gathering and analyzing information of a specified content, then displaying the results,” to be directed to an abstract idea. 830 F.3d at 1354.

Additional analogous cases where the Federal Circuit has concluded claims involving no more than data collection, manipulation, and/or display to be directed to abstract ideas include *OIP Technologies, Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (offer-based price optimization), *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015) (tailoring information presented to a user based on particular information).

Appellants contend the claims do more than implement an abstract idea on a computer because “the holistic combination of the claimed functions produces a concerted result (e.g., convenient access to environmental performance information about an organization) that is more than a mere combination of such functions performed separately” (App. Br. 21), “which ultimately allows a business manager or analyst to readily view and comprehend environmental performance information related to such user’s organization” (Reply Br. 5). However, merely making the practice of an abstract idea more effective by implementing the idea on a

computer does not suffice to meet the inventive concept requirement of *Alice*. See *OIP Technologies*, 788 F.3d at 1363 (“[R]elying on a computer to perform routine tasks more quickly or more accurately is insufficient to render a claim patent eligible.”). Further, in the *Electric Power* case mentioned above, the Federal Circuit concluded that even performing claimed functions in real time was insufficient to provide an inventive concept where only conventional, generic technology was involved:

The claims in this case specify what information in the power-grid field it is desirable to gather, analyze, and display, including in “real time”; but they do not include any requirement for performing the claimed functions of gathering, analyzing, and displaying in real time by use of anything but entirely conventional, generic technology. The claims therefore do not state an arguably inventive concept in the realm of application of the information-based abstract ideas.

830 F.3d at 1356. Here too, Appellants’ claims 1, 9, and 17 recite no more than a generic processor and storage to implement the claimed functions.

We are, therefore, not persuaded the Examiner erred by rejecting as patent-ineligible independent claims 1, 9, and 17, as well as claims 2–8, 10–16, and 18–20 depending respectively therefrom.

Issue (4): Obviousness

In formulating the obviousness rejection, the Examiner relies upon (i) McConnell (Final Act. 13; Ans. 9 citing McConnell ¶ 138) as teaching or suggesting determining *trend data*; and (ii) Hill, Jr. (Final Act. 15–16; Ans. 9 citing Hill, Jr. ¶ 167) as teaching or suggesting determining *score data*, as recited in claims 1, 9, and 17. We agree with the Examiner’s findings as to the individual references, and do not think it unpredictable that one of

ordinary skill in the art would desire to summarize or reprint such useful data in various manners on a graphical user interface display as claimed.

Regarding claims 1, 9, and 17, Appellants argue (App. Br. 25–26; Reply Br. 6–7) that neither McConnell, Hill, nor their combination discloses or suggests determining *trend* or *score* data and displaying the data on a graphical user interface (GUI). Specifically, Appellants contend McConnell fails to disclose or suggest determining score data as claimed (App. Br. 25–26). More specifically, Appellants assert (App. Br. 25; Reply Br. 6) McConnell (i) merely describes determining if an emission quota is exceeded, not determining trend data as claimed; and (ii) only describes a non-interactive report, and not a dashboard as claimed. Appellants also contend (App. Br. 26; Reply Br. 7) Hill, Jr. merely describes “levels of support,” and not score data as claimed, and Hill, Jr. fails to disclose or suggest score data and/or trend data as claimed (App. Br. 26–27).

However, we agree with the Examiner (Ans. 9) that McConnell’s determination of whether an organization has emitted more or less than its quota, resulting in a carbon credit debt or surplus (§ 138), teaches or suggests data indicating a trend (i.e., whether not the organization’s total emissions are producing a credit or debit). This is especially true when taken with (i) the understanding of one of ordinary skill in the art that historical carbon credit data would be useful in giving an historical perspective about the organization (i.e., a trend); and/or (ii) McConnell’s

disclosure (§ 2, Abstract) of the desirability of tracking, managing, and/or optimizing organizational costs.

We also agree with the Examiner (Ans. 9 citing § 167) that Hill, Jr. discloses assessing a stakeholder by *rating* each stakeholder, and that this disclosure is encompassed by the “score data” recited in claims 1, 9, and 17.

It is the *collective teachings and suggestions* of McConnell and Hill, Jr. that meet the claim 1 limitations of displaying a dashboard containing graphical representations of (i) aggregate emission data, (ii) trend data, and (iii) score data as claimed. Accordingly, Appellants’ arguments attacking McConnell and/or Hill, Jr. individually (App. Br. 25–26) are not persuasive.

We are also not persuaded by Appellants’ assertion (Reply Br. 6) that page 21, lines 15–16 of the Specification limits the “trend data” recited in claims 1, 9, and 17. Although we construe “trend data” with its broadest reasonable interpretation in light of Appellants’ Specification, we nonetheless decline to confine our claim construction of “trend data” to Appellants’ preferred embodiment. To do otherwise would impermissibly import limitations from Appellants’ Specification into the claims. *See In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993). Rather, we find that the claim term “trend data” may be broadly, but reasonably construed as any data representing any trend.⁴

⁴ Our reviewing court guides: Regardless of the general contentions and imputed intended meanings articulated by Appellants in the Appeal Brief, “[i]t is the claims that measure the invention.” *See SRI Int’l v. Matsushita Elec. Corp. of Am.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc) (citations omitted).

Though understanding the claim language may be aided by the explanations contained in the written description, it is important not to import into a claim limitations that are not a part of the claim. For

We are, therefore, not persuaded the Examiner erred in rejecting as obvious claims 1, 9, and 17, as well as claims 2–8, 10–16, and 18–20, which were not specifically argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv)(2015).

CONCLUSIONS

(1) The Examiner erred in rejecting claims 1–20 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement.

(2) Appellants have not shown the Examiner erred in rejecting claims 1–20 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(3) The Examiner did not err in rejecting claims 1–20 under 35 U.S.C. § 101 as being directed toward patent-ineligible subject matter.

(4) The Examiner did not err in rejecting claims 1–20 under 35 U.S.C. § 103(a) over the combination of McConnell and Hill, Jr.

DECISION

We reverse the Examiner’s decision to reject claims 1–20 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement.

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 Enters., Inc., 358 F.3d 870, 875 (Fed. Cir. 2004) (citing *Electro Med. Sys. S.A. v. Cooper Life Sci., Inc.*, 34 F.3d 1048, 1054 (Fed. Cir. 1994)).

We affirm the Examiner's decision to reject claims 1–20 (i) under 35 U.S.C. § 112, second paragraph, as being indefinite; (ii) under 35 U.S.C. § 101 as being drawn to patent ineligible subject matter; and (iii) under 35 U.S.C. § 103(a) as being obvious over the base combination of McConnell and Hill, Jr.

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, the Examiner's decision rejecting claims 1–20 is affirmed. *See* 37 C.F.R. § 41.50(a)(1) (“The affirmance of the rejection of a claim on any of the grounds specified constitutes a general affirmance of the decision of the examiner on that claim, except as to any ground specifically reversed”).

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. § 41.50(f).

AFFIRMED