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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PAT HATHAWAY,
DEREK JOHNSON,
RAVISHANKAR JAGADEESHWARA,
and SHAM KASHYAP

Appeal 2017-001709
Application 13/452,553
Technology Center 3600

Before ANTON W. FETTING, CYNTHIA L. MURPHY, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.
FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE¹

Pat Hathaway, Derek Johnson, Ravishankar Jagadeeshwara, and Sham
Kashyap (Appellants) seek review under 35 U.S.C. § 134 of a final rejection

¹ Our decision will make reference to the Appellants' Appeal Brief ("Appeal Br.," filed May 27, 2016) and Reply Brief ("Reply Br.," filed November 11, 2016), and the Examiner's Answer ("Ans.," mailed April 10, 2016), and Final Action ("Final Act.," mailed January 15, 2016).

of claims 1–11 and 13–20, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

The Appellants invented a way of automating aspects of organizing product placement in retail stores. Specification para. 1.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below (bracketed matter and some paragraphing added).

1. A method for generating a product subgroup map with a computing system, the method comprising:

[1] providing a user interface configured for

presenting data on product subgroups for a product adjacency group

and

receiving user inputs associated with user-editable mapping criteria for mapping the product subgroups in the product adjacency group;

[2] configuring the user interface with indications of the product subgroups that are user-selectable for editing the user-editable mapping criteria of the product subgroups;

[3] receiving one or more user inputs indicating one or more user-selected product subgroups from among the product subgroups;

[4] configuring the user interface with user-selectable options

for editing the user-editable mapping criteria of the product subgroups,

and

for assigning priority values to the user-editable mapping criteria

wherein configuring the user interface with user-selectable options for editing the user-editable mapping

criteria of the product subgroups, and for assigning priority values to the user-editable mapping criteria includes

configuring the user interface with a user-selectable strategy option and a user-selectable strategy priority option,

wherein the user-selectable strategy option when activated by a user allows the user to select one of a plurality of positioning strategies for one or more of the product subgroups,

the plurality of positioning strategies include collision sensitivity and one of across aisle affinity and adjacency affinity

and

wherein the user-selectable strategy priority option when activated by a user allows the user to assign a different priority ranking to each of the plurality of positioning strategies;

[5] configuring the user interface with user-selectable indications of a plurality of stores;

[6] receiving one or more user inputs for each of the user-editable mapping criteria;

[7] generating a combined set of mapping criteria for the one or more user-selected product subgroups based on

the one or more user inputs for each of the user-editable mapping criteria and one or more non-user-editable mapping criteria stored in a mapping rules data store;

[8] generating a plurality of product subgroup maps for the one or more user-selected product subgroups for each of a plurality of store layouts associated with each of a plurality of selected stores as selected by the user inputs from among the stores,

based on the combined set of mapping criteria for the one or more user-selected product subgroups and a set of physical store layout data for each of the selected stores;

and

[9] providing graphical outputs of the product subgroup maps for the product adjacency group in each of the selected stores.

Claims 1–11 and 13–20 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.. (*See* Final Action 4.)

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.

ANALYSIS

Method claim 1 recites an interface for entering product subgroup data and mapping criteria, configuring the interface with this data for selection and entering sub-group selections, using the interface to edit criteria and assign priority values, configuring the interface with a list of stores, receiving mapping criteria, combining the mapping criteria, producing product subgroup maps and output the maps graphically. Thus, claim 1 recites using an interface to receive, select, analyze, modify, and present 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, selection, analysis and modification, and display are all generic, conventional data processing operations to the point they are themselves concepts awaiting implementation details. The sequence of data reception-selection-analysis-display is equally generic and conventional. The ordering of the steps is therefore ordinary and

conventional. The remaining claims merely describe modelling parameters, 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 planning the placement of products in a store based on the preamble, end result of the claims, and supporting specification. Final Act. 4.

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 1 recites that it is a method for generating a product subgroup map with a computing system. The steps in claim 1 result in providing graphical outputs of the product subgroup maps for the product adjacency group in each of the selected stores. The Specification at paragraph 1 recites that the invention relates to automating aspects of organizing product placement in retail stores. Thus, all this evidence shows that claim 1 is directed to creating product subgroup maps for organizing product placement in retail stores, i.e. modelling product placements. This is consistent with the Examiner's finding.

It follows from prior Supreme Court cases, and *Bilski* (*Bilski v Kappos*, 561 U.S. 593 (2010)) in particular, that the claims at issue here are directed to an abstract idea. The concept of modelling product placements is a fundamental business practice long prevalent in our system of commerce. The use of modelling product placements is also a building block of ingenuity in retail sales. Thus, modelling product placements, 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 modelling product placements 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 only data collection, analysis, and display 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 1, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data 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 1 is directed to the abstract idea of receiving, analyzing, and transmitting data.

The remaining claims merely describe modelling parameters. 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. Here, 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 enter, select, analyze, modify, 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*, 898 F.3d 1161, 1168 (Fed. Cir. 2018)

Considered as an ordered combination, the computer components of Appellants’ method add nothing that is not already present when the steps are considered separately. The sequence of data reception-selection-analysis-display is equally generic and conventional or otherwise held to be abstract. See *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction), *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (sequence of data retrieval, analysis, modification, generation, display, and transmission), *Two-Way Media Ltd. v. Comcast Cable 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, Appellants’ method claims simply recite the concept of modelling product placements as performed by a generic computer. To be sure, the claims recite doing so by advising one to use a computer to enter the various modelling parameters and let one know the model result. But this is no more than abstract conceptual advice on the parameters for such modelling product placements 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 modelling product placements 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 modelling product placements 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.* 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. at 2360.

We are not persuaded by Appellants' argument that no claim is directed to an abstract idea. Appeal Br. 10–11. We find *supra* that the claims are directed to the abstract idea of modelling product placement.

We are not persuaded by Appellants' argument that all pending claims include an inventive concept and thus are significantly more than any alleged abstract idea. Appeal Br. 11–13. We find *supra* that the claim limitations are generic computer operations in a generic conventional sequence.

We are not persuaded by Appellants' argument that the claims transform specific data into a visual depiction that represents specific physical objects or substances. Reply Br. 14. Transformation of data is itself an abstraction. *See Electric Power, supra*. The claims do not recite how the visual depiction is created, but only directs one to do so by any and all possible means. Thus, the claims only recited abstract conceptual advice to somehow present the data as a visual depiction.

We are not persuaded by Appellants' argument that

no consideration was given to the body of the claim in the process of determining whether Claim 1 was directed to an abstract idea. As such, the first step of the *Alice* analysis in the Official Action dated January 15, 2016 is legally, materially and fundamentally flawed requiring a reversal of the rejection of Claim 1 as being patent ineligible.

Appeal Br. 18–19. Appellants conflate the two *Alice* steps. The first step asks what the claims as a whole is directed to. If that is an abstract idea, then the second step looks at the details. Looking at the body of claim 1, for example, no particular technical implementations are recited, only conventional data processing operations. Thus, the claim as a whole is not directed to any particular technical implementation, but rather to what the claim produces as a result of conventional operations. This is consistent with *Enfish* as Appellants cite.

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.

For that reason, the first step in the *Alice* inquiry in this case asks whether the focus of the claims is on the specific asserted improvement in computer capabilities (i.e., the self-referential table for a computer database) or, instead, on a process that qualifies as an “abstract idea” for which computers are invoked merely as a tool.

Enfish, LLC v. Microsoft, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016). The first sentence discusses improvements in computer-related technology. The meaning of this is clarified in the final sentence where the 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. As the claims recite no improvement in computer technology, only conventional data reads, analysis and modification, the computers are invoked merely as a tool.

As if in response to this, Appellants cite to the various user selectable options, strategies, and priority rankings and generated groups recited in claims 1. Appeal Br. 20–21. Such options, strategies, and priority rankings, and even groups are themselves abstract ideas. User interfaces are inherent parts of computers and generating data is a conventional computer operation.

We are not persuaded by Appellants' argument that

where the novelty and/or non-obviousness of a claim is attributable to features, steps and/or limitations other than the abstract idea, law of nature or natural phenomenon, the novelty and nonobviousness of the other features, steps and/or limitations dictates a finding that the claim is patent eligible as it necessarily includes an inventive concept and, therefore, is significantly more than any alleged abstract idea, law of nature or natural phenomenon

Appeal Br. 22. Appellants cite *Ariosa Diagnostics, Inc.*, 788 F.3d at 1377 (Fed. Cir. 2015) and *Internet Patents Corporation*, 790 F.3d 1343, 1346-1347 (Fed. Cir. 2015). Neither opinion expresses this as such.² In any event, the instant claim 1 steps are all conventional computer operations, and these are abstractions as such. *See Electric Power supra*. Indeed, the very act of creating a model as such is an abstraction, as a model is an abstraction of what it represents. Absent technical improvements in model building, the steps to create a model express an abstract idea.

We are not persuaded by Appellants' argument that “[t]here is no question that Claim 1 recites elements and/or functions that are **not** well-understood, routine or conventional as these claims recite elements and/or functions that are both novel and unobvious.” Appeal Br. 25. As we find *supra*, all of the recited computer operations are well understood and conventional. It is only the data operated upon that presents novelty, but that data is modelling data, including options, strategies, and priority rankings, and groups. These represented entities are themselves abstractions, as they

² Appellants go on to cite *Ariosa* “[f]or process claims that encompass natural phenomenon, **the process steps are the additional features that must be new and useful.**” *Id.* Appeal Br. 23. But this only expresses a necessary, not a sufficient condition for patentability.

only have meaning in the human mind, and as such are undeserving of patentable weight. *See In re Bernhart*, 417 F.2d 1395, 1399 (CCPA 1969).

We are not persuaded by Appellants' argument that “the admittedly novel and unobvious step of configuring the user interface with the detailed and concrete user-selectable strategy option and user-selectable strategy priority option **is never addressed in the second step of the 101 analysis set forth in the Final Rejection dated January 15, 2016.**” Appeal Br. 26. This is the same argument as the prior argument couched as an Examiner omission and is equally unpersuasive here.

We are not persuaded by Appellants' argument that “[t]he rejection of Claim 1 in the Official Action dated January 15, 2016 is predicated on the legally erroneous interpretation of 35 USC § 101 that to be considered significantly more the claims must recite some improvement to **physical technology.**” Appeal Br. 28. Insofar as this is what the Examiner is saying, we agree with the Appellants that *Enfish* allows for a software implementation to be considered, in certain circumstances, a technological improvement. Here, however, claim 1 recites only conventional data processing operations in a conventional sequence.

We are not persuaded by Appellants' argument that the limitations are novel and non-obvious. Appeal Br. 24. “[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).

We are not persuaded by Appellants' argument that

Claim 1 transforms specific data into a visual depiction that represents specific physical objects or substances. Claim 1 transforms user editable mapping criteria (specific data) and one or more non-user-editable mapping criteria (specific data) into a graphical output of at least one product subgroup map. The graphical output is a visual depiction of one or more product display areas in a brick and mortar store having specific products. The display area and the specific products in the graphical output are clearly representations of specific physical objects or substances. Further, the transformation of data into a graphical output of at least one product subgroup map is the objective/purpose of Claim 1.

Appeal Br. 30. Again, claim 1 does not transform data into a visual depiction in that it recites no method for doing so. Instead, it directs someone to do so by any and all possible means.

Steps that do nothing more than spell out what it means to “apply it on a computer” cannot confer patent eligibility. . . . Requiring the use of a “software” “brain” “tasked with tailoring information and providing it to the user” provides no additional limitation beyond applying an abstract idea, restricted to the Internet, on a generic computer.

Intellectual Ventures I LLC v. Capital One Bank (USA), 792 F.3d 1363, 1370–71 (2015).

As for the dependent claims, they only further describe the above-discussed conventional data manipulation, add more conventional data manipulation, and/or introduce details regarding the source or content of information

The remaining claims are system and computer program product variants of the above method claims.

We are not persuaded by Appellants' argument that “[a]ll pending claims are directed to inventions that include specific features which improve an

existing technological process, i.e., optimizing product placement in a store.” Reply Br. 9–10. Appellants do not show how optimizing product placement is a technological process. Retail staff have manually optimized product placement since at least the advent of the department store. Merely modelling the process in a computer does not change the process into a technological one.

We are not persuaded by Appellants' argument that the claims contain an inventive concept that is also found in the specific ordered combination of the limitations, similar to the Federal Circuit's findings in *Rapid Litigation* (*Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042 (Fed. Cir. 2016)). Reply Br. 9–10. The key fact in *Rapid Litigation* was the presence of a new and useful laboratory technique for preserving hepatocytes. In particular, the techniques, far from being conventional operations, included subjecting hepatocytes that have been frozen and thawed to density gradient fractionation, recovering the separated viable hepatocytes, and cryopreserving the recovered viable hepatocytes.

The Court found

the claims are directed to a new and useful method of preserving hepatocyte cells. Indeed, the claims recite a “*method of producing* a desired preparation of multi-cryopreserved hepatocytes.” Through the recited steps, the patented invention achieves a better way of preserving hepatocytes. The '929 patent claims are like thousands of others that recite processes to achieve a desired outcome, e.g., methods of producing things, or methods of treating disease.

Rapid Litig. Mgmt. Ltd., 827 F.3d at 1048–49. The Court acknowledged that “each of the claims’ individual steps (freezing, thawing, and separating) were known independently in the art,” but determined that “does not make the

claim unpatentable.” *Id.* at 1051. This was because “the claimed process involves freezing and thawing hepatocytes twice. The individual steps of freezing and thawing were well known, but a process of preserving hepatocytes by repeating those steps was itself far from routine and conventional.” *Id.* Thus, the claims in *Rapid Litigation* repeated operations not ordinarily repeated. In contrast, data processing routinely relies on repletion. The instant claims do not even recite such repetition. On the other hand, modelling for optimization routinely accepts parameters for options, strategies, and priority rankings, and groups, as any Operations Research treatise would show.

We are not persuaded by Appellants' argument that the claims contain an inventive concept that is also found in the specific ordered combination of the limitations, similar to the Federal Circuit's findings in *BASCOM* (*BASCOM Global Internet v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016)). Reply Br. 10–11. Initially, we remind Appellants that *BASCOM* did not find claims eligible, but rather that the challenging party did not provide sufficient evidence to support a Fed. R. Civ. P. 12(b)(6) motion to dismiss in which facts are presumed in the non-movant's favor. The key fact in *BASCOM* was the presence of a structural change in “installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user. This design gives the filtering tool both the benefits of a filter on a local computer and the benefits of a filter on the ISP server.” *BASCOM*, 827 F.3d at 1350. The instant claims have no analogous structural benefit.

We are not persuaded by Appellants' argument that the claims are analogous to those in *Enfish*. Reply Br. 15–16. The claims differ from

those found patent eligible in *Enfish*, where the claims were “specifically directed to a *self-referential* table for a computer database.” *Enfish*, 822 F.3d at 1337. The claims thus were “directed to a specific improvement to the way computers operate” rather than an abstract idea implemented on a computer. *Id.* at 1336. Here, by contrast, the claims are not directed to an improvement in the way computers operate. Though the claims purport to accelerate the process of modelling product placement, our reviewing court has held that speed and accuracy increases stemming from the ordinary capabilities of a general purpose computer “do[] not materially alter the patent eligibility of the claimed subject matter.” *Bancorp Servs., L.L.C. v. Sun Life Assurance Co. of Can. (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012). Instead, the claims are more analogous to those in *FairWarning*, 839 F.3d 1089 (Fed. Cir. 2016), wherein claims reciting “a few possible rules to analyze audit log data” were found directed to an abstract idea because they asked “the same questions (though perhaps phrased with different words) that humans in analogous situations detecting fraud have asked for decades.” 839 F.3d at 1094, 1095. Humans have tried out different (modelled) product placements in department stores to meet constraints for decades, as it the nature of physical retail stores to constrain the ways products can be placed in the space.

As to the remaining claims, Appellants separately argue each claim (Appeal Br. 30–53) but do so by either repeating the arguments in support of claim 1 or arguing on the basis of those claim 1 arguments. Thus, we find these arguments equally unpersuasive.

Appeal 2017-001709
Application 13/452,553

CONCLUSIONS OF LAW

The rejection of claims 1–11 and 13–20 under 35 U.S.C. § 101 as directed to non-statutory subject matter is proper.

DECISION

The rejection of claims 1–11 and 13–20 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).

AFFIRMED