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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MAIK BITTNER and JÜRGEN MARSCHAR

Appeal 2017-004404
Application 13/099,481¹
Technology Center 3600

Before CARLA M. KRIVAK, MICHAEL J. STRAUSS, and
HUNG H. BUI, *Administrative Patent Judges*.

BUI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants seek our review under 35 U.S.C. § 134(a) of the Examiner’s Final Office Action rejecting claims 1, 2, 4, 5, and 7–16, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.²

¹ According to Appellants, Heidelberger Druckmaschinen AG is the real party in interest. App. Br. 1.

² Our Decision refers to Appellants’ Appeal Brief filed September 19, 2016 (“App. Br.”); Reply Brief filed January 17, 2017 (“Reply Br.”); Examiner’s Answer mailed November 17, 2016 (“Ans.”); Final Office Action mailed April 19, 2016 (“Final Act.”); and original Specification filed May 3, 2011 (“Spec.”).

STATEMENT OF THE CASE

Appellants' invention relates to "a system having a computer for displaying the production performance of a machine [connected to the computer via a network] in comparison with the production performance of other machines." Spec. ¶ 2. In the context of two print shops having a first press room and a second press room, Appellants' system is used for "evaluating and comparing the performance of the productivity of several printing presses." Spec. ¶ 21.

Claims 1 and 11 are independent. Claim 1 is illustrative of the claimed subject matter, and reproduced below with disputed limitations in italics:

1. A production performance evaluation system, comprising:
 - [1] a performance comparison computer connected via an Internet link for remote service to respective machine computers of a plurality of production machines, at least some of the production machines being provided at competitors' locations,
 - [i] said performance comparison computer being set up at a manufacturer of said production machines or at a service partner of the manufacturer, said respective machine computers each gathering production performance from a corresponding production machine of said plurality of production machines,
 - [ii] said performance comparison computer acquiring production performance from said respective machine computers of said plurality of machines and programmed for automatically carrying out a production performance comparison between a production performance of one local production machine and a production performance of at least one other external production machine at a competitor,
 - [iii] said performance comparison computer programmed for calculating suggestions or offers for

increasing the productivity of the one local production machine for an operator of the one local production machine on the basis of the production performance comparison between the production performance of said one local production machine and the production performance of the at least one other external production machine at the competitor;

[2] a production performance display computer located at said one local production machine connected via the Internet link to said performance comparison computer and displaying the production performance comparison in comparison with the competitor;

the system *sending the production performance comparison data and the suggestions or offers for increasing the productivity of the production machine* via the Internet link from said performance comparison computer to said production performance display computer for displaying the production performance comparison data and the suggestions or offers for increasing the productivity of the production machine via a display of said production performance display computer at least *to the operator of said one local production machine*.

App. Br. 31–32 (Claims App’x) (bracketing added for clarity).

EXAMINER’S REJECTIONS & REFERENCES

(1) Claims 1, 2, 4, 5, and 7–16 stand rejected under 35 U.S.C. § 112(a) as failing to comply with the written description requirement. Final Act. 8–9.

(2) Claims 1, 2, 4, 5, and 7–16 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to an abstract idea. Final Act. 9–12.

(3) Claims 1, 2, 4, 5, and 7–16 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Mullin (US 2006/0078859 A1; published April 13, 2006), Oelsner (US 2005/0251685 A1; published

Nov. 10, 2005), Cannon (US 2006/0229851 A1; published Oct. 12, 2006), and Small et al. (US 2008/0010005 A1; published Jan. 10, 2008). Final Act. 12–25.

ANALYSIS

Written Description: Claims 1, 2, 4, 5, and 7–16

With respect to independent claims 1 and 11, the Examiner finds the recited limitation: “said performance comparison computer . . . programmed for *automatically* carrying out a production performance comparison” is not supported by the Specification. Final Act. 8–9 (emphasis added). According to the Examiner, the cited paragraph 10 of Appellants’ Specification only describes “automating the creation of comparison classes” and *not* “the automation of the performance comparison as claimed.” Final Act. 9.

Appellants acknowledge paragraph 10 of the Specification teaches “**new comparison classes** [that] **are created automatically by the incoming data being evaluated continuously** with regard to differences in the configuration of the machines and the scope of the print jobs.” App. Br. 9–10. However, Appellants contends (1) paragraph 12 of the Specification teaches the use of a data interface so “**that data from different machines**, even from different manufacturers, can be **compared practically with one another in the performance comparison computer**” and, as such, (2) “the [S]pecification **does disclose that performance comparison** and not just the comparison classes are in fact created automatically.” App. Br. 10.

In response, the Examiner takes the position that “automatically *creating comparison classes*” as described in paragraph 10 of Appellants’

Specification is not the same as the claimed “programmed for automatically carrying out a production performance comparison.” Ans. 4. Likewise, the exchange of performance data between different machines as described in paragraph 12 of Appellants’ Specification is not the same as the claimed “programmed for automatically carrying out a production performance comparison.” Ans. 4.

We agree with the Examiner only in part. At the outset, we note the *written description* requirement under 35 U.S.C. § 112(a) requires Appellants to “reasonably convey[] to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.” *Ariad Pharms., Inc. v. Eli Lilly and Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (citation omitted). However, “the disclosure as originally filed does not have to provide *in haec verba* support for the claimed subject matter at issue.” *Purdue Pharma L.P. v. Faulding Inc.*, 230 F.3d 1320, 1323 (Fed. Cir. 2000) (citation omitted). In some cases, “drawings alone may provide a ‘written description’ of an invention as required by § 112.” *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1565 (Fed. Cir. 1991). Regardless, the disclosure must convey with reasonable clarity to those skilled in the art that the inventor was in possession of the invention. *Id.* at 1563–1564.

In this case, we acknowledge (1) the Specification and the claims, as originally filed on May 3, 2011, are poorly worded and do not include the word “automatic” described in connection with Appellants’ claimed “performance comparison computer” 12, shown in the drawing, and (2) the term “programmed for automatically carrying out” was added to claims 1 and 11 in the Amendment filed October 2, 2015. However, a skilled artisan would understand that a computer is configured to automatically perform

programmed operations, including the disputed limitation: “*automatically* carrying out a production performance comparison” as recited in claims 1 and 11. For this reason, we do not sustain the Examiner’s § 112(a) rejection of claims 1, 2, 4, 5, and 7–16 for failure to comply with the “written description” requirement.

Section 101 Rejection of Claims 1, 2, 4, 5, and 7–16

Patent eligibility is a question of law that is reviewable *de novo*. *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012). The Supreme Court has long held that “[l]aws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014). The “abstract ideas” category embodies the longstanding rule that an idea, by itself, is not patentable. *Alice*, 134 S. Ct. at 2355 (quoting *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)).

In *Alice*, the Supreme Court reiterates an analytical two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 79 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Id.* at 2355 (citation omitted). The first step in the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts,” such as an abstract idea. *Id.* (citation omitted). If the claims are directed to eligible subject matter, the inquiry ends. *Thales Visionix Inc. v. United States*, 850 F.3d 1343, 1349 (Fed. Cir. 2017); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1339 (Fed. Cir. 2016). If the claims are directed to a patent-ineligible concept, the second step in the analysis is to

consider the elements of the claims “individually and ‘as an ordered combination’” to determine whether there are additional elements that “‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, at 2355 (citing *Mayo*, 566 U.S. at 79, 78). In other words, the second step is to “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.’” *Id.* (citing *Mayo*, 566 U.S. at 72–73).

In rejecting claims 1, 2, 4, 5, and 7–16 under 35 U.S.C. § 101, the Examiner determines these claims are directed to an abstract idea of “acquir[ing] production performance data, carrying out a comparison, calculat[ing] suggestions, provid[ing] display, send[ing] performance comparison and suggestions, and display[ing] both the comparison and suggestions” akin to those abstract ideas of organizing, storing, and transmitting information discussed in *Cyberfone*, comparing information and using rules to identify options discussed in *SmartGene*. Ans. 5–6 (citing *Cyberfone Sys., LLC v. CNN Interactive Grp., Inc.*, 558 Fed. App’x 988 (Fed. Cir. 2014); *SmartGene, Inc. v. Advanced Biological Labs., SA*, 852 F. Supp. 2d 42 (D.D.C. 2012), *aff’d* 555 F. App’x 950 (Fed. Cir. 2014)); *see also* Final Act. 9–10. The Examiner also determines these claims are directed to an abstract idea because the steps recited in these claims can be performed by a human with pen and pencil or mentally. Final Act. 10 (citing *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366 (Fed. Cir. 2011)); Ans. 7. For example, “[a] user can evaluate and compare machine performance with only pen to paper actions, interaction between humans, and/or mental calculation.” Final Act. 10.

The Examiner further determines the additional elements in the claims do not amount to significantly more than the judicial exception, because “the computers, Internet, and display” are “computer functions that are well-understood, routine, and conventional functions”. Final Act. 10–11. According to the Examiner, “[t]he claims as a whole . . . do not constitute an improvement to computing technology in any way.” Ans. 7.

Alice/Mayo—Step 1

Turning now to the first step of the *Alice* inquiry, Appellants do not dispute the Examiner’s determination that the claims are directed to an abstract idea based on *Cyberfone* and *SmartGene*. Instead, Appellants contend “many method steps” recited in claims 1 and 11 “can only be performed by a computer network” and “[t]his network alone includes a performance comparison computer and respective machine computers that can be located anywhere in the world and that are connected by Internet connection, which cannot be done on paper or in a person’s mind.” App. Br. 15–16. Appellants also argue the claims are not directed to an abstract idea under the *Enfish* analysis. App. Br. 17–18. In particular, Appellants argue, like *Enfish*’s claims directed to improvements in computer-related technology, the claims recite “automatically comparing **machine** data, in this case especially performance data, via a computer” and such “machine performance can hardly be ‘not significantly more than an abstract idea.’” App. Br. 17–18.

Appellants’ arguments are not persuasive. At the outset, we note Appellants’ reliance on *Enfish* is misplaced. In *Enfish*, the claims were directed to an improved database architecture, i.e., a self-referential table — “a specific type of data structure designed to improve the way a computer

stores and retrieves data in memory.” Such a data structure has several distinct advantages over conventional relational databases, including: (1) faster searching of data than would be possible with the conventional relational model (*see* US Patent No. 6,151,604 “*Enfish* ’604 patent,” 1:55–59, 2:66–3:6); (2) more effective storage of data other than structured text, such as storage of images and unstructured text (’604 patent, 2:16–22, 2:46–52); and (3) more flexibility in configuring the database (’604 patent, 2:27–29).

In *Enfish*, the Federal Circuit interpreted *Alice* step 1 as asking “whether the claims are directed to an improvement to computer functionality versus being directed to an abstract idea.” *Enfish*, 822 F.3d at 1335. “[T]he focus of the claims is on the specific asserted improvement in computer capabilities (i.e., the self-referential table for a computer database).” *Id.* Based on the “plain focus of the claims,” the Federal Circuit reached the conclusion that *Enfish*’s claims were directed to “a specific improvement to the way computers operate, embodied in the self-referential table,” and, as such, were more than a mere abstract idea. *Id.* Because the Federal Circuit found step 1 of the *Alice* two-step analysis was satisfied, *Alice* step 2 was not required. *Id.*

In contrast to *Enfish*, Appellants’ claims are directed to an abstract idea of “acquir[ing] production performance data, carrying out a comparison, calculat[ing] suggestions, provid[ing] display, send[ing] performance comparison and suggestions, and display[ing] both the comparison and suggestions.” These steps, as recognized by the Examiner, are akin to those abstract ideas of organizing, storing, and transmitting

information as discussed in *Cyberfone* and comparing information and using rules to identify options as discussed in *SmartGene*. Ans. 5–6.

Information as such is intangible, and data analysis and display are abstract ideas. *See, e.g., Microsoft*, 550 U.S. at 451 n.12; *Alice*, at 2355; *Parker v. Flook*, 437 U.S. 584, 589, 594–95 (1978); *Gottschalk*, 409 U.S. at 71–72. Information collection and analysis, including when limited to particular content, is within the realm of abstract ideas. *See, e.g., Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1349 (Fed. Cir. 2015); *Digitech Image Technologies, LLC v. Electronics for Imaging, Inc.*, 758 F.3d 1344, 1349–50 (Fed. Cir. 2014) (“Data in its ethereal, non-physical form is simply information that does not fall under any of the categories of eligible subject matter under section 101”).

As also correctly recognized by the Examiner (Ans. 7), collecting and making performance comparisons of machines can be performed manually using, at most, pen and paper, without the need of any computer or other machine. *See CyberSource*, 654 F.3d at 1372–73 (“[A] method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101.”); *see also In re Comiskey*, 554 F.3d 967, 979 (Fed. Cir. 2009) (“[M]ental processes—or processes of human thinking—standing alone are not patentable even if they have practical application.”); *Gottschalk*, at 67 (“Phenomena of nature . . . , *mental processes*, and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work” (emphasis added)). Additionally, mental processes remain unpatentable even when automated to reduce the burden on the user of what once could have been done with pen and paper. *CyberSource*, 654 F.3d at 1375 (“That purely mental processes can be

unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*.”).

As also correctly recognized by the Examiner, Appellants’ “claims as a whole . . . do not constitute an improvement to computing technology in any way.” Ans. 7; see *Enfish*, at 1336. Appellants’ Specification and arguments do not demonstrate the claims “improve the way a computer stores and retrieves data in memory,” as the claims in *Enfish* did via a “self-referential table for a computer database.” See *Enfish* at 1336, 1339.

In fact, none of the steps recited in Appellants’ claims 1 and 11 recite, and nowhere in Appellants’ Specification is there any description or explanation as to how the performance data comparison steps are intended to provide: (1) a “solution . . . necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks,” as explained by the Federal Circuit in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014); (2) “a specific improvement to the way computers operate,” as explained in *Enfish*, or (3) an “unconventional technological solution . . . to a technological problem” that “improve[s] the performance of the system itself,” as explained in *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1302 (Fed. Cir. 2016).

Accordingly, we agree with the Examiner that claims 1, 2, 4, 5, and 7–16 are directed to the abstract idea of “acquir[ing] production performance data, carrying out a comparison, calculat[ing] suggestions, provid[ing] display, send[ing] performance comparison and suggestions, and display[ing] both the comparison and suggestions” akin to those abstract ideas discussed in *Cyberfone* and *SmartGene*.

Alice/Mayo—Step 2

In the second step of the *Alice* inquiry, Appellants argue “claims 1 and 11 do include additional elements that amount to significantly more than the abstract idea because they show an improvement in the functioning of the computer itself.” App. Br. 14. In the Reply Brief, Appellants further argue the Supreme Court’s decision in *Alice* is not limited to “an improvement to computing technology”; but is rather inclusive of “other technology” as well, especially in context of Appellants’ printing machines. Reply Br. 3–4.

Appellants’ arguments are not persuasive. At the outset, we note that the second step of *Alice* requires 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*, at 2355 (citing *Mayo*, 566 U.S. at 72–73). According to the Federal Circuit, “the concept of inventiveness is distinct from that of novelty” and “[t]he inventiveness inquiry of § 101 should therefore not be confused with the separate novelty inquiry of § 102 or the obviousness inquiry of § 103.” *See Amdocs*, 841 F.3d at 1312. Under current Federal Circuit precedent, an “inventive concept” under *Alice* step 2 can be established by showing, for example, that the patent claims:

(1) provide a technical solution to a technical problem unique, e.g., a “solution [] necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks” (*see DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014));

(2) transform the abstract idea into “a particular, practical application of that abstract idea,” e.g., “installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user” (*see Bascom Global Internet*

Services, Inc. v. AT&T Mobility LLC, 827 F.3d 1341, 1350 (Fed. Cir. 2016)); or

(3) “entail[] an unconventional technological solution ([e.g.,] enhancing data in a distributed fashion) to a technological problem ([e.g.,] massive record flows which previously required massive databases)” and “improve the performance of the system itself” (*see Amdocs*, 841 F.3d at 1302).

In this case, however, we find no element or combination of elements recited in Appellants’ claims 1 and 11 that contains any “inventive concept” or adds anything “significantly more” to transform the abstract concept into a patent-eligible application. *Alice*, at 2357. As discussed *supra*, we are not persuaded the added computer elements such as the performance comparison computer and the production performance display computer transform the abstract idea into a patent eligible invention. As our reviewing court has observed: “[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.” *DDR Holdings*, 773 F.3d at 1256 (citing *Alice*, at 2358)).

Because Appellants’ claims 1, 2, 4, 5, and 7–16 are directed to a patent-ineligible abstract concept and do not recite something “significantly more” under the second prong of the *Alice* analysis, we sustain the Examiner’s rejection of these claims under 35 U.S.C. § 101.

35 U.S.C. § 103(a): Claims 1, 2, 4, 5, and 7–16

In support of the obviousness rejection of claims 1 and 11, the Examiner finds (1) the combination of Mullin, Oelsner, Cannon, and Small teaches all the claim limitation (Final Act. 12–16); and (2) there is sufficient articulated reasoning:

- (i) “to combine the performance comparison and recommendation of Mullin with the Internet linkage and remote computer connection for comparison of Oelsner” (Final Act. 16);
- (ii) “to combine the performance comparison and recommendation of Mullin with the operator display of performance comparison of Cannon” (Final Act. 17); and
- (iii) “to combine the performance comparison and recommendation of Mullin and the comparison operator display of Cannon with the failure recovery or productivity improvement and recommendations of Small” (Final Act. 17).

Appellants acknowledge Mullin teaches a system and method for monitoring and responding to device conditions including,

data tracking performance of particular models, as well as specific devices within a model, can be generated, and even reports comparing the performance of specific devices within a model group or comparing the down-time, number and type of errors, etc., between similar model groups (for example, comparing performance between two different brands of copy machine).

Mullin ¶ 88; App. Br. 22. However, Appellants contend Mullin’s “reports are established by a central computer, but are never sent back to machine computers or operators of the machines,” i.e.,

sending the production performance comparison data and the suggestions or offers for increasing the productivity of the production machine via the Internet link from said performance comparison computer to said production performance display computer . . . via a display of said production performance display computer at least to the operator of said one local production machine

as recited in claims 1 and 11. App. Br. 22; claim 1 (emphasis added).

Likewise, Appellants argue “Cannon does not disclose or suggest to send

back any performance comparison data to a machine computer and to inform the operator of a machine” and, as such,

a person of ordinary skill in the art starting from Mullin or Cannon does not have any motivation to look for another document that sends back performance comparison data to a local machine in order to inform the operator of the local machine. There is no need and motivation addressed in any of the references Mullin or Cannon. Therefore, appellants do not see any reason why the examiner then combines the reference of Oelsner apart from the reason to attack the present invention as obvious based upon an impermissible hindsight reconsideration.

App. Br. 22–23. According to Appellants, the noted deficiency of Mullin is not and cannot be remedied by Oelsner, Cannon, and Small and, as such, “the combination of references . . . does not result in all the claim limitations.” App. Br. 23–28 (emphasis omitted).

The Examiner does not respond to Appellants’ arguments, but instead takes the broad view that “Examiner has established a motivation statement for all reference combinations in all previous rejections.” Ans. 7

We disagree with the Examiner. Mullin does not teach or suggest the disputed limitation: “sending the production performance comparison data and the suggestions . . . via the Internet link from [1] said performance comparison computer to [2] said production performance display computer . . . via a display of said production performance display computer at least to the operator of said one local production machine” as recited in claims 1 and 11. (Bracketing and emphasis added.) Instead, the cited paragraph 88 of Mullin teaches “reports comparing the performance of specific devices within a model group or comparing the down-time, number and type of errors, etc., between similar model groups (for example, comparing

performance between two different brands of copy machine).” However, Mullin’s reports are generated at monitored device 32, shown in Figure 5, which corresponds to Appellants’ claimed “production machines” and *not* Appellants’ claimed “performance comparison computer.”

Moreover, we note that an invention “composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007). Instead, a determination of unpatentability on a ground of obviousness must include “‘articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.’” *Id.* (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). The obviousness evaluation “should be made explicit,” and it “can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *Id.*

In this case, we are not persuaded that the Examiner has presented a sufficient rationale to combine the teachings of these references. In particular, we find the Examiner’s articulated reasoning—namely, to “allow[] for flexibility and speed to improve the overall efficiency of the analysis” (Ans. 7)—is conclusory. *See In re Nuvasive, Inc.*, 842 F.3d 1376, 1383 (Fed. Cir. 2016) (noting that “‘conclusory statements’ alone are insufficient and, instead, the finding must be supported by a ‘reasoned explanation’”) (quoting *In re Sang Su Lee*, 277 F.3d 1338, 1342, 1345 (Fed. Cir. 2002)); *see also ActiveVideo Networks, Inc., v. Verizon Communications, Inc.*, 694 F.3d 1312, 1328 (Fed. Cir. 2012) (noting that “[The] testimony is generic and bears no relation to any specific

combination of prior art elements”). Such a conclusory statement is insufficient to establish persuasively that a person of ordinary skill in the art would have recognized some deficiency in Mullin or had some other reason to look to Oelsner, Cannon, and Small and combine their teachings with those of Mullin.

Thus, for the reasons set forth above, we do not sustain the Examiner’s 103(a) rejection of independent claims 1 and 11 and claims 2, 4, 5, 7–10, and 12–17 dependent therefrom.

DECISION

As such, we affirm the Examiner’s final rejection of claims 1, 2, 4, 5, and 7–16 under 35 U.S.C. § 101. However, we reverse the Examiner’s final rejections of (1) claims 1, 2, 4, 5, and 7–16 under 35 U.S.C. § 112(a), and (2) claims 1, 2, 4, 5, and 7–16 under 35 U.S.C. § 103(a).

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, we affirm the Examiner’s decision rejecting claims 1, 2, 4, 5, and 7–16. *See* 37 C.F.R. § 41.50(a)(1).

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

AFFIRMED