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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JORDAN RITTER and ALEXANDER EDELSTEIN

Appeal 2017-008403
Application 13/239,223
Technology Center 3600

Before JOSEPH L. DIXON, JOHN A. JEFFERY, and JENNIFER L. McKEOWN, *Administrative Patent Judges*.

JEFFERY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants[1] appeal under 35 U.S.C. § 134(a) from the Examiner's decision to reject claims 1, 3–10, 12, 17–19, 24, 26–32, 34–37, and 39–51. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

Appellants' invention evaluates work of an unsupervised worker with a reputation system that uses answer data received from other unsupervised workers that reflects on work quality. The work product is accepted or

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[1] Appellants identify the real party in interest as CrowdSource Solutions, Inc. App. Br. 2.

rejected based on whether the received answers are correct. *See generally* Abstract; Spec. ¶¶ 35–37. Claim 1 is illustrative:

> 1. A reputation system to evaluate work product, comprising:
>
> a communication interface coupled to receive answer data associated with a given work product from a plurality of unsupervised workers over a network via a computerized worker platform, wherein the answer data comprises:
>
> a first review task answer associated with a first unsupervised worker representing a judgment by the first unsupervised worker that reflects on the quality of the work product generated by an originating unsupervised worker, wherein the work product is provided by a client device of the originating unsupervised worker; and
>
> a second review task answer associated with a second unsupervised worker representing a judgment by the second unsupervised worker that reflects on the quality of the work product generated by the originating unsupervised worker, wherein the first review task answer, the second review task answer, and the work product are received via the computerized worker platform; and a processor configured to:
>
> determine, based at least in part on the answer data and a respective reputation data of the first unsupervised worker and the second unsupervised worker, whether the first review task answer, the second review task answer, or both, is correct, wherein the first review task answer is weighted to reflect the reputation data of the first unsupervised worker and the second review task answer is weighted to reflect the reputation data of the second unsupervised worker, wherein reputation data comprises a reputation score of an unsupervised worker, wherein determining whether the first review task answer, the second review task answer, or both, is correct includes imposing on the first and second review task answers a structure to relate the review task answers to each other and comparing the related review task answers, wherein the structure includes a mapping that allows relatively closely related answers to be processed in a way that is different from unrelated answers; and accept or reject the work product generated by the originating unsupervised worker based on the determination of whether the first review task answer, the second review task answer, or both, is correct.

THE REJECTIONS

The Examiner rejected claims 1, 3–10, 12, 17–19, 24, 26–32, 34–37, and 39–51 under 35 U.S.C. § 101 as directed to ineligible subject matter. Ans. 2–5.[2]

The Examiner rejected claims 1, 3–10, 12, 17–19, 24, 26–32, 34–37, and 39–51 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Ans. 6–9.

The Examiner rejected claims 1, 3–10, 12, 17–19, 24, 26–32, 34–37, and 39–51 under 35 U.S.C. § 112, second paragraph as indefinite. Ans. 9–11.

THE INELIGIBILITY REJECTION

The Examiner finds that claimed invention is directed to an abstract idea, namely by determining which reviewer of multiple reviewers likely provides the most trustworthy evaluation of a work product,[3] which is said to be similar to concepts involving, among other things, (1) an idea of itself; (2) comparing new and stored information and using rules to identify

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[2] Throughout this opinion, we refer to (1) the Appeal Brief filed January 16, 2017 ("App. Br."); (2) the Examiner's Answer mailed March 13, 2017 ("Ans."); and (3) the Reply Brief filed May 12, 2017 ("Reply Br.").

[3] Although the Examiner's rejection merely italicizes the claim language in connection with the identified abstract idea, the Examiner's Answer nonetheless further generalizes the claimed invention as directed to determining which reviewer of multiple reviewers likely provides the most trustworthy evaluation of a work product. *Compare* Ans. 2–3 *with* Ans. 15 (summarizing the "main focus" of the invention). Accordingly, we presume that this latter characterization corresponds to the identified abstract idea.

options; (3) organizing human activity; and (4) mathematical relationships/formulas. Ans. 2–4, 11–16. According to the Examiner, the claimed elements do not add significantly more to the abstract idea to render the claimed invention patent-eligible because, among other things, the recited elements do not improve a specific technology or the computer itself, but rather recite generic computer components whose functions merely implement the abstract idea on a computer. *See* Ans. 4–5, 17–20.

Appellants argue that the claimed invention is not directed to an abstract idea because, among other things, the claims are not fundamental economic practices, methods of organizing human activity, ideas themselves, or mathematical relationships/formulas. App. Br. 11–21; Reply Br. 2–9. According to Appellants, the claimed invention is not only distinguishable from the various decisions cited by the Examiner, but is also analogous to the claims at issue in *DDR Holdings, LLC v. Hotels.Com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014) and *McRO, Inc. v. Bandai Namco Games America, Inc.*, 837 F.3d 1299 (Fed. Cir. 2016). App. Br. 11–21; Reply Br. 2–9.

Appellants add that even if the claimed invention was directed to an abstract idea, the claimed limitations recite significantly more than the alleged abstract idea. App. Br. 21–25; Reply Br. 9–11. According to Appellants, the claimed invention not only improves online crowdsourcing, but is also analogous to the claims at issue in *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016). App. Br. 21–25; Reply Br. 9–11.

ISSUE

Has the Examiner erred in rejecting claim 1 by concluding that it is directed to ineligible subject matter under § 101? This issue turns on whether the claimed invention is directed to a patent-ineligible abstract idea and, if so, whether the claim's elements—considered individually and as an ordered combination—transform the nature of the claim into a patent-eligible application of that abstract idea.

ANALYSIS

Claims 1, 3–10, 12, 17–19, 24, 26–32, 34–37, 39–41, 43–51

To determine whether claims are patent eligible under § 101, we apply the Supreme Court's two-step test articulated in *Alice Corp. Proprietary Ltd. v. CLS Bank International*, 134 S. Ct. 2347 (2014). First, we determine whether the claims are directed to a patent-ineligible concept: laws of nature, natural phenomena, and abstract ideas. *Id.* at 2354–55. If so, we then proceed to the second step and examine the claim's elements—both individually and as an ordered combination—to determine whether the claim contains an "inventive concept" sufficient to transform the claimed abstract idea into a patent-eligible application. *Id.* at 2357.

Alice Step One

Applying *Alice* step one, we agree with the Examiner that the claimed invention is directed to an abstract idea, namely evaluating a work product based on the relative trustworthiness and correctness of multiple reviewers' quality judgments. Claim 1 recites, in pertinent part, a reputation system to evaluate work product comprising a communication interface coupled to

receive "answer data" comprising first and second review task answers associated with first and second unsupervised workers, respectively, where each review task answer represents the associated worker's judgment on the quality of the work product generated by an originating unsupervised worker. The claim further recites a processor configured to determine whether the first and/or second review task answers are correct based at least partly on (1) the answer data, and (2) the first and second unsupervised workers' "reputation data" comprising a score, where the reputation data is weighted for each worker. The recited task answer correctness determination also (1) imposes a structure on the review task answers to relate them to each other, and (2) compares related answers, where the structure's mapping allows relatively closely related answers to be processed differently from unrelated answers. Lastly, claim 1 recites that the processor can accept or reject the work product based on the task answer correctness determination.

The Specification explains that reputation data comprises a single, composite score that reflects the worker's current reputation and reputation history, such that the score reflects how the worker's reputation changed over time. Spec. ¶ 33. In some embodiments, the reputation score is based on (1) other workers' judgments, and/or (2) whether other workers agreed or disagreed with the worker's judgment or decision. *Id.* Therefore, the reputation score reflects the collective judgment of others over time regarding the quality of the worker's work. *Id.* The reputation score can also reflect other factors, such as how long the worker has been in the worker pool, and various other demographic, psychographic, and other data associated with the worker. Spec. ¶ 34.

In essence, the claimed invention evaluates a work product based on the relative trustworthiness and correctness of multiple reviewers' quality judgments. This evaluation, although based on analyzing received data, effectively makes a decision on the merits of a worker's work product based on peer review and, in doing so, assesses the individual peers' feedback for relative reliability and correctness. This process is akin to a supervisor asking a subordinate's co-workers about their opinions on the quality of the subordinate's work product, and then assessing the relative merits of each peer's responses given each peer's professional reputation and the similarity of that peer's response to other responses. Given this fundamental performance appraisal based on peer review—a fundamental business practice—we agree with the Examiner that the claimed invention is directed to an abstract idea despite Appellants' arguments to the contrary (App. Br. 12–21; Reply Br. 2–9).

As such, we see no error in the Examiner's finding that accepting or rejecting a work product based on the recited correctness determination at least fundamentally (1) collects and compares information, and (2) uses rules to identify options. *See* Ans. 11–14.

It is well settled that collecting information is within the realm of abstract ideas—even when the information is limited to particular content. *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). It is also well settled that analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, are essentially mental processes within the abstract idea category. *Id.* at 1354. And merely presenting the results of abstract processes of collecting and analyzing information, without more (such as identifying a particular tool for

presentation), is abstract as an ancillary part of such collection and analysis. *Id.* Similar to the claims at issue in *Electric Power*, the claimed invention here gathers, manipulates, analyzes, and presents information of a specified content, but does not use any particular inventive technology for performing those functions.

Appellant's reliance on *McRO* (App. Br. 20–21; Reply Br. 8–9) is unavailing. There, the claimed process used a combined order of specific rules that rendered information in a specific format that was applied to create a sequence of synchronized, animated characters. *McRO*, 837 F.3d at 1315. Notably, the recited process *automatically animated characters* using particular information and techniques—an improvement over manual three-dimensional animation techniques that was not directed to an abstract idea. *Id.* at 1316.

But unlike *McRO* that improved how the physical display operated to produce better quality images, the claimed invention here merely uses generic computing components to evaluates a work product based on the relative trustworthiness and correctness of multiple reviewers' quality judgments —a generic computer implementation that is not only directed to fundamental data analysis functions, but also does not improve a display mechanism as was the case in *McRO*. Although the claimed invention requires computer components, it is the incorporation of those components—not a claimed rule—that purportedly improves the existing process. *Cf. FairWarning IP, LLC v. Iatric Systems, Inc.*, 839 F.3d 1089, 1095 (Fed. Cir. 2016). In short, the claimed invention does not focus on an improvement in computers as tools, but rather certain independently abstract ideas that use computers as tools. *See Elec. Power*, 830 F.3d at 1354.

Appellants' reliance on *DDR* (App. Br. 18–20; Reply Br. 18–20) is likewise unavailing. There, instead of a computer network operating in its normal, expected manner by sending a website visitor to a third-party website apparently connected with a clicked advertisement, the claimed invention in *DDR* generated and directed the visitor to a hybrid page that presented (1) product information from the third party, and (2) visual "look and feel" elements from the host website. *DDR*, 773 F.3d at 1258–59. Given this particular Internet-based solution, the court held that the claimed invention did not merely use the Internet to perform a business practice known from the pre-Internet world, but rather was necessarily rooted in computer technology to overcome a problem specifically arising in computer networks. *Id.* at 1257.

That is not the case here. As noted previously, Appellants' claimed invention, in essence, evaluates a work product based on the relative trustworthiness and correctness of multiple reviewers' quality judgments. Despite Appellants' arguments to the contrary (App. Br. 18–20; Reply Br. 18–20), the claimed invention here is not necessarily rooted in computer technology in the sense contemplated by *DDR* where the claimed invention solved a challenge particular to the Internet. Although the Appellants' invention uses a computer to receive and process data, it does not solve a challenge particular to the computer or the network used to receive that data.

That the recited determination imposes a structure on the review task answers to relate them to each other does not change our conclusion despite Appellants' arguments to the contrary. *See* App. Br. 18–20. Although claim 1 specifies that this structure includes a mapping that *allows* relatively closely related answers to be processed differently from unrelated answers,

the claim does not specify *how* this desired result is achieved with this mapping—a mapping that could otherwise be performed entirely mentally or with pen and paper by, for example, merely segregating related and unrelated answers in different groups.

We reach this conclusion despite the Specification's paragraph 36 describing various non-limiting examples of mapping, including (1) a "bias map" where the answer space is a range of subjective evaluations, such as "awful," "bad," "okay," "good," etc.; (2) a "letter map" with independent letter-based answer choices; and (3) a "binary" map (zero or one, correct or wrong, etc.). In paragraph 36, the Specification also describes an example in connection with the "bias map" where closely-related answers can be combined into a single value such that they are processed differently than other unrelated answers.

Although this description informs our understanding of the mapping recited in claim 1, it is not so limited. And while a processor performs the mapping in claim 1, we still see no reason why this process could not be otherwise performed entirely mentally or with pen and paper even if the particular exemplary mapping techniques described in paragraph 36 of the Specification were recited in claim 1—which they are not. To the extent that Appellants contend otherwise, there is no persuasive evidence on this record to substantiate such a contention.

Lastly, to the extent that Appellants contend that the claims are not directed to an abstract idea because they involve online "crowdsourcing" using the Internet (*see* App. Br. 18–19), we disagree, for such "crowdsourcing" activities merely organize human activities via the Internet. *Accord* Ans. 15 (finding that the main focus of the invention includes

organizing human activity); Ans. 17 (finding that paragraph 2 of Appellants' Specification describes online "crowdsourcing" as an approach to access and manage human workers). *Cf. Gust, Inc. v. Alphacap Ventures, LLC*, 905 F.3d 1321, 1325 (Fed. Cir. 2018) (discussing *Kickstarter, Inc. v. Fan Funded, LLC*, No. 11-cv-6909, 2015 WL 3947178 (S.D.N.Y. 2015), *aff'd* 654 F. App'x 481 (Fed. Cir. 2016), where the Federal Circuit affirmed a district court's applying *Alice* to find claims directed to "crowdfunding" invalid under § 101); *see also Gust*, 905 F.3d at 1326 (noting the district court's finding that "crowdfunding" is a fundamental economic concept and a way of organizing human activity).

Although the recited functions may be beneficial by evaluating a work product based on the relative trustworthiness and correctness of multiple reviewers' quality judgments, a claim for a useful or beneficial abstract idea is still an abstract idea. *See Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379–80 (Fed. Cir. 2015).

We, therefore, agree with the Examiner that claim 1 is directed to an abstract idea.

Alice Step Two

Turning to *Alice* step two, the recited elements—considered individually and as an ordered combination—do not transform the nature of claim 1 into a patent-eligible application of the abstract idea to ensure that the claim amounts to significantly more than that idea. *See Alice*, 134 S. Ct. at 2357.

That the recited method is implemented by a computer and involves exchanging data between computing systems does not change our

conclusion. As the Examiner explains, the claimed invention merely uses generic computing components to perform the recited abstract idea, namely evaluating a work product based on the relative trustworthiness and correctness of multiple reviewers' quality judgments. *See* Ans. 4–5; 17–20.

Merely reciting these generic computing components cannot transform a patent-ineligible abstract idea into a patent-eligible invention. *See Alice* 134 S. Ct. at 2358–59; *see also Mortgage Grader Inc. v. First Choice Loan Services, Inc.*, 811 F.3d 1314, 1324–25 (Fed. Cir. 2016) (noting that components such an "interface," "network," and "database" are generic computer components that do not satisfy the inventive concept requirement); *buySAFE v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) ("That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive.").

In other words, merely reciting an abstract idea while adding the words "apply it with a computer" does not render an abstract idea non-abstract: there must be more. *See Alice*, 134 S. Ct. at 2358–59. But this requirement is not satisfied here, nor does the claimed invention improve the computer processor device's functionality or efficiency, or otherwise change the way that device functions. *Cf. Enfish LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016). That Appellants acknowledge that the recited limitations may be separately known and conventional (Reply Br. 10) only further bolsters the Examiner's findings and conclusions in this regard.

We also find unavailing Appellants' contention that the recited elements add significantly more to the recited abstract idea because the claimed invention improves another technology or technical field, namely online crowdsourcing. App. Br. 21–23; Reply Br. 9–10. Not only do

"crowdsourcing" activities merely organize human activities via the Internet as noted previously, but the components used to achieve that end are merely generic computer components as the Examiner indicates. Ans. 17–19.

Appellants' reliance on *BASCOM* (App. Br. 23–25; Reply Br. 10–11) is unavailing. There, the court held eligible claims directed to a technology-based solution to filter Internet content that overcame existing problems with other Internet filtering systems by making a known filtering solution—namely a "one-size-fits-all" filter at an Internet Service Provider (ISP)—more dynamic and efficient via individualized filtering at the ISP. *BASCOM*, 827 F.3d at 1351. This customizable filtering solution improved the computer system's performance and, therefore, was patent-eligible. *See id.*

But unlike the filtering system improvements in *BASCOM* that added significantly more to the abstract idea in that case, the claimed invention here uses generic computing components to implement an abstract idea, namely evaluating a work product based on the relative trustworthiness and correctness of multiple reviewers' quality judgments.

Lastly, we find unavailing Appellants' contention that the claimed invention does not preempt other reputation systems for evaluating work using different answer correctness determinations. App. Br. 20–21. Where, as here, the claims cover a patent-ineligible concept, preemption concerns "are fully addressed and made moot" by an analysis under the *Alice* framework. *See Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015).

Therefore, we are not persuaded that the Examiner erred in rejecting claim 1, and claims 3–10, 12, 17–19, 24, 26–32, 34–37, 39–41, and 43–51 not argued separately with particularity.

Claim 42

We also sustain the Examiner's ineligibility rejection of dependent claim 42 reciting that a review task answer comprises answers in one or more key-value pairs, and imposing the structure on the review task answers[4] comprises applying a mapping of a review task answer to an answer format.

First, Appellants do not provide the requisite subheading to clearly and unambiguously identify that claim 42 is argued separately (*see* App. Br. 19–20, 23)—a regulatory requirement. *See* 37 C.F.R. § 41.37(c)(1)(iv) ("Under each heading identifying the ground of rejection being contested, any claim(s) argued separately or as a subgroup *shall* be argued under a separate subheading that identifies the claim(s) by number.") (emphasis added); *see also* MANUAL OF PATENT EXAMINING PROCEDURE (MPEP) § 1205.02 (9th ed. Rev. 08.2017, Jan. 2018) (explaining this rule).

But even if such arguments were properly presented (which they were not), we still find them unpersuasive. Despite Appellants' arguments to the contrary (App. Br. 19–20, 23), we do not find this additional limitation is necessarily rooted in computer technology, nor does it improve another

[4] Although claim 42 omits the second review task answer by reciting "the first and review [sic] task answers" in line 3, we nonetheless presume that this phrase is intended to include the second review task answer.

technology or field or add significantly more to the abstract idea for the reasons previously discussed.

As noted previously, claim 1 (from which claim 42 depends) specifies that the imposed structure includes a mapping that *allows* relatively closely related answers to be processed differently from unrelated answers. Yet the claim does not specify *how* this desired result is achieved with this mapping—a mapping that could otherwise be performed entirely mentally or with pen and paper by, for example, merely segregating related and unrelated answers in different groups.

We reach a similar conclusion regarding claim 42 despite the claim adding that answers are in key-value pairs, and that mapping is applied to an answer format. According to paragraph 36 of Appellants' Specification, respective reviewers' answer sets are compared to determine which answers are related, e.g., which have the same key. Although this exemplary description informs our understanding of the recited mapping application, it is not so limited.

And while a processor presumably applies the mapping of claim 42, we still see no reason why this process could not be otherwise performed entirely mentally or with pen and paper even if the particular exemplary mapping techniques described in paragraph 36 of the Specification were recited in claim 42—which they are not. To the extent that Appellants contend otherwise, there is no persuasive evidence on this record to substantiate such a contention.

Nor do we find that the limitations of claim 42 considered individually and as an ordered combination add significantly more to the abstract idea. As noted previously, the claimed invention merely uses

generic computing components to perform the recited abstract idea, namely evaluating a work product based on the relative trustworthiness and correctness of multiple reviewers' quality judgments. *See* Ans. 4–5; 17–20. That Appellants acknowledge that the recited limitations may be separately known and conventional (Reply Br. 10) only further bolsters the Examiner's findings and conclusions in this regard.

Therefore, we are not persuaded that the Examiner erred in rejecting claim 42.

THE WRITTEN DESCRIPTION REJECTION

The Examiner finds that the recited (1) correctness determination, and (2) accepting or rejecting a work product based on that determination is not described adequately in the Specification to show possession of those features when the application was filed. Ans. 6–9, 20–22. According to the Examiner, the claim implies that the first and second review task answers conflict with each other, and that this conflict is settled by establishing that one such answer is correct and the other incorrect. Ans. 7. The Examiner adds that the Specification is not only vague regarding the meaning of one reviewer's review "trumping" those of other reviewers, it does not explain when and how this "trumping" process occurs. Ans. 8. Rather, the Specification is said to foster more of a "consensus rating" among three or more reviewers as opposed to determining which of two reviewers with opposing views is correct. Ans. 8–9.

Appellants argue that the Specification sufficiently describes the recited correctness determination, and that ordinarily skilled artisans would understand the meaning of one reviewer's review "trumping" those of other

reviewers. App. Br. 25–28; Reply Br. 11–15. According to Appellants, the term "trumping" as used in the Specification refers to one person beating/defeating another person, so that in the context of the claim, the first review task answer can be determined to be correct and "trump" the second review task answer or vice-versa,[5] or both answers can be determined to be correct. Reply Br. 12–13. Appellants add that the Specification also supports instances where one reviewer's review with higher scores does not trump reviews of two other reviewers with lower scores. Reply Br. 14–15.

ISSUE

Has the Examiner erred in rejecting claim 1 by finding that recited (1) correctness determination, and (2) accepting or rejecting a work product based on that determination are unsupported in the Specification? This issue turns on whether Appellants' original disclosure reasonably conveys to ordinarily skilled artisans that Appellants possessed these limitations when the application was filed.

ANALYSIS

To satisfy the written description requirement, the disclosure must reasonably convey to skilled artisans that Appellants possessed the claimed

[5] Notably, Appellants indicate that, in one alternative, the *second* review task answer can be determined to be correct and "trump" the *second* review task answer—a puzzling scenario where the second review task answer *trumps itself*. Nevertheless, we presume that this is a typographical error, and that the second review task answer is intended to trump the *first* review task answer in this scenario.

invention as of the filing date. *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc).

That is the case here despite the Examiner's findings to the contrary. Paragraph 35 of the Specification describes a work evaluation process in Figure 6 where received data is used by a reputation system to determine which answers are correct—answers that not only pertain to the originating worker's work product itself, but also reviewers' answers to certain task questions. In some embodiments, the reviewer's respective judgments regarding the accuracy of the originating worker's work may be weighted to reflect the reviewer's respective reputations, and the weighted judgments compared to determine which reviewer answers are correct. Spec. ¶ 35. Therefore, a favorable review from a reviewer with a strong reputation may "trump" less favorable reviews by two other reviewers with lower reputation scores. *Id.* Conversely, a negative review from a reviewer with a high reputation score may "trump" more favorable reviews from other reviewers with lower scores. *Id.*

This disclosure reasonably supports determining whether the first and/or second review task answers are correct based at least partly on (1) answer data, and (2) the associated workers' reputation data, where the review task answers are weighted to reflect the associated workers' reputation data, as claimed. Although the examples involving "trumping" in paragraph 35 involve three or more reviewers where one review "trumps" those of other reviewers, ordinarily skilled artisans would nevertheless understand that this functionality could also apply in a two-reviewer scenario, where the higher reputation reviewer's review "trumps" that of the other reviewer. *See* Spec. ¶ 35. That paragraph 19 states that a review task

is to be performed by *one or more* reviewing workers as Appellants indicate (Reply Br. 13) only bolsters the notion that Appellants' original disclosure reasonably supports a two-reviewer scenario as claimed.

We reach this conclusion even assuming, without deciding, that both reviewers' answers are the same. Despite a potentially higher degree of confidence resulting from unanimous reviews in this scenario, there may nevertheless be valid reasons why the lower-reputation reviewer's review is "trumped" apart from the content of the answer itself, including other negative factors that resulted in that reviewer's lower reputation score that weigh against the review's reliability and trustworthiness. *See* Spec. ¶¶ 35–36.

We also find that the Specification reasonably supports (1) imposing a structure to relate review task answers to each other, and (2) comparing the related review task answers, where the structure includes a mapping that allows relatively closely related answers to be processed differently from unrelated answers, as claimed.

Paragraph 36 of the Specification describes various non-limiting examples of mapping, including (1) a "bias map" where the answer space is a range of subjective evaluations, such as "awful," "bad," "okay," "good," etc.; (2) a "letter map" with independent letter-based answer choices; and (3) a "binary" map (zero or one, correct or wrong, etc.). The Specification also describes an example in connection with the "bias map" where closely-related answers can be combined into a single value such that they are processed differently than other unrelated answers. Spec. ¶ 36.

Although the Specification's paragraph 36 notes an example where originating work judged as accurate by *every* reviewer may have a higher

confidence than if *one* reviewer reached a different conclusion, that does not mean that the disclosed reputation system must *always* be based on a consensus, or that it is unnecessary to consider reviewers with less desirable reputations as the Examiner seems to suggest. *See* Ans. 22. Rather, the Specification is clear that determining whether the first and/or second review task answers are correct is based at least partly on (1) answer data, and (2) the associated workers' reputation data, where the review task answers are weighted to reflect the associated workers' reputation data. The Specification not only also describes the recited structure imposition involving mapping in paragraph 36 as noted above, but also describes accepting or rejecting the originating worker's work product based on the correctness determination in paragraph 37 and Figure 8.

On this record, then, we find that Appellants' original disclosure reasonably conveys to ordinarily skilled artisans that Appellants possessed, when the application was filed, the recited (1) correctness determination, and (2) accepting or rejecting a work product based on that determination. Therefore, we are persuaded that the Examiner's written description rejection of claims 1, 3–10, 12, 17–19, 24, 26–32, 34–37, and 39–51 is erroneous.

THE INDEFINITENESS REJECTION

The Examiner finds that because it is unnecessary for the claimed invention to consider a review from a reviewer with a less desirable reputation, there is confusion whether (1) only two reviewers are involved, where the answer of the reviewer with the more favorable reputation is always deemed correct regardless of the other reviewer's answer, or (2)

determining a correct answer is based on a consensus with weights for different reviewers and, if so, how the correct answer is determined using answer and reputation data. Ans. 9–11. The Examiner also questions how each reviewer's reputation data is used when the first and second review task answers are the same. Ans. 11.

Appellants argue that when read in light of the Specification, there is no confusion in the claims whether the answer with the favorable reputation is always deemed to be correct. App. Br. 28–32; Reply Br. 15–18. According to Appellants, not only is claim 1 not limited to two reviewers in light of the "comprising" language in the preamble, ordinarily skilled artisans would understand that an originating work judged as accurate by one reviewer and inaccurate by another reviewer will have a lower confidence score than if both reviewers judged the work as accurate. *Id.* Appellants add that the claim is clear regarding the recited review task answer weighting, as well as accepting or rejecting the work product based on the correctness determination, particularly given the associated confidence determinations. App. Br. 32–33; Reply Br. 18–19.

ISSUE

Has the Examiner erred in rejecting claim 1 under § 112, second paragraph by finding that the recited (1) correctness determination, and (2) accepting or rejecting a work product based on that determination renders the claim indefinite?

ANALYSIS

On this record, we find the Examiner's indefiniteness rejection of claim 1 problematic on this record. First, despite the Examiner's apparent confusion regarding whether only two reviewers are involved in the claimed invention (Ans. 11), the claim is clear that there are two unsupervised workers with associated review task answers that each reflect on the quality of originating worker's work product. We reach this conclusion despite the preambular term "comprising" not excluding additional unrecited reviewers as Appellants indicate (App. Br. 29), for such inclusion does not render the claim indefinite: it merely does not limit the claim to two reviewers. *See Genentech, Inc. v. Chiron Corp.*, 112 F.3d 495, 501 (Fed. Cir. 1997) (noting that the term "comprising" in claim language means that the named elements are essential, but other elements may be added and still form a construct within the scope of the claim).

Nor do we find any confusion in the claimed invention when the higher-reputation reviewer's answer is deemed correct, even if the claim was limited to two reviewers—which it is not. As noted previously, in some embodiments, the reviewer's respective judgments regarding the accuracy of the originating worker's work may be weighted to reflect the reviewer's respective reputations, and the weighted judgments compared to determine which reviewer answers are correct. Spec. ¶ 35. Therefore, a favorable review from a reviewer with a strong reputation may "trump" less favorable reviews by two other reviewers with lower reputation scores. *Id.* Conversely, a negative review from a reviewer with a high reputation score may "trump" more favorable reviews from other reviewers with lower scores. *Id.*

Although the higher-reputation reviewer's review "trumps" *multiple* reviews in these examples, ordinarily skilled artisans would nevertheless understand that this functionality could also apply in a two-reviewer scenario, where the higher reputation reviewer's review "trumps" that of the other reviewer—even if their answers are the same. *See* Spec. ¶ 35. Despite a potentially higher degree of confidence resulting from unanimous reviews in this scenario, there may nevertheless be valid reasons why the lower-reputation reviewer's review is "trumped" apart from the content of the answer itself, including other negative factors that resulted in that reviewer's lower reputation score that weigh against the review's reliability and trustworthiness. *See* Spec. ¶¶ 35–36.

On this record, then, we find the recited (1) correctness determination, and (2) accepting or rejecting a work product based on that determination are clear when read in light of the Specification. Therefore, we are persuaded that the Examiner's indefiniteness rejection of claims 1, 3–10, 12, 17–19, 24, 26–32, 34–37, and 39–51 is erroneous.

CONCLUSION

The Examiner did not err in rejecting claims 1, 3–10, 12, 17–19, 24, 26–32, 34–37, and 39–51 under § 101, but erred in rejecting those claims under the first and second paragraphs of § 112.

DECISION

We affirm the Examiner's decision to reject claims 1, 3–10, 12, 17–19, 24, 26–32, 34–37, and 39–51. Because the rejection of each appealed claim is affirmed on at least one of the grounds specified in the Office

Action from which the appeal was taken, the Examiner's decision to reject the claims is affirmed. *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).

AFFIRMED