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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ROOS GOLL and TEUN VAN DEN HEUVEL

Appeal 2017-010055¹
Application 14/223,037
Technology Center 3600

Before ADAM J. PYONIN, JOSEPH P. LENTIVECH, and
SHARON FENICK, *Administrative Patent Judges*.

PYONIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ “The real party in interest for this appeal and the present application is KONINKLIJKE PHILIPS ELECTRONICS N.V.” App. Br. 1.

STATEMENT OF THE CASE

Introduction

The Application is directed to “offering a system that assists a user in finding an optimal balance between safety and productivity when creating a safety checklist that reduces error by omission.” Spec. 4. Claims 1–22 are pending; of these, claims 1 and 10 are independent. App. Br. 25–29. Claim 1 is reproduced below for reference (with added emphasis and bracketed lettering):

1. A system that facilitates generating checklists for medical workflows, including:

[a] a computer-readable medium that stores [b] a plurality of medical workflows and adherent tasks, and one or more workflow checklist templates;

[c] a user interface; and

[d] a processor configured to:

[e] receive input related to a selected medical workflow;

[f] receive occurrence rating input related to a likelihood of an occurrence of user omission of each task in the workflow;

[g] receive severity rating input related to a severity of potential harm to a patient due to omission of each task from the workflow;

[h] *populate a workflow checklist template with tasks adherent to the selected medical workflow as a function of the occurrence rating and the severity rating for each task;*

[i] insert at least one pause point into the checklist, wherein the user is prompted to interface with the checklist during execution of the workflow at the at least one inserted pause point; and

[j] output via the user interface a populated checklist with the at least one inserted pause point.

References and Rejections

The Examiner relies on the following prior art relied in rejecting the claims on appeal:

Luhr	US 2006/0026009 A1	Feb. 2, 2006
MacLeod	US 2008/0077444 A1	Mar. 27, 2008
Moore	US 7,693,727 B2	Apr. 6, 2010
Shneorson et al. ("Shneorson")	US 2010/0332889 A1	Dec. 30, 2010
Chandler et al. ("Chandler")	US 7,904,407 B2	Mar. 8, 2011
McCagg et al. (McCagg")	US 2012/0030126 A1	Feb. 2, 2012

Sivers, "The Checklist Manifesto – by Atul Gawande,"
<https://sivers.org/book/ChecklistManifesto> (last accessed May 3, 2019).

Claim 19 stands rejected under 35 U.S.C. § 112(d) as being of improper dependent form. Final Act. 2.

Claims 1–20 stand rejected under 35 U.S.C. § 101 as being patent ineligible. Final Act. 3–5.²

² The Examiner has not included claims 21 and 22 in the patent eligibility rejection. *See* Final Act. 3. In the event of further prosecution, the Examiner may wish to consider whether claims 21 and 22 are patent ineligible for similar reasons to those provided for claims 1–20. *See* USPTO's 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) ("Memorandum"); *see also* *Trading Techs. Int'l, Inc. v. IBG LLC*, No. 2017-2257, 2019 WL 1716242, at *6 (Fed. Cir. Apr. 18, 2019) ("Claim 1 also recites sending an order by 'selecting' and 'moving' an order icon to a location along the price axis. This does not change our determination that the claims are directed to an abstract idea.").

Claims 1, 5, 10, 14, 19, and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Moore, Chandler, and Sivers. Final Act. 5–10.

Claims 2 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Moore, Chandler, Sivers, and Luhr. Final Act. 10–12.

Claims 3, 4, 12, and 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over Moore, Chandler, Sivers, and MacLeod. Final Act. 12–17.

Claims 8 and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Moore, Chandler, Sivers, and Grundy. Final Act. 17–18.

Claims 6, 7, 15, and 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Moore, Chandler, Sivers, and Shneorson. Final Act. 18–22.

Claims 21 and 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Moore, Chandler, Sivers, and McCagg. Final Act. 22–26.

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments. Arguments Appellants could have made but chose not to make are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). Appellants do not persuade us the Examiner’s rejections are in error; we adopt the Examiner’s findings and conclusions as our own, to the extent consistent with our analysis herein.

A. 35 U.S.C. § 112

Claim 19 recites “[a] processor configured to execute computer-executable instructions for performing the method according to claim 10.”

The Examiner rejects dependent claim 19 as being of improper dependent form. Final Act. 2. The Examiner further explains as follows:

Claim 19 only infringes upon claim 10 when claim 19 is performing the method steps of claim 10. If there is a processor that is infringing on claim 19 by being configured to perform the steps of the method of claim 10, any time that the processor is not performing the function of claim 10, the processor would be infringing upon claim 19 and not claim 10.

Advisory Act. 2; *see also* Ans. 8–9.

Appellants argue the Examiner’s rejection is in error, because “dependent claim 19 further limits claim 10” by “recit[ing] ‘[a] processor configured to execute computer-executable instructions.’” App. Br. 23.

Appellants argue that claim 19 recites additional limitations with respect to parent claim 10, but do not address the Examiner’s point that claim 19 could be infringed without infringing claim 10. *See id.*; *see also* Final Act. 28 (“[I]t must be it must be determined whether something that infringes the dependent claim must infringe upon the independent claim.”). Therefore, we are not persuaded the Examiner errs in finding that, although claim 19 requires capability to perform the steps in claim 10, it does not require actual performance of the method. Such claim improperly depends from the subject matter for parent claim 10, as required for dependent claims under § 112(d). *See* MPEP §§ 608.01(n)(II) and (III).

B. 35 U.S.C. § 101

The Examiner determines the claims are patent ineligible under 35 U.S.C. § 101, “because the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more.” Final Act. 3; *see also Alice Corp. Pty. Ltd. v.*

CLS Bank Int'l, 573 U.S. 208, 217 (2014) (Describing the two-step framework “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.”).

After the docketing of this Appeal, the USPTO published revised guidance on the application of § 101 (“Guidance”). *See* Memorandum. Under the Guidance, the office first looks to whether the claim recites:

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)).

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, does the Office then look to whether the claim:

- (3) [a]dds a specific limitation [beyond the judicial exception] that is not well-understood, routine, conventional [] in the field (*see* MPEP § 2106.05(d)); or
- (4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See Memorandum at 56.

We are not persuaded the Examiner’s rejection is in error. We add the following primarily for emphasis and clarification with respect to the Guidance.

I. Step 2A, Prong One

We agree with the Examiner that claim 1 recites “using input from the occurrence rating and severity rating for each of the steps to create a list of

tasks to be performed in the medical workflow” (Final Act. 3), and the recited “creation of workflows are an abstract idea under the category of ‘organizing human activity’” (Advisory Act. 2). Limitations [b], [e], [f], [g], [h], [i], and [j] of claim 1 recite a process for creating a checklist to be used for a workflow, to account for “human errors [which] require behavioral adjustments or adjustments to the current workflow.” Spec. 1:11–12. These limitations are recitations of “mitigating risk” and “following rules or instructions,” which are examples of “fundamental economic principles or practices,” and “interactions between people.” Memorandum at 52. The Guidance provides that these limitations, therefore, recite the abstract idea of “[c]ertain methods of organizing human activity.” *Id.*

Furthermore, these limitations are steps of “observation, evaluation, judgment, opinion” and are thus the abstract idea of “[m]ental processes.” Memorandum at 52; *see also* Spec. 7:2–5 (“The workflows and tasks can be . . . manually entered by the user (e.g. based on the user’s knowledge/experience/opinion/ observations).”); *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016) (“[W]ith the exception of generic computer implemented steps, there is nothing in the claims themselves that foreclose them from being performed by a human, mentally or with pen and paper.”).

Accordingly, claim 1 “recites a judicial exception [and] requires further analysis in Prong Two” of the Guidance. Memorandum at 54.

II. Step 2A, Prong Two

We are also not persuaded the Examiner’s rejection is in error pursuant to Step 2A, Prong Two of the Guidance. Appellants contend

“claim 1 results in significantly more” than the abstract idea, as “the claims of the present application address a challenge that is specific to medical workflows (e.g. how to control errors of omission in a hospital setting)” by providing “a novel solution.” App. Br. 21–22. That the solution of the claim may be novel, however, is not sufficient to confer patent eligibility. *See Genetic Techs. Ltd. v. Meril L.L.C.*, 818 F.3d 1369, 1376 (Fed. Cir. 2016) (“[U]nder the Mayo/Alice framework, a claim directed to a newly discovered law of nature (or natural phenomenon or abstract idea) cannot rely on the novelty of that discovery for the inventive concept necessary for patent eligibility.”).

The limitations Appellants argue, such as the use of the “occurrence rating” and the “severity rating,” are part of the judicial exception of the creation of workflows, and were analyzed above with respect to Prong One. *See* App. Br. 19; *see also* Final Act. 29; Advisory Act. 2; Memorandum at 54–55 (“[A]ny additional elements recited in the claim beyond the judicial exception(s).”). We agree with the Examiner that claim 1 does not include “a technological improvement, nor is it [responding to] a problem rooted in technology.” Ans. 6; *see also* Final Act. 30. The claim recites a system configured to facilitate the judicial exception to provide the non-technical “advantage [] that safety is improved” and “that worker efficiency is improved,” rather than improving a technical system. Spec. 2:25–26. The claimed system (including limitations [a], [c], and [d]), moreover, is the mere use of “a computer as a tool to perform an abstract idea,” and “does no more than generally link the use of a judicial exception to a particular technological environment.” Memorandum at 55; *see also* Ans. 6–7, 10–11; *Alice*, 573 U.S. at 226 (“[N]one of the hardware recited by the system claims

‘offers a meaningful limitation beyond generally linking ‘the use of the [method] to a particular technological environment,’ that is, implementation via computers.’ (citation omitted)).

Further, Appellants’ argument regarding preemption does not show Examiner error (*see* App. Br. 22–23). Appellants broadly claim a system (claim 1) and method (claim 10) for creating a workflow based on the important issues that would arise while following the workflow. *See* Final Act. 3. Based on the record before us, these claims would appear to “pre-empt use of this approach in all fields, and would effectively grant a monopoly over an abstract idea.” *Bilski v. Kappos*, 561 U.S. 593, 612, (2010). In any event, we agree with the Examiner that the question of preemption in the instant case has been resolved by the rejection itself. *See* Ans. 8; *see also Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) (“[W]here a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Alice* framework, as they are in this case, preemption concerns are fully addressed and made moot.”).

Accordingly, we determine claim 1 does not integrate the judicial exception into a practical application. *See* Memorandum at 54. As the “claim recites a judicial exception and fails to integrate the exception into a practical application” (*id.* at 51), “the claim is directed to the judicial exception” (*id.* at 54).

III. Step 2B

We agree with the Examiner that the claimed elements and combination of elements do not amount to significantly more than the

judicial exception itself. *See* Final Act. 4–5; *see also* Memorandum at 56. Appellants argue the claims “operate in a non-conventional and non-generic way to provide a medical workflow checklist” but Appellants merely recite block quotations of the claims without showing any steps amount to significantly more than the identified judicial exception itself. App. Br. 19; *see also* Memorandum fn. 24. Based on the record before us, we agree with the Examiner that the claimed additional elements and combination of elements only recite generic components and steps that are well-understood, routine, and conventional. *See* Final Act. 4–5. 30–31; *see also* Spec. 1:6–25, 4:30–5:20; *Alice*, 573 U.S. at 226; *OIP Techs., v. Amazon.com*, 788 F.3d 1359, 1363 (Fed. Cir. 2015).

Accordingly, we agree with the Examiner that claim 1 is patent ineligible, as well as independent claim 10 which is not separately argued. *See* Advisory Act. 2; *see also* App. Br. 22.

IV. Dependent Claims

Appellants argue the Examiner’s patent eligibility rejection of the dependent claims is in error, because the dependent claims variously “result[] in improved technical functioning,” “reduce[] error by omission,” and “more efficiently create a checklist.” App. Br. 20–21.

We are not persuaded of reversible error. Appellants have not shown the dependent limitations are meaningfully different from the independent claims for purposes of the *Alice* analysis. Similar to the discussion above with respect to claim 1, reducing errors and efficient checklist creation are direct properties of the identified judicial exception. *See* Ans. 7. Nor are we persuaded the Examiner errs in determining the claims do not improve

technical functioning, as Appellants have not shown that “when a task is omitted from a checklist” will result in any measurable improvement in a computer system. App. Br. 20; *see also* Ans. 6–7; *Trading Techs. Int’l, Inc. v. IBG LLC*, No. 2017-2323, 2019 WL 1907236, at *4 (Fed. Cir. Apr. 30, 2019) (“[T]he purported advance is a process of gathering and analyzing information of a specified content, then displaying the results, and not any particular assertedly inventive technology for performing those functions.” (quotations omitted)).

Accordingly, we are not persuaded the Examiner errs in rejecting dependent claims 2, 3, 6, 8, 21, and 22 under 35 U.S.C. § 101. *Cf. Internet Patents Corp. v. Active Network*, 790 F.3d 1343, 1349 (Fed. Cir. 2015) (“[A]dditional limitations of these dependent claims do not add an inventive concept, for they represent merely generic data collection steps or siting the ineligible concept in a particular technological environment.”). We sustain the Examiner’s rejection of these claims, as well as the remaining dependent claims not separately argued. *See* App. Br. 22.

C. 35 U.S.C. § 103

I. Independent claim 1

Appellants argue “because none of the[] references teach ‘to populate a workflow checklist template with tasks adherent to the selected medical workflow as a function of the occurrence rating and the severity rating for each task,’ claim 1 is patentable over the proposed combination of Moore, Chandler and Sivers.” App. Br. 9. Appellants further contend that, “[b]ecause Chandler is entirely silent with respect to checklists, a skilled

artisan would not have been motivated to combine the teach[ings] of Chandler in a checklist of Moore.” App. Br. 10.

Appellants’ arguments are unpersuasive of error for not addressing the Examiner’s findings. For example, Appellants contend “Chandler in no way teaches populating a checklist” and “Moore cannot cure this deficiency of Chandler because Moore does not teach an occurrence rating and also because Moore does not teach a severity rating.” App. Br. 9. This is the opposite of the Examiner’s rejection, as the Examiner finds “Moore teaches a method and system for creating patient checklists” and “Chandler teaches a system and method for determining the risk of performing a task using both a likelihood of occurrence rating and a severity rating.” Ans. 2; *see also* Moore ¶¶ 37–39; Chandler 8:36–40. Appellants’ arguments, thus, do not show the Examiner’s mapping of the claim limitations to the references is in error, or that the Examiner errs in finding one of ordinary skill would “incorporate the analysis component from Chandler to aid Moore . . . in order to ‘reduce risk and improve process efficiency.’” Final Act. 32 (citing Chandler 2:37–38). We find the Examiner’s explanation to constitute articulated reasoning with rational underpinnings sufficient to justify the legal conclusion of obviousness. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (*citing In re Kahn*, 441 F3d 977,988 (Fed. Cir. 2006)).

Accordingly, we sustain the Examiner’s’ rejection of independent claim 1, and claim 10 not separately argued. *See* App. Br. 8.

II. Dependent claim 2

“Claim 2 calls for omit a task from the checklist when the occurrence rating for the task is below a predetermined occurrence threshold and the

severity rating is below a predetermined severity threshold,” and Appellants argue “the applied references do not teach these features.” App. Br. 10. Particularly, Appellants contend “Luhr does not disclose separate thresholds (e.g. Luhr does not teach one threshold for an occurrence and another threshold for a severity)” and “Chandler uses one overall threshold (the risk assessment threshold), and does not teach two separate threshold values.” *Id.* at 11.

Similar to claim 1, Appellants’ arguments are unpersuasive of error for not addressing the Examiner’s findings. With respect to claim 2, the Examiner finds “[i]t would have been obvious to one having ordinary skill in the art . . . to add the threshold value comparison from Chandler to the system of claim 1,” and “[i]f a threshold can be applied to one rating score, it is obvious that it can also be applied to a similar score.” Final Act. 11; Ans. 3; *see also* Chandler 5:29–49. The Examiner further finds one of ordinary skill would “omit tasks from checklists created by the system of claim 1 based on a low occurrence or severity rating by implementing the process of eliminating tasks that are less relevant to the checklist from Luhr.” Final Act. 11; *see also* Luhr ¶ 63; Ans. 3. Appellants argue the particular disclosure of each reference but do not show the Examiner errs in finding the combined teachings of the references would have suggested the limitations of the claim to those of ordinary skill in the art. *See* Ans. 3; *see also In re Keller*, 642 F.2d 413, 425 (CCPA 1981) (“The test for obviousness is not . . . that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.”).

Accordingly, we sustain the Examiner's rejection of dependent claim 2, and claim 11 not separately argued. *See* App. Br. 11.

III. Dependent claim 3

“Claim 3 calls for receive and evaluate check moment input that indicates that checking the task after performance poses an immediate danger to the patient; and insert into the checklist template a reminder to perform the task before performance,” and Appellants contend “the applied references do not teach these features.” App. Br. 11–12. Particularly, Appellants contend Chandler does not teach either “checking the task after performance” or “inserting a reminder,” and “MacLeod paragraph 0003 generically teaches a ‘surgical pause.’ But, this in no way suggests receiving an input that that indicates that checking the task after performance poses an immediate danger to the patient and then inserting a reminder to perform that specific task specifically before performance of that task.” App. Br. 12.

Claim 3 depends from claim 1, and is rejected in view of the combined teachings of Moore, Chandler, Sivers, and MacLeod. *See* Final Act. 12. Sivers, as cited by the Examiner with respect to parent claim 1, teaches checking a task either before or after performance and the use of a pause point. *See* Final Act. 7; *see also* Sivers, 6 (“You must decide whether you want a DO-CONFIRM checklist or a READ-DO checklist . . . [Users can] pause to run the checklist and confirm that everything that was supposed to be done was done.”). MacLeod, as cited by the Examiner, teaches or suggests “reminders to perform the task before performance,” by using a surgical pause. Final Act. 14 (emphasis omitted); *see also* MacLeod

¶ 3. Chandler is cited for teaching “determin[ing] if there is a risk of harm to the patient.” Final Act. 13 (emphasis omitted); *see also* Chandler 8:29–9:3 (“The risk assessment screen.”); Ans. 3. Moore, furthermore, is cited by the Examiner for “teach[ing] inserting items into checklists.” Ans. 3; *see also* Moore 3:33–35; Final Act. 6.

Appellants argue the particular disclosures of Chandler and Macleod but do not show the Examiner errs in finding the combined teachings of the references would have suggested the disputed limitations to those of ordinary skill in the art. *See* Ans. 3; *see also* *KSR*, 550 U.S. at 420, 421 (The skilled artisan is “a person of ordinary creativity, not an automaton,” and this is a case in which the skilled artisan would “be able to fit the teachings of multiple patents together like pieces of a puzzle.”).

Accordingly, we sustain the Examiner’s rejection of dependent claim 3, and claim 12 not separately argued. *See* App. Br. 12–13.

IV. Dependent claim 4

“Claim 4 calls for receive and evaluate check moment input that indicates that checking the task after performance poses no immediate danger to the patient; and insert into the checklist template a prompt for the user to verify performance of the task after performance,” and Appellants contend “the applied references do not teach these features.” App. Br. 13. Particularly, Appellants contend Chandler does not teach either “checking the task after performance” or “inserting a prompt,” and “Macleod paragraph 0038 teaches a validation card that includes a checklist,” but “nothing about Macleod’s validation card suggests inserting a prompt to verify performance of a specific task on a checklist, much less suggests inserting a prompt to

verify performance of task that it has been indicated that checking the task after performance poses no immediate danger to the patient.” App. Br. 12.

Similar to claim 3 discussed above, Appellants argue Chandler and Macleod separately, and fail to persuade us the Examiner errs in finding the limitations of claim 4 to be obvious in view of the combined teachings of the cited references. Claim 4 differs from claim 3, *inter alia*, by reciting that “checking the task after performance poses no immediate danger to the patient” and “verify[ing] performance of the task after performance.” As discussed above, Siverson teaches or suggests that tasks may be checked before or after performance, Macleod teaches or suggests verifying tasks, and Chandler teaches or suggests identifying the danger to a patient. *See* Final Act. 7–8, 14–16; *see also* Siverson 6; Macleod ¶ 38; Chandler 2:8–11, 8:29–9:3. Appellants fail to show the Examiner errs in finding the combined teachings of the references would have suggested the limitations of the claim to those of ordinary skill in the art. *See* Ans. 3.

Accordingly, we sustain the Examiner’s rejection of dependent claim 4, and claim 13 not separately argued. *See* App. Br. 13.

V. Dependent claim 6

“Claim 6 calls for that the predetermined value is a percentage of a product of a maximum severity rating and a maximum occurrence rating,” and Appellants contend “the applied references do not teach these features.” App. Br. 13. Appellants argue Shneerson does not teach the limitations of claim 6 as inherited from parent claims 5 and 1 (App. Br. 14), and “there is no motivation to combine Shneerson with either Moore or Chandler” (App. Br. 15). Further, Appellants argue “Shneerson-which discusses downtime

probabilities of virtual machines-is clearly not in the field of endeavor of generating checklists for medical workflows. In addition, Shneorson is not reasonably pertinent to the problem faced by the inventors: reducing physician error.” App. Br. 15.

We are not persuaded the Examiner errs. Regarding the analogousness of Shneorson, the Examiner finds “Shneorson teaches a system and method for assessing risk using the same factors used in this application, so, even though it is not in the field of populating checklists for healthcare workflows, it is solving a problem addressed by this application of assessing risk using likelihood and severity.” Ans. 6. We agree. We find Appellants’ characterization of the problem facing the inventor to be unduly narrow. “A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem.” *In re Clay*, 966 F.2d 656, 659 (Fed. Cir. 1992); *see also* Spec. 1:1–5. Appellants fail to show the Examiner errs in determining one of skill in the art would consider Shneorson’s teachings with respect to assessing risk. *See* Final Act. 19; *see also* Reply Br. 10; Shneorson ¶¶ 56, 81.

We are similarly unpersuaded by Appellants remaining arguments with respect to dependent claim 6. The Examiner determines that the limitations of claim 6 were obvious to one of ordinary skill in view of the combined teachings of Moore, Chandler, Sivers, and Shneorson; we find insufficient technical argument or evidence in the record before us to show this is in error. *See* Final Act. 18–19; *see also* *KSR*, 550 U.S. at 417. (“When a work is available in one field of endeavor, design incentives and

other market forces can prompt variations of it, either in the same field or a different one,” and “if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.”).

Accordingly, we sustain the Examiner’s’ rejection of dependent claim 6, and claim 15 not separately argued. *See* App. Br. 15.

VI. Dependent claim 8

“Claim 8 calls for that for each task, add the severity rating to the occurrence rating; and include the task in the populated template when the sum of the severity rating and the occurrence rating is above a predetermined value,” and Appellants contend “the applied references do not teach these features.” App. Br. 16. Particularly, Appellants argue “Gru[n]dy teaches estimating a total risk of a person. But, Gru[n]dy’s estimation of a total risk of a person does not suggest comparing a risk to a predetermined value, much less suggest comparing a total risk to a predetermined value to include a task in a populated template.” *Id.*

Appellants’ arguments against Grundy in isolation do not persuade us the Examiner errs in finding the claim limitations taught or suggested by the combination of cited references. That is, the Examiner finds one of ordinary skill would modify the system of Moore, Chandler, and Sivers with Grundy’s teachings of calculating a total risk, yielding the limitations of claim 8. *See* Final Act. 17–18; *see also* Moore 3:14–23, 33–35; Chandler 2:8–11, 8:61–63; Sivers 6; Grundy, 1481. Appellants do not show such findings are in error.

Accordingly, we sustain the Examiner's rejection of dependent claim 8, and claim 17 not separately argued. *See* App. Br. 16.

VII. Dependent claim 21

“Claim 21 calls for to generate a graphical display allowing the likelihood of the occurrence of user omission to be input via a slider bar; and receive the occurrence rating input related to the likelihood of the occurrence of user omission input via the slider bar,” and Appellants contend “the applied references do not teach these features.” App. Br. 16. Particularly, Appellants contend “McCagg is nonanalogous art to the claimed invention,” and, in any event, “McCagg paragraph 0080 teaches entering job profile data—not entering an occurrence rating input related to the likelihood of the occurrence of user omission.” App. Br. 16–17.

We agree with the Examiner that McCagg is “in the field of graphical user interfaces (GUIs)” (Ans. 5), and thus would have commended itself to an inventor's attention in considering the problem of presenting an interface as in claim 21. Further, both the reference and the present invention are in the field of creating structured workflows. *See, e.g.*, Spec. 4:18–20; *see also* McCagg Title (“Structured Job Search Engine With Guided Navigation”). As such, we agree with the Examiner that one of ordinary skill would apply McCagg's GUI and slider bar teachings to the cited references' system for receiving, *inter alia*, an occurrence rating. *See* Final Act. 22–23; *see also* Chandler 7:31–34, 8:10–15, Figs. 2, 8; McCagg ¶80 (“sliding a slider bar”).

Accordingly, we sustain the Examiner's rejection of dependent claim 21.

VIII. Dependent claim 22

“Claim 22 calls for generate a graphical display allowing the likelihood of the occurrence of user omission to be input via a plurality of slider bars, each slider bar of the plurality of slider bars corresponding to a task in the workflow,” as well as “receive the occurrence rating input related to the likelihood of the occurrence of user omission input via the plurality of slider bars,” and Appellants contend “the applied references do not teach these features.” App. Br. 17. Particularly, Appellants contend “McCagg is nonanalogous art to the claimed invention,” “McCagg paragraph 0080 teaches entering job profile data—not entering an occurrence rating input related to the likelihood of the occurrence of user omission,” and that “McCagg does not teach a plurality of slider bars with each slider bar of the plurality of slider bars corresponding to a task in a workflow.” *Id.* at 17–18.

We are not persuaded the examiner errs, for the reasons discussed above with respect to the other claims. Appellants’ focus on McCagg and do not challenge the Examiner’s obviousness reasoning; thus, these arguments do not show the Examiner errs in finding the limitations of claim 22 to be obvious in view of the combined teachings of Moore, Chandler, Sivers, and McCagg. *See* Final Act. 24–26; *see also* Ans. 5.

Accordingly, we sustain the Examiner’s rejection of dependent claim 22.

CONCLUSION

We sustain the Examiner’s 35 U.S.C. § 112(d) rejection of claim 19.

We sustain the Examiner’s 35 U.S.C. § 101 rejection of claims 1–20.

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We sustain the Examiner's 35 U.S.C. § 103 rejection of claims 1–4, 6, 8, 10–13, 15, 17, 21, and 22. Appellants advance no further argument on the remaining claims. Accordingly, we sustain the Examiner's 35 U.S.C. § 103 rejections of these claims for the same reasons discussed above.

DECISION

The Examiner's decision rejecting claims 1–22 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)(1)(iv).

AFFIRMED