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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* GEERT MICHEL MARIA AUDENAERT and  
CARL RENE D'HALLUIN

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Appeal 2017-011209  
Application 14/124,358  
Technology Center 2600

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Before JASON V. MORGAN, JEREMY J. CURCURI, and  
IRVIN E. BRANCH, *Administrative Patent Judges*.

CURCURI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 16–30. Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

Claims 16–30 are rejected under pre-AIA 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Final Act. 10–12.

Claims 16–30 are rejected under pre-AIA 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the invention. Final Act. 12.

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<sup>1</sup> According to Appellants, the real party in interest is GREEN IT GLOBE NV. App. Br. 2.

Claims 16–30 are rejected under 35 U.S.C. § 101 as claiming an abstract idea without significantly more. Final Act. 13.

Claims 16–25 and 27–30 are rejected under pre-AIA 35 U.S.C. § 103(a) as obvious over Oberoi (US 2012/0072261 A1; publ. Mar. 22, 2012) and Round (US 2006/0224442 A1; publ. Oct. 5, 2006). Final Act. 13–20.

Claim 26 is rejected under pre-AIA 35 U.S.C. § 103(a) as obvious over Oberoi, Round, and Ieperen (US 2010/0178645 A1; publ. July 15, 2010). Final Act. 20–21.

We affirm.

#### STATEMENT OF THE CASE

Appellants’ invention relates to “a communication platform that allows for interactive multiparty convergence towards a micro-decision.” Spec. ¶ 1. Claim 16 is illustrative and reproduced below:

16. An interactive communication system for supporting iterative convergence in a multiparty poll participated in by a plurality of participants, the system comprising:

a plurality of communication devices each having a display and each being associated with a respective one of the participants;

a communication network;

a server having a server application installed thereon; and

a plurality of client applications, each being installed on a respective one of the plurality of communication devices, each client application being configured to communicate through the communication network with said server application, said client applications being configured to receive selections of one or more selection means, from the participants during a plurality of iterations, in reply to a message, said one or more selection means corresponding to one or more predetermined responses,

each client application comprising a visual representation of selections made by the participants in a most recent iteration, the visual representation being positioned in a predetermined area on the display of the respective communication device, said visual representation comprising:

a distribution of said one or more selection means aligned along a first direction;

a distribution of one or more identifier zones, each identifier zone being associated with a respective one of the selection means, each identifier zone being aligned with its respective selection means in a second direction transverse to said first direction, the identifier zones extending in the second direction from the selection means to an end position in the visual representation; and

one or more visual identifiers, each visual identifier corresponding to a respective one of the participants, each of the visual identifiers being positioned in the identifier zone associated with the selection means selected by the corresponding participant so that the visual identifiers in the identifier zones reflect which participants have selected which selection means, the visual identifiers being arranged in the identifier zones such that the area of each identifier zone covered by visual identifiers correlates to the number of participants having selected the associated selection means,

wherein the communication system is configured such that when a new selection is made by a participant at any of the communication devices, the server, communication devices, and respective client applications are configured to cause the visual representation at each of the communication devices to be updated to reflect the new selection, such that upon selection of a selection means at any of the client applications of any of the corresponding communication devices by any of the corresponding participants, all client applications of all of the communication devices of all corresponding participants update all corresponding visual representations such that the visual identifier corresponding to the participant is displayed in the identifier zone associated with the selected selection means.

## PRINCIPLES OF LAW

We review the appealed rejections for error based upon the issues identified by Appellants, and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).

## ANALYSIS

### THE WRITTEN DESCRIPTION REJECTION OF CLAIMS 16–30

#### *Contentions*

The Examiner finds claims 16–30 fail to comply with the written description requirement. Final Act. 10–12.

In particular, the Examiner finds “[b]roadening the claims beyond micro-decisions is not supported by the original specification.” Final Act. 11; *see also* Ans. 2–3. In particular, the Examiner finds “[t]he end of claim 16, specifically, from ‘the communication system being configured such that . . .’ until the end of the claim is describing the desired result, but does not identify the steps taken to achieve this result.” Final Act. 11; *see also* Ans. 4. In particular, the Examiner finds

Claim 28 recites “said server application is configured to wake up whichever of the client applications that are not running and provide a token to whichever of the client applications that are already running to communicate.” The original specification does not disclose that this is performed by a single application, but rather that a different approach is used for these two groups of applications.

Final Act. 11; *see also* Ans. 5.

Appellants present the following principal arguments:

[i.] As the Final Office Action concedes, the breadth of the range or genus of how many participants may participate in the poll (2 to 7 or “thousands”) is limited by claim 16 by how many visual identifiers corresponding to the participants the display of the communication device is able to display in the identifier zones while still being identifiable by the participants viewing the displays of the communication devices. (Final Office Action, p. 11, ll. 5–9). Thus while not conceding that the number of possible participants should be limited by how many visual identifiers representing can be displayed on a cell phone, Appellant respectfully submits that considering claim 16 as a whole with all of its limitation, the assertion of the Final Office Action that claim 16 attempts to claim an entire range or genus that extends beyond the written description is unfounded when the claim is considered as a whole.

App. Br. 13–14; *see also* Reply Br. 2–4.

[ii.] Appellants respectfully disagree with the assertions of the Final Office Action that these features of the last clause of claim 16 are merely a “desired result.” The last clause of claim 16 describes, rather, the functions of the claimed system, and sufficient support is given at least in FIGS. 1–3, 6, and 7 and paragraphs [53], [54], and [60]–[69] of the Appellants’ original disclosure, as to how these functions are performed.

App. Br. 14; *see also* Reply Br. 4–5.

iii. “But because the analysis of the Final Office Action relies on an assertion that features described in the specification must be imported into the claim, the rejection of this particular claim should also be reversed.”

App. Br. 14.

*Our Review*

Appellants' arguments persuade us that that the Examiner erred in rejecting claims 16–30 as failing to comply with the written description requirement.

“[T]he test for sufficiency [of the written description] is whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.” *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc).

Regarding the broadening of the claims beyond micro-decisions, claim 16 recites, “each visual identifier corresponding to a respective one of the participants, each of the visual identifiers being positioned in the identifier zone associated with the selection means selected by the corresponding participant so that the visual identifiers in the identifier zones reflect which participants have selected which selection means.”

Claim 16 is not limited to any particular number of participants. Nor is claim 16 limited to any particular display. However, claim 16 is limited to a visual representation in which the visual identifiers individually correspond to participants.

Appellants' Specification describes, with reference to Figure 6, “when any of the participants ‘r1’–‘r6’ or ‘s1[’] makes its selection by means of selecting at least one of the buttons 400, its corresponding visual identifier 360 is placed in the corresponding identifier zone 430.” Spec. ¶ 66.

Appellants' Specification at paragraph 66 and Figure 6 illustrate a visual representation in which the visual identifiers individually correspond to participants, without being limited to any particular number of

participants or being limited to any particular display. Thus, we agree with Appellants' argument (i) that the Examiner's assertion that claim 16 attempts to claim a range beyond the written description is incorrect.

Regarding the last paragraph of claim 16, we agree with Appellants' argument (ii). Appellants' Specification in paragraphs 53, 54, 60–69, and Drawing in Figures 1–3, 6, and 7 reasonably convey to a skilled artisan that Appellants had possession, at the time the application was filed, of the final recitation of claim 16 directed to the configuration of the communication system.

Regarding claim 28, claim 28 (emphasis added) recites

wherein said *system* is configured to wake up whichever of the client applications that are not running and provide a token to whichever of the client applications that are already running to communicate to said client applications that said message or a next iteration of said message is available in the server application.

Appellants' Specification at paragraphs 84–86 describes the server application implementing a Kick mechanism for client applications that are already running, and the platform being configured to use a Wake-up mechanism for client applications that are not running. We find that Appellants' Specification reasonably conveys to a skilled artisan that Appellants had possession of the claimed invention as recited in claim 28 as of the filing of the application.

Accordingly, we do not sustain the Examiner's written description rejection of claims 16–30.

THE INDEFINITENESS REJECTION OF CLAIMS 16–30

*Contentions*

The Examiner concludes claims 16–30 are indefinite. Final Act. 12.

In particular, the Examiner concludes

Claims 16, 19, 20, 22 and 30 recite “identifier zone.” While this term has a meaning, the specification fails to provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In particular, it is hard to know how to identify a “zone.”

Final Act. 12; *see also* Ans. 5–6.

In particular, the Examiner concludes

Claim 16 is directed to a system, but recites several method steps that are required to produce the claimed visual representation (e.g., the various user inputs). MPEP 2173.05(p) provides “A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112(b) or pre-AIA 35 U.S.C. 112, second paragraph.”

Final Act. 12; *see also* Ans. 7.

Appellants present the following principal arguments:

i. The claims themselves describe “identifier zones” and the Specification also describes “identifier zones” such that the term “identifier zones” would have been understood by one of ordinary skill. *See* App. Br. 16–19; *see also* Reply Br. 6–10.

ii. “While claim 16 may describe functions of the interactive communication system there is nothing inherently wrong with defining some part of an invention in functional terms.” App. Br. 19.

*Our Review*

Regarding “identifier zones,” we recognize that an “identifier zone” describes a boundary around the visual identifiers such as identifier zones 430 in Figures 6 and 7. Claim 16 recites

each identifier zone being associated with a respective one of the selection means, each identifier zone being aligned with its respective selection means in a second direction transverse to said first direction, the identifier zones extending in the second direction from the selection means to an end position in the visual representation.

We agree with Appellants’ argument (i) and we conclude that an ordinary skilled artisan would have understood what is claimed by “identifier zone” when the claims are read in light of the Specification.

Regarding claim 16’s alleged method steps, we agree with Appellants’ argument (ii). For example, claim 16 recites, “the communication system is configured such that when . . . the server, communication devices, and respective client applications are configured to cause the visual representation . . . .” Thus, claim 16’s limitations are directed to the configuration of the communication system, server, communications devices, and client applications. Such limitations are not method steps; rather, such limitations are limitations to the system described in functional language and are not required steps of using the system. Accordingly, we conclude that an ordinary skilled artisan would have understood what is claimed when the claims are read in light of the Specification.

Accordingly, we do not sustain the Examiner’s indefiniteness rejection of claims 16–30.

THE 35 U.S.C. § 101 REJECTION OF CLAIMS 16–30

*Contentions*

The Examiner concludes

Claims 16–30 are rejected under 35 U.S.C. [§] 101 because the claimed invention is directed to non-statutory subject matter because the claim(s) as a whole, considering all claim elements both individually and in combination, do not amount to significantly more than an abstract idea. The claim(s) is/are directed to the abstract idea of organizing human activity. In particular, the claims are directed to a method of a group of people making a decision. Aside from claim elements determined to be aesthetic design changes, the additional element(s) or combination of elements in the claim(s) other than the abstract idea per se amount(s) to no more than: recitation of generic computer structure that serves to perform generic computer functions that are well-understood, routine, and conventional activities previously known to the pertinent industry. Viewed as a whole, these additional claim element(s) do not provide meaningful limitation(s) to transform the abstract idea into a patent eligible application of the abstract idea such that the claim(s) amounts to significantly more than the abstract idea itself. Therefore, the claim(s) are rejected under 35 U.S.C. [§] 101 as being directed to non-statutory subject matter.

Final Act. 13; *see also* Ans. 7–9.

Appellants present the following principal arguments:

i. “Appellant[s] respectfully submit[] that because the Final Office Action fails to provide ‘clear rationale supporting the determination that an abstract idea has been claimed’ (MPEP [§] 2106(II)(B)(2)[])—and further because claim 16 is not directed to an abstract idea—the non-statutory subject [matter rejection] of the Final Office Action should be reversed.” App. Br. 22; *see also* Reply Br. 11–13 (discussing first step of *Alice/Mayo* and discussing preemption).

[ii.] In its extremely short analysis, the Final Office Action fails to consider the problems of the known systems and improvements to the technology of multiparty polling provided by the claimed system.

Thus, even if claims 16–30 were directed to a judicial exception, which Appellant[s] submit[] is not the case, the claimed invention provides significantly more to transform the nature of the claims into a patent-eligible application of the judicial exception.

App. Br. 25; *see also* Reply Br. 13–14 (“The particular problem addressed by the system of claim 16 and the particular way to achieve the solution provided by the system is described in detail in pages 22 to 25 of Appellant[s’] Appeal Brief”).

#### *Our Review*

An invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g., Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014) (internal citation and quotation marks omitted).

In determining whether a claim falls within the excluded category of abstract ideas, we are guided in our analysis by the Supreme Court’s two-step framework, described in *Mayo and Alice*. *Id.* at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 76–77 (2012)). In accordance with that framework, we first determine whether the claim is “directed to” a patent-ineligible concept such as an abstract idea. *See Alice*, 134 S. Ct. at 2356 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate

settlement risk”); *Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk”); *Diamond v. Diehr*, 450 U.S. 175, 184 (1981) (“Analyzing respondents’ claims according to the above statements from our cases, we think that a physical and chemical process for molding precision synthetic rubber products falls within the § 101 categories of possibly patentable subject matter”); *Parker v. Flook*, 437 U.S. 584, 594–95 (1978) (“Respondent’s application simply provides a new and presumably better method for calculating alarm limit values”); *Gottschalk v. Benson*, 409 U.S. 63, 64 (1972) (“They claimed a method for converting binary-coded decimal (BCD) numerals into pure binary numerals”).

The patent-ineligible end of the spectrum includes fundamental economic practices (*Alice*, 134 S. Ct. at 2357; *Bilski*, 561 U.S. at 611); mathematical formulas (*Flook*, 437 U.S. at 594–95); and basic tools of scientific and technological work (*Gottschalk*, 409 U.S. at 67). On the patent-eligible side of the spectrum are physical and chemical processes, such as curing rubber (*Diamond*, 450 U.S. at 184 n.7), “tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores,” and a process for manufacturing flour (*Gottschalk*, 409 U.S. at 69).

If the claim is “directed to” a patent-ineligible concept such as an abstract idea, we then consider the elements of the claim—both individually and as an ordered combination—to assess whether the additional elements transform the nature of the claim into a patent-eligible application of the abstract idea. *Alice*, 134 S. Ct. at 2355. This is a search for an ““inventive concept””—an element or combination of elements sufficient to ensure that

the claim amounts to “significantly more” than the abstract idea itself. *Id.* (internal citation omitted).

Regarding Appellants’ arguments (i) and (ii), we do not see any error in the Examiner’s rejection of claims 16–30 as directed to an abstract idea without significantly more.

We conclude that claims 16–30 are directed to an abstract idea, and adopt as our own the Examiner’s explanations in the Examiner’s Answer: “[t]he examiner identified an abstract idea, a method of organizing human activity on pg. 13 of the Final Rejection. The examiner specified that the claims are directed to a method of a group of people making a decision.”

Ans. 8. The Examiner correctly concludes the claims fail to offer “something more than just implementing the abstract idea on a computer.”

*Id.* at 9. As the Examiner correctly notes:

*[T]he abstract idea is a group of people making a decision. Imagine a group of people standing in a circle and one asks if they should go to lunch at an Indian place or a French place. (Published paragraph 0002 of the specification lists “Where do we go for dinner tonight?” as a problem that a group might wish to solve.) The various members of the circle each chime in and a decision is reached. The present invention is merely carrying out this conversation on a computer.*

Ans. 9.

We agree with the Examiner that the claims relate to the basic concept of a group of people making a decision. Put another way, the claims relate to the basic concept of collecting information, analyzing it, and displaying certain results of the collection and analysis. As well, claim 16’s visual representation can be done by human thought, a pen and paper.

The Federal Circuit has held that if a method can be performed by human thought alone, or by a human using pen and paper, it is merely an

abstract idea and is not patent-eligible under § 101. *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1373 (Fed. Cir. 2011) (“[A] method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101”). Similarly, the Federal Circuit has found claims directed to “collecting information, analyzing it, and displaying certain results of the collection and analysis” as directed to a patent-ineligible abstract idea. *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). Accordingly, the visual representation recited in independent claim 16 describes the abstract idea. The abstract idea, even when automated to reduce the burden on the user of what once could have been done with pen and paper, remains an abstract idea. *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*”).

We are not persuaded of error on the part of the Examiner by Appellants’ argument that the claims are not directed to an abstract idea. Specifically, we have determined that the claims are directed to the basic concept of collecting information, analyzing it, and displaying certain results of the collection and analysis (in a visual representation); in addition, we have determined claim 16’s visual representation can be done by human thought and a pen and paper.

Turning to the second step of the *Alice* analysis, because we determine that independent claim 16 is directed to an abstract idea, the claim must include an “inventive concept” in order to be patent-eligible, *i.e.*, there must be an element or combination of elements that is sufficient to ensure that the claim in practice amounts to significantly more than the abstract idea itself.

The question is whether the implementation of the abstract idea involves more than the performance of well-understood, routine, and conventional activities previously known to the industry. Claim 16 recites generic computer functions (i.e., display a visual representation on each client application) that are well-understood, routine, and conventional activities previously known to the industry. However, nothing in claim 16 purports to improve computer functioning or “effect an improvement in any other technology or technical field.” *Alice*, 134 S. Ct. at 2359. In particular, independent claim 16 requires no more than a generic computer to perform generic computer functions that are well known. *See* Ans. 9.

Further regarding Appellants’ arguments in the Reply Brief relating to preemption, these arguments do not show any error in the Examiner’s findings and conclusions. We recognize as a threshold matter that the Supreme Court has described “the concern that drives this exclusionary principle [to statutory patentability] as one of pre-emption.” *See Alice*, 134 S. Ct. at 2354. Characterizing preemption as a driving concern for patent eligibility, however, is not the same as characterizing preemption as the sole test for patent eligibility. As our reviewing court has explained: “questions on preemption are inherent in and resolved by the [section] 101 analysis,” and, although “preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *cf. OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (“[T]hat the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract”).

Further regarding Appellants' arguments in the Reply Brief relating to the claimed invention being a particular way to achieve a particular solution, we find these arguments unavailing. In short, the claimed invention is merely carrying out the multiparty conversation on a computer in the same way such conversation would take place without the computer. *See* Ans. 9.

We, therefore, sustain the Examiner's 35 U.S.C. § 101 rejection of claim 16. We also sustain the Examiner's 35 U.S.C. § 101 rejection of claims 17–30, which are not separately argued with particularity.

THE OBVIOUSNESS REJECTION OF CLAIMS 16–25 AND 27–30 OVER OBEROI  
AND ROUND

*Contentions*

The Examiner finds Oberoi and Round teach all limitations of claim 16. Final Act. 14–16; *see also* Ans. 9–17. In particular, the Examiner finds Oberoi teaches all limitations of claim 16, except for the “one or more visual identifiers”; the Examiner finds Round teaches the “one or more visual identifiers.” *See* Final Act. 16. The Examiner reasons “[o]ne of ordinary skill in the art before the date of the invention would have been motivated to provide the survey targets of Oberoi with the screens of Round such that the voters can consider other's past voting history.” Final Act. 16 (citing Round ¶ 4).

Appellants present the following principal arguments:

i. Oberoi's vertical bar chart 4820 (Fig. 48), which anonymizes the results of the individual participants, does not describe the claimed “identifier zones.” *See* App. Br. 27–32; *see also* Reply Br. 14–16. Oberoi

does not “enable a decision/poll in multiple iterations, such as required in the claimed system or method.” App. Br. 29. “Oberoi does not appear to make any mention regarding ‘*each identifier zone being aligned with its respective selection means in a second direction transverse to said first direction,*’ as required by claim 16.” *Id.*

[A]s Oberoi’s vertical bar chart 4820 is not shown with the actual selection means for the different choices of beef, pork, chicken, etc., Oberoi fails to show “*the identifier zones extend[] in the second direction from the selection means to an end position in the visual representation,*” as required by claim 16.

*Id.* at 29–30.

[A]lthough Oberoi’s vertical bar chart 4820 appears to show a histogram, as asserted by the Office Action, Oberoi’s vertical bar chart 4820 fails to show “*each of the visual identifiers being positioned in the identifier zone associated with the selection means selected by the corresponding participant,*” as required by claim 16.

*Id.* at 30.

[A]s Oberoi’s vertical bar chart 4820 only shows a histogram, without any indication of which of the participants selected beef, pork, chicken, etc., Oberoi fails to disclose or suggest “*the visual identifiers in the identifier zones reflect which participants have selected which selection means*” or even “*the visual identifiers [are] arranged in the identifier zones,*” as required by the claim.

*Id.*

[A]s Oberoi fails to disclose “*visual identifiers being arranged in the identifier zones*” but rather only shows a histogram, Oberoi further fails to disclose or suggest “*upon selection of a selection means at any of the client applications of any of the corresponding communication devices by any of the corresponding participants, all client applications of all of the communication devices of all corresponding participants update all corresponding visual representations such that the visual*

*identifier corresponding to the participant is displayed in the identifier zone associated with the selected selection means.”*

*Id.*

ii. Round (Fig. 5) is missing “selection means” and does not “enable a decision/poll in multiple iterations, such as required in the claimed system or method.” App. Br. 34. “Round does not appear to make any mention regarding ‘*each identifier zone being aligned with its respective selection means in a second direction transverse to said first direction,*’ as required by claim 16.” *Id.* “[T]he chart of Round fails to show ‘*the identifier zones extend[] in the second direction from the selection means to an end position in the visual representation,*’ as required by claim 16.” *Id.* “Round-FIG. 5 fails to show ‘*each of the visual identifiers being positioned in the identifier zone associated with the selection means selected by the corresponding participant,*’ as required by claim 16.” App. Br. 35.

#### *Our Review*

Claim 16 (emphasis added) recites

[a]n interactive communication system for supporting *iterative convergence* in a multiparty poll participated in by a plurality of participants, . . . client applications being configured to receive selections of one or more selection means, from the participants *during a plurality of iterations* . . . , each client application comprising a visual representation of selections made by the participants in a most recent *iteration*. . . .

Oberoi (element 4820, Fig. 48) discloses shaded rectangles associated with beef, pork, etc., which are answers to the survey shown in Figure 37 in which radio buttons 3740 are selection means. Oberoi (Fig. 57) depicts sharing the results of the poll. Oberoi discloses that “[i]n one embodiment, the data reflected in the sitelet [displaying poll results] is updated in real-

time.” Oberoi ¶ 197. Oberoi’s disclosures of the poll results in Figure 48, updating poll results in real-time in paragraph 197, the survey shown in Figure 37, and the option to share the poll results shown in Figure 57, collectively, suggest to a skilled artisan that the survey of Figure 37 and poll results of Figure 48 may be displayed side by side with the poll results being updated in real-time.

Given these findings, Oberoi’s disclosure of updating the poll results in real-time reasonably describes a user being able to watch the poll results come in from a single poll. However, we do not see any cited disclosure of Oberoi on the record that suggests multiple iterations of the poll, as recited in the emphasized limitations of claim 16 above.

Round, in Figure 2, discloses visual identifiers associated with the selection means selected by a poll participant, for example, selection means PURSUE selected by poll participant REVIEWER1. However, we do not see any cited disclosure of Round on the record that suggests multiple iterations of the poll, as recited in the emphasized limitations of claim 16 above.

We, therefore, do not sustain the Examiner’s rejection of claim 16. We also do not sustain the Examiner’s rejection of claims 17–25 and 27–30, which depend from claim 16.

THE OBVIOUSNESS REJECTION OF CLAIM 26 OVER OBEROI, ROUND, AND  
IEPEREN

Claim 26 depends from claim 16. The Examiner does not find Ieperen cures the deficiency of Oberoi and Round discussed above when addressing claim 16. *See* Final Act. 20–21.

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For the same reasons explained above when addressing claim 16, we do not sustain the Examiner's rejection of claim 26.

ORDER

Because we sustain one ground of rejection of claims 16–30, the Examiner's decision rejecting claims 16–30 is affirmed.

AFFIRMED