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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* MARK ANDREW RUNKLE and HAROLD EDWARD MILLER

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Appeal 2018-000105  
Application 13/210,241<sup>1</sup>  
Technology Center 3600

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Before JOSEPH A. FISCHETTI, PHILIP J. HOFFMANN, and  
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF DECISION

We AFFIRM.

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<sup>1</sup> Appellants identify General Electric Company as the assignee (real party in interest). Assignment recorded 9/92011.

## THE INVENTION

Appellants claim using motor protection measurements generated from a motor protection system to assist in determining power plant metrics. (Spec. ¶ 1.)

Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A system, comprising:
  - a power plant;
  - a plurality of motor-driven sub-processes operating within the power plant;
  - a plurality of motor protection systems, each correspondingly coupled to a different motor-driven sub-process, wherein each motor protection system protects at least one motor operating within the motor-driven sub-process coupled thereto and generates a plurality of sub-process operational data from the at least one motor, the plurality of sub-process operational data including voltage, phase voltage, frequency, current, power, VARs, phase current, current unbalance, voltage unbalance and statistical data; and
  - a controller that uses the plurality of sub-process operational data generated from each of the plurality of motor protection systems to determine power plant metrics including net power plant output and costs that each of the plurality of motor-driven sub-processes has on the overall operation of the power plant, wherein the costs that each of the plurality of motor-driven sub-processes has on the overall operation of the power plant are used to manage at least one of the plurality of motor-driven sub-processes.

## THE REJECTIONS

The following rejections are before us for review.

Claims 18–20 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1–5, 7–12, and 14–20 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Fehr (US 2008/0021675 A1; publ. Jan. 24, 2008) in view of Dimino (US 2011/0257934 A1; publ. Oct. 20, 2011).

Claims 6 and 13 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Fehr in view of Dimino as applied to claims 1 and 10 above, further in view of Sharma (US 2011/0307110 A1; publ. Dec. 15, 2011).

#### FINDINGS OF FACT

We adopt the Examiner’s findings as set forth on pages 4–11 in the Final Office Action and on pages 2–6 in the Examiner’s Answer.

#### ANALYSIS

##### 35 U.S.C. § 101 REJECTION

We will affirm the rejection of claims 18–20 under 35 U.S.C. § 101.

Appellants argued claims 18–20 as a group. We select claim 18 as the representative claim for this group, and the remaining claims stand or fall with claim 18. *See* 37 C.F.R. § 41.37(c)(1)(iv).

An invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[I]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g.*, *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014) (internal quotation marks and citation omitted).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See id.* at 219 (“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.”); *see also 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.”).

Concepts determined to be abstract ideas, and, thus, patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); “tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1853))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber

products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . . is not accorded the protection of our patent laws, . . . and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (internal citation omitted). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (alterations in original) (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

The PTO recently published revised guidance on the application of § 101. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) (“*2019 Memorandum*”). Under that guidance, we first look to whether the claim recites:

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing

human interactions such as a fundamental economic practice, or mental processes); and

(2) additional elements that integrate the judicial exception into a practical application, i.e., that “apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” *2019 Memorandum*, 84 Fed. Reg. at 54; *see also* MANUAL OF PATENT EXAMINING PROCEDURE (MPEP) § 2106.05 (a)–(c), (e)–(h) (9th Ed., Rev.

08.2017, Jan. 2018).

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

(3) adds 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 2019 Memorandum.*

The Federal Circuit has explained that “the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the [S]pecification, based on whether ‘their character as a whole is directed to excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). It asks whether the focus of the claims is

either on a specific improvement in relevant technology or on a process that itself qualifies as an “abstract idea” for which computers are invoked merely as a tool. *See id.* at 1335–36.

In so doing, as indicated above, we apply a “directed to” two-prong test: 1) evaluate whether the claim recites a judicial exception, and 2) if the claim recites a judicial exception, evaluate whether the claim “appl[ies], rel[ies] on, or use[s] the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” *See 2019 Memorandum*, 84 Fed. Reg. at 54.

The Examiner found that the claims are

directed to the abstract idea of analyzing and generating reports on power plant metrics (as shown in the recited functions of claims 18-20-including obtaining operational data on motor protections systems, generating operation data for the systems, determining metrics based on the operational data, partitioning the metrics, generating a representation of the metrics, and managing the sub-processes), which is an idea of itself involving mathematical relationships.

(Final Act. 4.)

We agree that the claims are directed to a mental process in that the steps:

determining a plurality of power plant metrics based on the operational data generated from the plurality of motor protection systems, the plurality of power plant metrics including net power plant output and costs that each of the plurality of motor-driven sub-processes has on the overall operation of the power plant;

partitioning the plurality of power plant metrics into one or more predetermined groupings,

generating a representation of the plurality of power plant metrics for at least one of the predetermined groupings in response to receiving a user-specified grouping selection; and

managing at least one of the plurality of motor-driven sub-processes based on the costs that each of the plurality of motor-driven sub-processes has on the overall operation of the power plant,

constitute “analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category.” *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016).

Turning to the second prong of the “directed to” test, claim 18 only generically requires “non-transitory computer-readable storage medium.” Only inferentially mentioned in the claim are a generically-recited computer and a power plant. Nothing in the Specification restricts the motor protection system to a device rather than leaving it open to human oversight, e.g., reading of dials. We thus fail to see, even if positively recited, how the generic recitation of a computer and a power plant “impose[] a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” *2019 Memorandum* at 53.

Thus, we find that the claims recite the judicial exception of a mental process.

That the claims do not preempt all forms of the abstraction or may be limited to power plant metrics, does not make them any less abstract. *See OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (“And that 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.”).

Turning to the second step of the *Alice* analysis, because we find that the claims are directed to abstract ideas/judicial exceptions, the claims must include an “inventive concept” in order to be patent-eligible, i.e., there must be an element or combination of elements sufficient to ensure that the claim in practice amounts to significantly more than the abstract idea itself. *See Alice*, 573 U.S. at 217–18 (quoting *Mayo Collaborative Servs.*, 566 U.S. at 72–73).

Concerning this step the Examiner found,

The claims do not include additional elements that are sufficient to amount to significantly more than the judicial exception because there are no meaningful limitations that transform the exception into a patent eligible application. The additional elements recited in the independent and dependent claims beyond further refinements of the abstract idea identified above (and its attendant data-gathering and outputting functions) are known and conventional generic computing elements (“computer readable storage medium”, “computer system”). Apart from being instructed to perform the abstract idea itself they only serve to perform well-understood functions (e.g., receiving, storing, transmitting, and displaying/outputting data). The claims only manipulate abstract data elements. They do not present improvements to another technological field or the functioning of the computer itself. Looking at the limitations as an ordered combination adds nothing that is not already present when looking at the elements taken individually. There is no indication that the combination of elements improves the functioning of a computer or improves any other technology. Their collective functions merely provide conventional computer implementation. None of the additional elements recited “offers a meaningful limitation beyond generally linking ‘the use of the [method] to a particular technological environment,’ that is, implementation via computers.”

(Final Act. 4–5.) We agree with the Examiner. “[T]he relevant question is whether the claims here do more than simply instruct the practitioner to

implement the abstract idea . . . on a generic computer.” *Alice*, 573 U.S. at 225. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer to retrieve, select, apply decision criteria to data, generate a result, and store the result amounts to electronic data query and transmission of data are some of the most basic functions of a computer. All of these computer functions are well-understood, routine, and conventional activities previously known to the industry. *See Elec. Power Grp.*, 830 F.3d at 1354; *see also In re Katz*, 639 F.3d 1303, 1316 (Fed. Cir. 2011) (“Absent a possible narrower construction of the terms ‘processing,’ ‘receiving,’ and ‘storing,’ . . . those functions can be achieved by any general purpose computer without special programming”). In short, each step does no more than require a generic computer to perform generic computer functions.

Considered as an ordered combination, the computer components of Appellants’ claims add nothing that is not already present when the steps are considered separately. The sequence of data reception-analysis (receiving/transmitting/determine/generate) and storing is equally generic and conventional or otherwise held to be abstract. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction), *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (holding that sequence of data retrieval, analysis, modification, generation, display, and transmission was abstract), *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) (holding sequence of

processing, routing, controlling, and monitoring was abstract). The ordering of the steps is, therefore, ordinary and conventional.

Thus, the claims at issue amount to nothing significantly more than instructions to apply the abstract ideas of a mental process and a legal interaction using some unspecified, generic computer. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice*, 573 U.S. at 225–26.

We have reviewed all the arguments (Appeal Br. 6–9, Reply Br. 2–3) Appellants have submitted concerning the patent eligibility of the claims before us which stand rejected under 35 U.S.C. § 101. We find that our analysis above substantially covers the substance of all the arguments, which have been made. But, for purposes of completeness, we will address various arguments in order to make individual rebuttals of same.

Appellants argue, the “Examiner has provided no additional rationale or explanation of how the cases apply to or resemble the subject matter or form of Appellants’ claims 18-20. This appears to be an insufficient basis for explaining such a rejection.” (Appeal Br. 12.)

We disagree with Appellants. To the extent Appellants argue that the Examiner erred in adequately supporting this determination by not providing evidence, we are unpersuaded. In this regard, there is no requirement that Examiners must provide evidentiary support in every case before a conclusion can be made that a claim is directed to an abstract idea. *See, e.g.*, MPEP § 2106.07(a)(III) (“The courts consider the determination of whether a claim is eligible (which involves identifying whether an exception such as an abstract idea is being claimed) to be a question of law. . . . Thus, the court does not require ‘evidence’ that a claimed concept is a judicial exception,

and generally decides the legal conclusion of eligibility without resolving any factual issues” (internal citations omitted.))

All that is required of the USPTO to meet its *prima facie* burden of production is that the Examiner set forth the statutory basis of the rejection and the reference or references relied upon in a sufficiently articulate and informative manner as to meet the notice requirement of 35 U.S.C. § 132. As the statute itself instructs, the Examiner must “notify the applicant,” “stating the reasons for such rejection,” “together with such information and references as may be useful in judging the propriety of continuing the prosecution of his application.” 35 U.S.C. § 132; *see also In re Jung*, 637 F.3d 1356, 1363 (Fed. Cir. 2011) (declining “to impose a heightened burden on examiners beyond the notice requirement of § 132”). Here, as we found above, the Examiner has made these findings as required by the statute. (*See* Final Act. 4–5.) Appellants’ bare assertion here that evidence is needed, without any supporting reasoning as to why, is insufficient to require the Examiner to provide further evidentiary support.

We note the Examiner’s reliance on prior court decisions in his analysis. (Final Act. 4.) The Examiner further provides reasons why certain computer functions are well-understood, routine, and conventional functions. (*Id.* at 4–5.) These prior court decisions and reasons adequately satisfy the requirement to set forth a *prima facie* case of unpatentability under 35 U.S.C. § 101.

Appellants further argue that the claims recite additional elements that amount to significantly more, asserting,

specific steps of obtaining particular operational data, determining power plant metrics based on particular relationships, partitioning metrics in specific groups, generating

a representation, and managing motor-drive sub-processes each involved additional details that go beyond the high-level concepts that are meant to be excluded by the *Alice/Mayo* test.

(Appeal Br. 8.)

We disagree with Appellants. The claim limitations asserted by Appellants are abstractions as found above, and, thus, cannot be an element or combination of elements sufficient to ensure that the claim in practice amounts to significantly more than the abstract idea itself because the additional elements themselves must be other than the determined abstraction. *See Alice*, 573 U.S. at 217–18.

### 35 U.S.C. § 103(a) REJECTIONS

The Appellants argued claims 1, 5, 7–12, and 14–20 as a group. We select claim 1 as the representative claim for this group, and the remaining claims standing or falling with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2015).

Appellants argue, “[n]either Fehr nor Dimino include a cost model for motor-driven sub-processes.” (Appeal Br. 10.)

In light of the breadth of the claim, the Appellants’ argument is not persuasive as to error in the rejection. Claim 1 does not require a “cost model.” Notwithstanding, our review of the Specification describes subprocesses alternatively as “auxiliary systems.” (Spec. ¶ 2.) Fehr at paragraph 12 discloses, “fuel constituency or composition; to synthesize the performance of individual equipment into overall unit performance.” Thus, we find that Fehr meets the claim limitation of, “motor-driven sub-processes” because we construe individual equipment as a motor-driven sub-process.

Claims 10 and 18 require, “partitioning the plurality of power plant metrics into one or more predetermined groupings.”

Appellants argue,

The Examiner has cited Fehr para. 12-14, 29, 38, Figs. 5A-5B as showing “partitioning the plurality of power plant metrics into one or more predetermined groupings” [Final Action, p. 8]. Appellants do not see a partitioning element in the cited sections and contend that this element is not present in the references.

(Appeal Br. 10–11.)

We disagree with Appellants. Our review of Fehr at paragraph 12 reveals that Fehr discloses various equipment performance metrics, namely, (i) current plant lineups and unit configuration; (ii) physical operating data such as flow, pressure, and temperature; (iii) and fuel constituency or composition. (Fehr ¶ 12.) As such, we find that Fehr meets this limitation in that the content of items i, ii, and iii above are power plant metrics, and we find that each is partitioned by the topical content in which the data is categorized.

Concerning dependent claim 2, Appellants argue, “[s]ub-process plant output for prime mover systems in Fehr is not equivalent to sub-process plant output for motor-driven sub-processes.” (Appeal Br. 11.)

The Examiner found,

Fehr in view of Dimino teaches claim 1 as above. Fehr further teaches the power plant metrics further includes sub-process plant output for each of the plurality of sub-processes (¶¶ 0012-14, 35). Dimino further teaches the subprocesses are motor-driven (¶¶ 0016, 43), which would have been obvious to incorporate for the same reasons as in claim 1 above.

(Final Act. 6.)

We are not persuaded by Appellants’ argument. Appellants’

arguments here amount to no more than an allegation of differences between the prior art and the claim, which does not establish nonobviousness. *Dann v. Johnston*, 425 U.S. 219, 230 (1976). The issue is “whether the difference between the prior art and the subject matter in question ‘is a differen[ce] sufficient to render the claimed subject matter unobvious to one skilled in the applicable art.’” *Id.* at 228 (internal citation omitted).

Concerning claim 3, Appellants argue,

Fehr teaches determination of fuel consumption, but it is unclear whether it teaches energy consumption as it relates to indirect energy costs. The teachings of Fehr focus on modeling prime mover systems and does not appear to concern itself with total energy consumption. Dimino may measure energy inputs as operational data, but it has no function for connecting those to plant output. The combination of quantifying fuel consumption of prime mover systems in Fehr and operational metrics of Dimino does not result in the claimed function for determining energy consumption based on sub-process plant output.

(Appeal Br. 11.)

The Examiner found,

Fehr further teaches the controller determines energy consumption of each of the plurality of subprocesses as a function of sub-process plant output (¶¶ 0012-15, 44). Dimino further teaches the sub-processes are motor-driven (¶¶ 0016, 43), which would have been obvious to incorporate for the same reasons as in claim 1 above.

(Final Act. 7.)

We disagree with Appellants. Again, our review of the Specification describes subprocesses alternatively as “auxiliary systems.” (Spec. ¶ 2.) Fehr at paragraph 12 discloses, “fuel constituency or composition; to synthesize the performance of individual equipment into overall unit performance.” Thus, we find that Fehr meets the claim limitation of,

“energy consumption of each of the plurality of motor-driven sub-processes as a function,” because we construe individual equipment as a motor-driven sub-process. As to Appellants’ argument that Fehr “does not appear to concern itself with total energy consumption” (Appeal Br. 11), we find Fehr’s disclosure of “synthesiz[ing] the performance of individual equipment into overall unit performance” by inference encompasses overall unit performance. (Fehr ¶ 12).

Claim 4 recites “wherein the controller determines whether each of the plurality of motor-driven sub-processes is a chargeable thermodynamic loss that can be deducted from the net power plant output.”

The Examiner found, concerning this limitation,

Fehr further teaches the controller determines whether each of the plurality of sub-processes is a chargeable thermodynamic loss that can be deducted from the net power plant output (¶ 0004; Table 3). Dimino further teaches the sub-processes are motor-driven (¶¶ 0016, 43), which would have been obvious to incorporate for the same reasons as in claim 1 above.

(Final Act. 7.)

Appellants argue,

Fehr may teach the use of unit heat rate curves and calculation of incremental heat rates, but that is not a determination of whether any given sub-system is a chargeable thermodynamic loss. Table 3 relates to the elements in the various models and does not include any subsystem data in its IHR model. Dimino does not address this at all.

(Appeal Br. 11–12.)

We disagree with Appellants. First, we construe the language of claim 4 to be functional in that it uses a wherein clause to make the recitation. As functional language, we are required only to give the involved functional language weight to the extent that the prior art is or is not capable

of meeting the limitation. *In re Schreiber*, 128 F.3d 1473, 1477–78 (Fed. Cir. 1997). Here, the Examiner found that Fehr at paragraph 4 discloses “three curves—input/output, heat rate and incremental heat rate—can be presented as gross or net, depending on the operating and dispatch philosophies of the company.” We find that the system of Fehr, using this heat rate data, would at least be capable of deducting thermodynamic loss from the net power plant output, especially given that Fehr discloses that incremental heat rate can be presented as gross or *net*.

Concerning claims 6 and 13, the limitation of claim 6 is again recited as a wherein clause, i.e., “wherein the controller tracks an aggregate cost of the overall operation of the power plant and generates a contractual performance indicator that indicates whether the power plant is conforming with predetermined contractual guarantees specified for operation of the power plant.” As such, it is functional language and as functional language, we are required only to give the involved functional language weight to the extent that the prior art is or is not capable of meeting the limitation. *See In re Schreiber*, 128 F.3d 1473, 1477–78 (Fed. Cir. 1997).

The Examiner found that Sharma discloses the limitation at paragraphs 17, 36, and 40. (Final Act. 10.) In paragraph 36, Sharma explicitly discloses “the capacity manager 106 monitor[s] the operations of the power generators 120a-120n to substantially ensure that the provisions of one or more SLAs are being satisfied.” (Emphases omitted.) Thus, we find that because operations are monitored against SLA (service level agreement (Sharma ¶ 17)) provisions, the system is at least capable of indicating if performance is conforming with the SLA.

CONCLUSIONS OF LAW

We conclude the Examiner did not err in rejecting claims 18–20 under 35 U.S.C. § 101.

We conclude the Examiner did not err in rejecting claims 1–20 under 35 U.S.C. § 103(a).

DECISION

The decision of the Examiner to reject claims 1–16 and 18–20 is affirmed.

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

AFFIRMED