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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* YIOTIS KATSAMBAS

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Appeal 2018-000317  
Application 13/769,176  
Technology Center 2100

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Before JOSEPH L. DIXON, THU A. DANG, and NORMAN BEAMER,  
*Administrative Patent Judges.*

DANG, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's Final Decision to reject claims 1–20, which are all of the pending claims. *See* Appeal Br. 5. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> We use the word Appellant to refer to “Applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Sony Corporation. Appeal Br. 2.

### CLAIMED SUBJECT MATTER

According to Appellant, the invention “relates to asset management, and more specifically, to connecting a storyboard system to an editorial system in content production.” Spec. 1:12–14.

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of managing assets in a movie during production, comprising:
  - storing new material in a first file with a first name in a first folder of a data storage system;
  - sending the new material to an editorial system at some predetermined intervals;
  - storing the new material in a second file in a second folder of the data storage system after the new material is sent to the editorial system;
  - creating an empty third file with the first name in a third folder of the data storage system after the new material is sent to the editorial system;
  - comparing names of first files in the first folder with names of third files in the third folder;
  - identifying the names of the first files that are not in the names of the third files as new materials that have not yet been sent to the editorial system; and
  - enabling at least one of: (1) renaming the new materials in second files of the second folder; and (2) moving the new materials in the second files of the second folder to new locations so that the new materials sent to the editorial system can be processed in parallel with said comparing and said identifying.

Appeal Br. 13 (Claims App.)

### REFERENCES

The prior art relied upon by the Examiner is:

| <b>Name</b>  | <b>Reference</b>   | <b>Date</b>   |
|--------------|--------------------|---------------|
| Lusen et al. | US 2003/0050937 A1 | Mar. 13, 2003 |
| Rodriguez    | US 2012/0042251 A1 | Feb. 16, 2012 |
| Prahlad      | US 2012/0059797 A1 | Mar. 08, 2012 |

### REJECTIONS

Claims 11 and 12 stand rejected under 35 U.S.C. §§ 112(a) and 112(b) Final Act. 6.

Claims 1–20 stand rejected under 35 U.S.C. § 101 as being directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea); and not directed to significantly more than the abstract idea itself. Ans. 2–6 (New Ground of Rejection).

Claims 1–20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Rodriguez, Prahlad, and Lusen. Final Act. 7.

### ANALYSIS

Except where indicated, we adopt the Examiner's findings in the Answer and Final Office Action and we add the following primarily for emphasis. We note that if Appellant failed to present arguments on a particular rejection, we decline to review unilaterally those uncontested aspects of the rejection. *See Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential); *Hyatt v. Dudas*, 551 F.3d 1307, 1313–14 (Fed. Cir. 2008) (the Board may treat arguments Appellant failed to make for a given ground of rejection as waived).

*Rejection of claims 11 and 12 under 35 U.S.C. § 112*

The Examiner concludes that, regarding claims 11 and 12, “element ‘a **first folder configured**’ is using non-structural terms coupled with functional language,” but “the written description fails to disclose the corresponding structure, material, or acts of the claimed function.” Final Act. 5. Thus, the Examiner also concludes that the claims are “indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor . . . regards as the invention.” *Id.*

In order to satisfy the written description requirement, “the specification must describe an invention understandable to [a] skilled artisan and show that the inventor actually invented the invention claimed.” *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc). “[T]he test for sufficiency 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.” *Id.* (citation omitted). To have “possession,” “the specification must describe an invention understandable to that skilled artisan and show that the inventor actually invented the invention claimed.” *Id.* The drawings in an application can be relied upon to show that an inventor was in possession of the claimed invention as of the filing date. *See Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1565 (Fed. Cir. 1991) (“[D]rawings alone may be sufficient to provide the ‘written description of the invention’ required by § 112, first paragraph.”).

Here, Appellant contends that “[p]aragraph [0018] of U.S. Publication No. 2013/0232178 of the present application specifically recites that ‘the new system may use three folders, for example, A, B, and C.’” Reply Br.

10. In particular, as shown in Figure 2A of the Specification, Appellant's application discloses "first folder 210," "second folder 220," and "third folder 230." Spec. 10:17–22. Thus, although the Examiner finds that "the written description fails to disclose the corresponding structure, material, or acts of the claimed function" for a "first folder" (Final Act. 5), we agree with Appellant and conclude that Appellant's Specification describes the folders sufficiently to demonstrate that Appellant had possession of a "first folder" as claimed.

Accordingly, we do not sustain the Examiner's rejection of claims 11 and 12 as failing to comply with the written description requirement under 35 U.S.C. § 112(a).

To the extent the Examiner is relying on the rejections under 35 U.S.C. § 112(a) for failing to comply with the written description to reject the claims under § 112(b) as "being indefinite for failing to particularly point out and distinctly claim the subject matter" (Final Act. 5), as discussed above, we do not sustain the Examiner's rejections under § 112(a) for the reasons set forth above.

For these reasons, the Examiner has not persuasively established that the claims are not an accurate description of the disclosed device. Therefore, we also do not sustain the rejection of claims 11 and 12 under 35 U.S.C. § 112(b).

*Rejection of claims 1–20 under 35 U.S.C. § 101*

The Examiner rejects claims 1–20 under 35 U.S.C. § 101 as being “directed to a judicial exception of an abstract idea without significantly more.” Ans. 2 (New Ground of Rejection).

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*. *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216–218 (2014) (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 *Alice*, 573 U.S. 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, 69 (1972)).

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.* (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. USPTO’s January 7, 2019 Memorandum, 2019 Revised Patent Subject Matter Eligibility Guidance (“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 activity such as a fundamental economic practice, or mental processes); and
- (2) additional elements that integrate the judicial exception into a practical application (see 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 are 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* Revised Guidance, 84 Fed. Reg. 56.

### Revised Guidance Step 1

Step 1 of the Revised Guidance asks whether the claimed subject matter falls within the four statutory categories of patentable subject matter identified by 35 U.S.C. § 101: process, machine, manufacture, or composition of matter.

Independent claim 1 recites a “method of managing assets in a movie,” independent claim 11 recites an “asset management system,” and independent claim 13 recites a “non-transitory storage medium.” Appellant does not argue that the Examiner erred in concluding claims 1, 11, and 13, and the claims depending therefrom, fall within the four statutory categories of patentable subject matter. We agree with the Examiner’s conclusion because claim 1 falls within the process category and claims 11 and 13 fall within the machine category.

Revised Guidance Step 2A, Prong 1

Under Step 2A, Prong 1 of the Revised Guidance, we determine whether the claims recite 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). *See* Revised Guidance.

According to the Examiner, the claims are directed to an idea “similar to the basic concept of data recognition and storage that courts have found to be an abstract idea.” Ans. 3. In particular, the Examiner concludes that the claims “simply describe[] the concept of . . . ‘**classifying and storing digital images in an organized matter**’ [in *TLI Communications v. AV Automotive LLC*] and ‘**receiving, screening, and distributing e-mail**’ [in *Intellectual Ventures v Symantec*].”

Independent claim 1 recites, in relevant part, “storing” new material; “sending” the new material; “creating” a file; “comparing” names of files; “identifying” the names; and “enabling” at least one of “renaming” and “moving” the new materials. Independent claim 11 recites an “asset management system” comprising a “first folder” and “processor” configured

to perform steps similar to those in claim 1, and independent claim 13 recites a “non-transitory storing medium” storing a “computer program comprising executable instructions” that cause the computer to perform the steps similar to those in claim 1. That is, claims 1, 11 and 13 merely recite the steps (or a system/executable instructions for performing the steps) of storing, sending, creating, comparing, identifying, and renaming and/or moving various data.

Claim 1 is reproduced below and includes the following claim limitations that recites a method of managing assets in a movie during production, emphasized in *italics*:

1. A method of managing assets in a movie during production, comprising:

*storing new material in a first file with a first name in a first folder of a data storage system;*

*sending the new material to an editorial system at some predetermined intervals;*

*storing the new material in a second file in a second folder of the data storage system after the new material is sent to the editorial system;*

*creating an empty third file with the first name in a third folder of the data storage system after the new material is sent to the editorial system;*

*comparing names of first files in the first folder with names of third files in the third folder;*

*identifying the names of the first files that are not in the names of the third files as new materials that have not yet been sent to the editorial system; and*

*enabling at least one of: (1) renaming the new materials in second files of the second folder; and (2) moving the new materials in the second files of the second folder to new locations so that the new materials sent to the editorial system can be processed in parallel with said comparing and said identifying.*

We agree with the Examiner that these limitations, under their broadest reasonable interpretation, recite “data recognition and storage.” That is, under the broadest reasonable interpretation, claims 1, 11 and 13 recite steps of (and a system/executable instructions for performing the steps) storing, sending, creating, comparing, identifying, and, for example, renaming various data, which are identified as example mental processes in the Revised Guidance. *See Revised Guidance*, 84 Fed. Reg. at 52. In particular, these steps of storing and recognizing data constitute mental steps because they involve merely making a mental observation of data and evaluating/judging the data, which can be carried out either in the human mind (e.g., in the form of noting an observation) or with the aid of pencil and paper. *See 2019 Guidance* 52 n.14; *see also Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (“[W]e have treated collecting information, including when limited to particular content (which does not change its character as information), as within the realm of abstract ideas.”). Acts that can be performed in the human mind fall within the abstract idea exception subgrouping of mental processes.

We, therefore, conclude claims 1, 11, and 13, and the claims depending respectively therefrom, recite an evaluation or judgment, which falls within the mental processes category of abstract ideas identified in the Revised Guidance.

Revised Guidance Step 2A, Prong 2

Under Step 2A, Prong 2 of the Revised Guidance, we next determine whether the claims recite additional elements that integrate the judicial exception into a practical application (see MPEP §§ 2106.05(a)–(c), (e)–(h)).

Appellant provides quotations from the Guidance regarding two ineligible claim examples and two eligible claim examples. Reply Br. 3–6. C. Appellant emphasizes in the quotations that the patent-eligible subject matter inventions addresses a problem. Appellant emphasizes that “the claimed method relates to addressing a problem with overlapping windows within a graphical user interface.” Reply Br. 5. In particular, according to Appellant, the claims in the eligible example recite “dynamically relocating textual information within a window displayed in a graphical user interface based upon a detected overlap condition” and “the claimed method is necessarily rooted in computer technology to overcome a problem specifically arising in graphical user interfaces.” *Id.* We are not persuaded by Appellant’s arguments.

Contrary to Appellant’s contention (*id.*), claim 1 does not recite overcoming a problem necessarily rooted in computer technology. *See* claim 1. Thus, Appellant does persuasively explain how the claimed method recited in claim 1, claim 11, and/or claim 13 is “necessarily rooted in computer technology to overcome a problem specifically arising in graphical user interfaces.” *Id.* Instead, the claims merely recite storing, sending, creating, comparing, identifying, and, for example, renaming various data. *See* claim 1.

Claim 1’s steps of storing, sending and creating data involve merely making a mental observation of data, which can be carried out either in the

human mind or with the aid of pencil and paper. *See* 2019 Guidance 52 n.14. Further, claim 1’s steps of “comparing” and “identifying” data (“names of first files”), as well as “enabling . . . renaming” data (“new materials”) also constitute making a mental observation of data and evaluating/judging the data, which can be carried out either in the human mind or with the aid of pencil and paper. *See* 2019 Guidance 52 n.14. That is, these steps in claim 1 comprises comparing the names of the first files with the names of the third files, and then identifying the names in the first files that are not in the third files, but no further step is performed in response to the identification. *See* claim 1. Similarly, stored data/materials in the “second files” are then possibly renamed, but nothing is done to the renamed data/materials. *Id.*

Because these claimed steps of claim 1 set forth an abstract idea, we do not identify any other additional element(s) sufficient to integrate the abstract idea into a patent-eligible practical application. Hence, other than the limitations directed to the abstract idea, discussed above, the invention is claimed at a very high level of generality and is only limited in the data being stored, sent, created, compared, identified and enabled to be renamed.

Accordingly, we conclude independent claims 1, 11, and 13, and claims depending respectively therefrom do not integrate the judicial exception into a practical application, and that the subject matter of the claims is directed to the abstract idea of making a mental observation of data and evaluating/judging the data.

#### Revised Guidance Step 2B

Under Step 2B of the Revised Guidance, we next determine whether the elements in the claims both individually and “as an ordered

combination” recite an “inventive concept” that “must be significantly more than the abstract idea itself, and cannot simply be an instruction to implement or apply the abstract idea on a computer.” *BASCOM Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349 (Fed. Cir. 2016). There must be more than “computer functions [that] are ‘well-understood, routine, conventional activit[ies]’ previously known to the industry.” *Alice*, 573 U.S. at 225 (quoting *Mayo*, 566 U.S. at 73).

Here, although Appellant contends “the claimed method is necessarily rooted in computer technology” (Reply Br. 5), storing and sending data in a “data storage system,” or “sending,” “creating,” “comparing,” “identifying,” and “renaming” data to/in an “editorial system” are not additional elements beyond the abstract idea, but rather are directed to the abstract idea itself. *See BSG Tech LLC v. BuySeasons, Inc.*, 899 F.3d 1281, 1290 (Fed. Cir. 2018) (explaining that the Supreme Court in *Alice* “only assessed whether the claim limitations other than the invention’s use of the ineligible concept to which it was directed were well understood, routine and conventional”).

We briefly look to whether any additional limitations in claims 1, 11, and 13 include an inventive concept. Here, the steps of “storing,” “sending,” “creating,” “comparing,” “identifying,” and “renaming” data to/in an “editorial system” in claims 1, 11, and 13 do not individually or as an ordered combination define ways of storing or processing data that is different than any of the myriad conventional ways in which a computer stores or processes data, and thus do not provide an inventive concept. *See, e.g., buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (“That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive.”). The focus of the

claims is not on an improvement in computer processors as tools, but on certain independently abstract ideas that use conventional computing components such as a “data storage system” and an “editorial system” as tools. *See FairWarning IP, LLC v. IA*, 839 F.3d 1089, 1095 (Fed. Cir. 2016) (quotation marks and citations omitted). As with the ineligible claimed invention in *BSG*, the claimed invention does not improve a computer’s functionality or that of its associated components, but rather the benefits flow from performing the abstract idea in conjunction with those conventional computer components. *See BSG*, 899 F.3d at 1288 (“While the presentation of summary comparison usage information to users improves the quality of the information added to the database, an improvement [in] . . . the information stored by a database is not equivalent to an improvement in the database’s functionality.”).

Although the Examiner does not expressly cite to Appellant’s Specification or provide extrinsic evidence, we note that Appellant describes the invention with respect to only well-understood, routine, and conventional computers and processors (*See* Fig. 2A, 2B, 3A, and 3B and their corresponding disclosure in the Specification at pages 10–16 identifying only generic “system,” “processor,” “medium,” computer, and network elements.) Additionally, Appellant provided no argument in the Reply Brief that the claimed invention has additional elements which provide “significantly more” than the abstract idea. Outside of the abstract idea, the additional elements of the claims, individually or as a whole, only recite generic computer components with functions that are well-understood, routine, and conventional. *Alice*, 573 U.S. at 226. Accordingly, we agree with the Examiner that the claims are patent-ineligible.

Therefore, claims 1, 11, and 13 do not recite an inventive concept. Accordingly, we agree with the Examiner that independent claims 1, 11, and 13, and claims depending respectively therefrom and not specifically argued separately, are directed to patent-ineligible subject matter.

*Claims 1–20 rejected under 35 U.S.C. § 103 over Rodriguez, Prahlad, and Lusen.*

With respect to claims 1, 5, and 6, Appellant repeats the cited paragraphs to Prahlad (“Paragraph [0030]”, “Paragraph [0048]”, “Paragraph [0036]”), Lusen (“Paragraph [0021]”), and Rodriguez (“Paragraph [0074]”, “Paragraph [0081]”), and then merely contends that “this paragraph of [Prahlad, Lusen or Rodriguez] fails to teach, suggest or disclose” what the claim recites. Appeal Br. 6–11.

A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim. *See* 37 C.F.R. § 41.37(c)(vii). Moreover, Appellant’s contentions that Prahlad, Lusen and Rodriguez fail to “teach, suggest or disclose” the recited claim language are mere attorney arguments and conclusory statements that are unsupported by factual evidence are entitled to little probative value. *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *see also In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984); and *Ex parte Belinne*, No. 2009-004693, slip op. at 7-8 (BPAI Aug. 10, 2009) (informative), available at <http://www.uspto.gov/web/offices/dcom/bpai/its/fd09004693.pdf>.

Nevertheless, as to claim 1, we agree with the Examiner’s finding that Prahlad discloses “electronic data that is **periodically stored** (**predetermined intervals**).” *See* Ans. 7 (citing Prahlad ¶ 30). Thus,

although Appellant contends that Prahlad fails to teach, suggest or disclose the contested limitation (Appeal Br. 7 (citing Prahlad ¶ 30)), we find no error with the Examiner's reliance on Prahlad to teach and suggest "sending" new material "to an editorial system at some predetermined intervals," as recited in claim 1.

We further agree with the Examiner's finding that Prahlad discloses a "data migrator" that "may store a stub file (empty file with the same name) at the original file location." *See* Ans. 8 (citing Prahlad ¶ 48). Thus, although Appellant contends that Prahlad fails to teach, suggest or disclose the contested limitation (Appeal Br. 7–8 (citing Prahlad ¶ 48)), we find no error with the Examiner's reliance on Prahlad to teach and suggest "creating an empty third file," as recited in claim 1.

We also agree with the Examiner's finding that Lusen discloses "a decision processor (203) programmed for **comparing at least a portion of a filename of an identified new stored data object with stored predetermined filename data.**" Ans. 9 (citing Lusen ¶ 21). Thus, although Appellant contends that Lusen fails to teach, suggest or disclose the contested limitation (Appeal Br. 8–9 (citing Lusen ¶ 21)), we find no error with the Examiner's reliance on Lusen to teach and suggest "comparing names of first files in the first folder with names of third files in the third folder," as recited in claim 1.

Furthermore, we agree with the Examiner's finding that Prahlad discloses "**data migrator (moving)** 95" which "may 'discover' certain information regarding that data and then migrate it . . . to secondary storage devices." *See* Ans. 10–11 (citing Prahlad ¶ 36). Thus, although Appellant contends that Prahlad fails to teach, suggest or disclose the contested

limitation (Appeal Br. 9–10 (citing Prahlad ¶ 36)), we find no error with the Examiner’s reliance on Prahlad to teach and suggest “*enabling*” (i.e., make possible or not preventing) “*at least one of*” (i.e., either of) “renaming” the new materials or “moving” the new materials, as recited in claim 1.

With respect to dependent claims 5 and 6, we find no error with the Examiner’s reliance on Rodriguez to teach and suggest the contested limitations. Final Act. 24–25.

Accordingly, we sustain the Examiner’s rejection of claims 1, 5, and 6 under 35 U.S.C. § 103 over the combination of Rodriguez, Prahlad and Lusen. Appellant does not provide substantive arguments for independent claims 11 and 13, and claims 2–4, 7–10, 12, and 14–20 depending respectively from claims 1, 11, and 13, separate from those of claim 1. *See* Appeal Br. 11. Accordingly, we also sustain the Examiner’s rejection of claims 2–4 and 7–20 under 35 U.S.C. § 103 over the combination of Rodriguez, Prahlad and Lusen.

## CONCLUSIONS

The Examiner’s rejection of claims 1–20 under 35 U.S.C. § 101 is affirmed.

The Examiner’s rejections of claims 1–20 under 35 U.S.C. § 103 are affirmed.

However, the Examiner’s rejections of claims 11 and 12 under 35 U.S.C. §§ 112(a) and 112(b) are reversed.

Because we affirm at least one ground of rejection with respect to each claim on appeal, the Examiner's decision is affirmed.

DECISION SUMMARY

| <b>Claims Rejected</b>  | <b>35 U.S.C. §</b> | <b>Basis</b>                        | <b>Affirmed</b> | <b>Reversed</b> |
|-------------------------|--------------------|-------------------------------------|-----------------|-----------------|
| 1-20                    | 101                | Patent-Eligibility                  | 1-20            |                 |
| 1-20                    | 103                | Rodriguez, Prahlad, Lusen           | 1-20            |                 |
| 11, 12                  | 112(a),<br>112(b)  | Written Description, Indefiniteness |                 | 11, 12          |
| <b>Overall Outcome:</b> |                    |                                     | 1-20            |                 |

TIME PERIOD FOR RESPONSE

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