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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DUY NGUYEN and VU HUY TRAN

Appeal 2018-002560
Application 15/186,421
Technology Center 3600

Before BIBHU R. MOHANTY, NINA L. MEDLOCK, and
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Examiner’s
final rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ We use the term “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Our decision references Appellant’s Appeal Brief (“Appeal Br.,” filed September 5, 2017) and Reply Brief (“Reply Br.,” filed January 8, 2018), and the Examiner’s Answer (“Ans.,” mailed November 3, 2017) and Final Office Action (“Final Act.,” mailed April 5, 2017). Appellant identifies the inventors, Duy Nguyen and Vu Huy Tran, as the real parties in interest. Appeal Br. 3.

CLAIMED INVENTION

Appellant describes that the disclosure “relates to improvements to internet infrastructure efficiency, and more particularly to improvements in hardware utilization and efficiency for campaign generation, optimization, and targeting” (Spec. ¶ 2).

Claims 1, 8, and 15 are the independent claims on appeal. Claim 1, reproduced below with bracketed notations added, is illustrative of the claimed subject matter:

1. A method of campaign optimization comprising:
 - [(a)] crawling internet websites including an advertiser website and a publisher website;
 - [(b)] identifying a resource article from the internet websites, the resource article including a title, an image, and body content;
 - [(c)] generating a resource article topic model of the body content of the resource article;
 - [(d)] identifying a current article being read by a user;
 - [(e)] generating a current article topic model for the current article;
 - [(f)] calculating a semantic score by measuring a similarity between the resource article topic model and the current article topic model;
 - [(g)] calculating a reader score based on a click history of the user and a browsing history of the user;
 - [(h)] calculating a traffic score based on a demographic relationship between the current article and the resource article; and
 - [(i)] recommending the resource article to the user based on the semantic score, the reader score, and the traffic score indicating the user will select the resource article.

REJECTIONS

Claims 1–20 are rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

Claims 1–20 are rejected under 35 U.S.C. § 112(a) as failing to comply with the written description requirement.

Claims 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, and 19 are rejected under 35 U.S.C. § 103 as unpatentable over Chang et al. (US 2015/0106156 A1, published Apr. 16, 2015) (“Chang”), Tsai et al. (US 2015/0347593 A1, published Dec. 3, 2015) (“Tsai”), and Reed, Jr. et al. (US 2009/0132953 A1, published May 21, 2009) (“Reed”).

Claims 4, 11, and 18 are rejected under 35 U.S.C. § 103 as unpatentable over Chang, Tsai, Reed, and King et al. (US 2011/0043652 A1, published Feb. 24, 2011) (“King”).

Claims 7, 14, and 20 are rejected under 35 U.S.C. § 103 as unpatentable over Chang, Tsai, Reed, and Singolda et al. (US 2010/0293048 A1, published Nov. 18, 2010) (“Singolda”).

ANALYSIS

Patent-Ineligible Subject Matter

Appellant argues the pending claims as a group (Appeal Br. 4–8). We select independent claim 1 as representative. The remaining claims stand or fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Under 35 U.S.C. § 101, 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 an implicit exception: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus*

Laboratories, Inc., 566 U.S. 66 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice Corp.*, 573 U.S. at 217. The first step in that analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* If the claims are not directed to a patent-ineligible concept, e.g., an abstract idea, the inquiry ends. Otherwise, the inquiry proceeds to the second step where the elements of the claims are considered “individually and ‘as an ordered combination’” to determine whether there are additional elements that “‘transform the nature of the claim’ into a patent-eligible application.” *Id.* (quoting *Mayo*, 566 U.S. at 79, 78). This is “a search for an ‘inventive concept’ — *i.e.*, an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Id.* at 217–18 (alteration in original).

In rejecting the pending claims under 35 U.S.C. § 101, the Examiner determined that the claims are directed to “the abstract idea of a campaign optimization system” (Final Act. 2). Focusing specifically on independent claims 1, 8, and 15, the Examiner determined that “[t]he steps that describe articles on [an] advertiser’s website[] describe a concept related to using advertising as an exchange”; that “recommending these advertising articles to a user describes a concept related to creating a contractual relationship”; and that “the steps of ‘calculating a reader score based on a click history of the user and a browsing history of the user’” and “‘calculating a traffic score based on a demographic relationship between the current article and the resource article’ both describe concepts related to calculating values” — concepts that the Examiner concluded are similar to other concepts that

courts have held abstract (*id.* at 3–4). The Examiner also determined that the claims do not include additional elements or a combination of elements sufficient to amount to significantly more than the abstract idea itself (*id.* at 4–7).

After Appellant’s briefs were filed, and the Examiner’s Answer mailed, the U.S. Patent and Trademark Office (the “USPTO”) published revised guidance for use by USPTO personnel in evaluating subject matter eligibility under 35 U.S.C. § 101. 2019 REVISED PATENT SUBJECT MATTER ELIGIBILITY GUIDANCE, 84 Fed. Reg. 50, 57 (Jan. 7, 2019) (the “2019 Revised Guidance”). That guidance revised the USPTO’s examination procedure with respect to the first step of the *Mayo/Alice* framework by (1) “[p]roviding groupings of subject matter that [are] considered an abstract idea”; and (2) clarifying that a claim is not “directed to” a judicial exception if the judicial exception is integrated into a practical application of that exception. *Id.* at 50. The 2019 Revised Guidance, by its terms, applies to all applications, and to all patents resulting from applications, filed before, on, or after January 7, 2019. *Id.*

Step One of the Mayo/Alice Framework (2019 Revised Guidance, Step 2A)

The first step in the *Mayo/Alice* framework, as mentioned above, is to determine whether the claims at issue are “directed to” a patent-ineligible concept, e.g., an abstract idea. *Alice Corp.*, 573 U.S. at 217. This first step, as set forth in the 2019 Revised Guidance (i.e., Step 2A), is a two-prong test; in Step 2A, Prong One, we look to whether the claim recites a judicial exception, e.g., one of the following three groupings of abstract ideas: (1) mathematical concepts; (2) certain methods of organizing human activity, e.g., fundamental economic principles or practices, commercial or

legal interactions; and (3) mental processes. 2019 Revised Guidance, 84 Fed. Reg. at 54. If so, we next consider whether the claim includes additional elements, beyond the judicial exception, 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 (“Step 2A, Prong Two”). *Id.* at 54–55. Only if the claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application do we conclude that the claim is “directed to” the judicial exception, e.g., an abstract idea.

We are not persuaded by Appellant’s arguments that the Examiner erred in determining that claim 1 is directed to an abstract idea (Appeal Br. 12–18). The Federal Circuit has explained that “the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, 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 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. Here, it is clear from the Specification (including the claim language) that the claims focus on an abstract idea, and not on any improvement to technology and/or a technical field.

The Specification is entitled “CAMPAIGN OPTIMIZATION SYSTEM,” and states that the disclosure relates, in particular, “to improvements in hardware utilization and efficiency for campaign

generation, optimization, and targeting” (Spec. ¶ 2). The Specification describes, in the Background section, that the body of information content available on the Web is becoming larger and more diversified in nature with each passing day, and that accompanying this explosive growth is the “ever increasing use of advertising material on practically any content which a user can access” (*id.* ¶ 4). According to the Specification, this large body of information can be problematic in the sense that it reduces the “ability of users to meaningfully connect and requir[es] ever greater computing resources”; in this environment, advertisers and businesses also are forced to increase their budgets when internet marketing campaigns are less than effective (*id.* ¶ 5). The Specification describes that the “current model connecting users over the internet places large amounts of irrelevant data before users . . . [and] relies heavily on expansive and expensive computing overhead” (*id.* ¶ 6). And, although “[s]olutions have been long sought,” there “remains a considerable need for devices and methods that can decrease computing overhead, advertising budget requirements, and content irrelevancy” (*id.* ¶ 7).

The claimed invention is ostensibly intended to address these shortcomings by providing a campaign optimization system and method that reduces computing overhead and advertising budget requirements, while improving content relevancy (*id.* ¶ 8). Consistent with this disclosure, claim 1 recites a method of campaign optimization comprising:

(1) identifying a resource article from an advertiser or publisher website and generating a topic model of the body content of the resource article, i.e., “crawling internet websites including an advertiser website and a publisher website”; “identifying a resource article from the internet websites, the

resource article including a title, an image, and body content”; and “generating a resource article topic model of the body content of the resource article” (steps (a)–(c)); (2) identifying a current article being read by a user and generating a topic model for the current article, i.e., “identifying a current article being read by a user” and “generating a current article topic model for the current article” (steps (d) and (e)); (3) calculating a semantic score based on the similarity between the resource article topic model and the current article topic model, a reader score based on the user’s click and browsing histories, and a traffic score based on the demographic relationship between the current and resource articles, i.e., “calculating a semantic score by measuring a similarity between the resource article topic model and the current article topic model”; “calculating a reader score based on a click history of the user and a browsing history of the user”; and “calculating a traffic score based on a demographic relationship between the current article and the resource article” (steps (f)–(h)); and (4) recommending the resource article to the user based on the calculated scores indicating the user will select the resource article, i.e., “recommending the resource article to the user based on the semantic score, the reader score, and the traffic score indicating the user will select the resource article” (step (i)). These limitations, when given their broadest reasonable interpretation, recite (1) collecting information, i.e., a current article and a resource article; (2) analyzing the information, i.e., generating topic models for the current and resource articles and calculating a semantic score based on the similarity between the topic models, a reader score based on the user’s click and browsing histories, and a traffic score based on the demographic relationship between the current and resource articles; and

(3) presenting the results of the collection and analysis, i.e., recommending the resource article, e.g., displaying a “rendered and formatted version” of the recommended article, which may be an advertisement (Spec. ¶¶ 54, 68), to the user based on the calculated scores indicating the user will select the resource article. Simply put, claim 1 recites a method of targeting content/advertising to a user, i.e., a commercial interaction, which is a method of organizing human activity and, therefore, an abstract idea. *See* 2019 Revised Guidance, 84 Fed. Reg. at 52 (describing “[c]ertain methods of organizing human activity” as including “commercial or legal interactions (including . . . advertising, marketing or sales activities or behaviors”)).

The Federal Circuit has held similar concepts abstract. For example, in *Bridge and Post, Inc. v. Verizon Communications, Inc.*, Appeal No. 2018-1697, 2019 WL 2896449, at *4 (Fed. Cir. July 5, 2019), the Federal Circuit held that abstract ideas include tracking a user’s computer network activity and using information gained about the user to deliver targeted media, such as advertisements. *See also, e.g., Affinity Labs of Tex., LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1271 (Fed. Cir. 2016) (customizing a user interface to have targeted advertising based on user information); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015) (tailoring information presented to a user based on particular information); *Morsa v. Facebook, Inc.*, 77 F. Supp. 3d 1007, 1013 (C.D. Cal. 2014), *aff’d*, 622 F. App’x 915 (Fed. Cir. 2015) (concluding that targeting advertisements to certain consumers is no more than an abstract idea).

Having concluded that claim 1 recites a judicial exception, i.e., an abstract idea (Step 2A, Prong One), we next consider whether the claim

recites additional elements that integrate the judicial exception into a practical application (Step 2A, Prong Two). It does not.

The only additional elements recited in claim 1, beyond the abstract idea, are the third party internet websites, i.e., an “advertiser website” and a “publisher website,” from which a resource article is identified. We find no indication in the Specification, nor does Appellant direct us to any indication, that the operations recited in claim 1 require any specialized computer hardware or other inventive computer components, i.e., a particular machine, invoke any assertedly inventive programming, or that the claimed invention is implemented using other than generic computer components to perform generic computer functions. *See DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) (“[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.”).

We also find no indication in the Specification that the claimed invention effects a transformation or reduction of a particular article to a different state or thing. Nor do we find anything of record, short of attorney argument, that attributes an improvement in technology and/or a technical field to the claimed invention or that otherwise indicates that the claimed invention integrates the abstract idea into a “practical application,” as that phrase is used in the 2019 Revised Guidance.²

² The 2019 Revised Guidance references the MANUAL OF PATENT EXAMINING PROCEDURE (“MPEP”) § 2106.05(a)–(c) and (e) in describing the considerations that are indicative that an additional element or combination of elements integrates the judicial exception, e.g., the abstract idea, into a practical application. 2019 Revised Guidance, 84 Fed. Reg. at 55. If the recited judicial exception is integrated into a practical

Appellant argues that “the claims are directed to specific asserted improvements in computer capabilities as evidenced by the intrinsic evidence of Specification paragraph [0170]” (Appeal Br. 12; *see also* Reply Br. 4–7). But, that argument is not persuasive at least because it is not commensurate with the claim language.

Paragraph 170 describes that “the campaign service architecture, including the deliverer block, the matcher block, the collector block, each of their sub-components, and the databases, has been discovered to provide multiple improvements to the backend technologies enabling internet connectivity.” And paragraph 170 explains that “[t]hese improvements result directly from the highly discriminating extraction techniques of the collector block, the accurate and highly inclusive matching techniques of the matcher block, the uniform delivery of the deliverer block, and their combination” and that “[a]s such, storage requirements, processing overhead, delay times, click-conversion rates, and reader consumption times are significantly improved.”

Appellant cautions that paragraph 170 should not be read in isolation, and points to Figure 5 and paragraphs 93 and 96 of the Specification as further describing the extraction techniques of the collector block and its sub-components (Appeal Br. 13). Appellant asserts that “the use of an extracted body to identify a resource article and to generate a resource article topic model are specifically claimed, as illustrated by claim 1” (*id.* at 14). Yet, there is no recitation in claim 1 (or, for that matter, in either of independent claims 8 and 15) of the extraction techniques that allegedly

application, as determined under one or more of these MPEP sections, the claim is not “directed to” the judicial exception.

provide the improvements in computer capabilities. Instead, claim 1 merely recites “identifying a resource article from the internet websites, the resource article including a title, an image, and body content” and “generating a resource article topic model of the body content of the resource article” without any technical details regarding how resource article, including the title, image, and body content are identified, or how the resource article topic model of the body content of the resource article is generated. Appellant, by its argument, suggests such details exist, but those details are not reflected in the claim. Instead, “the claim language here provides only a result-oriented solution, with insufficient detail for how a computer accomplishes it. Our law demands more.” *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017).

Appellant further maintains that claim 1 is patent eligible because it poses no risk of preemption (Appeal Br. 14–15). But, that argument is similarly unpersuasive of Examiner error.

There is no dispute that the Supreme Court has described “the concern that drives [the exclusion of abstract ideas from patent-eligible subject matter] as one of pre-emption,” *Alice Corp.*, 573 U.S. at 216. But, characterizing preemption as a driving concern for patent eligibility is not the same as characterizing preemption as the sole test for patent eligibility. “The Supreme Court has made clear that the principle of preemption is the basis for the judicial exceptions to patentability” and “[f]or this reason, questions on preemption are inherent in and resolved by the § 101 analysis.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (citing *Alice Corp.*, 573 U.S. at 216). “[P]reemption may signal

patent ineligible subject matter, [but] the absence of complete preemption does not demonstrate patent eligibility.” *Id.*

Appellant further “urge[s] the application of *Enfish* and *McRO*,”³ as representing “current court precedent in light of *Alice* and *Mayo*” (Appeal Br. 18; *see also* Reply Br. 7–8). Yet, we can find no parallel between claim 1 and the claims at issue in either *Enfish* or *McRO*. Nor, for that matter, has Appellant explained how the holdings in *Enfish* and *McRO* impact the present analysis under the *Mayo/Alice* framework.

The claims at issue in *Enfish* were directed to a specific type of data structure, i.e., a self-referential table for a computer database, designed to improve the way a computer carries out its basic functions of storing and retrieving data. *Enfish*, 822 F.3d at 1335–36. There, in rejecting a § 101 challenge, the Federal Circuit held that “the plain focus of the claims is on an improvement to computer functionality itself, not on economic or other tasks for which a computer is used in its ordinary capacity.” *Id.* at 1336.

Similarly, in *McRO*, the Federal Circuit concluded that the claim, when considered as a whole, is directed to a “technological improvement over the existing, manual 3–D animation techniques” and uses “limited rules in a process specifically designed to achieve an improved technological result in conventional industry practice.” *McRO*, 837 F.3d at 1316. Specifically, the Federal Circuit found that the claimed rules allow “computers to produce ‘accurate and realistic lip synchronization and facial expressions in animated characters’ that previously could only be produced by human animators,” and that the rules are “limiting in that they define

³ *McRO, Inc. v. Bandai Namco Games Am., Inc.*, 837 F.3d 1299 (Fed. Cir. 2016).

morph weight sets as a function of the timing of phoneme sub-sequences.”
Id. at 1313.

Appellant does not point to anything in claim 1 that resembles the inventive self-referential data structure at issue in *Enfish*. Nor has Appellant identified any technological improvement analogous to that of *McRO*.

We conclude, for the reasons outlined above, that claim 1 recites a method of organizing human activity, i.e., an abstract idea, and that the claim does not include additional elements that integrate the abstract idea into a practical application. *Cf. Alice Corp.*, 573 U.S. at 223–24 (“[W]holly generic computer implementation is not generally the sort of ‘additional featur[e]’ that provides any ‘practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.’”) (quoting *Mayo*, 566 U.S. at 77)). Accordingly, we agree with the Examiner that claim 1 is directed to an abstract idea.

Step Two of the Mayo/Alice Framework (2019 Revised Guidance, Step 2B)

Having determined under step one of the *Mayo/Alice* framework that claim 1 is directed to an abstract idea, we next consider under Step 2B of the 2019 Revised Guidance, the second step of the *Mayo/Alice* framework, whether claim 1 includes additional elements or a combination of elements that provides an “inventive concept,” i.e., whether the claim contains additional elements or a combination of elements that amounts to “significantly more” than the judicial exception itself. 2019 Revised Guidance, 84 Fed. Reg. at 56. We conclude that it does not. And Appellant offers no argument to contrary (*see* Appeal Br. 18 (“Appellant[] respectfully submit[s] that the claims are directed to patent eligible subject matter and the second step of the Alice framework need not be addressed. However,

Appellant[] reserve[s] the right to contest the second step of the Alice framework for subject matter eligibility in any subsequent appeal or subsequent litigation.”)).

We are not persuaded, on the present record, that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 101. Therefore, we sustain the Examiner’s rejection of claim 1, and claims 2–20, which fall with claim 1.

Written Description

Whether a specification complies with the written description requirement of 35 U.S.C. § 112, first paragraph (now 35 U.S.C. § 112(a)), is a question of fact and is assessed on a case-by-case basis. *See, e.g., Purdue Pharma L.P. v. Faulding, Inc.*, 230 F.3d 1320, 1323 (Fed. Cir. 2000) (citing *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1561 (Fed. Cir. 1991)). The disclosure, as originally filed, need not literally describe the claimed subject matter (i.e., using the same terms or *in haec verba*) in order to satisfy the written description requirement. But, the specification must convey with reasonable clarity to those skilled in the art that, as of the filing date, the inventors were in possession of the claimed invention. *See id.*

The Examiner maintains here that the Specification fails to provide adequate written description support for “calculating a semantic score by measuring a similarity between the resource article topic model and the current article topic model,” “calculating a reader score based on a click history of the user and a browsing history of the user,” and “calculating a traffic score based on a demographic relationship between the current article and the resource article,” as recited in independent claim 1, and similarly recited in independent claims 8 and 15 (Final Act. 7–9). The Examiner

acknowledges that the Specification includes descriptive language regarding these steps and the desired results of the steps (*id.* at 8–9). But the Examiner maintains that the rejection is proper because the Specification does not disclose “the specific steps or algorithm needed to implement the step of performing the yield optimization” (*id.* at 8).

We agree with Appellant that the Specification provides the requisite written description support such that a person skilled in the art would understand that the inventors were in possession of the claimed invention, including the identified limitations, at the time the application was filed (Appeal Br. 19–23). In other words, we find that the Specification provides sufficient evidence that the inventors were in possession of the claimed functionality at the time of filing. *See Vasudevan Software, Inc. v. MicroStrategy, Inc.*, 782 F.3d 671, 683 (Fed. Cir. 2015) (“The more telling question is whether the specification shows possession by the inventor of how [the claimed function] is achieved.”).

In this regard, we agree with Appellant that a person of ordinary skill in the art, on reviewing the Specification (particularly including paragraphs 75–78), would understand that the inventors were in possession of “calculating a semantic score,” e.g., by utilizing techniques such as latent semantic indexing (Appeal Br. 19–20). We also agree with Appellant that a disclosure of sufficient detail to demonstrate to a person of ordinary skill in the art that the inventors possessed the reader score calculation can be found in paragraphs 80–83 of the Specification, and that sufficient disclosure is provided in paragraphs 84–87 to demonstrate that the inventors possessed the traffic score calculation (*id.* at 21).

To the extent the Examiner places a dispositive emphasis on whether Appellant discloses an “algorithm” or “formula,” we note that “possession” of the invention can be shown in a variety of ways, including “by such descriptive means as words, structures, figures, diagrams, formulas, etc., that fully set forth the claimed invention.” *Lockwood v. Am. Airlines, Inc.*, 107 F.3d 1565, 1572 (Fed. Cir. 1997).

In view of the foregoing, we do not sustain the Examiner’s rejection of claims 1–20 under 35 U.S.C. § 112(a) as failing to comply with the written description requirement.

Obviousness

Independent Claims 1, 8, and 15 and Dependent Claims 2, 3, 5, 6, 9, 10, 12, 13, 16, 17, and 19

We are persuaded by Appellant’s argument that the Examiner erred in rejecting independent claims 1, 8, and 15 under 35 U.S.C. § 103 at least because Chang, on which the Examiner relies, does not disclose or suggest “identifying a resource article from the internet websites, the resource article including a title, an image, and body content,” as recited in claim 1, and similarly recited in claims 8 and 15 (Appeal Br. 25–27; *see also* Reply Br. 16–17).

Chang is directed to a contextual analysis engine that systematically extracts, analyzes, and organizes digital content stored in an electronic file, e.g., a webpage, and discloses that content can be extracted using a text extraction module, which is capable of separating the content to be analyzed from less meaningful content, such as format specifications and programming scripts (Chang Abstract). The resulting unstructured corpus of

plain text can then be passed to a text analytics module capable of generating a structured categorization of topics included within the content (*id.*).

In rejecting claim 1, the Examiner cites paragraphs 28, 46, 57, 96, and 101 of Chang, as disclosing the argued limitation (Final Act. 11–12).

However, we agree with Appellant that although Chang discloses extracting different forms of content and distinguishing parts of a website, we find nothing in the cited portions of Chang that discloses or suggests “identifying a resource article from the internet websites, the resource article including a title, an image, and body content,” as recited in claim 1, and similarly recited in claims 8 and 15.

Therefore, we do not sustain the Examiner’s rejection of independent claims 1, 8, and 15 under 35 U.S.C. § 103. For the same reasons, we also do not sustain the Examiner’s rejection of dependent claims 2, 3, 5, 6, 9, 10, 12, 13, 16, 17, and 19. *Cf. In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (“dependent claims are nonobvious if the independent claims from which they depend are nonobvious”).

Dependent Claims 4, 7, 11, 14, 18, and 20

The rejections of claims 4, 7, 11, 14, 18, and 20 do not cure the deficiency in the Examiner’s rejection of independent claims 1, 8, and 15. Therefore, we do not sustain the Examiner’s rejection under 35 U.S.C. § 103 of claims 4, 7, 11, 14, 18, and 20 for the same reasons set forth above with respect to the independent claims.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–20	101	Eligibility	1–20	
1–20	112(a)	Written Description		1–20
1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, 19	103	Chang, Tsai, Reed		1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, 19
4, 11, 18	103	Chang, Tsai, Reed, King		4, 11, 18
7, 14, 20	103	Chang, Tsai, Reed, Singolda		7, 14, 20
Overall Outcome			1–20	

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