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THE WEBB LAW FIRM, P.C.
ONE GATEWAY CENTER
420 FT. DUQUESNE BLVD, SUITE 1200
PITTSBURGH, PA 15222
UNITED STATES OF AMERICA

EXAMINER

BARBEE, MANUEL L

ART UNIT PAPER NUMBER

2864

NOTIFICATION DATE DELIVERY MODE

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ELECTRONIC

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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* SHINGO KINOSHITA<sup>1</sup>  
(Applicant: JEOL Ltd.)

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Appeal 2018-003523  
Application 14/178,630  
Technology Center 2800

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Before BEVERLY A. FRANKLIN, JENNIFER R. GUPTA, and  
SHELDON M. McGEE, *Administrative Patent Judges*.

PER CURIAM.

DECISION ON APPEAL

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<sup>1</sup> Appellant, is the Applicant, JEOL Ltd., which, according to the Brief, is the real party in interest. App. Br. 2.

Appellant requests our review under 35 U.S.C. § 134 of the Examiner's decision rejecting claims 1, 3–5, 7, and 8. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

#### STATEMENT OF THE CASE

Claim 1 is illustrative of Appellant's subject matter on appeal and is set forth below:

1. A method of quantitative analysis of a specific element contained in a sample by irradiating the sample with an electron beam, detecting characteristic X-rays emanating from the sample, with a plurality of spectrometers obtaining plural data sets about intensities of characteristic X-rays corresponding to the specific element contained in the sample, and providing a quantitative analysis of the sample based on the data sets, said method comprising the steps of:
  - preparing an electron probe microanalyzer equipped with a plurality of spectrometers;
  - detecting characteristic X-rays emanating from the sample by each of the spectrometers so as to obtain said plural data sets about the characteristic X-ray intensities;
  - determining with each spectrometer concentration values for the specific element from the plural data sets, respectively, about the characteristic X-ray intensities;
  - calculating weights based upon characteristic X-ray intensity data for the concentration values, respectively, from the plural data sets;
  - calculating a weighted average of the concentration values based on the calculated weights; and
  - displaying the weighted average of the quantitative values in the form of graphical information.

### THE REJECTION

Claims 1, 3–5, 7, and 8 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception (abstract idea) without significantly more.

### ANALYSIS AND DECISION

We sustain the above rejection based on the findings of fact, conclusions of law, and rebuttals to arguments expressed by the Examiner in the Non-Final Action dated June 30, 2017 and in the Answer.

The decision of the Examiner is affirmed.

### TIME PERIOD

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