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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte WILLIAM R. ODEN,
MATTHEW D. GALLOWAY, MONICA A. MURRAY,
DANIEL NELSON, and JOSEPH BAUMGARTNER

Appeal 2018-006761
Application 11/245,240
Technology Center 3600

Before JAMES P. CALVE, MICHELLE R. OSINSKI, and
WILLIAM A. CAPP, *Administrative Patent Judges*.

CALVE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Final Office Action rejecting claims 64, 67–78, 80–83, and 85–90. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ “Appellant” refers to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Thomas Reuters Corporation. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The claimed subject matter relates to monitoring an issue via a web-based software application. Spec. ¶¶ 2, 4. Claims 64, 80, and 85 are independent. Claim 64 is reproduced below.

64. A method of monitoring an issue using a computer network, the method comprising:

receiving regulatory compliance information and one or more company defined departments of an organization from a user through the network;

creating at least one issue based on the received regulatory compliance information, wherein the issue includes at least one objective to be completed to resolve the issue;

assigning at least one department of the company defined departments and a first individual as an issue owner for the created issue;

creating at least one project based on the objective to be completed;

creating at least one action item for each of the created projects;

assigning, for each project created, a second individual as a project manager;

assigning, for each action item created, a third individual as an action implementer;

sending, by one or more computer processors of the computer network, a message to the project manager through the network, wherein the message informs the project manager of the project manager assignment and displays a first selectable graphical element adapted to provide, when selected by the project manager, a graphical user interface configured to display a first user interface control selectable by the project manager to indicate a response accepting the project manager assignment by the project manager and to transmit a reply message including the response indicated by the project manager, wherein the first selectable graphical element and the graphical user interface configured to display the first user

interface control are configured based on the message being an assignment notification;

making a determination, by the one or more computer processors, whether the reply message indicating the response by the project manager was transmitted;

performing transmission, by the one or more computer processors, of one or more reminder messages to the project manager in response to the determination being made that the reply message including the response indicated by the project manager was not transmitted, wherein the one or more reminder messages include a second selectable graphical element adapted to provide, when selected by the project manager, a graphical user interface configured to display a second user interface control selectable by the project manager to indicate a response accepting the project manager assignment, wherein the second selectable graphical element and the graphical user interface configured to display the second user interface control are configured based on the one or more reminder messages being reminder notifications;

receiving feedback from the project manager through the network regarding the progress of each project;

monitoring the progress of each project through the network until each project has been completed in such a way that the issue can be resolved;

communicating the progress of each project, as a percentage complete, to the issue owner until the issue has been finally resolved;

communicating the resolution of the issue to the issue owner; and

providing, in response to a query requesting a status for a specified department, a listing of each issue assigned to the specified department, the listing of each issue including the corresponding objective to be completed for each issue and the progress of each project based on the corresponding objective to be completed.

REJECTIONS

Claims 64, 67–78, 80–83, and 85–90 are rejected as directed to patent-ineligible subject matter under a judicial exception to 35 U.S.C. § 101.

Claims 64, 67–78, 80–83, and 85 are rejected under 35 U.S.C. § 103(a) as unpatentable over Buddle (US 6,912,502 B1, iss. June 28, 2005), Abrams (US 7,305,392 B1, iss. Dec. 4, 2007), Steusloff (US 7,364,067 B2, iss. Apr. 29, 2008), Fliess (US 7,168,045 B2, iss. Jan. 23, 2007), and Ouchi (US 2003/0023675 A1, pub. Jan. 30, 2003).

Claims 86–89 are rejected under 35 U.S.C. § 103(a) as unpatentable over Buddle, Abrams, Steusloff, Fliess, Ouchi, and Sanches (US 2003/0018510 A1, pub. Jan. 23, 2003).

Claim 90 is rejected under 35 U.S.C. § 103(a) as unpatentable over Buddle, Abrams, Steusloff, Fliess, Ouchi, and Mikurak (US 6,606,744 B1, iss. Aug. 12, 2003).

ANALYSIS

Patent Eligibility of Claims 64, 67–78, 80–83, and 85–90

Section 101 of the Patent Act defines patent-eligible subject matter as:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

35 U.S.C. § 101 (2012). However, “this provision contains an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. Pty. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014) (quoting *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)).

To distinguish patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications, we first determine whether the claims are directed to a patent-ineligible concept. *Id.* at 217. If they are, we consider the elements of each claim, individually and as an ordered combination, to determine if additional elements transform the claim into a patent eligible application, e.g., by providing an “inventive concept” that ensures the patent amounts to significantly more than a patent on the ineligible concept. *Id.* at 217–218.

Recently, the USPTO issued guidance about this framework. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Revised Guidance”). Under the Revised Guidance, to determine whether a claim is “directed to” an abstract idea, we evaluate whether the claim recites (1) any judicial exceptions, including certain groupings of abstract ideas listed in the Revised Guidance (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 (*see* MPEP § 2106.05(a)–(c), (e)–(h)). *See* Revised Guidance, 84 Fed. Reg. at 51.

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then consider 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. *Id.* at 56.

Revised Step 2A, Prong One: Judicial Exceptions Recited in Claims

Appellant argues the claims as a group with claim 64 as exemplary. Appeal Br. 7–12. We select claim 64 as representative with the remaining claims standing or falling with claim 64. *See* 37 C.F.R. § 41.37(c)(1)(iv).

The Examiner determines that claim 64 recites an abstract idea that involves “certain methods of organizing human activity (concepts relating to interpersonal and intrapersonal activities, such as managing relationships or transactions between people, social activities, and human behavior; satisfying or avoiding a legal obligation; advertising, marketing, and sales activities or behaviors; and managing human mental activities).” Final Act. 8. The Examiner also finds that the limitations recite steps of receiving, sending, performing, monitoring, and providing that involve collecting and comparing known data. *Id.* at 8–11 (analyzing individual limitations).

We agree with the Examiner’s analysis. Under the Revised Guidance, the steps of “receiving regulatory compliance information . . .,” “creating at least one issue . . .,” “assigning at least one department . . .,” “creating at least one project . . .,” “creating at least one action item . . .,” “assigning, for each project created . . .,” and “assigning, for each action item created . . .,” involve certain methods of organizing human activity of commercial or legal interactions, legal obligations, or business relations, and managing personal behavior or relationships or interactions between people including following rules or instructions. Revised Guidance, 84 Fed. Reg. at 52.

The Specification describes these steps as managing human activities involved in regulatory compliance by creating an issue and organizing the activities of an issue owner, project manager, and implementer around the projects and action items. Spec. ¶¶ 3, 65, 112, 126, 162, 164, 180, 195, 236.

“[A]n Issue is a requirement that demands some type of Action to be performed” and “describes the statute, regulation, agency bulletin, case law, contract, budget, or other item which must be review[ed] or acted upon.” *Id.* ¶ 100. The system can be used to monitor Issues, Projects, Actions, and Assignments in finance (budget), government contracts, case law, and other areas. *Id.* ¶ 101. The system assigns an Issue Creation Date when an issue is created and an Issue Owner is assigned responsibility for monitoring the status of the Project(s) to ensure the Issue’s timely resolution. *Id.* ¶ 112. The Project Manager creates an Action Plan for each Project as a collection of Action Items to be performed to fulfill the Project objective. *Id.* ¶¶ 180, 195.

Claim 64 thus recites steps that organize the activities of individuals such as an Issue Owner, Project Manager, and Action Implementer who interact to perform action items of an action plan for a project. It organizes the behavior, relationships, and interactions of these individuals, e.g., by following rules or instructions in an action plan with action items.

The further steps of “sending . . . a message to the project manager through the network,” “making a determination . . . whether the reply message . . . was transmitted,” “performing transmission . . . of one or more reminder messages to the project manager . . .” “receiving feedback from the project manager . . .,” “monitoring the progress of each project . . .” “communicating the progress of each project, as a percentage complete, to the issue owner . . .” “communicating the resolution of the issue to the issue owner,” and “providing . . . a listing of each issue assigned to the specified department . . . and the progress of each project” recite the same abstract idea of organizing human activity. *See Spec.* ¶¶ 107, 236–249.

These steps organize human activities to fulfill legal obligations for regulatory compliance by assigning a project manager who must accept the assignment or receive reminder messages and provide feedback regarding the progress of each project to include the percentage complete as described in the Specification. Spec. ¶¶ 3, 100, 101, 107, 162, 230–31, 235, 238–249; *see In re Ferguson*, 558 F.3d 1359, 1364 (Fed. Cir. 2009) (“At best it can be said that Applicants’ methods are directed to organizing business or legal relationships in the structuring of a sales force (or marketing company).”).

Furthermore, many of these steps—receiving regulatory compliance information, creating at least one issue, assigning at least one department, creating at least one project, creating at least one action item, assigning a project manager and action implementer, sending a message to the project manager, making a determination whether the project manager response was transmitted, sending reminder messages to the project manager, receiving feedback from the project manager, and monitoring and communicating the progress of each project—involve mental processes, i.e., concepts that are performed in the human mind and can be performed by a person using pen and paper. Revised Guidance, 84 Fed. Reg. at 52; *see* Final Act 8. Indeed, the Specification also describes this process as a labor and paper intensive process that was performed essentially as mental processes. Spec. ¶ 3. Such mental processes are not patent eligible. *E.g.*, *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372–73 (Fed. Cir. 2011) (holding that a claim whose “steps can be performed in the human mind, or by a human using a pen and paper” is directed to an “unpatentable mental process[]”).

Thus, claim 64 recites abstract ideas involving certain methods of organizing human activity and mental processes.

Revised Step 2A, Prong Two: Integration into a Practical Application

Next, we consider whether claim 64 recites additional elements that integrate the abstract ideas into a practical application. Appellant argues that the claims do more than implement a manual activity on computers. They provide an improved process directed to computerized project management systems. Appeal Br. 7–9. In particular, Appellant argues that the system of claim 64 sends notifications to different persons who play different roles in the project and interact graphically with the system and each other. *Id.* at 9.

We determine that claim 64 does not recite additional elements that integrate the abstract ideas into a practical application. As discussed below, the additional elements do not improve computer capabilities or a technical field. Nor do they implement the abstract ideas on a particular machine that is integral to the claims or effect a transformation or reduction of a particular article to a different state or thing. Revised Guidance, 84 Fed. Reg. at 55. They simply use computers as tools to apply the abstract ideas. “[M]ere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Alice*, 573 U.S. at 223; *see also Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016).

The “computer network” and “computer processors” are generic components that perform generic functions of analyzing and processing data, which does not integrate the abstract ideas into a practical application. *See id.* at 55 n.31; *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016) (holding that recited steps of collecting information even when limited to particular content that does not change its character as information and analyzing the information by steps people go through in their minds or by mathematical algorithms, without more, are abstract ideas).

The claimed network system 100 includes client computer 101, which may be a personal computer with display/monitor 102 and input means 104, or a mobile terminal such as a mobile computing device or personal data organizer. Spec. ¶ 66. Client computer 101 includes a processor 106 as a data processing means. The processor includes a central processing unit 107 or parallel processor. *Id.* ¶ 69. The processor 106 executes program 110 adapted to perform predetermined operations and accesses memory 109, which may store a sequence of code instructions comprising program 110 and data structure 111 for performing predetermined operations. *Id.* ¶ 72. The processor 106 can be adapted to access and/or execute a plurality of programs 110 corresponding to a plurality of operations, e.g., to support the user interface and e-mail applications. *Id.* ¶ 75.

Imaging display device 102 is a high resolution computer monitor or a touch screen monitor. *Id.* ¶ 70. The graphical user interface is a client application that runs on existing computer operating systems and may be ported to other personal computer software, PDAs, cell phones, or other digital device that has a screen or visual component. *Id.* ¶ 71.

It is well-settled that “mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Alice*, 573 U.S. at 223 (“Stating an abstract idea while adding the words ‘apply it with a computer’ simply combines those two steps, with the same deficient result. Thus, if a patent’s recitation of a computer amounts to a mere instruction to ‘implemen[t]’ an abstract idea ‘on ... a computer,’ . . . that addition cannot impart patent eligibility.”) (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 82 (2012)); see Revised Guidance, 84 Fed. Reg. at 55 & n.30.

Essentially, the method automates a process previously performed manually. *See* Reply Br. 4. As discussed above, the Specification describes known methods of monitoring regulatory, contract, budgeting, and legal issues as labor and paper intensive processes. Spec. ¶ 3. Individuals are assigned to look up regulations, contracts, and case law, calendar target and compliance dates, and to manage and track tasks that are performed by other individuals to achieve a certain target, e.g., compliance with regulations. *Id.*

Using a generic computer network and processors to perform project management activities more efficiently “by allowing the automation of particular tasks” that previously were done manually (*see* Reply Br. 4) does not integrate the abstract ideas into a patent-eligible application. *See OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015) (“But relying on a computer to perform routine tasks more quickly or more accurately is insufficient to render a claim patent eligible.”).

Contrary to Appellant’s arguments (*see* Appeal Br. 7–10), *McRO* illustrates why claim 64 does not integrate the abstract ideas into a practical application. The method in *McRO* was patent-eligible because it “use[d] a combined order of specific rules that renders information into a specific format that is then used and applied to create desired results: a sequence of synchronized, animated characters.” *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1315 (Fed. Cir. 2016). The method did not simply automate the abstract idea of lip-synchronization of 3-D characters. Instead, it improved computer animation by requiring specific rules to be rendered in a specific way as a relationship between sub-sequences of phonemes, timing, and the weight of expression of each phoneme visually at a particular timing represented by the morph weight set. *Id.* at 1314–15.

Here, the method of claim 64 automates a previous manual activity without improving computers or other technology or using specific rules to create a specific result or transformation. The preamble recites “[a] method of *monitoring* an issue using a computer network.”² Appeal Br. 18 (Claims App’x) (emphasis added). The claimed steps involve mere data gathering and processing steps for the abstract ideas discussed above. For example, the steps of creating an issue, project, and action item, assigning a project manager or an action implementer, and sending messages and reminders are recited at a high level of generality without any improvement to computers or networks or any steps that apply particular rules to achieve a particular result as in *McRO*. The steps simply monitor activities involved in a project management on generic computers that perform generic functions of sending and receiving data, which activity does not integrate the abstract ideas into a practical application. *See Revised Guidance*, 84 Fed. Reg. at 55 n.31.

Appellant also argues that the claimed steps of sending messages with user interface controls selectable to indicate a response, transmitting a reply message, or transmitting reminder messages in response to determining that reply messages were not transmitted are meaningful limitations that solve a computer-centric problem with a solution rooted in computer technology to provide an improved user interface. *See Appeal Br. 11–12; Reply Br. 2–4*. Appellant argues that the interface tailors graphical interaction between users and the system and improves efficiency and accuracy. *Reply Br. 4*.

² The Specification describes the present invention as relating to “a web-based software application designed to monitor an issue implementation process.” Spec. ¶ 4.

Again, these claimed features recite generic functions of computer networks to include communications between a computer system and users via email messages that include a selectable graphical element (web link, *see* Spec. ¶ 225) that displays a graphical user interface that allows the project manager to provide a response accepting the project (*id.*). The hyperlink allows a message addressee to communicate with the program 110. *Id.*

Nothing in claim 64 or the Specification indicates that the message or user interface represents an advance in computer technology or that the user interface achieves a particular result other than provide a means for a project manager to communicate with the system program in a known manner. This generic, known use of a hyperlink contrasts with the patent-eligible use of a hyperlink in *DDR Holdings* to produce a customized, hybrid web page that combined the look and feel of a host's website with commercial content of a third party merchant's website on the Internet. *See DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257–59 (Fed. Cir. 2014). In contrast to *DDR*, selecting a hyperlink in claim 64 (the “selectable graphical element”) causes program 110 to display an Acknowledgement Page 800 that allows the project manager to accept or decline the project. Spec. ¶ 225, Fig. 22B; *cf.* Revised Guidance, 84 Fed. Reg. at 55 n.25 (noting that a modification of internet hyperlink protocol to dynamically produce a dual-source hybrid web page improved computer functioning in a technical field in *DDR Holdings*).

Here, claim 64 recites no improvement to hyperlinks or the display of a webpage over a network. Selecting a graphical element displays a generic “graphical user interface configured to display a first user interface control selectable by the project manager to indicate a response accepting the project manager assignment . . . and to transmit a reply message.”

We are not persuaded by Appellant’s arguments that claim 64 recites an improved user interface for electronic devices over prior art systems in view of the decision in *Core Wireless*. Reply Br. 3–4. The decision in *Core Wireless* supports a contrary determination, namely, that claim 64 does not integrate the abstract ideas into a practical application that is patent-eligible.

In *Core Wireless*, the claims recited an improved user interface rather than the generic idea of summarizing information that already existed. *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1362 (Fed. Cir. 2018). The improvements were (1) “an application summary that can be reached directly from the menu,” (2) “the application summary displays a limited list of data offered within the one or more applications, each of the data in the list being selectable to launch the respective application,” and (3) “the application summary is displayed while the one or more applications are in an un-launched state.” *Id.* at 1359, 1362–63 (“These limitations disclose a specific manner of displaying a limited set of information to the user, rather than using conventional user interface methods to display a generic index on a computer.”). The specification confirmed that the claims recited an improved user interface for electronic devices, particularly those with small screens. *Id.* at 1363. Rather than requiring a user to “drill down through many layers to get to desired data or functionality” on small screens, the “invention improves the efficiency of using the electronic device by bringing together ‘a limited list of common functions and commonly accessed stored data,’ which can be accessed directly from the main menu.” *Id.* (“the summary window allows the user to see the most relevant data or functions ‘without actually opening the application up.’”).

Here, the user interface allows users to respond to assignments or reminders without actually improving computers. *See Trading Techs. Int'l, Inc. v. IBG LLC*, 921 F.3d 1378, 1385 (Fed. Cir. 2019) (where arranging information along an axis does not improve computers, claims are directed to an abstract idea); *Affinity Labs of Texas, LLC v. DirecTV, LLC*, 838 F.3d 1253, 1263 (Fed. Cir. 2016) (holding that where the essential advance was in the content of an application, i.e., a functionally described display of information, rather than the process of downloading it, the claims were directed to an abstract idea).

Thus, we determine that claim 64 is directed to abstract ideas.

Step 2B: Do the Claims Recite an Inventive Concept?

We next consider whether claim 64 recites any elements, individually or as an ordered combination, that provide an inventive concept. *Alice*, 573 U.S. at 217–18. “The second step of the *Alice* test is satisfied when the claim limitations involve more than performance of well-understood, routine [and] conventional activities previously known to the industry.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1367 (Fed. Cir. 2018) (internal quotations and citation omitted); *see* Revised Guidance, 84 Fed. Reg. at 56 (explaining that *Alice* step two considers whether a claim adds a limitation beyond a judicial exception that is not “well-understood, routine, conventional” in the field).

Considered individually or as an ordered combination, the limitations do not recite an inventive concept. Claiming generic computer components that perform generic functions involving abstract concepts does not provide significantly more than the abstract ideas. *Alice*, 573 U.S. at 212, 221; *Mayo*, 566 U.S. at 82; Final Act. 9–12. Thus, we sustain the rejection of claim 64 and claims 67–78, 80–83, and 85–90, which fall therewith.

*Claims 64, 67–78, 80–83, and 85
Rejected Over Buddle, Abrams, Steusloff, Fliess, and Ouchi*

Appellant argues the claims of this rejection as a group in regards to the rejection of independent claim 64. *See* Appeal Br. 12–16. Furthermore, Appellant argues the rejection only in respect to the Examiner’s reliance on Ouchi to teach an assignment message and a reminder notification. *Id.*

In particular, Appellant argues that Ouchi does not teach a reminder notification that is sent to the project manager being any different from an assignment notification, as required by claim 64, because Ouchi resends the same email (i.e., the original assignment message) when a return email is not received within a predetermined time. *Id.* at 14. This argument is based on claim 64 reciting “the first user interface control [is] configured based on the message being an assignment notification” and “the second user interface control [is] configured based on the one or more reminder messages being reminder notifications.” Appeal Br. 14; Reply Br. 7–8.

Besides one message being “an assignment notification” and the other being “a reminder notification,” claim 64 recites the same features for each user interface control, namely, “to display a first [a second] user interface control selectable by the project manager to indicate a response accepting the project manager assignment.” Appeal Br. 18–19 (Claims App’x). There is no recital in claim 64 of any features of the first and second user interface controls. We next consider the written description.

The Specification and Figure 22 describe an assignment user interface control as allowing the Project Manager to review the project and select the appropriate response as Action Required, No Action Required, or Not My Responsibility before clicking an Acknowledge button. Spec. ¶ 227, Fig. 22.

For the reminder notification user interface control, the Specification discloses that “program 110 sends Response Reminder Notification e-mails until they are acknowledged by the addressee, if the Response Reminders are enabled by the Issue Owner.” *Id.* ¶ 224. E-mail notifications can be sent by program 110 as an automatic reminder to “notify[] a Recipient of their Assignment, or that they have failed to acknowledge an Assignment.” *Id.* ¶ 235. No drawing is provided or discussed in the Specification regarding a reminder notification user control interface. Therefore, we have no basis for ascertaining any differences in structure or function between a first user interface control for an *assignment* notification and a second user interface control for a *reminder* notification. Both user control interfaces serve the same purpose—they allow a project manager to accept a project manager assignment as claimed. *See id.* ¶¶ 224, 227.

Ouchi teaches a project management method with Microsoft Project that sends emails to allow persons to accept or reject a project assignment as the Examiner correctly finds. Ouchi ¶ 168; Final Act. 23. Appellant does not challenge this finding as to the first user interface control. Instead, Appellant argues that Ouchi does not send a reminder notification that is configured as a reminder notification as discussed above. Appeal Br. 14–15.

Under a broadest reasonable interpretation of the claim language at issue interpreted in light of the Specification, Ouchi’s teaching to resend an assignment email as a reminder notification after a predetermined interval to obtain a response corresponds to the claimed second user control interface. *See Ouchi* ¶ 130. As discussed above, we find no requirement in claim 64 or the Specification of a particular or different format for a second user control interface for a reminder notification other than being second in time.

Furthermore, resending an original email in Ouchi would result in a different email notification interface with a different date time stamp than the date time stamp of the initial email. If the reminder email is sent by forwarding the original email to the recipient, the email interface and format would differ from that of the original email. Therefore, even if we read an unclaimed, undisclosed requirement into claim 64 for a different user control interface for a reminder notification, Ouchi teaches this feature. Both parties recognize that Ouchi teaches resending an email as a reminder, which, under our interpretation, satisfies the requirements of claim 64 for the second user control interface configured as a reminder notification. Final Act. 23–24; Ans. 10; Appeal Br. 14; Reply Br. 8.

Appellant also argues that Ouchi does not teach an email with a selectable graphical element or a user interface control configured based on the message being a reminder notification. Appeal Br. 14. The Examiner responds that an email is a graphical display that requires selection of an item in order to perform a task such as the “REPLY function,” which is a graphical element configured based on the message to notify all users as part of the workflow. Ans. 11 (citing Ouchi ¶ 137). Appellant counters that a REPLY button is not based on the message being an assignment notification and a single feature cannot be both a first selectable graphical element and the first user interface control. Reply Br. 9–10.

Appellant’s arguments are not persuasive because the Reply Brief addresses a different limitation (assignment notification) than the Appeal Brief (reminder notification). Even so, the Examiner correctly finds that an email REPLY button function is a selectable graphical element that produces a user control interface (email) when selected. Ans. 11.

Whether in the assignment notification or the reminder notification email, the REPLY button provides a selectable graphical element, selection of which provides a graphical user interface (email) to display a user control that allows a project manager to provide a response as claimed. *See* Ouchi ¶¶ 137, 168. The Specification describes assignment user interface control in Figure 22 as allowing the program manager to enter pertinent comments and click an Acknowledge button to acknowledge the project. Spec. ¶ 227. The Examiner reasons correctly that selection of an email REPLY button will produce a graphical interface control (email) that will allow a program manager to respond to an assignment or reminder by entering comments and essentially clicking on the send button to send the email to acknowledge the assignment/reminder of the assignment. *See* Ans. 11. The Examiner is not relying on a single feature (e.g., a REPLY button) for both claimed features. *See* Reply Br. 10. Furthermore, claim 64 does not recite any feature of the selectable graphical element or user interface controls that distinguish over Ouchi's notifications and reminders. Ouchi sends messages that members use to accept or decline task assignments indicating to a skilled artisan that the messages differ by task and individual. *See* Ouchi ¶ 168; Appeal Br. 15.

During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow. . . . The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. . . . An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.

In re Zletz, 893 F.2d 319, 321–22 (Fed. Cir. 1989) (citations omitted).

While broadly construing claim language increases the likelihood that otherwise distinguishable prior art will render the claimed invention anticipated or obvious, the patentee can amend the claim language during prosecution—and narrow it if necessary—to clarify the scope of the invention and avoid rejection or cancellation of the claims.

PPC Broadband, Inc. v. Corning Optical Commc'ns RF, LLC, 815 F.3d 734, 740 (Fed. Cir. 2016).

These policies are particularly pertinent here because claim 67, which depends from claim 64, recites sending a message to a third individual with “a third selectable graphical element” selectable to provide “a graphical user interface configured to display a third user interface control” that the third individual can use to accept an action implementer assignment. Claim 67 also recites a reminder message provided with “a fourth selectable graphical element” that the third individual can select to provide “a graphical user interface configured to display a fourth user interface control” to accept the assignment. Appeal Br. 20 (Claims App’x.). There is no indication in the claims or Specification that the “third” and “fourth” user interface controls differ from the “first” or “second” user interface controls in any respect.

The Specification describes the same user interface control being used to provide the project manager and the action implementer a way to accept their respective assignments. Spec. ¶ 225, Fig. 22. As discussed above, the Specification provides no different description of a reminder notification.

Thus, when interpreted in light of the Specification, reciting first and second selectable graphical elements and a first and second user interface controls, whether configured as assignment or reminder notifications, does not convey a different meaning or scope in claim 64.

More importantly, the first and second selectable graphical elements and the first and second user interface controls recited in claim 64 do not provide a claim scope that distinguishes over the email message system of Ouchi as discussed above. If the Specification discloses particular features that Appellant wishes to rely upon for patentability and to distinguish over Ouchi, these features must be recited in claim 64. *See In re Van Geuns*, 988 F.2d 1181, 1184–85 (Fed. Cir. 1993) (“Moreover, limitations are not to be read into the claims from the specification.”); *In re Yamamoto*, 740 F.2d 1569, 1571 (Fed. Cir. 1984) (“The PTO broadly interprets claims during examination of a patent application since the applicant may amend his claims to obtain protection commensurate with his actual contribution to the art.”) (citation omitted). Thus, we sustain the rejection of claim 64 and claims 67–78, 80–83, and 85, which fall therewith.

Claims 86–89

Rejected Over Buddle, Abrams, Steusloff, Fliess, Ouchi, and Sanches

Appellant argues that Sanches does not cure the deficiencies of the other references as to independent claims 64, 80, and 85 from which claims 86–89 depend respectively. Appeal Br. 16. Because we sustain the rejection of these claims, there are no deficiencies for Sanches to cure, and we sustain the rejection of claims 86–89 as well.

Claim 90

Rejected Over Buddle, Abrams, Steusloff, Fliess, Ouchi, and Mikurak

Appellant argues that Mikurak does not cure the deficiencies of the other references as to independent claim 64 from which claim 90 depends. Appeal Br. 16–17. Because we sustain the rejection of claim 64, there are no deficiencies for Mikurak to cure, and we sustain the rejection of claim 90.

CONCLUSION

In summary:

Claims Rejected	Basis 35 U.S.C. §	Affirmed	Reversed
64, 67-78, 80-83, 85-90	101	64, 67-78, 80-83, 85-90	
64, 67-78, 80-83, 85	103(a) Buddle, Abrams, Steusloff, Fliess, Ouchi	64, 67-78, 80-83, 85	
86-89	103(a) Buddle, Abrams, Steusloff, Fliess, Ouchi, Sanches	86-89	
90	103(a) Buddle, Abrams, Steusloff, Fliess, Ouchi, Mikurak	90	
Overall Outcome		64, 67-78, 80-83, 85-90	

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

AFFIRMED