



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
**United States Patent and Trademark Office**  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/822,684	06/24/2010	Michael Pierre Carlson	TW920090004US1_8150-0081	6265
52021	7590	10/23/2019	EXAMINER	
Cuenot, Forsythe & Kim, LLC			DYER, ANDREW R	
20283 State Road 7			ART UNIT	
Ste. 300			PAPER NUMBER	
Boca Raton, FL 33498			2176	
			NOTIFICATION DATE	
			DELIVERY MODE	
			10/23/2019	
			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ibmptomail@iplawpro.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* MICHAEL PIERRE CARLSON, TONY S.T. HSU, and  
CHARLES H. LU

---

Appeal 2018-007757  
Application 12/822,684  
Technology Center 2100

---

Before JEREMY J. CURCURI, HUNG H. BUI, and AMBER L. HAGY,  
*Administrative Patent Judges.*

HAGY, *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 decision to reject claims 21–40, which are all of the pending claims. Claims 1–20 have been cancelled. Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

---

<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as IBM Corporation. Appeal Br. 1.

### CLAIMED SUBJECT MATTER

According to Appellant, the claimed invention relates to “a handheld device, a method, and a computer program product for user selection of control components of an application program.” Spec. ¶ 2. By way of background, some handheld devices (such as certain mobile phones) may lack a touch screen, and so are limited to only a few buttons on the phone for operating applications. *Id.* ¶¶ 3–4. Appellant’s Specification purports to describe an improvement in which a plurality of control components displayed by an application program are detected, a shortcut key (e.g., a keyboard key) is assigned to those components, and a label indicating the assigned shortcut key is displayed proximate to each detected control component. *Id.* ¶¶ 8, 36–38.

Claims 21, 28, and 35 are independent. Claim 21, reproduced below, is illustrative of the claimed subject matter:

21. A computer-implemented method, comprising:

executing, on an operating system within a handheld device, an application program configured to display a plurality of control components;

detecting the plurality of control components called, from a graphic library, by the executing application program;

assigning, to each of the detected plurality of control components, a different shortcut key on the handheld device;

associating each of the assigned shortcut keys with a different label; and

displaying, proximate to each of the detected plurality of control components, the labels respectively corresponding to the shortcut keys assigned to the detected plurality of control components.

## REFERENCE

The prior art relied upon by the Examiner is:

Name	Reference	Date
Allan	US 7,472,168 B2	Dec. 30, 2008
Lynch	US 2008/0229185 A1	Sept. 18, 2008

## REJECTIONS<sup>2</sup>

Claims 21–40 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter (abstract idea).

Claims 26, 27, 33, 34, and 40 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Claims 21–40 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 21–40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Allan and Lynch.

## OPINION

### *I. Section 101 Rejection<sup>3</sup>*

The Examiner rejects all of the pending claims under 35 U.S.C. § 101 as patent-ineligible because the claims are directed to a judicial exception without significantly more. Final Act. 4–7. Appellant argues that the claims

---

<sup>2</sup> Because the present application was filed on June 24, 2010, the Examiner applies the versions of 35 U.S.C. §§ 103 and 112 that existed before the Leahy-Smith America Invents Act (“AIA”).

<sup>3</sup> With regard to the Examiner’s § 101 rejection, we consider claim 21 to be representative of the claimed subject matter on appeal. *See* 37 C.F.R. § 41.37(c)(1)(iv).

are not directed to an abstract idea, are directed to patent-eligible subject matter, and the Examiner’s rejection should be reversed. Appeal Br. 8–16. For the reasons explained below, we determine that the Examiner has not established that the claims are directed to patent-ineligible subject matter. Thus, we reverse the Examiner’s § 101 rejection.

*A. Principles of Law*

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 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) (citation omitted).

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, 75–77 (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*, 573 U.S. at 217. The first step in the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* For example, abstract ideas include, but are not limited to, fundamental economic practices, methods of organizing human activities, an idea of itself, and mathematical formulas or relationships. *Id.* at 218–20. The “directed to” inquiry asks not whether “the claims *involve* a patent-ineligible concept,” but instead whether, “considered in light of the specification, . . . ‘their character as a whole is directed to excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (internal

citations omitted). In that regard, we determine whether the claims “focus on a specific means or method that improves the relevant technology” or are “directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.” *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016).

If, at the first stage of the *Alice* analysis, we conclude that the claims are not directed to a patent-ineligible concept, they are considered patent eligible under § 101 and the inquiry ends. *Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1047 (Fed. Cir. 2016).

If the claims are directed to a patent-ineligible concept, the second step in the analysis is to consider the elements of the claims “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.” *Alice*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 79, 78). In other words, the second step is to “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 (brackets in original) (quoting *Mayo*, 566 U.S. at 72–73). The prohibition against patenting an abstract idea “‘cannot be circumvented by attempting to limit the use of the formula to a particular technological environment’ or adding ‘insignificant postsolution activity.’” *Bilski v. Kappos*, 561 U.S. 593, 610–11 (2010) (internal citation omitted).

The Patent and Trademark Office (the “Office”) has published revised guidance on the application of 35 U.S.C. § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50–57 (Jan. 7, 2019)

(“2019 Guidance”). Under the 2019 Guidance, the Office first looks 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* 2019 Guidance at 52, 54–55; *see also* MPEP § 2106.05(a)–(c), (e)–(h).<sup>4</sup>

Only if a claim (1) recites a judicial exception, and (2) does not integrate that exception into a practical application, does the Office 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* 2019 Guidance at 56. We follow this framework in our analysis herein.

#### *B. Application of Legal Principles*

The Examiner determines that the claims are directed to the abstract idea of “collecting information regarding control components, analyzing the detected control components, and displaying information based on the analyzing.” Final Act. 5; *see* Ans. 5. In so doing, the Examiner analogizes the claims to the claims in *Electric Power Group*, which the Examiner characterizes as directed to the abstract idea of “[c]ollecting information, analyzing it, and displaying certain results of the collection and analysis.”

---

<sup>4</sup> All references to the MPEP are to Rev. 08.2017 (Jan. 2018).

Final Act. 5 (citing *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016)); *see also* Ans. 6.

Appellant disputes that the claims are directed to an abstract idea. *See, e.g.*, Appeal Br. 9–15; Reply Br. 2. Appellant argues that the Examiner overgeneralizes the claimed invention, and notes that characterizing an invention as “collecting, modifying, and displaying information” can “apply to any invention that employs a graphical user interface (GUI).” Appeal Br. 13. Appellant argues that the claims do not merely recite a particular desired result (*id.* at 14), but are directed to an improved user interface for a handheld device, which is not an abstract idea (*id.* at 9). In particular, Appellant contends that the claims are directed to “an improvement to a user interface (i.e., using shortcut keys to aid[] a user in selecting control components in a handheld device).” Reply Br. 2; Appeal Br. 8–9. Appellant analogizes the present claims to those determined to be non-abstract in *Core Wireless Licensing S.A.R.L. v. LG Electronics, Inc.*, 880 F.3d 1346 (Fed. Cir. 2018). Appeal Br. 13–14.

As we note above, the 2019 Guidance provides, as a first step, reviewing the claims to determine whether they 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). 2019 Guidance at 52. The 2019 Guidance identifies the following as mathematical concepts: “mathematical relationships, mathematical formulas or equations, mathematical calculations.” *Id.* at 52. The 2019 Guidance identifies the following as methods of organizing human activity: (1) “fundamental economic principles or practices”; (2) “commercial or legal interactions,”

such as “agreements in the form of contracts,” “marketing or sales activities or behaviors,” and “business relations”; and (3) “managing personal behavior or relationships or interactions between people,” such as “social activities, teaching, and following rules or instructions.” *Id.* The 2019 Guidance identifies the following as mental processes: “concepts performed in the human mind,” such as “an observation, evaluation, judgment, [or] opinion.” *Id.* (footnote omitted).

We determine that the claims here do not recite limitations falling within the three groupings of abstract ideas specified in the 2019 Guidance, nor has the Examiner made findings to support characterizing the claims as falling within any of those groupings. Rather, the Examiner simply characterizes that the claims recite an abstract idea in terms of collecting, analyzing, and displaying information. *See* Final Act. 5; Ans. 5.

We disagree with the Examiner’s characterization of the claims. Appellant’s claims are more than merely “gathering and analyzing information of a specified content, then displaying the results” as discussed in *Electric Power Group*. *Cf.* Final Act. 5; Ans. 5. In our view, the claims here more closely resemble the claims in *Core Wireless*, which were directed to “an improved user interface for computing devices,” i.e., “a particular manner of summarizing and presenting information in electronic devices,” and which the Federal Circuit determined satisfied § 101 under *Mayo/Alice* step one. *Core Wireless*, 880 F.3d at 1362–63; *see* Appeal Br. 13–14; Reply Br. 2. Here, claim 21 (which we deem to be representative) recites a particular manner of providing shortcut keys in a handheld device, comprising “detecting a plurality of control components” called by an executing application program on a handheld device, assigning to each of

those components a “different shortcut key on the handheld device,” “associating each of the assigned shortcut keys with a different label,” and displaying the labels “proximate to each of the detected plurality of control components.” Appeal Br. 35 (Claims App’x). According to Appellant’s Specification, this invention provides an improved user interface for handheld devices by allowing for “user selection of control components of an application program” in handheld devices that lack a touch screen. Spec. ¶¶ 2–3. As such, we agree with Appellant that the claims are directed to a technological improvement in the functioning of handheld devices, particularly those that lack touch screens, and not to an abstract idea.

Because we have determined that the claims do not recite a judicial exception (abstract idea), we do not reach the second step of the *Alice* analysis. See 2019 Guidance at 56.

For all of the foregoing reasons, under the 2019 Guidance, we are persuaded that the Examiner erred in concluding that the pending claims are judicially-exceptioned from patentability. Accordingly, we reverse the Examiner’s § 101 rejection of claims 21–40.

## *II. Section 112(1) Rejections*

The Examiner rejects claims 26, 27, 33, and 40 under 35 U.S.C. § 112, first paragraph (“112(1)”) on the basis that the claims lack adequate written description support in the Specification. Final Act. 7–8. For the reasons stated below, we disagree.

“The ‘written description’ requirement serves a teaching function, . . . in which the public is given ‘meaningful disclosure in exchange for being excluded from practicing the invention for a limited period of time.’” *Univ. of Rochester v. G.D. Searle & Co., Inc.*, 358 F.3d 916, 922 (Fed. Cir. 2004)

(citation omitted). Another “purpose of the ‘written description’ requirement is . . . [to] convey with reasonable clarity to those skilled in the art that, as of the filing date [], [the applicant] was in possession of the invention.” *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1563–64 (Fed. Cir. 1991); *see also Enzo Biochem Inc. v. GenProbe Inc.*, 296 F.3d 1316, 1329 (Fed. Cir. 2002). The requirement is satisfied when the specification “set[s] forth enough detail to allow a person of ordinary skill in the art to understand what is claimed and to recognize that the inventor invented what is claimed.” *Univ. of Rochester*, 358 F.3d at 928. With these principles in mind, we evaluate the Examiner’s findings

A. *Claims 26, 33, and 40*

Claim 26 depends from claim 21, and recites “the detected plurality of control components includes only control components shown in a single scrollable page that is displayed on the handheld device.” Claims 33 and 40 depend from claims 28 and 35, respectively, and contain similar recitations.

The Examiner rejects claims 26, 33, and 40 as lacking written description because

[t]hese claims appear to require that only the control components in a single, scrollable page that are currently displayed (e.g., “shown”) are detected. However, the present specification states when the control components are in a scrollable page, the system detects “even [the control components] currently not shown on the screen” (See Specification Pages 11-12, Paragraph 36). Therefore, this limitation directly contradicts the present specification, rendering it new matter.

Final Act. 7–8.

Appellant argues the Specification discloses multiple different embodiments, including an embodiment in which “the available control components mean all control components shown in a single page on the

display device 130, such as the control components 402 to 410 as shown in FIG. 4A.” Appeal Br. 17 (quoting Spec. ¶ 36).

The Examiner’s position appears to be premised on the fact that the Specification, in describing the embodiment referenced above, does not expressly state that the “single page” is a “single *scrollable* page.” See Ans. 9–10. We do not agree that the ordinarily skilled artisan would read Appellant’s Specification as narrowly as the Examiner proposes. In describing the “single page” embodiment, the Specification refers to Figure 4A, which, as Appellant notes, “depicts a horizontally-oriented scroll bar (unlabeled).” Reply Br. 4. We agree with Appellant that the Specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, Appellant was in possession of the invention as now claimed, including detecting only control components shown in “single page” in which the single page is scrollable. We, therefore, reverse the Examiner’s 35 U.S.C. § 112, first paragraph, rejection of claim 26.

*B. Claim 27*

Claim 27 depends from claim 21, and recites “the shortcut keys are separate from a display device of the handheld device.”

The Examiner rejects claim 27 as lacking written description support for the keys being separate from the display, asserting that “the present specification describes the handheld device as a single unit,” and therefore reasons that “the claim that the keys are ‘separate’ from the display is new matter.” Final Act. 8.

We disagree. As Appellant contends, and we agree, the fact that the display and the shortcut keys are all parts of a handheld device does not mean that they are not separate from each other, as recited in claim 27.

Appeal Br. 19. Figure 1 of Appellant’s Specification depicts handheld device 100, comprising multiple components, including display device (130) and keyboard (142). *See also* Spec. ¶¶ 9, 37 (describing a display device and an input device). We agree with Appellant that the Specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, Appellant was in possession of the invention as now claimed, including shortcut keys separate from a display device. We, therefore, do not sustain the Examiner’s 35 U.S.C. § 112, first paragraph, rejection of claim 27.

### *III. Section 112(2) Rejections*

The Examiner rejects claims 21–40 as being indefinite. Final Act. 8. In particular, the Examiner finds independent claims 21, 28, and 35 are ambiguous because certain limitations recited are susceptible to two different interpretations. For example, each of these claims recites “detecting the plurality of control components called, from a graphic library, by the executing application program,” which the Examiner determines

may be interpreted as either: (1) “detecting the plurality of control components called, from a graphic library, wherein the detecting is performed by the executing application program;” or (2) “detecting the plurality of control components called, from a graphic library, wherein the plurality of control components are called by the executing application program.”

Final Act. 9. The Examiner also determines these claims use the term “proximate,” which the Examiner determines is “a relative term which renders the claim[s] indefinite.” *Id.*

The test for indefiniteness is whether “those skilled in the art would understand what is claimed when the claim is read in light of the specification.” *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d

1565, 1576 (Fed. Cir. 1986). Language in a claim is unclear if, when given its broadest reasonable interpretation consistent with the Specification, it is “ambiguous, vague, incoherent, opaque, or otherwise unclear in describing and defining the claimed invention,” *In re Packard*, 751 F.3d 1307, 1311 (Fed. Cir. 2014), or if it is “is amenable to two or more plausible claim constructions,” *Ex parte Miyazaki*, 89 USPQ2d 1207, 1211 (BPAI 2008) (precedential); *see also Ex parte McAward*, Appeal No. 2015-006416, 2017 WL 3669566 (PTAB 2017) (precedential) (discussing the test for indefiniteness during prosecution and affirming *Miyazaki*’s continued precedential status (at \*2, n.3)). As our reviewing court has explained, “[t]he purpose of claims is not to explain the technology or how it works, but to state the legal boundaries of the patent grant. A claim is not ‘indefinite’ simply because it is hard to understand when viewed without benefit of the specification.” *S3 Inc. v. NVIDIA Corp.*, 259 F.3d 1364, 1369 (Fed. Cir. 2001).

Applying these standards, we are persuaded of Examiner error. Here, as Appellant contends and we agree, construing the claim language at issue under its broadest reasonable construction consistently with the Specification confirms that the claims are not indefinite. Appeal Br. 23. In particular, Appellant’s Specification provides support for the Examiner’s second identified interpretation, that the plurality of control components are called by the executing application program. *Id.* at 22; Spec. ¶ 36 (“The application program 230 can . . . access the functions or resources by calling the library 224.”). On the other hand, the Specification does not provide support for the Examiner’s first identified interpretation, in which the executing application program detects the plurality of control components.

Rather, Appellant's Specification describes that the detecting is performed by a "handling module," which is part of the "intermediate module" and is described as separate from the "application program." *See* Spec. ¶¶ 9, 32.

We, therefore, conclude that, under the broadest reasonable interpretation, in which the claims are read in light of the Specification, Appellant's claims are not ambiguous. We do not sustain the Examiner's indefiniteness rejection of claims 21–40 on that basis.

We also disagree that the use of the term "proximate" in the claims renders the claims indefinite. The claims state that the labels of the shortcut keys are displayed "proximate to each of the detected plurality of control components." The Examiner acknowledges that "proximate" is "generally understood to mean 'close,'" but asserts the claims and the Specification do not define what distance constitutes "close." Final Act. 9. We disagree. The claims themselves state that the shortcut keys are each associated with a different label, and then state that the labels are displayed "proximate to" each of the detected plurality of control components. We determine the term "label" provides a sufficient indication of the requisite proximity—the labels must be close enough to what they label to be understood as labels. *See* Spec. Fig. 4B (depicting labels for shortcut keys), ¶ 38 (describing labels for shortcut keys as "near the control components"). Construing this language according to its broadest reasonable interpretation in light of the Specification, we determine that those skilled in the art would understand what is claimed when the claim is read in light of the Specification, and we therefore do not sustain the Examiner's rejection of claims 21–40 on this basis.

The Examiner also determines that claims 22, 29, and 36 are indefinite because they recite “wherein the detecting, the assigning, the associating, and the displaying are performed by an intermediate module separate from the application program,” which the Examiner determines is “unclear” because “it is it is unclear how the intermediate module can be ‘separate’ from the application program as both are executed within the same handheld device.” Final Act. 10. We are persuaded of Examiner error in this determination. Although both the intermediate module and the application program may be executed within the same device, they may still be separate from each other. *See* Spec. ¶¶ 9, 32.

The Examiner also determines that “the limitation ‘intermediate module’ [as recited in claim 22] has been interpreted under 35 U.S.C. § 112, sixth paragraph, because it uses a generic placeholder ‘module’ coupled with functional language ‘the detecting, the assigning, associating, and the displaying are performed by an intermediate module’ without reciting sufficient structure to achieve the function.” Final Act. 10. The Examiner then concludes this limitation is indefinite because “[a] review of the [S]pecification shows that no corresponding structure appears to be described . . . .” *Id.* at 10–11.

We disagree that claim 22 is written in means-plus-function format. Claim 22 is a method claim, which depends from claim 21. Claim 21 does not merely recite, *e.g.*, a step for performing some function or equivalent language, but identifies the required actions of, generally, detecting a plurality of control components, assigning a different shortcut key to each control component, associating each of the shortcut keys with a different label, and displaying the labels proximate to each of the control components.

Claim 22 specifies that the steps of claim 21 are performed by an “intermediate module separate from an application program.” Even if an “intermediate module” does not specify a particular structure, there is no requirement in a method claim that particular structure be recited for performing the steps. Claim 22 merely requires that the detecting, assigning, associating, and displaying steps are performed by a module that is separate from the application program. In so stating, claim 22 does not invoke 35 U.S.C. § 112, sixth paragraph. Because the Examiner’s indefiniteness rejection of claim 22 is premised on a claim construction that we do not adopt, we, therefore, do not sustain that rejection.

The Examiner also rejects claims 25, 26, 32, 33, 39, and 40 as indefinite, asserting that “these claims refer to ‘only control components shown’ in a particular page,” and the Examiner “cannot determine if this is intended to mean ‘only control components **currently displayed**’ or ‘only control components **included in**’ the particular document.” Final Act. 11–12. The Examiner further asserts the ordinarily skilled artisan would have understood “shown” to mean “to cause *or* permit to be seen,” and therefore would not know which of the two interpretations posited by the Examiner is correct. *Id.*

Appellant argues:

[t]he language at issue is “shown,” which is a past participle of the verb “show.” A past participle represents a past or completed action. Consequently, the “control components shown” requires that the control components must have been displayed but does not require that they are current displayed. While they could be displayed, it is not required.

Appeal Br. 27–28. Thus, according to Appellant, “a control component could be included within a web page but not actually shown.” *Id.* at 28.

We disagree that the claims are indefinite, but we disagree with Appellant's construction of "shown" as encompassing control components that are never displayed, as long as they *could be* displayed. Appellant's Specification consistently uses "shown" to refer to control components actually displayed. In particular, in describing the existence of multiple embodiments, Appellant's Specification states:

In [one] embodiment, the available control components mean all control components shown in a single page on the display device 130, such as the control components 402 to 410 as shown in FIG. 4A. In other embodiments, however, other control components in a scrollable page (even currently not shown on the screen) can also be defined as the available control components. In yet another embodiment, the available control components can be defined as all control components available to the application program 230 whether currently displaying on the screen or not.

Spec. ¶ 36. The foregoing discussion uses "shown" to mean actually displayed. Appellant, on the other hand, does not point to any usage in the Specification of "shown" to mean "capable of being displayed" instead of actually displayed.

Construing the language "only control components shown" according to its broadest reasonable interpretation in light of the Specification, we determine that those skilled in the art would understand what is claimed when the claims are read in light of the Specification, and we therefore do not sustain the Examiner's rejection of claims 25, 26, 32, 33, 39, and 40 on this basis.

*IV. Section 103(a) Rejection*<sup>5</sup>

The Examiner rejects claims 21–40 under 35 U.S.C. § 103(a) as unpatentable over Allan and Lynch. Final Act. 12–17, 21–22. The Examiner finds Allan teaches most of the limitations of claim 21 (*id.* at 12–13), but determines that Allen does not “explicitly disclose that the control components are called from a graphic library” (*id.* at 13). For that limitation, the Examiner relies on Lynch in combination with Allen. *Id.* at 13–14.

Appellant argues the Examiner’s rejections are in error because “Allan does not teach detecting control components that are displayed.” Appeal Br. 29. Appellant argues the Examiner maps the claimed “control components” to “XML display codes” disclosed by Allen, and then insists that Allen’s “XML display codes” are “not even displayed.” *Id.*

We are not persuaded of Examiner error. Allen discloses a method for dynamically assigning and displaying numeric shortcuts on a wireless mobile device display. Allen 1:11–13. By way of background, Allen notes that a graphical user interface (“GUI”) on a computing device, such as a mobile device, allows a user to view and select selectable elements, such as hypertext links. *Id.* at 1:26–28. Allen notes that, in a typical computing environment, these elements are selected with a pointing device, such as a mouse, but also notes that mobile devices may lack such pointing devices. *Id.* at 1:31–34. Allen, therefore, purports to describe and claim a system in which selectable elements, such as hyperlinks, are selected by associating the hyperlinks with numeric characters on the mobile device’s keypad,

---

<sup>5</sup> For this ground, Appellant argues claims 21–40 collectively, and concedes that the claims stand or fall with claim 21. Appeal Br. 28–32.

wherein “bubble links with the numeric characters” are displayed next to the selectable elements. *Id.* at 2:40–50, 3:17–32, 4:19–30, Figs. 5a–5d, Fig. 6.

We agree that Allen’s disclosures support the Examiner’s findings. As the Examiner finds, and we agree, Allen discloses detecting control components—namely, hyperlinks in a hypertext document. Ans. 21 (citing Allen 3:33–37, 4:19–36, Figs. 5a–5d). The Examiner also finds, and we agree, Allen discloses associating selectable characters (bubble links corresponding to numbers on a mobile device’s keypad) with links within a hypertext document, and also discloses that the system determines whether there are any links within a hypertext document that are already associated with characters, meaning that the system detects hyperlinks (control components). *See id.*

Appellant’s challenges to the Examiner’s findings are premised on reading the Examiner’s rejection as limited to mapping *XML display codes* to the recited “control components.” *See* Appeal Br. 28–31; Reply Br. 14–18. Appellant also argues that the Examiner’s clarification in the Answer—that the Examiner’s rejection maps Allen’s *hyperlinks* to the control components—is an “undesigned new ground of rejection.” Reply Br. 15. We disagree with both assertions. The Examiner’s rejection is premised on mapping the control components to Allen’s *hyperlinks*, which the Examiner notes may be detected by detecting their associated XML display codes. *See* Final Act. 13 (“Allen discloses ‘detecting the plurality of control components called . . . by the executing application program . . . **by detecting XML display codes that represent hyperlinks.**’”) (citing Allen 4:19–30). The Examiner’s clarification of this point in the Answer (21–23) is not a new ground. As the Examiner notes, and we agree, “[a]s discussed

at page 13 of the Final Office Action, Allan discloses a series of hyperlinks with numeric labels displayed immediate next to the hyperlink. . . . B[y] being immediately next to the hyperlink, the label is ‘proximate’ to that component.” Ans. 23 (citing Allan Figs. 5a–5d, 4:60–5:7). Thus, the Examiner finds Allen discloses detecting control components that are displayed (hyperlinks), assigning shortcut keys (numbers 1–9 from the mobile device’s numeric keypad) to those hyperlinks, and associating and displaying labels (bubble links) proximate to each hyperlink. Final Act. 12–13; Ans. 20–23. Appellant does not particularly challenge the Examiner’s findings regarding Lynch, which the Examiner relies upon to teach a control component called from a graphic library. *See* Appeal Br. 31; Final Act. 13–14.

We have considered all of Appellant’s arguments challenging the Examiner’s findings underlying the Examiner’s rejection of claims 21–40 under 35 U.S.C. § 103(a) over Allen and Lynch, and we are not persuaded of Examiner error. We, therefore, sustain that rejection.

*V. Objections to Claims*

The Examiner also objects to claims 21–40 based on various “informalities.” Final Act. 3–4. Such matters are not properly before us (nor were they argued by Appellant), and therefore we do not address them in this appeal. *See In re Hengehold*, 440 F.2d 1395, 1403 (CCPA 1971); *see also* MPEP § 706.01 (9th ed., Aug. 2017) (“[T]he Board will not hear or decide issues pertaining to objections and formal matters which are not properly before the Board.”).

### CONCLUSION

The Examiner's decision to reject claims 21–40 is affirmed.

More specifically:

The Examiner's rejection of claims 21–40 under 35 U.S.C. § 101 (patent ineligible / abstract idea) is reversed.

The Examiner's rejections of claims 26, 27, 33, 34, and 40 under 35 U.S.C. § 112, first paragraph, for lack of written description are reversed.

The Examiner's rejections of claims 21–40 under 35 U.S.C. § 112, second paragraph, for indefiniteness are reversed.

The Examiner's rejection of claims 21–40 under 35 U.S.C. § 103(a) as unpatentable over Allan and Lynch is affirmed.

### DECISION SUMMARY

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
21–40	101	Ineligible subject matter / abstract idea		21–40
26, 27, 33, 34, and 40	112(1)	Written Description		26, 27, 33, 34, and 40
21–40	112(2)	Indefiniteness		21–40
21–40	103(a)	Allan, Lynch	21–40	
<b>OUTCOME SUMMARY</b>			21–40	

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, the Examiner's decision is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

Appeal 2018-007757  
Application 12/822,684

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