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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ROMELIA H. FLORES, TASSANEE K. SUPAKKUL,
MATHEWS THOMAS, and JULIO WONG

Appeal 2018-008209
Application 13/186,733
Technology Center 3600

Before ROBERT E. NAPPI, JASON J. CHUNG, and JOYCE CRAIG,
Administrative Patent Judges.

CRAIG, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 26–45. *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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

CLAIMED SUBJECT MATTER

The claims are directed to providing dynamic recommendations for points of interest using automatically obtained collective telemetry to enhance user experience. Spec. 1. Claims 26 and 36, reproduced below, are illustrative of the claimed subject matter:

26. A computer-implemented method performed within a recommendation server, comprising:
- receiving, from a computer client and by the recommendation server, user preferences;
 - collecting, associated with each of a plurality of geographical points of interest, real-time telemetry;
 - generating, based upon the user preferences; recommendation criteria;
 - generating recommendation options by evaluating the real-time telemetry using the recommendation criteria; and
 - forwarding, by the recommendation server and to the computer client, the recommendation options, wherein each of the recommendation options is associated with an individual one of the plurality of geographical points of interest.
36. A recommendation server, comprising:
- a hardware processor configured to perform:
 - receiving, from a computer client and by the recommendation server, user preferences;
 - collecting, associated with each of a plurality of geographical points of interest, real-time telemetry;
 - generating, based upon the user preferences; recommendation criteria;
 - generating recommendation options by evaluating the real-time telemetry using the recommendation criteria; and
 - forwarding, by the recommendation server and to the computer client, the recommendation options, wherein each of the recommendation options is associated with an individual one of the plurality of geographical points of interest.

REJECTIONS

Claims 26–45 stand rejected under 35 U.S.C. § 112, first paragraph, as lacking written description support. Final Act. 2–5.

Claims 26–45 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter. Final Act. 6–9.

Claims 26, 31–36, and 41–45 stand rejected under 35 U.S.C. § 102(b) as anticipated by Churchill et al. (US 2009/0239552 A1; Sept. 24, 2009) (“Churchill.”). Final Act. 9–15.

Claims 27–30 and 37–40 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Churchill and Madsen et al. (US 2009/0165022 A1; published June 25, 2009) (“Madsen”). Final Act. 15–19.

ANALYSIS

Rejection of Claims Under 35 U.S.C. § 112, First Paragraph

The Examiner rejected claims 26–45 as failing to comply with the written-description requirement of § 112, first paragraph, because “the applicant has provided no guidance as to how they went about programming the computer to perform” the following recited steps:

- generating, based upon the user preferences, recommendation criteria (Claims 26 and 36),
- generating recommendation options by evaluating the real-time telemetry using the recommendation criteria (Claims 26 and 36),
- the recommendation options are individually scored (Claims 27 and 37),
- generating the recommendation options is based upon historical data associated with the plurality of geographical points of interest (Claims 29 and 39), and

generating the recommendation options is based upon the location information (Claims 31 and 41).

Final Act. 3. Appellant argues claims 26–45 as a group. We select claim 36 as representative of claims 26–45. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Although the Examiner did not make an explicit finding that 35 U.S.C. § 112, sixth paragraph, applies to claim 36, the Examiner correctly pointed out that the invention is claimed in functional terms. Final Act. 4–5.

Construing a means-plus-function claim term is a two-step process, wherein we first identify the claimed function and then determine what structure, if any, disclosed in the Specification corresponds to the claimed function. *Med. Instrumentation & Diagnostics Corp. v. Elekta AB*, 344 F.3d 1205, 1210 (Fed. Cir. 2003); *Cardiac Pacemakers, Inc. v. St. Jude Med., Inc.*, 296 F.3d 1106, 1119 (Fed. Cir. 2002).

A computer-implemented means-plus-function term is limited to the corresponding structure disclosed in the specification and equivalents thereof, and the corresponding structure is the algorithm. *See Aristocrat Techs. Australia Pty Ltd. v. Int’l Game Tech.*, 521 F.3d 1328, 1333 (Fed. Cir. 2008). The corresponding structure must be more than a general purpose computer or microprocessor. *See id.* “When dealing with a ‘special purpose computer-implemented means-plus-function limitation,’ [the Federal Circuit] require[s] the specification to disclose the algorithm for performing the function.” *Function Media, L.L.C. v. Google, Inc.*, 708 F.3d 1310, 1318 (Fed. Cir. 2013); *accord Blackboard, Inc. v. Desire2Learn, Inc.*, 574 F.3d 1371, 1384 (Fed. Cir. 2009) (“[W]hen a computer is referenced as support for a function in a means-plus-function claim, there must be some

explanation of how the computer performs the claimed function.”). “The specification can express the algorithm ‘in any understandable terms including as a mathematical formula, in prose, or as a flow chart, or in any other manner that provides sufficient structure.’” *Noah Sys. Inc. v. Intuit Inc.*, 675 F.3d 1302, 1312 (Fed. Cir. 2012) (internal quotation and citation omitted). But a general purpose computer may be sufficient as the corresponding structure if the claims merely recite a “general computing function,” such as a “means . . . for storing . . . data.” *In re Katz Interactive Call Processing Patent Litigation*, 639 F.3d 1303, 1316 (Fed. Cir. 2011).

We find that claim 36 invokes 35 U.S.C. § 112, sixth paragraph. Where, as here, the limitations at issue do not recite the word “means,” there is a rebuttable presumption that § 112, sixth paragraph, does not apply. *See Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1348–49 (Fed. Cir. 2015) (en banc). This presumption can be overcome, however, if “the claim term fails to ‘recite sufficiently definite structure’ or else recites ‘function without reciting sufficient structure for performing that function.’” *Id.* at 1348 (alteration in original) (quoting *Watts v. XL Sys., Inc.*, 232 F.3d 877, 880 (Fed. Cir. 2000)). The relevant question is “not merely the presence or absence of the word ‘means’ but whether the words of the claim are understood by persons of ordinary skill in the art to have a sufficiently definite meaning as the name for structure.” *Id.*

Although claim 36 does not recite the words “means for,” the claim does invoke § 112, sixth paragraph. Claim 36 recites “a hardware processor configured to perform” This limitation describes the functions the “hardware processor” performs without reciting any structure for doing so. The portion of the written description cited by Appellant does not remedy

this failing. Figure 3 simply describes at step 340 that a schedule and recommendation(s) are created. Spec. Fig. 3. Thus, we agree with the Examiner that Figure 3, cited by Appellant, does not provide sufficient structure, nor or are we aware of any portion of the written description that describes adequate structure for claim 36. Appellant does not direct us to any language, steps, or flow charts in the disclosure to show particular hardware or an algorithm, such that a skilled artisan would understand how to generate recommendation criteria based on user preferences or generate recommendation options by evaluating the real-time telemetry using the recommendation criteria.

For these reasons, we agree with the Examiner that Figure 3 of the Specification provides insufficient guidance as to the “generating” steps or functions recited in claim 36. Ans. 11; *see* Appeal Br. 10.

Accordingly, on the record before us, we are not persuaded the Examiner erred, and we sustain the written description rejection under 35 U.S.C. § 112, first paragraph, of claim 36, as well as claims 26–35 and 37–45, argued as a group with claim 36.

Rejection of Claims Under 35 U.S.C. § 101

Appellant argues that the Examiner’s rejection of claim 26 under 35 U.S.C. § 101 as directed to patent-ineligible subject matter is in error. Appeal Br. 15. To the extent Appellant has not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. 37 C.F.R. § 41.37(c)(1)(iv). Appellant argues claims 26–45 as a group. Appeal Br. 13. Given our discretion under 37 C.F.R.

§ 41.37(c)(1)(iv), we decide the § 101 rejection of claims 26–45 based on representative claim 26.

Legal Standard

“Whether a claim is drawn to patent-eligible subject matter is an issue of law that we review de novo.” *SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319, 1331 (Fed. Cir. 2010).

The Supreme Court’s two-step framework guides our analysis of patent eligibility under 35 U.S.C. § 101. *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 217 (2014). In addition, the Office published revised guidance for evaluating subject matter eligibility under 35 U.S.C. § 101, specifically with respect to applying the *Alice* framework. USPTO, 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Office Guidance”). If a claim falls within one of the statutory categories of patent eligibility (i.e., a process, machine, manufacture, or composition of matter) then the first inquiry is whether the claim is directed to one of the judicially recognized exceptions (i.e., a law of nature, a natural phenomenon, or an abstract idea). *Alice*, 573 U.S. at 217. As part of this inquiry, we must “look at the ‘focus of the claimed advance over the prior art’ to determine if the claim’s ‘character as a whole’ is directed to excluded subject matter.” *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016). Per Office Guidance, this first inquiry has two prongs of analysis (i) does the claim recite a judicial exception (e.g., an abstract idea), and (ii) if so, is the judicial exception integrated into a practical application. 84 Fed. Reg. at 54. Under the Office Guidance, if the judicial exception is integrated into a practical application, see *infra*, the claim is patent eligible under § 101. 84 Fed. Reg. at 54–55. If the claim is directed to a judicial exception

(i.e., recites a judicial exception and does not integrate the exception into a practical application), the next step is to determine whether any element, or combination of elements, amounts to significantly more than the judicial exception. *Alice*, 573 U.S. at 217; 84 Fed. Reg. at 56. If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an “inventive concept” sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (citation omitted).

To summarize, under the current Office Guidance, we first look to whether the claim recites:

(1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes); and

(2) additional elements that integrate the judicial exception into a practical application (*see* Manual for Patent Examining Procedure (“MPEP”) § 2106.05(a)–(c), (e)–(h)).

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look to whether the claim:

(3) adds a specific limitation beyond the judicial exception that 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.

See Office Guidance.

Step 1

Claim 26, as a method claim, falls within the process category of § 101. *See* Office Guidance, 84 Fed. Reg. at 53–54 (citing MPEP §§ 2106.03, 2106.06).

Step 2A(i): Does the Claim Recite a Judicial Exception?

Prong One of Step 2A represents a change as compared to prior guidance. To determine whether a claim recites an abstract idea in Prong One, we (a) identify the specific limitation(s) in the claim that recites an abstract idea; and (b) determine whether the identified limitation(s) falls within the subject matter groupings of abstract ideas under the Office Guidance.

The Examiner determined that claim 26 is directed to “making schedules and recommendations,” which is, *inter alia*, a method of organizing human activity and, thus, an abstract idea. Final Act. 6. The Examiner identified the following steps as part of the recited abstract idea:

receiving, from a computer client and by the recommendation server, user preferences;
collecting, associated with each of a plurality of geographical points of interest, real-time telemetry;
generating, based upon the user preferences; recommendation criteria;
generating recommendation options by evaluating the real-time telemetry using the recommendation criteria; and
forwarding, by the recommendation server and to the computer client, the recommendation options

Consistent with Appellant’s description of the claims (*see, e.g.*, Spec. ¶ 5), we determine that the limitations above describe advertising, sales, or marketing activities that are fairly characterized as commercial interactions, and which fall into the “certain methods of organizing human activity”

category of abstract ideas. *See* 84 Fed. Reg. at 52. We also determine that the “generating” steps recite mental processes, which are concepts performed in the human mind, including observation, evaluation, judgment, or opinion. *See id.*

Appellant argues that the Examiner erred by improperly characterizing and overgeneralizing the claimed invention. Appeal Br. 15.

Applying the Office Guidance, we are not persuaded that the Examiner erred in describing the abstract idea. The Specification describes providing dynamic schedules and recommendations for points of interest using automatically obtained collective telemetry in order to enhance user experience. Spec. ¶ 5.

Because we agree with the Examiner that the claim recites an abstract idea, we proceed to Prong Two of Step 2A to determine if the idea is integrated into a practical application, in which case the claim as a whole would not be “directed to” merely an abstract idea.

Step 2A(ii): Judicial Exception Integrated into a Practical Application?

Because we determined that claim 26 recites a patent-ineligible concept, we next determine whether the recited judicial exception is integrated into a practical application of that exception by: (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception(s); and (b) evaluating those additional elements individually and in combination to determine whether they integrate the exception into a practical application.

We use the term “additional elements” for claim features, limitations, or steps that the claim recites beyond the identified judicial exception. *See*

Revised Guidance at 55 n.24. In claim 26, the additional elements include the limitations “recommendation server” and “computer client.”

The Examiner determined that neither of the additional limitations is sufficient to amount to significantly more than the judicial exception because the additional computer elements “fail to establish that the limitations themselves amount to significantly more than merely the abstract idea of making recommendations based on collected data.” Final Act. 7. We agree with the Examiner.

Appellant next argues that claim 26 improves the functioning of a computer or other technology or technical field for two reasons: (1) the Specification describes physical attractions offering mobile phone applications that improve a user’s experience when visiting the attraction; and (2) claim 26 “involves real-time telemetry, which requires the use of specialized technology.” Appeal Br. 21.

Appellant’s arguments are not persuasive. Here, even according to Appellant, it is the user’s experience that is improved, not the computer. *Id.* Moreover, Appellant argues that, although applications exist that are able to provide information based upon telemetry, Appellant’s invention improves upon this technology by using both user preferences and real-time telemetry. Reply Br. 4. Appellant, however, provides no details about collecting real-time telemetry data in claim 26, and the claim reflects no improvement or specialized technology. Nor has Appellant identified where in the Specification the alleged improvement is described.

Appellant further argues that claim 26 improves the efficiency of using an electronic device, as in *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1362 (Fed. Cir. 2018). Appeal Br. 20.

We are not persuaded. In *Core Wireless*, the court stated that “[t]he disclosed invention improves the efficiency of using the electronic device.” *Core Wireless*, 880 F.3d at 1363. However, the court also explained that “[w]e also ask whether the claims are directed to a specific improvement in the capabilities of computing devices” (*id.* at 1361), and then determine that “the claims are directed to an improvement in the functioning of computers” (*id.* at 1363). Thus, in *Core Wireless*, the improved efficiency of using the electronic devices was related to an identified improvement in the functioning of computers.

The claims here, however, do not recite an improvement for electronic devices. Determining which information to recommend to a user, as in claim 26, “does not improve the functioning of the computer, make it operate more efficiently, or solve any technological problem.” *Trading Techs. Int’l, Inc. v. IBG LLC*, 921 F.3d 1378, 1384–85 (Fed. Cir. 2019) (“*Trading Techs. I*”). Rather, the claim simply “includes instructions to implement an abstract idea on a computer” and “does no more than generally link the use of a judicial exception to a particular technological environment or field of use.” Official Guidance, 84 Fed. Reg. at 55. Considering claim 26 as a whole, then, Appellant’s invention lacks a technical solution to a technical problem like the claims in *Core Wireless*. *Core Wireless* involved an interface that assembled a limited number of applications that could then be launched from that interface. Here, “[t]he claims are focused on providing information . . . in a way that helps them process information more quickly, . . . not on improving computers or technology.” *Trading Techs. II*, 921 F.3d at 1384. Claim 26 as a whole, then, merely uses instructions to implement the

abstract idea on a computer or, alternatively, merely uses a computer as a tool to perform the abstract idea.

Thus, the additional limitation(s) do not integrate the judicial exception into a practical application. More particularly, the claims do not recite (i) an improvement to the functionality of a computer or other technology or technical field (*see* MPEP § 2106.05(a)); (ii) a “particular machine” to apply or use the judicial exception (*see* MPEP § 2106.05(b)); (iii) a particular transformation of an article to a different thing or state (*see* MPEP § 2106.05(c)); or (iv) any other meaningful limitation (*see* MPEP § 2106.05(e)). *See* 84 Fed. Reg. at 55. Rather, claim 26 recites an abstract idea as identified in Step 2A(i), *supra*, and none of the limitations integrates the judicial exception into a practical application.

Therefore, because the abstract idea is not integrated into a practical application, we conclude that the claim is directed to the judicial exception.

Step 2B — “Inventive Concept” or “Significantly More”

If the claims are directed to a patent-ineligible concept, as we conclude above, we proceed to the “inventive concept” step. For Step 2B we must “look with more specificity at what the claim elements add, in order to determine ‘whether they identify an “inventive concept” in the application of the ineligible subject matter’ to which the claim is directed.” *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1258 (Fed. Cir. 2016) (quoting *Elec. Power Grp.*, 830 F.3d at 1353). We look to see whether there are any “additional features” in the claims that constitute an “inventive concept,” thereby rendering the claims eligible for patenting even if they are directed to an abstract idea. *Alice*, 573 U.S. at 221. Those “additional

features” must be more than “well-understood, routine, conventional activity.” *Mayo*, 566 U.S. at 79.

The Examiner determined that the additional elements in claim 26 require no more than a generic computer to perform generic computer functions that are well-understood, routine and conventional activities previously known to the industry. Ans. 19–20. For support, the Examiner cited Appellant’s Specification, which states, “computer program instructions may be provided to a processor of a general purpose computer.” *Id.* at 20. The Examiner found that claim 26 describes a problem, recites purely functional steps that purport to solve the problem, and recites standard computer operations to perform some of those steps, which does not amount to “significantly more” than an abstract idea. *Id.*

Appellant presents no particular arguments directed to the Examiner’s Step 2B analysis. *See, generally*, Appeal Br., Reply Br. Indeed, Appellant does not direct our attention to anything in the Specification that indicates the computer components perform anything other than well-understood, routine, and conventional functions. *See buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (“That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive”); *In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 614 (Fed. Cir. 2016) (server that receives data, extracts classification information from the received data, and stores the digital images insufficient to add an inventive concept); *Alice*, 573 U.S. at 225–26 (receiving, storing, sending information over networks insufficient to add an inventive concept).

In response to Appellant’s argument that claim 26 improves upon prior art telemetry technology (Reply Br. 4), the novelty of any element or

steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter. *Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981). Our reviewing court further guides that “[e]ligibility and novelty are separate inquiries.” *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1340 (Fed. Cir. 2017); *see also Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1263 (Fed. Cir. 2016) (holding that “[e]ven assuming” that a particular claimed feature was novel does not “avoid the problem of abstractness”).

Because the Specification describes the additional elements in general terms, without describing the particulars, we conclude the claim limitations may be broadly but reasonably construed as reciting conventional computer components and techniques, particularly in light of Appellant’s Specification. *See Berkheimer Memo*² § III.A.1; Spec. ¶¶ 34, 37. In paragraph 37, for example, the Specification describes that the “recommendation server” can be a hardware/software entity “able to receive data 242, 272 and/or convey notification 270.” Spec. ¶¶ 34, 37. The Specification also describes that the “recommendation server” can be a networked element within a networked computing environment, or a distributed system within a distributed computing network. *Id.* Similarly,

² “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*)” at 3 (Apr. 19, 2018) (explaining that a specification that describes additional elements “in a manner that indicates that the additional elements are sufficiently well-known that the specification does not need to describe the particulars of such additional elements to satisfy 35 U.S.C. § 112(a)” can show that the elements are well understood, routine, and conventional).

while the Specification does not describe a “computer client,” as recited in claim 26, it describes mobile phone 110 of Figure 1 as “an exemplary device and can include any computing device able to collect and/or communicate telemetry.” Spec. ¶ 34.

Analyzing the claim elements that are well-understood, routine, conventional as an ordered combination, in addition to analyzing those claim elements individually, we conclude claim 26 does not have an inventive concept because the claim, in essence, merely recites various computer-based elements along with no more than mere instructions to implement the identified abstract idea using well-understood, routine, and conventional computer-based elements.

Because the claims fail under both the Step 2A and Step 2B analyses, we sustain the Examiner’s § 101 rejection of independent claim 26 and grouped claims 27–45, argued as a group with claim 26.

Rejection of Claims Under 35 U.S.C. § 102(b)

Appellant contends that the Examiner erred in rejecting claims 26, 31–36, and 41–45 under § 102(b) because Churchill does not disclose the limitation “generating, based upon the user preferences; recommendation criteria,” as recited in representative claim 26. Appeal Br. 21–22.

We agree with Appellant that the Examiner erred. Claim 26 recites both “recommendation criteria” and “recommendation options.” The Examiner found that Churchill provides “recommendations,” but did not clearly show that Churchill discloses “recommendation criteria,” as recited in the disputed limitation. *See* Ans. 25–27. The Examiner cites paragraphs 48, 51, and 52 of Churchill as disclosing the disputed limitation, but

nowhere does the Examiner sufficiently explain where the cited paragraphs disclose that recommendation criteria is generated based on user preferences, as claim 26 requires.

For these reasons, we reverse the Examiner's §102(b) rejection of claim 26 as well as independent claim 36, which recites a similar limitation. We also reverse the Examiner's § 102(b) rejection of dependent claims 31–35 and 41–45, dependent thereon.

Rejection of Claims Under 35 U.S.C. § 103(a)

Appellant seeks to reverse the Examiner's § 103(a) rejection of dependent claims 27–30 and 37–40 because Churchill does not teach or suggest the limitation “generating, based upon the user preferences; recommendation criteria,” as recited in independent claims 26 and 36, discussed above. Appeal Br. 27.

We are persuaded to reverse, as Appellant's arguments are the same as discussed above for the § 102(b) rejection of independent claims 26 and 36. The Examiner did not address Appellant's § 103(a) arguments in the Answer. Nor did the Examiner show that Madsen cures the lack of a teaching or suggestion of “generating based upon the user preferences; recommendation criteria” in Churchill.

Accordingly, we reverse the Examiner's § 103(a) rejection of dependent claims 27–30 and 37–40, argued as a group. Appeal Br. 27.

DECISION

Because we affirm at least one ground of rejection with respect to each claim on appeal, the Examiner's decision rejecting claims 26–45 is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
26-45	112, first paragraph	Lack of written description	26-45	
26-45	101	Eligibility	26-45	
26, 31-36, 41-45	102(b)	Churchill		26, 31-36, 41-45
27-30, 37-40	103(a)	Churchill, Madsen		27-30, 37-40
Overall Outcome:			26-45	

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