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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte EZRA HANZ, JEFFREY ARTHUR STAHL, and LEWIS ARNOLD STAHL

Appeal 2018-008212
Application 13/198,103
Technology Center 3600

Before MURRIEL E. CRAWFORD, TARA L. HUTCHINGS, and ROBERT J. SILVERMAN, *Administrative Patent Judges*.

HUTCHINGS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant[1] appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 and 15. An oral hearing was held on March 4, 2020. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] We use the term "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Our decision references Appellant's Appeal Brief ("Appeal Br.," filed Feb. 27, 2018), and Reply Brief ("Reply Br.," filed Aug. 13, 2018), and the Examiner's Answer ("Ans.," mailed June 12, 2018), and Final Office Action ("Final Act.," mailed June 27, 2017). Appellant identifies Nextgen Management LLC as the real party in interest. Appeal Br. 2.

CLAIMED INVENTION

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

> 1. A method of interfacing with an electronic prescription system to transmit a customized message to a prescriber device responsive to entry of prescription information into said electronic prescription system from said prescriber device, said prescriber device having a display, the method comprising:
>
> [(a)] receiving from said electronic prescription system electronic prescription information pertaining to a prescription, the electronic prescription information including at least patient identity, prescriber identity, and medication being prescribed;
>
> [(b)] parsing, using a digital processing apparatus, the electronic prescription information to extract at least one of the patient identity and the prescriber identity;
>
> [(c)] accessing electronic personal data of said electronic prescription system using the prescriber identity, said electronic personal data including at least past prescribing habits of the prescriber; and
>
> [(d)] prior to the prescriber completing a prescription for the medication being prescribed, automatically generating and transmitting a message to said electronic prescription system for display on said display said message containing information based on at least the past prescribing habits of the prescriber and said medicine being prescribed.

REJECTIONS

Claims 1 and 15 are rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

Claims 1 and 15 are rejected under 35 U.S.C. § 103(a) as unpatentable over Mayaud (US 2002/0042726 A1, pub. Apr. 11, 2002) and Enos (US 2002/0138303 A1, pub. Sept. 26, 2002).

ANALYSIS

Patent-Ineligible Subject Matter

Appellant argues independent claims 1 and 15 as a group. Appeal Br. 5–10;[2] *see also* Reply Br. 2.[3] We select independent claim 1 as representative. Claim 15 stands or falls with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Under 35 U.S.C. § 101, an invention is patent eligible if it claims a "new and useful process, machine, manufacture, or composition of matter." 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: "[l]aws of nature, natural phenomena, and abstract ideas" are not patentable. *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 216 (2014).

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012), "for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts." *Alice Corp.*, 573 U.S. at 217. The first step in that analysis is to "determine whether the claims at issue are directed to one of those patent-ineligible concepts." *Id.* If the claims are not directed to a patent-ineligible concept, e.g., an abstract idea, the inquiry ends. Otherwise, the inquiry proceeds to the second step where the elements

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[2] Appellant's Appeal Brief mistakenly numbers each page after page nine of the Appeal Brief as page one. To correct this error and avoid confusion, we treat the page numbers as increasing consecutively after page nine.

[3] Appellant's Reply Brief lacks page numbers. To remedy this oversight, we treat the Reply Brief's first page, having a header, as page one, and consecutively increase the page number for the remaining pages.

of the claims are considered "individually and 'as an ordered combination'" to determine whether there are additional elements that "'transform the nature of the claim' into a patent-eligible application." *Id.* (quoting *Mayo*, 566 U.S. at 79, 78). This is "a search for an 'inventive concept' — *i.e.*, an element or combination of elements that is 'sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.'" *Id.* at 217–18 (alteration in original).

In rejecting the pending claims under 35 U.S.C. § 101, the Examiner determined that claims 1 and 15 are directed to a method of "electronically transmitting a customized message," and a computer program product for doing the same. Final Act. 2–3. The Examiner determined that the claims are similar to concepts involving collecting information, analyzing the information, and displaying the results, which the courts have identified as an abstract idea. *Id.* at 3 (citing *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016) (characterizing collecting information, analyzing information by steps people go through in their minds, or by mathematical algorithms, and presenting the results of collecting and analyzing information, without more, as matters within the realm of abstract ideas), 12; Ans. 12–13. The Examiner further determined that claims 1 and 15 do not include additional elements that are sufficient to amount to significantly more than the judicial exception. *Id.* at 3–4.

The U.S. Patent and Trademark Office ("USPTO") published revised guidance on January 7, 2019 for use by USPTO personnel in evaluating subject matter eligibility under 35 U.S.C. § 101. 2019 REVISED PATENT SUBJECT MATTER ELIGIBILITY GUIDANCE, 84 Fed. Reg. 50, 57 (Jan. 7, 2019) ("Revised Guidance"). That guidance revised the USPTO's examination

procedure with respect to the first step of the *Mayo*/*Alice* framework by (1) "[p]roviding groupings of subject matter that [are] considered an abstract idea"; and (2) clarifying that a claim is not "directed to" a judicial exception if the judicial exception is integrated into a practical application of that exception. *Id.* at 50. The Revised Guidance, by its terms, applies to all applications, and to all patents resulting from applications, filed before, on, or after January 7, 2019. *Id.*[4]

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

The first step in the *Mayo*/*Alice* framework, as mentioned above, is to determine whether the claims at issue are "directed to" a patent-ineligible concept, e.g., an abstract idea. *Alice Corp.*, 573 U.S. at 217. This first step, as set forth in the Revised Guidance (i.e., Step 2A), is a two-prong test; in Step 2A, Prong One, we look to whether the claim recites a judicial exception, e.g., one of the following three groupings of abstract ideas: (1) mathematical concepts; (2) certain methods of organizing human activity, e.g., fundamental economic principles or practices, commercial or legal interactions; and (3) mental processes. Revised Guidance, 84 Fed. Reg. at 54; *see also id.* at 52 (identifying the three groupings). If so, we next consider whether the claim includes additional elements, beyond the judicial exception, that "integrate the [judicial] exception into a practical application," i.e., that apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that

[4] The USPTO issued an update on October 17, 2019 (the "October 2019 Update: Subject Matter Eligibility," available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf), clarifying the Revised Guidance in response to comments solicited from the public.

the claim is more than a drafting effort designed to monopolize the judicial exception ("Step 2A, Prong Two"). *Id.* at 54–55. Only if the claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application do we conclude that the claim is "directed to" the judicial exception, e.g., an abstract idea. *Id.*

We are not persuaded by Appellant's arguments that the Examiner oversimplified the claim language or otherwise erred in determining that claim 1 is directed to an abstract idea. *See* Appeal Br. 9–10. The Federal Circuit has explained that "the 'directed to' inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether 'their character as a whole is directed to excluded subject matter.'" *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). It asks whether the focus of the claims is on a specific improvement in relevant technology or on a process that itself qualifies as an "abstract idea" for which computers are invoked merely as a tool. *See id.* at 1335–36. Here, it is clear from the Specification (including the claim language) that the claims focus on an abstract idea, and not on any improvement to technology and/or a technical field.

Appellant's Specification is titled "ELECTRONIC PRESCRIPTION DELIVERY SYSTEM AND METHOD," and describes that the invention relates to a method and system for "providing electronic messaging, including advertising and promotional messages and educational or informational messages about a given drug." Spec. ¶ 2. The Specification describes that physicians write approximately 2.5 billion prescriptions each year. *Id.* ¶ 4. Before the advent of electronic medical record systems,

prescriptions were handwritten by physician on pre-printed prescription pads. *Id.* ¶ 5. Pre-printed prescription pads include text identifying the document as a prescription, the name and address of a prescribing provider, and other required information. *Id.* Prescription pads also include advertisements by the pharmaceutical industry to the physician to increase brand awareness and improve recall. *Id.* ¶ 6 The physician hands the prescription to a patient, and the patient delivers the prescription to a pharmacist for fulfillment. *Id.* Prescription pads allow the pharmaceutical industry to advertise to the physician and increase brand awareness.

The Background further describes that electronic prescription dispensing systems allow patient information to be electronically entered into an electronic medical record ("EMR") system. *Id.* ¶ 7; *see also id.* ¶ 14 ("Eprescribing is known."). The prescriber enters patient information and prescription information into the EMR system using an electronic interface, such as a graphic user interface ("GUI"). *Id.* ¶¶ 7, 14. Pharmaceutical companies also can message medical providers using the electronic interfaces of electronic medical systems. *Id.* ¶ 7.

Appellant's invention seeks to provide real-time delivery of information (i.e., a message) to the prescriber at the time the prescriber prepares the prescription and prior to completion. *Id.* ¶ 17. Exemplary messages include an advertisement, such as one paid for by a pharmaceutical company, for an alternative drug to the drug that the prescriber prescribed. *Id.* Because the information is provided before the prescription is complete, the prescriber can analyze the alternative drug and choose it instead of the original medication identified in the prescription. *Id.* In another example, the invention generates a message to the provider regarding a

contraindication, and offer alternative drug(s). *Id.* The message can beneficial to the patient and prescriber, as well as the advertising entity (e.g., a pharmaceutical company). *Id.* ¶ 19. Because some of the messages delivered to the prescriber comprise advertising, the system also provides mechanisms for tracking the efficacy of such advertising, and delivering reports regarding the same. *Id.* ¶ 20.

Consistent with this disclosure, claim 1 recites a method for transmitting a customized message to a prescriber in response to the prescriber's entry of prescription information comprising the following steps: "receiving . . . prescription information pertaining to a prescription, the . . . prescription information including at least patient identity, prescriber identity, and medication being prescribed" (limitation (a)); "parsing . . . the . . . prescription information to extract at least one of the patient identity and the prescriber identity" (limitation (b)); "accessing electronic personal data of said . . . prescription system using the prescriber identity, said . . . personal data including at least past prescribing habits of the prescriber" (limitation (c)); and "prior to the prescriber completing a prescription for the medication being prescribed, automatically generating and transmitting a message . . . for display . . . said message containing information based on at least the past prescribing habits of the prescriber and said medicine being prescribed" (limitation (d)). These limitations, when given their broadest reasonable interpretation, recite steps for transmitting a customized message to a prescriber in response to entry, and prior to completion, of a prescription. The underlying steps recited in claim 1 are acts that could be performed by a human mentally or manually, using pen and paper, without the use of a computer or any other machine. For example, a person could

receive information pertaining to a prescription. The person could parse that prescription information mentally to extract an identity of the patient and prescriber. Using the prescriber identity, the person could access prescribing habits of the prescriber (stored electronically or on paper). Finally, the person could generate and transmit (verbally, electronically, or using pen and paper) a message to the prescriber containing information based on the past prescribing habits of the prescriber and the medicine being prescribed. Claim 1 recites steps, including an observation, evaluation, and/or judgment, that can be performed in the human mind, which is a mental process and, therefore, an abstract idea. *See* Revised Guidance, 84 Fed. Reg. at 52. *See also CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1373 (Fed. Cir. 2011) (holding that method steps that can be performed in the human mind, or by a human using a pen and paper, are unpatentable mental processes).

The Federal Circuit has held similar concepts to be abstract. For example, the Federal Circuit has held that claims directed collecting data, analyzing the data, and reporting the results of the collection and analysis, including when limited to particular content, to be directed to excepted subject matter. *See, e.g.*, *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017) (identifying the abstract idea of collecting, displaying, and manipulating data); *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016) (characterizing collecting information, analyzing information by steps people go through in their minds, or by mathematical algorithms, and presenting the results of collecting and analyzing information, without more, as matters within the realm of abstract ideas).

The steps, broadly construed, also relate to a commercial interaction (e.g., including advertising or marketing, and business relations), which is a certain method of organizing human activity, and thus, an abstract idea. *See* Revised Guidance, 84 Fed. Reg. at 52.

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

Having concluded that claim 1 recites a judicial exception, i.e., an abstract idea (Step 2A, Prong One), we next consider whether the claim recites additional elements that integrate the judicial exception into a practical application (Step 2A, Prong Two). *See* Revised Guidance, 84 Fed. Reg. at 54.

Beyond the abstract idea, claim 1 additionally recites a "prescriber device" (preamble), an "electronic prescription system" (preamble, limitation (a)); a "digital processing apparatus" (limitation (b)); a "display" (limitations (c), (d)(1)); and that the prescription information is "electronic" (limitations (a), (b)). However, Appellant's Specification describes these elements at a high degree of generality, i.e., as generic computer components. *See, e.g.*, Spec. ¶¶ 32 ("all of the functionality described herein may be provided by or in combination with other forms of circuitry, including, but not limited to, state machines, combinational logic circuits, FPGAs, digital circuits, Application Specific Integrated Circuits (ASICs), analog circuits, processors, microprocessors, digital signal processors (DSPs), computers, software running on any of the above, and/or any combinations of the above"); 33 (the invention is adapted to interface with "commercially available EMR systems, EHR systems, eprescription applications, patient management systems"). *See DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) ("[A]fter *Alice*, there

can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.").

Appellant argues that claim 1 is drawn to solving a technological problem facing e-prescription systems. Appeal Br. 5–10. In particular, Appellant contends that it is "difficult to build an electronic prescription system which [sic] is able to comply with the disparate regulatory policies to the messaging component." *Id.* at 7. Appellant contends that compliance issues can be avoided by disseminated "plain vanilla," "benign or even insipid" information. *Id.* But "it is unlikely that any company [would] be interested in paying a fee for such information to be disseminated." *Id.* Appellant concludes that there, therefore, is a need to separate the messaging function and e-prescription function of e-prescription systems "so that third parties, and not the e-prescription system provider, can focus on compliance issues and on providing content [that] is both interesting and compliant." *Id.* However, we are not persuaded that a need for providing "interesting and compliant" information that doesn't run afoul of regulations is a technological improvement as opposed to a business concern.

Appellant argues that claim 1 is "directed to an overlay for an e-prescription system that improves the performance of the e-prescription system to improve the overall delivery of services to patients." *Id.* In this regard, Appellant contends that the claimed invention "allows ***a single messaging service*** to interface with multiple[,] ***different electronic prescription systems***, providing a central service at which ***multi-state, multi-national regulations*** can be collated and applied." *Id.* at 8. Appellant's argument is unpersuasive, at least because claim 1 does not recite multiple,

different electronic prescription systems, or collating and applying multi-state, multi-national regulations.

Further, even if Appellant's arguments were commensurate in scope with the claim language, claim 1 does not recite any technological details regarding *how* a single messaging service interfaces with multiple, different electronic prescriptions and/or collates and applies multi-state, multi-national regulations. Instead, the claim covers any manner of solution that achieves the result-focused, functional limitations. *See, e.g., Elec. Power Grp.*, 830 F.3d at 1356 (cautioning against claims "so result-focused, so functional, as to effectively cover any solution to an identified problem"); *Intellectual Ventures I*, 850 F.3d at 1342 ("[T]he claim language here provides only a result-oriented solution with insufficient detail for how a computer accomplishes it. Our law demands more.").

Appellant further argues that "the claims ensure that relevant, yet compliant, information is delivered to the prescriber" before the prescription is completed. Appeal Br. 8. Appellant's claimed invention may well improve a process for transmitting a customized message to a prescriber device. However, we are not persuaded that this improvement is an improvement to technology, as opposed to an improvement to a process that is the abstract idea itself.

Appellant argues that the Examiner's articulation of the abstract idea fails to address the purported technological problem involving "segregating the e-prescription system from the messaging system, or presenting relevant yet compliant information based on the prescriber's prescription history." Appeal Br. 9–10. However, as set forth above, the Examiner's characterization of claim 1 is fully consistent with the claim language as

understood in light of the Specification under a broad, but reasonable, interpretation. That the Examiner articulates the abstract idea at a higher level of abstraction than would Appellant is an insufficient basis to argue that the Examiner mischaracterized the claimed subject matter. *See Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1240–41 (Fed. Cir. 2016) ("An abstract idea can generally be described at different levels of abstraction. As the Board has done, the claimed abstract idea could be described as generating menus on a computer, or generating a second menu from a first menu and sending the second menu to another location. It could be described in other ways, including, as indicated in the specification, taking orders from restaurant customers on a computer.").

We also are not persuaded of Examiner error by Appellant's argument regarding preemption. *See* Appeal Br. 10 ("claimed invention does not preclude an e-prescription system with messaging"). Although the Supreme Court has described "the concern that drives [the exclusion of abstract ideas from patent-eligible subject matter] as one of pre-emption," *Alice Corp.*, 573 U.S. at 216, characterizing preemption as a driving concern for patent eligibility is not the same as characterizing preemption as the sole test for patent eligibility. "The Supreme Court has made clear that the principle of preemption is the basis for the judicial exceptions to patentability" and "[f]or this reason, questions on preemption are inherent in and resolved by the § 101 analysis." *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (citing *Alice Corp.*, 573 U.S. at 216). "[P]reemption may signal patent ineligible subject matter, [but] the absence of complete preemption does not demonstrate patent eligibility." *Id.*

We do not find anything of record indicating that the claims recite an additional element or combination of elements beyond the abstract idea that reflects an improvement in the functioning of a computer, or an improvement to other technology; implements the abstract idea with a particular machine; effects a transformation of a particular article to a different state or thing; or that otherwise indicates that the claimed invention integrates the abstract idea into a "practical application," as that phrase is used in the Revised Guidance.[5]

We conclude, for the reasons outlined above, that claim 1 recites a mental process and/or a method of organizing human activities, i.e., an abstract idea, and that the additional elements recited in the claims do no more than generally link the abstract idea to a particular technological environment (i.e., an electronic prescription system) or field of use (i.e., electronic prescriptions). Therefore, the additional elements do not integrate the abstract idea into a practical application. Accordingly, we agree with the Examiner that claim 1 is directed to an abstract idea.

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

Having determined that claim 1 is directed to an abstract idea (Step 2A), we next consider whether claim 1 includes additional elements or a combination of elements that provides an "inventive concept," i.e., whether

[5] The Revised Guidance references MPEP § 2106.05(a)–(c) and (e) in describing the considerations that are indicative that an additional element or combination of elements integrates the judicial exception, e.g., the abstract idea, into a practical application. Revised Guidance, 84 Fed. Reg. at 55. If the recited judicial exception is integrated into a practical application, as determined under one or more of these MPEP sections, the claim is not "directed to" the judicial exception.

the additional elements amount to "significantly more" than the judicial exception itself (Step 2B). Revised Guidance, 84 Fed. Reg. at 56.

Appellant contends that the claims recite "significant and non-obvious features." Appeal Br. 8. However, the features to which Appellant refers relate to the abstract idea itself and, thus, cannot supply an inventive concept under step two of the *Mayo*/*Alice* framework. *See BSG Tech LLC v. Buyseasons*, Inc., 899 F.3d 1281, 1290 (Fed. Cir. 2018) ("[i]t has been clear since *Alice* that a claimed invention's use of the ineligible concept to which it is directed cannot supply the inventive concept that renders the invention 'significantly more' than that ineligible concept") (internal citation omitted); *see also Berkheimer v. HP Inc.*, 881 F.3d 1360, 1370 (Fed. Cir. 2018) (holding that claims lacked an inventive concept where they amount to no more than performing the abstract idea with conventional computer components), *cert. denied*, 2020 WL 129532 (U.S. Jan. 13, 2020).

As described above, the only additional elements recited in claim 1 beyond the abstract idea are: a "prescriber device"; an "electronic prescription system"; a "digital processing apparatus"; a "display"; and that the prescription information is "electronic" — elements set forth in the Specification as generic computer components. *See, e.g.*, Spec. ¶¶ 32–33. Appellant cannot reasonably contend, nor does Appellant, that the evidence of record adequately indicates that the claimed invention is implemented using other than generic computer components to perform generic computer functions, e.g., receiving, parsing, accessing, generating, and transmitting information. *See BSG Tech.*, 899 F.3d at 1290–91 ("If a claim's only 'inventive concept' is the application of an abstract idea using conventional and well-understood techniques, the claim has not been transformed into a

patent-eligible application of an abstract idea.); *see also Berkheimer*, 881 F.3d at 1370 (holding claims lacked an inventive concept because they "amount to no more than performing the abstract idea of parsing and comparing data with conventional computer components").

Here, Appellant has not identified, and we do not find, any additional elements recited in claim 1 that, individually or in combination, provide significantly more than the abstract idea. We are not persuaded, on the present record, that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 101.

Therefore, we sustain the Examiner's rejection of claim 1, and claim 15, which falls with claim 1, under 35 U.S.C. § 101.

Obviousness

The Examiner finds that Enos teaches

> prior to the prescriber completing a prescription for the medication being prescribed, automatically generating and transmitting a message to said electronic prescription system for display on said display, said message containing information[] based on at least the past prescribing habits of the prescriber and said medicine being prescribed[,]

as recited in claim 1, limitation (d), and similarly recited in claim 15. Final Act. 7 (citing Enos ¶ 101, Fig. 17); *see also* Ans. 16–17. We are persuaded by Appellant's argument that the Examiner erred in making this finding. *See* Appeal Br. 12; *see also* Reply Br. 3–4.

Enos relates to facilitating physician prescription and formulary compliance. Enos ¶ 4. Enos describes that a physician chooses drugs to be placed on a preprinted, eScriptPad prescription pad. *Id.* ¶ 101. Enos's ScriptIQ system receives alert-trigging information that impacts the

physician's eScriptPad prescription pad. *Id.* Alert-triggering information includes information relevant to prescriptions on the physician's eScriptPad prescription pad, such as a drug in the pad is no longer available as an approved medication, or has been recalled. *Id.* And a prescription alert service "ultimately inform[s]" a physician regarding the alert-triggering information. *Id.* As a result of receiving an alert that a drug on the physician's eScriptPad prescription pad has been recalled, the physician knows to stop prescribing this drug, and to order a new set of prescription pads. *Id.*

The Examiner finds that Enos's art teaches automatically generating and transmitting a message, as recited in claim 1, limitation (d), and similarly recited in claim 15. The difficulty with the Examiner's analysis, however, is that claim 1 requires that the message is generated after the electronic prescription information (including the patient identity, prescriber identify, and medication) being prescribed has been received (limitation (a)) and processed (limitations (b) and (c)); and prior to the prescriber completing the prescription (limitation (d)). Claim 15 recites similar language. Enos describes a physician receiving alerts regarding medication associated with the physician's prescription pad. But, contrary to the Examiner's finding (Final Act. 7), Enos does not describe or suggest that the message is generated and transmitted prior to the prescriber completing the prescription (limitation (d)), and responsive to entry of prescription information (preamble, limitations (a)–(c)).

In view of the foregoing, we do not sustain the Examiner's rejection of independent claims 1 and 15 under 35 U.S.C. § 103(a).

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1, 15	101	Eligibility	1, 15	
1, 15	103(a)	Mayaud, Enos		1, 15
Overall Outcome			1, 15	

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