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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HAN YU, CHUNYAN MIAO, and ZHIQI SHEN

Appeal 2019-001969
Application 14/656,009¹
Technology Center 3600

Before DONALD E. ADAMS, ERIC B. GRIMES, and
RACHEL H. TOWNSEND, *Administrative Patent Judges*.

TOWNSEND, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 involving claims to a computer system for allocating human intelligence tasks to a worker in a crowdsourcing system, which have been rejected as directed to patent ineligible subject matter, obvious, and/or failing to comply with the written description requirement. 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 NANYANG TECHNOLOGICAL UNIVERSITY. (Br. 2.)

STATEMENT OF THE CASE

Appellant's Specification indicates that "[c]rowdsourcing systems are a unique type of collaborative computing systems where human beings act as workers to perform human intelligence tasks (HITs) in exchange of monetary or other forms of payoffs." (Spec. 1.) According to Appellant's Specification,

a crowdsourcing system is faced with two major challenges:

1) To reduce the time taken to complete HITs, HIT allocation to a large number of workers should be automated; and

2) To ensure the quality of the HIT results, requesters should be able to provide feedback on the quality of the results they receive and use the feedback to reward trustworthy workers and punish untrustworthy ones.

(*Id.*) Appellant's Specification contends that these "two challenges represent conflicting system objectives" that the invention addresses simultaneously. (*Id.* at 2.)

Claims 1, 3–5, and 7–9 are on appeal. Claim 1 is representative and reads as follows:

1. A computer system for allocating each of one or more human intelligence tasks to a corresponding one of a plurality of workers in a crowdsourcing system, the computer system comprising:

a computer processor;

at least one electronic interface;

a data storage device, the data storage device storing:

(a) for each of the plurality of workers, a respective profile describing

(i) at least one worker trustworthiness score indicative of the quality of work performed by the

worker, wherein the trustworthiness score is calculated based at least on feedbacks from requesters, and

(ii) a current workload value indicative of the current level of workload of the worker;

(b) program instructions operative by the computer processor, to cause the computer processor automatically:

(i) to receive, from the at least one electronic interface, data describing the one or more human intelligence tasks which are to be performed;

(ii) to receive, from the at least one electronic interface, data for updating the profiles; and

(iii) to transmit, using the interface, for each task a message to a selected worker indicating that the worker is to perform the task;

a worker fitness evaluation module, the worker fitness evaluation module being configured to form for each of the workers a respective fitness function, the fitness function increases with an increasing value of the at least one said worker trustworthiness score, and decreases with an increasing value of the current workload value; and

a task allocation module, the task allocation module being configured to select for each task the selected worker to perform the task based on the respective profile of each worker,

wherein the selection takes into account both the quality of work performed by the workers and the current level of workload of the workers, and wherein the worker having the highest value of the fitness function is selected.

(Br. 22–23.)

The prior art relied upon by the Examiner is:

Name	Reference	Date
Douglas	US 2005/0060217 A1	Mar. 17, 2005
Yankelevich	US 2013/0197954 A1	Aug. 1, 2013
Patel	US 2007/0067200 A1	Mar. 22, 2007
Candelario	US 2012/0221476 A1	Aug. 30, 2012
Noda	US 2005/025086 A1	June 9, 2005
Wang	US 2013/0086054 A1	Apr. 4, 2013

The following grounds of rejection by the Examiner are before us on review:

Claims 1, 3–5, and 7–9 under 35 U.S.C. § 101 as directed to non-statutory subject matter.

Claims 1, 3–5, and 7–9² under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Claims 1, 5, and 9 under 35 U.S.C. § 103 as unpatentable over Douglas, Yankelevich, and Patel.

Claims 4 and 8 under 35 U.S.C. § 103 as unpatentable over Douglas, Yankelevich, Patel, and Candelario.

Claims 3 and 7 under 35 U.S.C. § 103 as unpatentable over Douglas, Yankelevich, Patel, Noda, and Wang.

² We note that the Examiner’s rejection indicates that claims 1–3, 5, and 7–9 are subject to the written description rejection. (Final Action 7; Ans. 3.) However, we agree with Appellant that only claims 1, 3–5, and 7–9 are pending. The Examiner’s identification of the claims for this rejection appears to be an inadvertent error, as he addresses independent claims 1, 5, and 9, and notes that the dependent claims thereon “inherit the deficiency” described with respect to claims 1, 5, and 9. Thus, we determine that the Examiner intended to identify claims 1, 3–5, and 7–9.

DISCUSSION

Patent Ineligible Subject Matter

The Examiner finds that claim 1 is directed to the abstract idea of allocating tasks to workers where the limitations are concerned with data input, manipulation and reporting for selecting workers to perform tasks. (Final Action 5–6.) The Examiner explains that the limitations directed to this data collecting, manipulation, and reporting include

“a respective profile describing [worker qualities and workloads];” and program instructions “to receive . . . data describing [] one or more human intelligence tasks,” “to receive . . . data for updating the profiles,” “to transmit . . . a message,” “to form for each of the workers a respective fitness function,” and “to select for each task the selected worker.”

(*Id.* at 6.) The Examiner further explains that the claims “require no more than a generic computer (a processor, electronic interface, and data storage device in claim 1) to perform generic computer functions that are well-understood, routine and conventional activities previously known to the industry.” (*Id.*) The Examiner also notes that “the claims do not recite an improvement to another technology or technical field, nor do they recite an improvement to the functioning of the computer itself.” (*Id.*) Consequently, the Examiner concludes that the claims recite ineligible subject matter under 35 U.S.C. §101. (*Id.*)

Applying the *2019 Revised Patent Subject Matter Eligibility Guidance* (“Guidance”), 84 Fed. Reg. 50–57 (January 7, 2019), we agree with the Examiner’s assessment.

The Supreme Court has established a two-step framework 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. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014). “First, we determine whether the claims at issue are directed to” a patent-ineligible concept. *Id.* If so, “we consider the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Id.* (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 78–79 (2012)).

STEP 2A, Prong One:

Under the Guidance, in determining what concept a claim is “directed to” in step one of the Supreme Court’s two-step framework, we first look to whether the claim recites any judicial exceptions, such as managing relationships or interaction between people or business relations, i.e., methods of organizing human activity, mental processes, and/or mathematical concepts. Guidance, 84 Fed. Reg. at 52, 54 (Step 2A, Prong One).

Appellant describes the invention recited in claim 1 as a “specific process for allocating tasks to workers taking into account both the quality of work performed by the workers and the current level of workload of the workers, wherein the worker having the highest value of the fitness function is selected.” (Appeal Br. 12.) This is consistent with the description of the object of the invention set forth in the Specification explaining the two challenges in the prior art crowdsourcing systems and noting that the “object of the invention” is to provide “an apparatus to address both of [those] challenges simultaneously. (See Spec. 1–2.) Claim 1 recites a computer system for allocating a human intelligence task to a worker in a crowdsourcing system where the system includes (1) a storage device that

includes program instructions to cause the computer processor to automatically receive both data about the task to be performed and data for updating profiles of workers that are indicative of the quality of work performed by a worker and current workload level, (2) a worker fitness evaluation module that “form[s] . . . a fitness function” for a worker that relates to worker trustworthiness and current workload, and (3) a task allocation module that selects a worker to perform a task based on the profile of a worker that takes into account quality of work performed by a worker and current level of workload and the highest value of the fitness function, and the storage device includes program instructions to cause the computer processor to automatically transmit a message to the selected worker to indicate selection for performing the task.

This system that allocates tasks to workers is thus drawn to managing relationships between a customer and service provider or a business relationship, i.e., a system for organizing human activity, which is an abstract idea.

We find further that the task allocation module performs a function that is a mental process. (*See* Ans. 4.) That is, selection of a worker with the highest fitness function to perform a task based on a profile of the pool of workers is a process that can be performed in a person’s mind, or by a human using a pen and paper. *See* Guidance, 84 Fed. Reg. at 52, n. 14 (citing *e.g.*, *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016) (“[W]ith the exception of generic computer implemented steps, there is nothing in the claims themselves that foreclose them from being performed by a human, mentally or with pen and paper.”)); *see also* *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372–

73 (Fed. Cir. 2011) (“[A] method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101.”); *see also In re Comiskey*, 554 F.3d 967, 979 (Fed. Cir. 2009) (“[M]ental processes—or processes of human thinking—standing alone are not patentable even if they have practical application.”). That the system requires “dynamic updating of data and the use of the dynamically updated data in the allocation of tasks” (Br. 13), is insufficient to establish that the mental process cannot practically be performed in the mind. *Versata Dev. Grp. v. SAP Am., Inc.*, 793 F.3d 1306, 1335 (Fed. Cir. 2015) (“Courts have examined claims that required the use of a computer and still found that the underlying, patent-ineligible invention could be performed via pen and paper or in a person’s mind.”); *see also* Guidance, 84 Fed. Reg. at 52, n.14.

Additionally, we find the function to be performed by the worker fitness evaluation module includes mathematical concepts. Indeed, Appellant concedes as much in noting that “the claimed subject matter provides an algorithmic decision support system . . . [in which] data from multiple sources [is] processed in real-time and at a large scale in order to allocate tasks.” (Br. 12.) In particular, claim 1 recites that the worker fitness evaluation module is “configured to form for each of the workers a respective fitness function” and that the fitness function “increases with an increasing value of the at least one said worker trustworthiness score, and decreases with an increasing value of the current workload value.” As the Specification explains “[t]he worker fitness evaluation module . . . calculates the fitness score of each individual worker.” (Spec. 6.) The Specification provides an example of a specific formula for calculating the fitness score. (*Id.* at 6–7.) While the claim does not recite a specific mathematical

formula, it nevertheless recites that the “function” involves a specific mathematical relationship, i.e., a direct relationship between the fitness function and value of worker trustworthiness score (fitness function increases with an increase in the value of worker trustworthiness) as well as an inverse relationship with value of the current workload (fitness function decreases with an increase in the value of current workload). As such, even though a specific formula is not recited for the worker fitness evaluation module, the module nevertheless must effect a function that is grounded in mathematical concepts.

Even if one were to disagree that the worker fitness evaluation module recites mathematical concepts and/or that, but for the fact that the task allocation module function appears to be carried out by a computer, the function can be performed in the human mind, Appellant does not dispute that the claims are drawn to a judicial exception. Rather, Appellant contends that because the claim recites a specific process for the allocation it “does not pre-empt or tie up all processes of allocating tasks to workers” and is thus “directed to a *limited* practical application” of the judicial exception. (Br. 12.) We address the issue of practical application under STEP 2A, Prong Two of the Guidance, below. Guidance, 84 Fed. Reg. at 54–55.

STEP 2A, Prong Two:

In the Prong Two analysis, we examine whether there are additional elements *beyond* the judicial exception that integrates it into a practical application. That is we look to the claim to see if it “appl[ies], rel[ies] on, or use[s] the judicial exception in a manner that imposes a meaningful limit on the judicial exception.” *Id.* at 54.

Regarding Appellant’s “preemption” argument, we note that “[w]hile preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (“[T]hat the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract.”).

Claim 1 itself requires a generic “processor,” “electronic interface,” and “data storage device” that perform normal computer functionality, i.e., receive information, store information, and process information to be used as tools to perform the abstract idea. One of the “examples in which a judicial exception has not been integrated into a practical application” is when “[a]n additional element . . . merely includes instructions to implement an abstract idea on a computer, or merely uses a computer as a tool to perform an abstract idea.” *Id.* at 55. Moreover, that the program instructions of the data storage device cause the computer processor to automatically receive data about the tasks to be performed and receive data for updating profiles constitutes insignificant pre-solution activity. *See* MPEP § 2106.05(g):

An example of pre-solution activity is a step of gathering data for use in a claimed process, e.g., a step of obtaining information about credit card transactions, which is recited as part of a claimed process of analyzing and manipulating the gathered information by a series of steps in order to detect whether the transactions were fraudulent.

Similarly, that the program instructions of the data storage device cause the computer processor to automatically transmit a message to a selected worker indicating that the worker is to perform the task is reasonably characterized

as being directed to insignificant post-solution activity. *See e.g., Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1241-42 (Fed. Cir. 2016) (holding that printing or downloading generated menus constituted insignificant extra-solution activity).

To the extent the worker fitness evaluation module and task allocation module might be considered additional elements beyond the recited method of organizing human activity, we do not find that they are elements that integrate the judicial exception. The worker fitness evaluation module and task allocation module are recited with some more specificity than the aforementioned generic computer components. However, the specificity is directed to judicial exceptions, mathematical concepts and mental processes, as discussed above. “It 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.” *BSG Tech LLC v. BuySeasons, Inc.*, 899 F.3d 1281, 1290 (Fed. Cir. 2018).

Moreover, the data manipulation performed by the worker fitness evaluation module does not improve the functioning of the computer, nor does it result in an improved technological result, contrary to Appellant’s argument (Br. 15). *Cf. McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1316 (Fed. Cir. 2016) (finding that the claimed rules allow computers to produce accurate and realistic lip synchronization and facial expressions in animated characters that previously could only be produced by human animators). Although the determination of the fitness function based on trustworthiness data and current workload may provide for the automatic selection by the task allocation module of a more trustworthy

worker than in prior crowdsourcing systems, that is an improvement to the business process of task allocation in the crowdsourcing environment, not an improved technological result.

Appellant argues that “the claimed features provide an algorithmic decision support system that allows multiple sources of data to be taken into account in real-time” providing for “dynamic management of data relating to tasks.” (Br. 14–15.) However, as the Federal Circuit has explained, “[a] process that start[s] with data, add[s] an algorithm, and end[s] with a new form of data [is] directed to an abstract idea.” *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017). The Federal Circuit has further held that “mere automation of manual processes using generic computers does not constitute a patentable improvement in computer technology.” *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1055 (Fed. Cir. 2017).

Appellant’s additional elements recited in claim 1, considered individually and as an ordered combination, do not (1) improve the functioning of a computer or other technology, (2) are not applied with any particular machine (except for generic computer parts), (3) do not effect a transformation of a particular article to a different state, and (4) are not applied in any meaningful way beyond generally linking the use of the judicial exception to a particular technological environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception. *See* MPEP §§ 2106.05(a)–(c), (e)–(h).

STEP 2B

Step 2B requires that we look to whether the claim “adds a specific limitation beyond the judicial exception that [is] not ‘well-understood,

routine, conventional’ in the field.” Guidance 84 Fed. Reg. at 56; MPEP § 2106.05(d)).

The Examiner explains that the claims “require no more than a generic computer (a processor, electronic interface, and data storage device in claim 1) to perform generic computer functions that are well-understood, routine and conventional activities previously known to the industry.” (Final Action 6.) Appellant does not respond directly, arguing only that the claim “provides ‘significantly more’ than merely allocating tasks to workers” because dynamic management of data and allocation of tasks based on the dynamically changing data is a technological solution to a technological problem. (Br. 14–15.) However as discussed above, this solution is a business solution not a technological solution. Moreover, the Examiner cites prior art that teaches or suggests the claimed activities that are required to be performed by the various components of the system (Final Action 9–12), including that the processor of Douglas updates the schedule, and implicitly the profile information of the worker task schedule (Ans. 5). Appellant did not respond to the Examiner’s Answer. We find that the Examiner has established the limitations of claim 1, considered alone and as an ordered combination, do not add anything beyond the judicial exception that is not well-understood, routine, or conventional in the field.

In light of the foregoing, we conclude that claim 1 is directed to no more than judicial exceptions to Section 101 and does not recite the “significantly more” requisite to transform the nature of the claim into a patent-eligible application. We consequently affirm the Examiner’s rejection upon this ground.

Appellant argues that “[i]ndependent claims 5 and 9, and their dependent claims satisfy 35 U.S.C. § 101 for similar reasons” as claim 1. (Br. 13.) Thus, these claims have not been argued separately and therefore fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv).

II

Lack of Written Description

The Examiner finds that while claim 1 recites a worker fitness evaluation module that is “configured to form for each of the workers a respective fitness function,” there is “no algorithm or workflow for forming a fitness function . . . provided in the specification or claims.” (Final Action 7.) The Examiner notes that a specific formula is given at pages 6–7 of the Specification but that no steps are provided for forming the fitness function. (Final Action 7–8.) The Examiner further explains that the Specification “does note that the score should be proportional to current workload (see top of p. 7).” (Ans. 6.) However, the Examiner concludes that identifying proportionality as one factor in the fitness function “does not provide sufficient detail regarding the forming of the function, as claimed.” (Ans. 6.) Moreover, explains the Examiner, “trustworthiness” which is an element of the fitness function “does not have a disclosed algorithm” and the “proportionality to trustworthiness score does not appear to be disclosed in the [S]pecification.” (*Id.*) The Examiner states:

Merely describing factors on which a function is based does not adequately describe the function. Moreover, the factors themselves are not adequately described. In essence, the claims describe a result without adequate disclosure of how to achieve the result.

(*Id.*)

We agree with the Examiner’s finding that claim 1 lacks written description for the reasons expressed by the Examiner and noted above. When claims are drawn to a genus using functional language to define a desired result, “the specification must demonstrate that the applicant has made a generic invention that achieves the claimed result and do so by showing that the applicant has invented species sufficient to support a claim to the functionally-defined genus.” *AbbVie Deutschland GmbH & Co., KG v. Janssen Biotech, Inc.*, 759 F.3d 1285, 1299 (Fed. Cir. 2014) (quoting *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1349 (Fed. Cir. 2010)).

As the Examiner explained in the rejection, the claim “broadly recite[s] a genus of steps performed by a module that include forming a fitness function[, but] no steps are provided in the [S]pecification or claims for forming a fitness function.” (Final Action 7.) Indeed, Appellant’s Specification does not even refer to a “fitness function.” While Appellant’s Specification provides a formula that can be used to calculate “the current fitness score,” it does not discuss using that score in forming a fitness function. As the Examiner explained in the Answer, to which Appellant does not respond, Appellant’s Specification teaches that the fitness “score should be proportional to current workload (see top of p. 7),” as well as requiring proportionality to a trustworthiness score, but “[m]erely describing factors on which a function is based does not adequately describe” the fitness function itself capable of determining a fitness score. (Ans. 6.)

In light of the foregoing, we do not find Appellant’s argument that because (1) a specific formula for calculating a fitness score is provided in the Specification, (2) the Specification explains that the fitness score is

based on the worker's current workload and target workload, and (3) the Specification describes how a target workload may be calculated, the fitness function is adequately described (Br. 20), persuasive. “[A]nalogizing the genus to a plot of land, if the disclosed species only abide in a corner of the genus, one has not described the genus sufficiently to show that the inventor invented, or had possession of, the genus. He only described a portion of it.” *AbbVie*, 759 F.3d at 1299–1300. Appellant has provided a single equation for a fitness score and does not adequately demonstrate that a generic fitness function has been made. “In essence, the claim[] describe[s] a result without adequate disclosure of how to achieve the result.” (Ans. 6.) Thus, we affirm the Examiner's rejection of claim 1 as failing to comply with the written description requirement.

Appellant does not argue the claims rejected under § 112, first paragraph separately and therefore claims 3–5, 7, and 9 fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv).

III

Obviousness

The Examiner finds that “Douglas discloses a customer service support system for assigning issues to workers.” (Final Action 10.) The Examiner explains that Douglas' system includes a computer processor, an electronic interface, and a data storage device. (*Id.* at 9.) The Examiner further finds that the data storage device stores (1) worker information, such as competency information, which information is verified by employee managers and (2) workload level. (*Id.* at 9–10.) The Examiner finds, too, that the storage device includes program instruction to cause the processor to receive data concerning tasks to be performed. (*Id.* at 10.) The Examiner

further finds that Douglas teaches task allocation where selection takes into account resource information, workload information, issue identification and competency into account to determine a match. (*Id.* at 11.)

The Examiner recognizes that Douglas does not explicitly disclose the storage device has program instructions to send out messages regarding a task to be performed by a worker. (*Id.* at 10.) The Examiner finds, however, that Yankelevich, which discloses matching tasks to workers based on profiles, discloses sending out notification messages to workers regarding available tasks. (*Id.*)

The Examiner also recognizes that Douglas's system does not include a worker fitness evaluation module or selection of a worker based on having a highest value of fitness. (*Id.*) However, notes the Examiner, Patel discloses a task assignment for employees that includes a qualification score and a workload score as well as distance and that selection of a worker can be based on a weighted workload and weighted qualification score. (*Id.* at 10–11.)

The Examiner finds that it would have been obvious to one of ordinary skill in the art “to send a notification message as taught by Yankelevich in the system executing the method of Douglas with the motivation to inform workers of available tasks.” (*Id.* at 10.) The Examiner further finds that it would have been obvious to one of ordinary skill in the art to include a qualification score and workload score as taught by Patel in the system of Douglas and to assign issues to workers based on the highest scores. (*Id.* at 10 and 12.) The Examiner explains that having the selection process include consideration of the qualification, workload, and distance scores and selecting the highest weighted score would have been “merely a

combination of old elements” with each element performing the same function as it did separately and that “one of ordinary skill in the art would have recognized that the results of the combination were predictable.” (*Id.* at 12.)

We agree with the Examiner’s findings regarding the teaching of the references and conclusion of obviousness. Appellant argues that Douglas does not describe receiving data for updating worker profiles because the task scheduling processor of Douglas automatically updates a task schedule and the task schedule of Douglas “appears to be intended for use by the worker themselves and not used for further processing.” (Br. 17–18.) Moreover, Appellant argues that “the updating and editing of data appears to be carried out manually and not ‘automatically’ as recited in claim 1.” (*Id.* at 18.) We do not find these arguments persuasive. As the Examiner explains in the Answer, to which Appellant does not respond, Douglas’s processor updates the schedule, which implicitly updates the profiles that include worker schedule information. (*See Douglas* ¶¶ 37–38.) The task schedule that gets updated provides a worker’s current workload value. As to whether the task schedule is intended to be used for further processing or not, we note that claim 1 does not require any further processing of current workload value. Appellant’s argument is thus not persuasive because it does not relate to the requirements of claim 1.

Regarding the automatic nature of the processing, as the Examiner explains, Douglas teaches automatic processing in addition to manual processing. (*Douglas* ¶ 38 (“The task scheduling processor 108 automatically updates a task schedule”), ¶ 44 (“The data input device 114 provides input data 132 to the display generator 116 in response to receiving

input information either manually from a user or automatically from an electronic device.”.)

Thus, we affirm the Examiner’s rejection of claim 1 as being obvious over Douglas, Yankelevich, and Patel.

Appellant does not argue claims 5 and 9 separately and thus, they fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv).

Moreover, Appellant’s argument as to claims 3, 4, 7, and 8 is that the additional references fail to cure the deficiencies noted above with respect to claim 1. (Br. 19.) However, as just discussed, we do not agree with Appellant that the Examiner’s obviousness rejection of claims 1, 5, and 9 is deficient. Thus, we affirm the Examiner’s obviousness rejections of claims 4 and 8, as well as of claims 3 and 7.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 3–5, 7–9	101		1, 3–5, 7–9	
1, 3–5, 7–9	112, first paragraph	Written Description	1, 3–5, 7–9	
1, 5, 9	103	Douglas, Patel, Yankelevich	1, 5, 9	
4, 8	103	Douglas, Patel, Yankelevich, Candelario	4, 8	
3, 7	103	Douglas, Patel, Yankelevich, Noda, Wang	3, 7	
Overall Outcome			1, 3–5, 7–9	

Appeal 2019-001969
Application 14/656,009

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).

AFFIRMED