



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.
14/765,323	07/31/2015	Gregory Thorn Springer	84300480	9068
22879	7590	06/08/2020	EXAMINER	
HP Inc. 3390 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528-9544			NICHOLAS, WENDY K	
			ART UNIT	PAPER NUMBER
			2174	
			NOTIFICATION DATE	DELIVERY MODE
			06/08/2020	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):

ipa.mail@hp.com
jessica.pazdan@hp.com
yvonne.bailey@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GREGORY THORN SPRINGER,
CYRILLE de BREBISSON, and TIMOTHY JAMES WESSMAN

Appeal 2019-002418
Application 14/765,323
Technology Center 2100

Before ERIC S. FRAHM, JASON J. CHUNG, and
JAMES W. DEJMEK, *Administrative Patent Judges*.

DEJMEK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–9 and 11–15. The Examiner has indicated that claim 16 is allowable and claim 10 would be allowable if rewritten in independent form. *See* Final Act. 3. We have jurisdiction over the remaining pending claims under 35 U.S.C. § 6(b).

We affirm.

¹ Throughout this Decision, we use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42 (2018). Appellant identifies Hewlett-Packard Development Company, L.P. as the real party in interest. Appeal Br. 3.

STATEMENT OF THE CASE

Introduction

Appellant’s disclosed and claimed invention generally relates to “an electronic device that allows a user to zoom out and in on mathematical representations, such as graphs (e.g., a graph of a mathematical relationship in two or three variables) and tables of function values” using pinch and spread touch gestures on a touch-sensitive display screen. Spec. 3:21–25.

Claims 1, 11, and 15 are independent claims.² Claim 11 is representative of the subject matter on appeal (*see* 37 C.F.R. § 41.37(iv)) and is reproduced below with the disputed limitation emphasized in *italics*:

11. An electronic device, comprising:

a touch-sensitive display screen to display a table of values of a mathematical function and to enable a user to enter a touch gesture thereon for performing an adjustment function for the displayed table of values; and

a display adjustment module, including a processor, to interpret the touch gesture and perform the adjustment function, *wherein the display adjustment module performs a zoom adjustment function in response to one of a pinch touch gesture and a spread touch gesture, wherein the zoom adjustment function modifies a delta value between consecutive values in a column of the table.*

The Examiner’s Rejections

1. Claims 1–9 and 11–15 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 3–8.

2. Claims 1–6 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Williams (US 2011/0007097 A1; Jan. 13, 2011) and

² Claim 16 is also an independent claim, but is not the subject of this appeal.

Mullany (US 8,527,909 B1; Sept. 3, 2013 (filed May 29, 2012)). Final Act. 8–15.

3. Claim 7 stands rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Williams, Mullany, and Duke (US 6,407,749 B1; June 18, 2002). Final Act. 15–17.

4. Claims 8 and 9 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Williams, Mullany, and Li et al. (US 2011/0012848 A1; Jan. 20, 2011) (“Li”). Final Act. 17–18.

5. Claims 11–14 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Willekes et al. (US 2010/0313155 A1; Dec. 9, 2010) (“Willekes”) and Kritt et al. (US 2013/0298085 A1; Nov. 7, 2013 (filed Jan. 31, 2013)) (“Kritt”). Final Act. 18–24.

6. Claim 15 stands rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Hale et al. (US 2012/0047453 A1; Feb. 23, 2012) (“Hale”) and Matsumura (US 2012/0327003 A1; Dec. 27, 2012). Final Act. 24–28.

ANALYSIS³

Rejection under 35 U.S.C. § 101

Appellant disputes the Examiner’s conclusion that the pending claims are directed to patent-ineligible subject matter. Appeal Br. 6–8; Reply Br. 2–4. In particular, Appellant argues the Examiner overgeneralizes the

³ Throughout this Decision, we have considered the Appeal Brief, filed October 10, 2018 (“Appeal Br.”); the Reply Brief, filed January 28, 2019 (“Reply Br.”); the Examiner’s Answer, mailed November 29, 2018 (“Ans.”); and the Final Office Action, mailed May 10, 2018 (“Final Act.”), from which this Appeal is taken.

claims and asserts the Examiner’s characterization is untethered from the language of the claims. Appeal Br. 7; Reply Br. 3–4. Moreover, Appellant challenges that the claims recite generic computing elements performing generic computer functions that are well-understood, routine, and conventional. Appeal Br. 8; Reply Br. 3.

The Examiner concludes the claims are directed to “displaying a graphical representation of a mathematical relationship and adjusting the displayed representation,” which the Examiner further determines to be similar to collecting, displaying, and manipulating data. Final Act. 4 (citing *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017)). Moreover, the Examiner determines the additional components (e.g., a touch-sensitive display, a display adjustment module, and a processor) are recited at a high level of generality and are used to perform generic computer functions that are well-understood, routine, and conventional activities. Final Act. 4. Moreover, the Examiner finds that when considered individually and as an ordered combination, the limitations do not recite an improvement to the functioning of a computer of any other technology. Final Act. 5.

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 has 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 the 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. Office Guidance, 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. Office Guidance, 84 Fed. Reg. at 54–55. If the claims are not directed to an abstract idea, the inquiry ends. *See McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016). However, 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. *See Alice*, 573 U.S. at 217; *see also* Office Guidance, 84 Fed. Reg. at 56.

Here, we conclude Appellant’s claims recite an abstract idea because they recite mental processes. If a claim, under its broadest reasonable interpretation, covers performance in the mind but for the recitation of generic computer components, then it is still in the mental processes category unless the claim cannot practically be performed in the mind. *See 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) (holding that the incidental use of a “computer” or “computer readable medium” does not make a claim otherwise directed to a process that “can be performed in the human mind, or by a human using a pen and paper” patent eligible); *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71 (2012) (explaining mental processes are not patentable); Office Guidance, 84 Fed. Reg. at 52–53 nn.14–15.

More specifically, Appellant’s claims are generally directed to displaying information and adjusting the resolution of the displayed information in response to user input. This is consistent with how Appellant describes the claimed invention. *See* Spec. 3:21–27, 4:7–12, Abstract. But for the recitation of generic computer components performing generic computing functions (as discussed further below; *see also* Spec. 4:21–25), displaying information and adjusting the resolution of the displayed information in response to user input is a series of observations, evaluations, judgments, and opinions that can be performed by a human, mentally or with pen and paper.

Consistent with our Office Guidance and case law, we conclude displaying information and adjusting the resolution of the displayed information in response to user input is a mental process and, thus, an abstract idea. *See* Office Guidance, 84 Fed. Reg. at 52; *see also Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1347–48 (Fed. Cir. 2014) (explaining that claims drawn to data

collection, recognition, and storage are “undisputedly well-known” and, absent more, are directed to an abstract idea); *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016) (concluding that “analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category”); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016) (concluding claims directed to “collecting and analyzing information to detect misuse and notifying a user when misuse is detected” to be mental processes within the abstract-idea category); *CyberSource*, 654 F.3d at 1371–72 (concluding claims directed to “detecting credit card fraud based on information relating [to] past transactions” can be performed in the human mind and were drawn to a patent-ineligible mental process); *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1167 (Fed. Cir. 2018) (concluding the claims directed to “selecting certain information, analyzing it using mathematical techniques, and reporting or displaying the results of the analysis” to be abstract); *Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014) (without more, “a process that employs mathematical algorithms to manipulate existing information to generate additional information is not patent eligible”).

Claim 11 is reproduced below and includes the following claim limitations that recite displaying information and adjusting the resolution of the displayed information in response to user input, emphasized in *italics*:

11. An electronic device, comprising:
 - a touch-sensitive display screen to *display a table of values of a mathematical function and to enable a user to enter a touch*

gesture thereon for performing an adjustment function for the displayed table of values; and

a display adjustment module, including a processor, to interpret the touch gesture and perform the adjustment function, wherein the display adjustment module performs a zoom adjustment function in response to one of a pinch touch gesture and a spread touch gesture, wherein the zoom adjustment function modifies a delta value between consecutive values in a column of the table.

More particularly, displaying information and adjusting the resolution of the displayed information in response to user input comprises

(i) displaying information (i.e., the claimed element of displaying a table of values of a mathematical function); (ii) receiving user input indicating an adjustment to the displayed information (i.e., the claimed elements of a user entering a touch gesture (more specifically, a pinch or spread touch gesture) and interpreting the touch gesture; and (iii) adjusting the displayed information (i.e., the claimed element of performing the adjustment function).

Because the claim recites a judicial exception, we next determine whether the claim integrates the judicial exception into a practical application. Office Guidance, 84 Fed. Reg. at 54. To determine whether the judicial exception is integrated into a practical application, we identify whether there are “*any additional elements recited in the claim beyond the judicial exception(s)*” and evaluate those elements to determine whether they integrate the judicial exception into a recognized practical application. Office Guidance, 84 Fed. Reg. at 54–55 (emphasis added); *see also* MPEP § 2106.05(a)–(c), (e)–(h).

Here, we find the additional limitations 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* Office Guidance, 84 Fed. Reg. at 55.

Specifically, the additional limitations merely refine the abstract idea by specifying the type of adjustment being made on the displayed information (e.g., modifying a delta value between consecutive values in a table, or modifying the displayed range of values in a graphical representation (as in claim 1), or modifying the number of digits displayed for a numerical result (as in claim 15)). Further the additional elements recited in the independent claims (e.g., electronic device, touch-sensitive display screen, and display adjustment module, including a processor) fail to convert the judicial exception into a patent-eligible application. *See Alice*, 573 U.S. at 223 (“Stating an abstract idea ‘while adding the words ‘apply it’” is not enough for patent eligibility.”). Contrary to Appellant’s assertion (*see* Appeal Br. 6–7), these components do not provide meaningful limits on the claimed subject matter.

The claims do not recite an improvement to the functionality of a computer or other technology or technical field. *See* MPEP § 2106.05(a). As the court in *Enfish* explained, “the first step in the *Alice* inquiry . . . asks whether the focus of the claims is on the specific asserted improvement in computer capabilities . . . or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016); *see also*

Move, Inc. v. Real Estate Alliance Ltd., 721 F. App'x 950, 956 (Fed. Cir. 2018) (explaining that the claims did not focus on the technical implementation of details of the zooming functionality, but merely recited the results of the zoom and, therefore, did not provide any technological advancement). As discussed above, the focus of the pending claims is on displaying information and adjusting the resolution of the displayed information in response to user input and the recited computing elements are invoked merely as a tool. *See Enfish*, 822 F.3d at 1335–36. Further, we note that using a computer to perform tasks more quickly or efficiently does not confer patent eligibility on an otherwise ineligible abstract idea. *See, e.g., Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Can. (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012) (“[T]he fact that the required calculations could be performed more efficiently via a computer does not materially alter the patent eligibility of the claimed subject matter.”); *see also* Ans. 4–6.

Additionally, we determine that the electronic device, as recited and applied in the claims, is not a particular machine sufficient to confer patent eligibility to the judicial exception. At the outset, we note that whether a judicial exception is performed by a particular machine may be a *clue* of patent eligibility, but it is not a stand-alone test. *Bilski v. Kappos*, 561 U.S. 593, 604 (2010); *see also* MPEP § 2106.05(b). Here, Appellant’s recited electronic device merely applies the judicial exception as does not qualify as a particular machine. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 716–17 (Fed. Cir. 2014); *see also Versata Dev. Grp, Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1335 (Fed. Cir. 2015) (explaining that in order for a machine to add significantly more, it must “play a significant part in permitting the claimed method to be performed, rather than function solely as an obvious

mechanism for permitting a solution to be achieved more quickly”); MPEP § 2106.05(b).

For at least the foregoing reasons, the claims do not integrate the judicial exception into a practical application.

Because we determine the claims are directed to an abstract idea or combination of abstract ideas, we analyze the claims under step two of *Alice* to determine if there are additional limitations that individually, or as an ordered combination, ensure the claims amount to “significantly more” than the abstract idea. *Alice*, 573 U.S. at 217–18 (citing *Mayo*, 566 U.S. at 77–79). As stated in the Office Guidance, many of the considerations to determine whether the claims amount to “significantly more” under step two of the *Alice* framework are already considered as part of determining whether the judicial exception has been integrated into a practical application. Office Guidance, 84 Fed. Reg. at 56. Thus, at this point of our analysis, we determine if the claims add a specific limitation, or combination of limitations, that is not well-understood, routine, conventional activity in the field, or simply append well-understood, routine, conventional activities at a high level of generality. Office Guidance, 84 Fed. Reg. at 56.

To the extent Appellant is asserting a traversal of the Examiner’s rejections under § 103 (a premise with which we disagree, *see infra*), suggests the instant claims do not recite well-understood, routine, or conventional activities (*see* Appeal Br. 8; Reply Br. 3), we are not persuaded. Subject-matter eligibility under 35 U.S.C. § 101 is a requirement separate from other patentability inquiries. *See Mayo*, 566 U.S. at 90 (recognizing that the § 101 inquiry and other patentability inquiries “might sometimes overlap,” but that “shift[ing] the patent-eligibility inquiry entirely

to these [other] sections risks creating significantly greater legal uncertainty, while assuming that those sections can do work that they are not equipped to do”); *see also Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981) (“[t]he ‘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”); *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1340 (Fed. Cir. 2017) (“[e]ligibility and novelty are separate inquiries”).

Here, Appellant’s claims do not recite specific limitations (alone or when considered as an ordered combination) that are not well-understood, routine, and conventional. As set forth in the Specification, Appellant describes that the use of pinch and spread touch gestures on a touch-sensitive display were known and used in the art. *See Spec. 3:25–27*. Further, when describing the electronic device, touch-sensitive display, and display adjustment module for practicing the claimed invention, Appellant describes the components at a high level of generality and notes that the electronic device may be “any type of electronic device.” *See Spec. 4:17–5:10, Figs. 1, 2*.

For the reasons discussed *supra*, we sustain the Examiner’s rejection of claims 1–9 and 11–15 under 35 U.S.C. § 101.

Rejections under pre-AIA 35 U.S.C § 103(a)

a. Claims 1–9

In rejecting independent claim 1, the Examiner relies on the combined teachings of Williams and Mullany. Final Act. 8–12. In particular, the Examiner finds Williams teaches all of the limitations of claim 1, but does

not explicitly teach using pinch or spread gestures. Final Act. 8–10 (citing Williams ¶¶ 18–19, 23–24, 26, 28, 42, 46, 52–53, 65, Figs. 1, 2, 3, 7, 8, 10). The Examiner relies on Mullany to teach using conventional touch gestures (i.e., pinch and spread gestures) to manipulate a view of data visualizations. Final Act. 11–12 (citing Mullany, col. 4, ll. 35–53, col. 11, ll. 40–49, col. 12, ll. 5–10, 46–55, col. 13, ll. 10–14, Figs. 4A, 4B, 5A, 5B). The Examiner determines it would have been obvious to the ordinarily skilled artisan to combine the adjustment interface of Williams with the conventional pinch and spread gestures taught by Mullany “to enable easy, rich, intuitive, and meaningful data visualization GUI element manipulation which takes advantage of the growing popularity, availability and use of touchscreens.” Final Act. 12 (citing Mullany, col. 1, ll. 31–58, col. 4, ll. 43–47).

Appellant asserts Mullany does not teach a graphical representation of a mathematical relationship and, therefore, cannot teach using a pinch or spread gesture to increase or decrease a displayed range of values for a mathematical relationship in one dimension. Appeal Br. 9; Reply Br. 4–5. Moreover, Appellant asserts the Examiner fails to support the proposed combination of teachings and instead relies on improper hindsight. Reply Br. 5.

We are unpersuaded of Examiner error at least because Appellant’s arguments are not responsive to the rejection as articulated by the Examiner. *See* Ans. 6–7. Non-obviousness cannot be established by attacking references individually where, as here, the ground of unpatentability is based upon the teachings of a combination of references. *In re Keller*, 642 F.2d 413, 426 (CCPA 1981). Rather, the test for obviousness is whether the combination of references, taken as a whole, would have suggested the

patentee's invention to a person having ordinary skill in the art. *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

Here, as discussed above, the Examiner relies on *the combined teachings* of Williams and Mullany. See Final Act. 8–12. As discussed above and as set forth in the Final Rejection, the Examiner finds *Williams* teaches, *inter alia*, a touch-sensitive display displaying a graphical representation of a mathematical relationship and a display adjustment module to interpret a one-dimensional touch gesture and perform the adjustment. Final Act. 8–9 (citing Williams ¶¶ 19, 26, 42, 52–53, Figs. 1, 2, 7). In addition, the Examiner relies on *Mullany* to teach the use of pinch and spread gestures on a touch-sensitive display. Final Act. 11–12 (citing Mullany, col. 4, ll. 35–53, col. 11, ll. 40–49, col. 12, ll. 5–10, 46–55, col. 13, ll. 10–14, Figs. 4A, 4B, 5A, 5B). Accordingly, Appellant's argument that Mullany fails to teach a graphical representation of a mathematical relationship is unpersuasive of Examiner error.

In addition, we disagree that the Examiner relied on impermissible hindsight in determining that one of ordinary skill in the art would have been motivated to combine the pinch and spread gestures of Mullany with the system of Williams. The Examiner cites to Mullany as suggesting the benefits of using conventional pinch and spread gestures on a touch-sensitive display. Final Act. 12 (citing Mullany, col. 1, ll. 31–58, col. 4, ll. 43–47); *see also* Ans. 7. Appellant has not provided persuasive argument or evidence that the proposed combination uses the elements of the references in a way other than their established functions to achieve predictable results. “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield

predictable results.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). Further, Appellant does not provide persuasive evidence or reasoning that the proposed combination would be “uniquely challenging or difficult for one of ordinary skill in the art” or “represented an unobvious step over the prior art.” *Leapfrog Enters. Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418–19).

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner’s rejection of independent claim 1 under pre-AIA 35 U.S.C. § 103(a). In addition, we sustain the Examiner’s rejections of claims 2–9, which depend directly or indirectly therefrom and were not argued separately with particularity. *See* Appeal Br. 10; *see also* 37 C.F.R. § 41.37(c)(1)(iv).

b. Claims 11–14

Independent claim 11 recites a touch-sensitive display to display a table of values of a mathematical function and further comprising a display adjustment module that, in response to receiving a pinch or spread touch gesture, performs a zoom adjustment feature to modify a delta value between consecutive values in a column of the table.

In rejecting claim 11, the Examiner relies on the combined teachings of Willekes and Kritt. Final Act. 18–22. In particular, the Examiner finds Willekes teaches all of the limitations of claim 11, but does not explicitly teach using pinch or spread gestures. Final Act. 18–21 (citing Willekes ¶¶ 79, 110, 120–121, 126–127, Figs. 2, 8C, 10B, 11A–11D). The Examiner relies on Kritt to teach adjusting the displayed data of a table in response to pinch and spread touch gestures. Final Act. 21–22 (citing Kritt ¶¶ 6, 13–14,

61, Figs. 6, 7). The Examiner also determines it would have been obvious to the ordinarily skilled artisan to combine the table data zooming touch controls taught by Willekes with the pinch and spread gestures taught by Kritt to allow a user “to easily drill up and down on data provided by mathematical functions to understand the effect in the result of the function in response to changes in the independent variable.” Final Act. 22 (citing Kritt ¶¶ 2–3).

Appellant asserts Kritt does not teach “a table of values of a mathematical function . . . [or] modifying a delta value between consecutive values in a column of such a table.” Appeal Br. 11; Reply Br. 6–7. Moreover, Appellant argues the gestures of Kritt are used to “drill down” on report data, not to modify a delta value. Reply Br. 7.

Similar to our reasoning discussed above with respect to claim 1, we are unpersuaded of Examiner error because, at least, Appellant’s arguments are not responsive to the rejection as articulated by the Examiner. *See* Ans. 8–9. The Examiner relies on the combined teachings of Willekes and Kritt and, more particularly, finds *Willekes*, not *Kritt*, teaches a zoom adjustment function that modifies a delta value between consecutive values in a column of the table. Final Act. 20 (citing Willekes ¶¶ 121, 123, 126, Figs. 11A–11C).

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner’s rejection of independent claim 11 under pre-AIA 35 U.S.C. § 103(a). In addition, we sustain the Examiner’s rejection of claims 12–14, which depend directly or indirectly therefrom and were not argued separately with particularity. *See* Appeal Br. 12; *see also* 37 C.F.R. § 41.37(c)(1)(iv).

c. Claim 15

Independent claim 15 recites a touch-sensitive display to display a numerical result and further comprising a display adjustment module that, in response to receiving a pinch or spread touch gesture, performs an adjustment on the numerical result to increase or decrease the number of digits displayed for the selected numerical result.

In rejecting claim 15, the Examiner relies on the combined teachings of Hale and Matsumura. Final Act. 24–28. In particular, the Examiner finds Hale teaches all of the limitations of claim 15, but does not explicitly teach using pinch or spread gestures. Final Act. 18–21 (citing Hale ¶¶ 47, 53, 56, 96, 98, Figs. 1, 7, 41–43). The Examiner relies on Matsumura to teach narrowing and enlarging displayed character strings, which the Examiner determines to be analogous to numbers or strings of digits, in response to pinch and spread touch gestures. Final Act. 27–28 (citing Matsumura ¶¶ 5, 106, 114, 143, Figs. 12, 13, 20). The Examiner also determines it would have been obvious to the ordinarily skilled artisan to modify the number of digits displayed, as taught by Hale, by using the pinch and spread touch gestures of Matsumura “to provide an improved, easy and intuitive operation for enlarging and narrowing displayed character strings.” Final Act. 28 (citing Matsumura ¶¶ 3, 5, 23).

Appellant asserts Matsumura does not teach “a numerical result, or rounding a numerical result to fewer places in response to a pinch touch gesture.” Appeal Br. 12–13; Reply Br. 8. Appellant further asserts that the Examiner engaged in improper hindsight reasoning in support of the proposed combination of references. Reply Br. 8.

Similar to our reasoning discussed above with respect to claims 1 and 11, we are unpersuaded of Examiner error because, at least, Appellant's arguments are not responsive to the rejection as articulated by the Examiner. *See* Ans. 9–10. The Examiner relies on the combined teachings of Hale and Matsumura and, more particularly, finds *Hale*, not *Matsumura*, teaches adjusting the number of digits displayed for a selected numerical result in response to a touch gesture. *See* Final Act. 26. Matsumura is relied on to teach the touch gesture could be a pinch or spread touch gesture. *See* Final Act. 27–28.

In addition, we disagree that the Examiner relied on impermissible hindsight in determining that one of ordinary skill in the art would have been motivated to combine the pinch and spread gestures of Matsumura with the system of Hale. The Examiner cites to Matsumura as suggesting the benefits of using conventional pinch and spread gestures on a touch-sensitive display. Final Act. 28 (citing Matsumura ¶¶ 3, 5, 23); Ans. 10. Appellant has not provided persuasive argument or evidence that the proposed combination uses the elements of the references in a way other than their established functions to achieve predictable results. *See KSR*, 550 U.S. at 416 (“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”).

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner's rejection of independent claim 15 under pre-AIA 35 U.S.C. § 103(a).

CONCLUSION

We affirm the Examiner's decision rejecting claims 1–9 and 11–15 under 35 U.S.C. § 101.

We affirm the Examiner's decision rejecting claims 1–9 and 11–15 under pre-AIA 35 U.S.C. § 103(a).

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–9, 11–15	101	Eligibility	1–9, 11–15	
1–6	103(a)	Williams, Mullany	1–6	
7	103(a)	Williams, Mullany, Duke	7	
8, 9	103(a)	Williams, Mullany, Li	8, 9	
11–14	103(a)	Willekes, Kritt	11–14	
15	103(a)	Hale, Matsumura	15	
Overall Outcome			1–9, 11–15	

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. § 41.50(f).

AFFIRMED