# IP AUSTRALIA

**AUSTRALIAN PATENT OFFICE**

***Accenture Global Solutions Limited* [2021] APO 38**

Patent Application: 2019202437

Title: Generating A Set Of User Interfaces

Patent Applicant: Accenture Global Solutions Limited

Delegate: M. G. Kraefft

Decision Date: 30 September 2021

Hearing Date: Written submissions filed on 30 July 2021.

Catchwords: **PATENTS** – section 45 – examiner’s objections – whether invention is a manner of manufacture – gathering employee information – generating analytical data model – generating user interface with particular recommendation for group of employees – recommendation presented on client devices – no technical contribution or unusual technical effect – compliance with section 40 considered – application refused.

Representation: Patent attorney for the applicant: Murray Trento & Associates.

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Patent Application: 2019202437

Title: Generating A Set Of User Interfaces

Patent Applicant: Accenture Global Solutions Limited

Date of Decision: 30 September 2021

## DECISION

The claims of the present application, as proposed to be amended, do not define a manner of manufacture. Moreover, there is nothing of substance in the body of the specification to overcome this finding.

The specification complies with section 40.

In view of the adverse finding on manner of manufacture, the application is refused.

## REASONS FOR DECISION

**BACKGROUND**

1. Accenture Global Solutions Limited (“**the applicant**”) filed patent application 2019202437 on 8 April 2019. The application is a divisional application based on application 2017268637. The latter application in turn is based on a US application filed on 15 December 2016 (“**the priority date**”).
2. The application has been subjected to three examination reports. The examiner has maintained that the claims, including claims as proposed to be amended, do not define a manner of manufacture and do not comply with section 40.
3. On 26 February 2021, the applicant requested to be heard.
4. While the final date for acceptance of the application was 28 February 2021, paragraph 13.4(1)(g) of the *Patent Regulations* may be available to extend the time for gaining acceptance to 3 months from the date of the present decision.

**SPECIFICATION**

1. As background to the alleged invention, the specification describes the normal roles of an employee representative, for example a human resources manager, a business leader, career counsellor or supervisor, in staff performance management. The roles include performance evaluation of employees, feedback, and assessment of achievement and of appropriate rewards.
2. A lengthy summary of the alleged invention then follows describing several aspects of the alleged invention along with several possible implementations. A proportion of this material is in the form of consistory clauses reflective of the claims, as proposed to be amended.
3. The specification, as most recently proposed to be amended on 8 February 2021, ends with 17 claims. Claims 1, 8 and 13 are independent claims. Claim 1 reads as follows.
4. A device, including:

one or more processors that:

communicate with a first server to obtain first information regarding a plurality of groups of employees of an organization,

the first information stored by a plurality of data structures associated with the first server, and

the first information including priority information identifying a set of goals;

process the first information to generate an analytical data model relating to attributes of the plurality of groups of employees, where generating the analytical data model includes:

generating a set of similarity scores identifying a similarity of a set of organizations to the organization based on the first information regarding the plurality of groups of employees and third information regarding a plurality of employees for the set of organizations, the set of similarity scores generated based on one or more of:

a type of the organization;

a size of the organization;

an industry of the organization;

a profitability of the organization, and

an organizational structure of the organization;

selecting a subset of the set of organizations based on the set of similarity scores;

filtering the third information to select a subset of the third information relating to the subset of the set of organizations; and

processing the subset of the third information to generate the analytical data model, including using at least one of:

a natural language processing technique,

a machine learning technique,

a pattern recognition technique, or

a regression technique,

communicate with a second server to obtain second information regarding a particular group of employees;

process the second information using the analytical data model to identify a set of recommendations relating to the particular group of employees,

the set of recommendations relating to attributes of the plurality of groups of employees and one or more attributes of the particular group of employees,

each recommendation in the set of recommendations including a score that is determined, using the analytical data model, based on one or more of:

a likelihood that the recommendation improves employee performance for one or more of the employees,

a likelihood of the recommendation being implemented by one or more of the employees,

a schedule availability of one or more of the employees, and

a cost to implement the recommendation;

select a particular recommendation, of the set of recommendations, based on the corresponding scores;

generate a user interface including the particular recommendation based on selecting the particular recommendation, wherein generating the user interface includes selecting a personalized module set for the user interface including one or more of a gamification module, a social sharing module, a strengths module, a skills information module, a recommendation module and an alerts module; and

communicate with a plurality of client devices to cause the particular recommendation to be provided for display,

the plurality of client devices selected based on the plurality of client devices determined to be associated with the particular group of employees.

1. Claim 8 is directed to a computer-implemented method involving a cloud computing device operating in similar terms to that of claim 1.
2. Claim 13 is directed to a non-transitory computer-readable medium storing instructions that, when executed by one or more processors, cause the one or more processors to operate in similar terms to that of claim 1.
3. The detailed description of embodiments of the alleged invention more clearly sets out the nature of the alleged invention. This section initially describes pitfalls of backward-looking performance evaluation. The specification states that such evaluation based on goals may result in employees failing to achieve an improved level of performance. For example, an employee may be informed at an evaluation that the employee has not received a threshold level of customer feedback, and may be demoted or fired without the employee having been made aware that the customer feedback was unsatisfactory. Moreover, the employee may lack an understanding of attributes that can be adopted to achieve a threshold level of performance desired by the organization.[[1]](#footnote-1)
4. Subsequently, the specification states that implementations, described therein, provide a forward-looking individual achievement user interface to provide information to an employee that can assist the employee in achieving the improved level of performance and/or achievement of personal career goals. For example, the implementations may result in improved performance metrics, delivery metrics, higher quality, enhanced client relationships, improved daily rate, or the like. Moreover, by assisting the employee in achieving the threshold level of performance, the individual achievement user interface may obviate a need for excessive employee monitoring, thereby reducing a utilization of computing resources associated with monitoring employees. Furthermore, by improving a level of employee performance, a utilization of computing resources associated with competing a task, reviewing the task and/or revising errors in the task may be reduced.[[2]](#footnote-2)
5. At a team level, the specification further states that implementations, described therein, provide a team achievement user interface to analyse information regarding a team of employees and provide recommendations to enable achievement of an improved level of team performance. Moreover, the team achievement user interface may provide information identifying strengths of individual team members and a contribution of individual strengths to team strengths to ensure that a team can leverage each team member’s individual strengths to best assign work and complete tasks. Furthermore, the team achievement user interface may provide recommendations relating to an action plan to improve overall team engagement. In this way, team engagement and achievement may be improved, thereby reducing a utilization of computing resources associated with managing a team, completing team tasks and/or revising errors in team projects.[[3]](#footnote-3)

**APPLICABLE LAW**

1. The present application is governed by the *Patents Act 1990* (“**the *Act***”) as amended by the *Intellectual Property Laws Amendment (Raising the Bar) Act 2012* (“**the *Raising the Bar Act***”). Amendments to sections 7, 40 and 49 of the *Act* apply to the present case as a consequence of Schedule 1, items 55(1)(d) and 55(4)(a), and Schedule 6, item 133(7)(d) of the *Raising the Bar Act*. The application was filed after 15 April 2013.
2. Thus, the standard of proof that applies in the present case is the balance of probabilities (subsection 49(1)). I must accept the application if satisfied on the balance of probabilities that the application complies with the *Act*. If I am not so satisfied, then I can refuse the application.

**MANNER OF MANUFACTURE**

1. Section 18 of the *Patents Act 1990* relevantly provides that:-
2. Subject to subsection (2), an invention is a patentable invention for the purposes of a standard patent if the invention, so far as claimed in any claim:
3. is a manner of manufacture within the meaning of section 6 of the Statute of Monopolies; and …

**Case Law**

1. The principles of law in respect to manner of manufacture, arising from the High Court decisions in *National Research Development Corporation v Commissioner of Patents* (“***NRDC***”), [1959] HCA 67, (1959) 102 CLR 252, and *D’Arcy v Myriad Genetics Inc* (“***Myriad***”), [2015] HCA 35, are well-documented in previous office decisions. The authorisation of a case-by-case methodology would also be apparent from the High Court decisions.
2. That case-by-case approach must have regard to the substance of the claimed invention, not simply the form of the claim. The point was made succinctly in the *Myriad* case by Gageler and Nettle JJ. At [144]:-

“Whatever words have been used, the matter must be looked at as one of substance and effect must be given to the true nature of the claim.”

1. In *Commissioner of Patents v RPL Central Pty Ltd* (“***RPL***”), [2015] FCAFC 177, the Full Court of the Federal Court stated the same thing in the context of an invention that was in substance a scheme. At [96]:-

“A claimed invention must be examined to ascertain whether it is in substance a scheme or plan or whether it can broadly be described as an improvement in computer technology. The basis for the analysis starts with the fact that a business method, or mere scheme, is not, per se, patentable. The fact that it is a scheme or business method does not exclude it from properly being the subject of letters patent, but it must be more than that. There must be more than an abstract idea; it must involve the creation of an artificial state of affairs where the computer is integral to the invention, rather than a mere tool in which the invention is performed.”

1. Moreover at [98]:-

“It is not a question of stating precise guidelines but of deciding, in each case, whether the claimed invention, as a matter of substance not form, is properly the subject of a patent”.

1. In *Research Affiliates LLC v Commissioner of Patents* (*“****Research Affiliates****”*), [2014] FCAFC 150, the Full Court of the Federal Court noted a distinction between mere implementation of an abstract idea in a computer and implementation of the idea in a computer that created an improvement in the computer. At [103]:-

“… there is a distinction, between mere implementation of an abstract idea in a computer and implementation of an abstract idea in a computer that creates an improvement in the computer”.

1. Moreover, at [114] of *Research Affiliates*:-

“The invention set out in the specification is directed to the index itself. The method of the invention is not one that has any artificial or patentable effect other than the implementation of a scheme, which happens to use a computer to effect that implementation. There is no technical contribution to the invention or artificial effect of the invention by reason of the intervention of the inventors.”

1. In also discussing the requirement for the contribution to be technical, the Full Court in *RPL* stated as follows, amongst other things, at [99]:-
* “It is necessary to ascertain whether the contribution to the claimed invention is technical in nature …
* One consideration is whether the invention solves a ‘technical’ problem within the computer or outside the computer, or whether it results in an improvement in the functioning of the computer, irrespective of the data being processed.
* Does the claimed method merely require generic computer implementation?
* Is the computer merely the intermediary, configured to carry out the method using a computer readable medium containing program code for performing the method, but adding nothing to the substance of the idea? …”
1. In *Aristocrat Technologies Australia Pty Limited v Commissioner of Patents* (“***Aristocrat***”), [2020] FCA 778, Burley J formulated a two-stage process as follows. At [91]:-

“… an initial question of whether the claimed invention is for a mere scheme or business method of the type that is not the proper subject matter of a grant of letters patent. Once that question is answered in the affirmative, the subsequent inquiry becomes whether the computer-implemented method is one where invention lay in the computerisation of the method, or whether the language of the claim involves (to use the language employed in *Rokt* at [84]) ‘merely plugging an unpatentable scheme into a computer’.”

**Submissions**

1. At the outset, the applicant submitted that there are both technical and non-technical problems addressed by the claimed invention relating to difficulties in determining how to improve an employee’s performance, since optimizing an individual employee’s performance will depend upon numerous factors, some of which are specific to the employee and some of which are dependent upon the team or larger group of employees to which that employee belongs. The applicant then submitted that the claimed invention proposes a technical solution to this problem by the generation of a data model using machine-learning techniques which takes into account the performance of a vast amount of employees from many organizations. The applicant also stated that the solution involved the determination and communication of recommendations to employees taking into account both individual employee characteristics and team characteristics to provide each individual employee with recommendations on both an individual and a team basis.
2. While the applicant did not describe the solution as such, it might appear this is where the applicant perceives the substance of the claimed invention to lie. From the submissions, it is also apparent though that the applicant considers the provision of customised user interfaces personalised with recommendations to individual employees, and related to individual and team characteristics, as important to the claimed invention.
3. The applicant also outlined several outcomes of the system that, as stated by the applicant and in the specification, led to reducing the utilization of computing resources, and provided technical advantages.

**Substance Of Invention**

1. In broad terms, the claimed invention defines means or processes for conditioning employees of an organisation. This might be to achieve better performance, engagement and/or well-being of employees. User interfaces are generated with particular recommendations that are then presented on client devices.
2. In more specific terms, the claimed invention obtains information regarding a plurality of groups of employees of an organisation. That information is processed to generate an analytical data model relating to attributes of the groups of employees. The generation of the analytical data model involves identifying a similarity of a set of organisations based on the above-mentioned employee information for the above-mentioned organisation, and on further employee information for the set of organisations, reducing the set of organisations and the corresponding employee information based on the organisational similarities to arrive at a subset of employee information, and processing the subset of employee information to generate the analytical data model. The latter processing step involves the use of at least one of a natural language processing technique, a machine learning technique, a pattern recognition technique or a regression technique.
3. Further information regarding a particular group of employees is obtained, and processed using the analytical data model to identify a set of recommendations relating to that particular group of employees. Those recommendations relate to attributes of the plurality of groups of employees and one or more attributes of the particular group of employees. A particular recommendation is selected based on scores that are determined using the analytical data model. The scores are based on employee outcome probabilities, schedules and/or costs. A user interface is generated that includes the selected recommendation, and a selected personalised module set. Communication then occurs with a plurality of client devices associated with the particular group of employees to cause the particular recommendation to be provided for display.
4. One or more processors and servers and databases are also involved to enable the requisite data processing, data communications and data storage to facilitate the above processes.

**Consideration**

1. It is clear that the claimed invention involves data gathering about employees at the individual, group, organisational and pan-organisational levels. Various elements of that data are then used to generate the analytical data model which in turn is used to identify recommendations relating to a particular group of employees.
2. The applicant put it that the generation of the data model uses machine-learning techniques which take into account the performance of a vast amount of employees from many organizations. The applicant also stated that the solution involved the determination and communication of recommendations to employees taking into account both individual employee characteristics and team characteristics to provide each individual employee with recommendations on both an individual and a team basis.
3. It may be noted that the use of machine learning techniques is not a necessary feature of the claimed invention. A subset of information, regarding a plurality of employees for the subset of organisations, is processed to generate the analytical data model using at least one of four techniques, with a machine learning technique being one of the four. In any case, none of the techniques are claimed or described in any more specific terms than merely being used. There is nothing particularly technical that is defined or described in the use of any of those techniques.
4. The same may be said of the processors, servers, databases or data structures of the claimed invention. Those devices and structures are claimed in the most general of terms as mere facilitators of the defined processes, including the use of the analytical data model, that lead to selection of a particular recommendation to be communicated to a particular group of employees. Similarly, there is nothing especially technical about the generation of the user interface with the particular recommendation, and personalised or customised module set therefor, for presentation on a plurality of client devices.
5. The specification describes several outcomes stated to reduce the utilization of computing resources. For example, based on assisting an employee in achieving a threshold level of performance, the individual achievement user interface may obviate a need for excessive employee monitoring, thereby reducing a utilization of computing resources associated with monitoring employees. Furthermore, based on improving a level of performance, a utilization of computing resources associated with completing a task, reviewing the task, and/or revising errors in the task, may be reduced.[[4]](#footnote-4) The team achievement user interface may provide information identifying strengths of individual team members and a contribution of individual strengths to team strengths to enable a team to leverage those strengths to best assign work and complete tasks. Furthermore, the team achievement user interface may provide recommendations relating to an action plan to improve overall team engagement. In this way, team engagement and achievement may be improved, thereby reducing a utilization of computing resources associated with managing a team, completing team tasks and/or revising errors in team projects.[[5]](#footnote-5) Moreover, based on improving employee performance, the quality of projects completed by a team may be improved, thereby reducing a utilization of computing resources associated with completing the project, testing the project, debugging the project, or the like.[[6]](#footnote-6)
6. The specification also describes the identification of personalised social interventions, providing social channels or including gamification techniques, to drive increased use of user interfaces and/or application of recommendations provided via the user interfaces. This is stated to improve employee satisfaction thereby reducing attrition rates and reducing computing resources associated with training and/or identifying replacement employees.[[7]](#footnote-7)
7. As claimed, it is not apparent that any reduction in computing resources necessarily follows. On the contrary, the claimed processes would appear to require significant computing resources. In any case, any supposed reduction of use of computing resources would seem to depend on factors outside the scope of the claims. For example, how relevant personnel are managed or monitored, the nature of the tasks assigned, or the nature and volume of employee data chosen to be obtained, may all be influential.
8. Moreover, it is notable from all of the above examples in the specification that it is not the technology or any technical effect that drives the alleged reduction of use of computing resources. That is achieved in this case by better-performing or more satisfied employees or teams.
9. One example in the specification is quite telling in this respect. In some implementations, a cloud platform may remove an employee from a calculation of a categorisation of a team based on a weighting factor. For example, where an employee does not satisfy a threshold value for a factor, the cloud platform may remove information regarding the employee from a calculation of a team categorization, thereby reducing a utilization of computing resources. [[8]](#footnote-8) This could be interpreted as indicating that the use of computing resources is reduced by removing under-performance from the calculation, or even from staff.
10. There is a question of whether there is anything that is technical in nature that drives an improvement in employee performance and/or satisfaction. It would be fair to say that enhanced employee performance may be derived in this case from the acquisition of employee, team and organisational data, and data analysis and modelling and selection, to arrive at appropriate recommendations to present to employees through the user interfaces. It could also be said that the generation of a selected personalized module set to encourage employee engagement with the user interface, and thereby enhance employee performance and/or satisfaction, is a feature that provides this outcome by individual customisation of the user interface to the particular group of employees. While data analysis and modelling, and the customisation of user interfaces, could in some instances be said to be technical in nature, such activities have been features of computerised applications for a considerable period before the priority date. Relevantly to the present case, those activities, as claimed, principally relate to business environment scanning and analysis, and personnel management and support. Whilst some aspects of the claimed invention may be specific, the claimed invention generally appears to merely translate well-known and used business operations, at the relevant time, into software. In any case, the claimed processes are absent of any requisite technical effect or improvement in the functioning of the computing system. The technology is merely used for its intended purposes. It may also be said that the claimed analytical data modelling works from selections of standard organisational and personnel management parameters, at the relevant time, to arrive at particular, personalised or customised recommendations and incentives.
11. In this context, the above-mentioned *RPL* decision at [99] mentions the necessity of a contribution to the claimed invention that is technical in nature (my emphasis).
12. The *Research Affiliates* decision is also pertinent. At [108] in that case:-

“The computer that may be utilised is described in general terms, without an indication that any unusual technical effect is utilised.” (my emphasis)

1. In the present case, the claimed invention relates to the generation of a data model which takes into account the performance of employees from many organisations to determine and communicate appropriate recommendations to a particular group of employees. A technical contribution or an unusual technical effect is not apparent in the present case.
2. I have briefly referred above to some disclosures from the body of the specification. Having reviewed the specification in its entirety, I see no subject matter to counter the above position.
3. I find the invention as claimed and as described in the specification is not for a manner of manufacture.

**SECTION 40**

1. In the light of the above, the section 40 matter would be moot. Nonetheless, for the sake of completeness and due to the nature of the examiner’s objection, I will proceed.
2. In respect to complete specifications, section 40 of the *Act* relevantly, in the present case, provides as follows:-
3. A complete specification must:
4. disclose the invention in a manner which is clear enough and complete enough for the invention to be performed by a person skilled in the relevant art; and

(aa) disclose the best method known to the applicant of performing the invention; and ….

1. The claim or claims must be clear and succinct and supported by matter disclosed in the specification.
2. In the third examination report, the examiner stated that the invention defined by amended claims 1-17 lacks support under subsection 40(2)(a). There is an inconsistency in this approach.
3. As indicated above, subsection 40(2)(a) relates to the requirement for the disclosure of the invention in a manner which is clear enough and complete enough for the invention to be performed by a person skilled in the relevant art. Subsection 40(3) is the relevant subsection in respect to lack of support. Whilst there may be overlap across the two requirements in several circumstances, the requirements are not the same. It is clear that the objection in the body of the examination report relates to non-compliance with subsection 40(2)(a). Consequently, I will consider this matter in that light.

**Case Law**

1. In *CSR Building Products Limited v United States Gypsum Company*, [2015] APO 72, and after reviewing a number of overseas decisions dealing with substantially the same disclosure provisions, the delegate formulated a 3-step approach for determining whether the specification provided a clear enough and complete enough disclosure of the claimed invention. At [95]:-

“In order to decide whether a specification provides a disclosure as required by section 40(2), it is necessary to:

1. construe the claims to determine the scope of invention as claimed,
2. construe the description to determine what it discloses to the person skilled in the art, and
3. decide whether the specification provides an enabling disclosure of all the things that fall within the scope of the claims.”
4. An expanded approach was taken in *Evolva SA*, [2017] APO 57. The third consideration set out in *CSR* was assessed according to the following criteria. At [45] in *Evolva*:-

“Does the specification provide an enabling disclosure of all the things that fall within the scope of the claims, and in particular:

1. Is it plausible that the invention can be worked across the full scope of the claim?
2. Can the invention be performed across the full scope of the claim without undue burden?”

**Examination Report**

1. The third examination report indicated that the specification must provide sufficient information to enable the person skilled in the art to make or obtain every product and/or carry out every process falling within the scope of the claims without undue burden or the need for further invention. The report further stated that such sufficient disclosure may involve explicit instructions, a sufficiently representative number of examples, and/or a principle of general application that enables broader and more general claims.
2. The examination report specifically focused on the gamification module, the social sharing module, the strengths module, the skills information module, the recommendation module and the alerts module. Whilst acknowledging locations in the specification where discussion of these modules may be found, the report indicated that the modules were defined in an abstract way. In respect to the gamification module, the report stated that the description provided no clear definition of that module, and particularly what it contained, what interface elements were present, or how it worked. In respect to the other modules, the report stated that the specification defined abstractly what topics of information were presented by the modules. For example, the strengths module presents information in regard to individual and/or team strengths. The examination report also stated that the specification did not disclose a best method of generating the modules.

**Submissions**

1. The applicant suggested the examination report conflated two separate considerations. The question of whether a specification discloses an invention in a manner that is clear enough and complete enough for the invention to be performed by a person skilled in the relevant art is a separate question to whether a best method of performing the invention has been disclosed.
2. Regarding the latter point, the applicant cited the Manual of Practice and Procedure that the question of whether the applicant has provided the best method of performing the invention is necessarily one of fact and evidence. The evidence to establish this is almost certainly not available during examination.
3. Regarding the former point, the applicant submitted that the examiner’s references to multiple paragraphs in the specification provided a relevant disclosure of the module features. In quoting several paragraphs, the applicant submitted that the specification provided a clear enough and complete enough disclosure of function in respect of the features claimed and there was no requirement, particularly in the field of computer-implemented inventions, for the specification to provide an over-detailed disclosure of structure. The function of a module insofar as it pertains to a user interface is well-known to those skilled in the art. The function associated with selecting one or more of the modules specified is clearly stated in at least [0134] to provide the individual achievement user interface including the output information regarding the employee.

**Consideration**

1. The claimed invention is directed at data gathering about employees at the individual, group, organisational and pan-organisational levels. Various elements of that data are then used to generate the analytical data model which in turn is used to identify recommendations relating to a particular group of employees. A user interface is then generated that is personalised or customised to that particular group of employees. The personalisation involves selection of a personalised module set that includes one or more of a gamification module, a social sharing module, a strengths module, a skills information module, a recommendation module and an alerts module. While it may be fair to say that such description of the modules is broad, it is also the case that the thrust of the claimed invention around the modules is in the selection of a personalised module set rather than the modules themselves.
2. The concept of modules in a hardware or a software context had been part of the state of the art in computing for a considerable period before the priority date. In a software context, a module may be considered a discrete set of code created and maintained independently for use in different computing systems. The code determines specific functionality pertaining to each module. The module may then be distributed for systems that require that functionality as needed. The approach is known as modular design. The relevant person skilled in this art would have been well-versed with modular architectures and the creation of specific functionalities for modules for computing systems at the relevant time. With this background, it would be unsurprising that the specification does not go significantly further than describing the functionality of the claimed modules rather broadly, and with lesser detail of how those modules are created or how they worked or how they interfaced with other elements.
3. For example, the specification discusses some aspects of the gamification module in the following terms. The gamification module may provide rewards for utilization of the user interface, identify progress toward a particular team priority, or cause the particular group of employees to compete to achieve a greater amount of progress toward individual or team priorities, a utilization of a user interface, a participation in group events, acquisition of one or more skills, or the like.[[9]](#footnote-9) The inter-operability and the coding to achieve such functionality for modules in computing systems, and the selection of modules, would have been well within the domain of a person skilled in this art at the relevant time. I find there is sufficient enabling disclosure in the present case.
4. I am satisfied that the specification provides a clear enough and complete enough disclosure for the claimed invention to be performed by a person skilled in the art.
5. The examination report also asserts that the specification does not disclose a best method of generating the modules or any specific features that the user interfaces of these modules may have. There is no specific reasoning in the report to support the assertion of the absence of a best method, such as knowledge by the applicant, at the relevant time, of a better method than that disclosed. In the first instance, the knowledge of such facts would inherently appear to lie only with the applicant. Consequently, an objection in this regard would appear difficult to maintain. As far as I can tell, the statement appears to be included in the examination report merely as an attempt to support the position of the absence of an enabling disclosure. On the other hand, the best method requirement is additional to the clear enough and complete enough disclosure requirement. In this case, I have insufficient basis to take the best method matter any further.
6. I find the specification complies with section 40.

**CONCLUSION**

1. I have concluded the claims of the present application, as proposed to be amended, do not define a manner of manufacture. Moreover, I have found there is nothing of substance in the body of the specification to overcome this finding. In view of this, the finding that the specification complies with section 40 is moot.
2. It is appropriate that the application be refused.

M. G. Kraefft

Delegate of the Commissioner of Patents

1. Specification [0069]. [↑](#footnote-ref-1)
2. Specification [0070]. [↑](#footnote-ref-2)
3. Specification [0072]. [↑](#footnote-ref-3)
4. Specification [0070]. [↑](#footnote-ref-4)
5. Specification [0072]. [↑](#footnote-ref-5)
6. Specification [0075]. [↑](#footnote-ref-6)
7. Specification [0074] and [0075]. [↑](#footnote-ref-7)
8. Specification [00162]. [↑](#footnote-ref-8)
9. Specification [0045], [0054] and [00196]. [↑](#footnote-ref-9)