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ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO, CA 92101

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BRANT L. CANDELORE

Appeal 2015-006578
Application 13/281,626
Technology Center 2400

Before ST. JOHN COURTENAY III, JAMES R. HUGHES, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–22. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

The disclosed and claimed invention on appeal relates to a television receiver device wherein viewers can select a version of program content (e.g., censored versus non-censored) based upon their own preferences and values. (Spec. 2, ll. 12–13).

Representative Claim

1. A television receiver device, comprising:

an interface configured to receive audio video (A/V) program content and tuning information;

a processor programmed to:

tune to a designated television program;

[L1] *receiving and executing an Enhanced Binary Interchange Format (EBIF) app that is received as data forming a part of the designated television program;*

[L2] *under control of the EBIF app, present an option to tune to the designated television program with either a censored or uncensored version of audio;*

upon receipt of an instruction to tune to the designated television program with uncensored audio, tune to a substitute audio stream identified with a secondary packet identifier, where the substitute audio stream substitutes uncensored segments of audio for censored segments of audio.

(Contested limitations L1 and L2 are emphasized).

Rejection

Claims 1–22 are rejected under 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Candelore et al. (US 2006/0130119 A1; June 15, 2006), Ryal (US 2005/0066357 A1; Mar. 24, 2005), Slothouber et al. (US 2010/0299715 A1; Nov. 25, 2010), and Urdang et al. (US 2003/0208768 A1; Nov. 26, 2003).

Grouping of Claims

Based on Appellant’s arguments in the principal Brief, we decide the appeal on the basis of separately argued independent claims 1, 9, and 16, and separately argued dependent claims 4, 7, and 8. *See* 37 C.F.R. § 41.37(c)(1)(iv).

ANALYSIS

We have considered all of Appellant’s arguments and any evidence presented. We disagree with Appellant’s arguments, and we adopt as our own: (1) the findings and legal conclusions set forth by the Examiner in the action from which this appeal is taken, and (2) the findings, legal conclusions, and explanations set forth in the Answer in response to Appellant’s arguments. (Ans. 8–13). However, we highlight and address specific findings and arguments for emphasis in our analysis below.

Rejection of Independent Claim 1 under 35 U.S.C. § 103(a)

Combinability under § 103

At the outset, we find unpersuasive Appellant’s general contentions the Examiner has improperly combined the cited references under § 103. (e.g., “When considering the general nature of Candelore’s disclosure, it is a completely different approach to associate an EBIF app with a television program that presents options to a user, when compared to a generalized filtering application that has no specific association with an individual television program.” — App. Br. 12).¹

¹ *See Nat’l Steel Car, Ltd. v. Canadian Pac. Ry., Ltd.*, 357 F.3d 1319, 1339 (Fed. Cir. 2004) (“A finding that two inventions were designed to resolve different problems . . . is insufficient to demonstrate that one invention

Rather, we find Appellant’s invention is simply a combination of familiar elements performing known functions (as taught by the cited Candelore, Ryal, Slothouber, and Urdang references) that would have realized a predictable result. The Supreme Court guides the conclusion of obviousness can be based on the interrelated teachings of multiple patents, the effects of demands known to the design community or present in the marketplace, and the background knowledge possessed by a person having ordinary skill in the art. *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007). The skilled artisan is “a person of ordinary creativity, not an automaton.” *Id.* at 421.

Here, we find the Examiner’s proffered combination (Final Act. 3–6) is reasonable because “[c]ommon sense teaches . . . that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle.” *KSR* 550 U.S. at 420. Moreover, “the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR* 550 U.S. at 418. Given this reasoning, we agree with the Examiner that

teaches away from another.”). It is sufficient that the references suggest doing what Appellant did, although the Appellant’s particular purpose was different from that of the references. *In re Heck*, 699 F.2d 1331, 1333 (Fed. Cir. 1983) (citing *In re Gershon*, 372 F.2d 535, 538–39 (CCPA 1967)). “Obviousness is not to be determined on the basis of purpose alone.” *In re Graf*, 343 F.2d 774, 777 (CCPA 1965).

the proffered combination of references would produce predictable results. (Final Act. 3–6).

Nor do we find persuasive Appellant’s mere allegation of impermissible hindsight reconstruction. (App. Br. 17). The Supreme Court guides: “[r]igid preventative rules that deny factfinders recourse to common sense . . . are neither necessary under our case law nor consistent with it.” *KSR* 550 U.S. at 421. On this record, we find the Examiner provided sufficient articulated reasoning with some rational underpinning to support the legal conclusion of obviousness (Final Act. 3–6). Appellant does not point to any evidence of record that shows combining the references in the manner proffered by the Examiner (*id.*) would have been “uniquely challenging or difficult for one of ordinary skill in the art” or would have “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). Nor has Appellant provided objective evidence of secondary considerations which our reviewing court guides “operates as a beneficial check on hindsight.” *Cheese Systems, Inc. v. Tetra Pak Cheese and Powder Systems, Inc.*, 725 F.3d 1341, 1352 (Fed. Cir. 2013).

Therefore, on this record, and by a preponderance of the evidence, we are not persuaded the Examiner erred by improperly combining the references under § 103.

Contested Limitations under § 103²

Issue: Under 35 U.S.C. § 103(a), did the Examiner err in finding the cited combination of Candelore, Ryal, Slothouber, and Urdang would have taught or suggested contested limitations L1 and L2:

[L1] *receiving and executing an Enhanced Binary Interchange Format (EBIF) app that is received as data forming a part of the designated television program [,]*

[L2] *under control of the EBIF app, present an option to tune to the designated television program with either a censored or uncensored version of audio;*

within the meaning of claim 1? ³ (Emphasis added).

Regarding limitation L1, Appellant refers principally to Slothouber, and contends, inter alia:

There is no teaching or suggestion that the EBIF app is received as data forming a part of the designated program as originally claimed. The term “transport stream” cannot simply be interpreted as meaning “program stream”. The two terms have clearly different meanings to one skilled in the art. In essence, a transport stream usually carries one or more program streams as well as various system information as payloads thereto. The program stream is a data structure of one or more elementary streams (audio, video, other coded bit streams).

² Regarding all contested limitations, we only consider Appellant’s arguments to the extent such arguments are directed to subject matter actually *claimed*.

³ We give the contested claim limitations the broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997); *see also, e.g., Spec.* (18–19).

In support of Appellant's position, Appellant submitted as EVIDENCE excerpts from "PSIP: Program and System Information Protocol", by Mark Eyer, The McGraw Hill Companies, Inc., 2003. It is noted that Mr. Eyer is an employee of the assignee of the present application, but this text is considered the "bible" of PSIP by many. It is clear from review of these excerpts, that a program stream cannot be properly interpreted as a transport stream. Page 22 provides definitions of the two terms while figure 3.15 graphically illustrates the relationship between the transport stream and programs 1 and 2.

(App. Br. 10, emphasis added).

We have fully considered the rebuttal evidence ⁴ cited by Appellant. (*Id.*). However, we broadly but reasonably interpret the claims — not the reference. ⁵ We find the cited definitions for “program stream” and “transport stream” (Chapter 3, p. 22) are not relevant to our claim construction, because claims 1, 9, and 16 are *silent* regarding both argued terms. *See* n.2, *supra*.

Regardless of the general contentions and imputed intended meanings articulated by Appellant in the Briefs, “[i]t is the *claims* that measure the invention.” *See SRI Int’l v. Matsushita Elec. Corp. of Am.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (*en banc*) (citations omitted); *In re Hiniker Co.*, 150

⁴ “‘PSIP: Program and System Information Protocol’, by Mark Eyer, The McGraw Hill Companies, Inc., 2003.” (*See* App. Br. 10).

⁵ Claim construction always comes first. Only when the contested claim terms are properly construed under BRI, can they then be read on the corresponding features found in the reference(s). *See e.g., Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed Cir. 1999) (citations omitted) (“Anticipation of a patent claim requires a finding that the claim at issue ‘reads on’ a prior art reference.”).

F.3d 1362, 1369 (Fed. Cir. 1998) (citations omitted) (“[T]he name of the game is the claim.”).

This reasoning is applicable here. We conclude the scope of the claim term “data” broadly but reasonably encompasses the *transport stream program data and application data*, as described Slothouber (¶32) and Urdang (¶31).⁶ Moreover, Appellant acknowledges: “a transport stream usually carries one or more program streams as well as various system information as payloads thereto.” (App. Br. 10). As described in Slothouber (¶32):

An EBIF User Agent on the Set-top box 135 detects an EBIF trigger which may cause the User Agent to load and execute the *EBIF stream-switching application contained in the transport stream*. The EBIF application retrieves the appropriate targeting information from the CPE device or User Agent data, and may map it to the appropriate PID(s) according to its built-in table. At the appropriate time, this EBIF application may switch the CPE to display to the chosen alternate program PID content(s) for the specified duration, and then may switch the CPE to display the original program's PID.).

As also described in Urdang (¶31): “An MPEG-2 *transport stream* contains *multiple program streams* with different *video* and *audio feeds* multiplexed for transmission through the same transmission channel. The program streams representing individual programs are identified by

⁶ Because “applicants may amend claims to narrow their scope, a broad construction during prosecution creates no unfairness to the applicant or patentee.” *In re ICON Health and Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007) (citation omitted).

respective *program identifications (IDs) within a transport stream.*”
(Emphasis added).

We note the Examiner’s rejection is based on the *combined* teachings and suggestions of Candelore, Ryal, Slothouber, and Urdang. We find unpersuasive Appellant’s pattern of attacking each reference considered in isolation.⁷ Thus, we find the *combination* of references cited by the Examiner (Final Act. 3–6) teaches or suggests receiving and executing an Enhanced Binary Interchange Format (EBIF) app that is received as [transport stream] *data* forming a part of the designated television program, where the television program *data*, and the EBIF app *data* contained in the transport stream, are merely *types of data*.

Regarding limitation L2, Appellant contends, inter alia:

The Examiner has erred by deconstructing and reconstructing the claim language and then alleging that Candelore discloses "presenting an option and based on the option tuning to either of a censored or uncensored version of audio" at the bottom of page 3. The Examiner fails to consider that the option being presented that is alleged to be disclosed in Candelore is "under control of the EBIF app".

(App. Br. 11, emphasis added).

The Examiner finds Candelore (¶¶ 30, 59) teaches or suggests the preceding tuning limitation, as recited in claim 1: “tune to a designated television program;” (*See* Final Act. 3). However, the Examiner relies on Slothouber for teaching the claimed EBIF app limitation:

At the time the invention was made it would have been obvious to one of ordinary skill in the art to modify the systems of

⁷ One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

Candelore [and] Ryal with the teaching of Slothouber; namely transmitting an application for enabling the switching to alternative content PIDs. The modification would predictably result in receiving and executing EBIF applications for channels with alternative content (such as multiple audio versions based on rating) and further tuning/presenting an option to tune the alternative uncensored segments of audio through the use of the EBIF application's handling of PID switching.

(Final. Act. 5).

Because Appellant has not addressed the Examiner's specific findings regarding the *combined* teachings and suggestions of Candelore, Ryal, Slothouber, and Urdang (*id.*), on this record, we are not persuaded the Examiner erred regarding contested limitation L2.

Therefore, on this record, we find a preponderance of the evidence supports the Examiner's underlying factual findings and ultimate legal conclusion of obviousness regarding representative claim 1.

Accordingly, we sustain the rejection of independent claim 1.

Rejection of Independent Claim 9 under 35 U.S.C. § 103(a)

Appellant contends claim 9 is allowable for the same reasons we have found unpersuasive regarding claim 1, *supra*. Appellant further contends: "by way of separate argument for claim 9, claim 9 calls for the processor to 'determine that the television receiver device has been designated as opted in for purposes of viewing adult rated programs'. The Examiner is totally silent with respect to this claim feature in rejecting claim 9." (App. Br. 18).

However, Appellant fails to address the Examiner's findings regarding the teachings and suggestions of Ryal:

Ryal discloses a separate audio stream for differently rated

versions of content (See [0018]) and the device is programmed to determine the television receiver device has been designated as opted in for purposes of viewing adult rated content (See Ryal [0022-0023] user can set a rating limit, i.e., R rating reading on adult content. The device will determine if the rating limit is exceeded, i.e., for a rating limit to be exceeded it must be determined that a rating limit was set.).

At the time the invention was made it would have been obvious to one of ordinary skill in the art to modify they system taught by Candelore with the teaching of Ryal predictably resulting in different versions of an audio stream and their corresponding PIDs being selected based on a content version desired by the user in order to provide alternative audio content versions which comply with the MPEG standard which would ease implementation.

(Final. Act. 4–5).

Because Appellant has not addressed the Examiner’s specific findings regarding the *combined* teachings and suggestions of Candelore, Ryal, Slothouber, and Urdang (*id.*), on this record, we are not persuaded the Examiner erred regarding the contested limitation of independent claim 9.

Rejection of Independent Claim 16 under 35 U.S.C. § 103(a)

Appellant recites the language of claim 16, and notes the claim: contains multiple differences from that of claim 1. The specific language used in this claim has not been addressed by the Examiner in making the rejection. Instead, the Examiner erroneously relies on the language of claim 1 without consideration of any of the differences in the claim language.

(App. Br. 18).

The Examiner responds: “Despite Appellant[’]s claims that the language contains multiple differences, Appellant[] do[es] not offer any specific examples of features of claim 16 which are not addressed by the analysis of the claims.” (Ans. 12).

We note claim 16 recites features similar to the features of claim 1 and claim 9, which Appellant has not persuasively traversed, for the reasons discussed above. Appellant does not present separate, substantive arguments and/or evidence regarding the argued general “multiple differences” recited in claim 16.⁸ Therefore, on this record, and by a preponderance of the evidence, we are not persuaded the Examiner erred regarding the ultimate legal conclusion of obviousness for independent claim 16.

Rejection of Dependent Claims 4, 12, and 19 under 35 U.S.C. § 103(a)

Claim 4 recites: “The television receiver device according to claim 1, the processor is further programmed to determine that the television receiver device has been designated as opted in for purposes of viewing adult rated programs.”

Appellant contends (App. Br. 20):

By way of separate additional argument, these claims call for the processor to "determine that the television receiver device has been designated as opted in for purposes of viewing adult rated programs". The Examiner alleges this to be found in Ryal at [0022]-[0023]. However, Appellant finds no such disclosure at the cited locations. *The cited disclosure permits the user to set filtering parameters in advance that constrain how the content filtering is to be carried out.* Accordingly, the Examiner has erred in failure to identify each and every claim feature of claims 4, 12 and 19 in the cited art.

Further, the features of claims 1, 9 and 16 of use of the claimed EBIF app must be considered in connection with the

⁸ See *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (“[W]e hold that the Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art.”).

further feature of an opt in function. This interplay has not [been] addressed by the Examiner. (Emphasis added).

The Examiner disagrees (Ans. 11–12):

the features of opting in are met by paragraphs [0022-002[3]] of Ryal (see analysis of claims 1, 3, 9, and 16,) where a user can set a rating limit and Candelore [0110-0111] where a setting for upcoming programming designated up-rating or down-rating the content. *First "adult rated" content is a subjective limitation,* [⁹] however, Ryal discloses R rating content is for mature audiences. Furthermore, a setting of these options, by a user, prior to the content being displayed reads on opting in "forming a part of the television receiver device setup".

This claim language is broad and encompasses any selection of an option which causes the television receiver device to perform the corresponding selected option/function. Finally, Appellant[] fail[s] to address how an option to constrain how the content filtering is to be carried out is different from the claimed "option to tune to an uncensored version of audio is made in advance of tuning". In the cited portions of Ryal for example a user rating limit is retrieved from memory, i.e., the rating limit is preset, which reads on the claimed "option to tune to an uncensored version of the audio in advance of tuning . . . [.]" (Emphasis added).

In the Reply Brief (3), Appellant further responds:

With respect to the opting in feature of these claims, the [Examiner] rel[ies] on ratings-setting teachings from Ryal and Candelore. Setting the rating the viewer wants is not what is claimed and does not implicate opting in or out as claimed ---

⁹ Claim scope cannot depend solely on the unrestrained, subjective opinion of a particular individual purported to be practicing the invention. *Datamize LLC v. Plumtree Software, Inc.*, 417 F.3d 1342, 1350 (Fed. Cir. 2005). However, a rejection under 35 U.S.C. 112, second paragraph, was not made by the Examiner, and is therefore not before us on appeal.

the viewers in Ryal and Candelore have already opted in and are simply establishing ratings.

We note Appellant acknowledges the cited portion of Ryan (¶¶22–23) enables “[t]he user to set filtering parameters in **advance** that constrain how the content filtering is to be carried out.” (App. Br. 20, emphasis added). We emphasize the Examiner’s rejection is based on the *combined* teachings and suggestions of Candelore, Ryal, Slothouber, and Urdang.

Regarding claim 1 (from which claim 4 depends), the Examiner found (Final Act. 4): “Candelore discloses swapping [the] PID [(packet identifier ¶33)] of default content with [the] PID of alternative content to ‘up-rate’ content for more mature audiences” (citing to Candelore at Fig. 13, ¶¶58, 100–104). Moreover, we observe there is only a finite set of two possibilities: “opt-in” or “opt-out.” Therefore, we conclude selecting either option from such a restricted set of options would have been obvious for an artisan to try.¹⁰ Given Appellant’s admission regarding Ryan (App. Br. 20), and given the combined teachings of the cited references (e.g., Ryan, Candelore), on this record, we are not persuaded the Examiner erred.

Therefore, based on a preponderance of the evidence, we find the cited combination at least suggests “the television receiver device has been designated as *opted in* for purposes of viewing adult rated programs,” within

¹⁰ Where “the problem is known, the possible approaches to solving the problem are known and finite, and the solution is predictable through use of a known option,” a solution that is obvious to try may indeed be obvious. *Abbott Labs. v. Sandoz, Inc.*, 544 F.3d 1341, 1351 (Fed. Cir. 2008), citing *KSR*, 550 U.S. at 398. *See also Ortho-McNeil Pharm., Inc. v. Mylan Labs., Inc.*, 520 F.3d 1358, 1364 (stating the number of options must be “small or easily traversed”).

the meaning of representative dependent claim 4.¹¹ Accordingly, we sustain the rejection of representative dependent claim 4, and associated grouped dependent claims 12 and 19, which fall with claim 4. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Rejection of Dependent Claims 7, 15, and 21 under 35 U.S.C. § 103(a)

Claim 7 recites: “The television receiver device according to claim 1, where the EBIF app programs tuning of the television receiver to a packet identifier designated within system information.”

Appellant focuses on the claim term “system information” and urges: “The term ‘system information’ has a specific well understood meaning within this area of technology. The term is sometimes also referred to as ‘service information’ in the art. This is noted and in fact the term ‘system information’ is defined on page 16 of the specification.” (App. Br. 21).

We turn to the Specification (16, first full paragraph) for *context*:

It will be appreciated by those skilled in the art that the present system can be implemented as a television device of any sort, including a television set or television set including set top box like functionality. It is also noted that one skilled in the art will recognize upon consideration of the present teachings that the use of the PSIP term "system information" or "SI" is intended to be equivalent to "service information" or *information having similar functions with whatever environment is utilized for conveying the content from a source to a user device.*

¹¹ “[T]he question under 35 U.S.C. § 103 is not merely what the references expressly teach but what they would have suggested to one of ordinary skill in the art at the time the invention was made.” *Merck & Co., Inc. v. Biocraft Laboratories, Inc.*, 874 F. 2d 804, 807–808 (Fed. Cir. 1989).

(Emphasis added).

To the extent the aforementioned description might be considered a *definition* by our reviewing court, we note the unbounded breadth of “service information” as “information having *similar functions* with *whatever environment* is utilized for conveying the content from a source to a user device.” (*Id.*, emphasis added). Given the breadth of the recited “service information,” on this record we are not persuaded the Examiner’s claim interpretation is overly broad, unreasonable, or inconsistent with the Specification (16). Therefore, we find a preponderance of the evidence supports the Examiner’s findings (Ans. 12):

Slothouber discloses in paragraph [0002] "MPEG transport streams contain one or more packetized elementary streams (PES) containing distinct (elementary) streams of video, audio, and data. Each such elementary stream is associated with a packet identifier (PID). The PIDs for the streams making up a particular program are defined in a program map table (PMT)." The PIDs are used by the system of Slothouber to map the program streams. PIDs as noted by Appellant[] and by Slothouber [0002] are necessarily "designated within system information" by PATs and PMT, as required by the claim limitation and thus met by Slothouber's use of PIDs.

Accordingly, we sustain the rejection of representative dependent claim 7, and the associated grouped claims 15 and 21, which fall with claim 7. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Rejection of Dependent Claim 8 under 35 U.S.C. § 103(a)

Claim 8 recites: “The television receiver device according to claim 1, where the option to tune to an uncensored version of the audio is made in

advance of tuning by use of an opt-in selection forming a part of the television receiver device setup.”

Appellant contends: “The Examiner alleges this to be found in Candelore at [0100]-[0111] and Figs. 16A-16-D. However, the cited disclosure sets parameters in advance that constrain how the content filtering is to be carried out and fails to meet the claim features.” (App. Br. 19).

We find Appellant’s statement “the cited disclosure sets parameters *in advance that constrain how the content filtering is to be carried out*” is at least a partial admission that the cited portions of Candelore teach or at least suggest claim 8. (App. Br. 19, emphasis added). Although Appellant additionally asserts the “opt-in selection” feature was not addressed by the Examiner in the rejection of claim 8 (*id.*), this feature was addressed by the Examiner with respect to Ryal (Final Act. 4), as discussed above. We again note there is only a finite set of two possibilities (“opt-in” or “opt-out”). We conclude selecting either option from such a restricted set of options would have been obvious. *See* n.10, *supra*.

Therefore, on this record, we find a preponderance of the evidence supports the Examiner’s underlying factual findings and ultimate legal conclusion of obviousness regarding dependent claim 8. Accordingly, we sustain the rejection of claim 8.

Remaining Claims Rejected under § 103(a)

Appellant advances no separate, substantive arguments regarding the remaining rejected claims. Arguments not made are considered waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). Therefore, we sustain the Examiner’s rejection of the remaining claims on appeal.

Reply Brief

To the extent Appellant advances new arguments in the Reply Brief not in response to a shift in the Examiner's position in the Answer, we note arguments raised in a Reply Brief that were not raised in the Appeal Brief or are not responsive to arguments raised in the Examiner's Answer will not be considered except for good cause. *See* 37 C.F.R. § 41.41(b)(2).

DECISION

We affirm the Examiner's rejection of claims 1–22 under 35 U.S.C. § 103(a).

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 41.50(f).

AFFIRMED