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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/211,079	08/16/2011	William Eugene Urban	028548-9001-US01	3412

1131 7590 08/10/2017  
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EXAMINER
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BOVEJA, NAMRATA

ART UNIT	PAPER NUMBER
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3682

NOTIFICATION DATE	DELIVERY MODE
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08/10/2017

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* WILLIAM EUGENE URBAN and  
SHAWN THOMAS TOMOVICK

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Appeal 2016-002305<sup>1</sup>  
Application 13/211,079  
Technology Center 3600

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Before: MURRIEL E. CRAWFORD, MICHAEL W. KIM, and  
PHILIP J. HOFFMANN, *Administrative Patent Judges*.

KIM, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal from the Final Rejection of claims 23–40. We have jurisdiction to review the case under 35 U.S.C. §§ 134 and 6.

The invention relates generally to network-based digital signage systems. Spec. ¶ 2.

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<sup>1</sup> The Appellants identify “DigSig, Inc.” as the real party in interest. Appeal Br. 2.

Claim 23 is illustrative:

23. A method of operating a digital signage system, the method comprising:

receiving, by a controller, information defining a plurality of display devices, wherein the information includes an identifier of each of the plurality of display devices, an owner associated with each of the plurality of display devices, and a display price for each of the plurality of display devices, wherein the display price is a rate for displaying content on a specific display device;

storing, by the controller, the information in a database;

receiving, by the controller, a search request from a user;

querying, by the controller, the database to identify a subset of the plurality of display devices matching the search request;

displaying, by the controller, the subset of the plurality of display devices to the user, wherein displaying the subset of the plurality of display devices includes displaying the display price associated with at least one display device included in the subset based on the database;

receiving, by the controller, a selection and content from the user, the selection indicating a selected display device from the displayed subset of the plurality of display devices;

based on the selection, automatically identifying, by the controller, an owner of the selected display device based on the database;

based on the selection, generating and sending, by the controller, an email message to the owner of the selected display device, the email message including a request to display the content on the selected display device;

allowing, by the controller, the owner to accept or reject the request;

when the owner rejects the request, transmitting, by the controller, an email message to the user notifying the user of the rejection;

when the owner accepts the request, automatically, by the controller, processing a payment from an account associated with the user to an account associated with the owner based on the display price stored in the database for the selected display

device and allowing the owner to download the content to the selected display device, add the content to a playlist for the display device, and display the content on the selected display device according to the playlist.

Claims 23–40 are rejected under 35 U.S.C. § 101 as reciting ineligible subject matter in the form of an abstract idea.

Claims 23–40 are rejected under 35 U.S.C. § 103(a) as unpatentable over Wolinsky (US 7,742,950 B2, iss. June 22, 2010) and Official Notice.

We AFFIRM.

## ANALYSIS

### Rejection under 35 U.S.C. § 101

The Appellants argue claims 23–40 together as a group. Appeal Br. 9. We select claim 23 as representative. *See* 37 C.F.R. § 41.37(c)(1)(iv). For the reasons set forth below, we are not persuaded by the Appellants’ argument that the claims are “necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.” Appeal Br. 9–10.

In determining whether a claim falls within the excluded category of abstract ideas, we are guided in our analysis by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 77–78 (2012)). In accordance with that framework, we first determine whether the claim is “directed to” a patent-ineligible abstract idea. *See Alice*, 134 S. Ct. at 2356 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk.”); *Bilski v. Kappos*,

561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk.”); *Diamond v. Diehr*, 450 U.S. 175, 184 (1981) (“Analyzing respondents’ claims according to the above statements from our cases, we think that a physical and chemical process for molding precision synthetic rubber products falls within the § 101 categories of possibly patentable subject matter.”); *Parker v. Flook*, 437 U.S. 584, 594–95 (1978) (“Respondent’s application simply provides a new and presumably better method for calculating alarm limit values.”); *Gottschalk v. Benson*, 409 U.S. 63, 64 (1972) (“They claimed a method for converting binary-coded decimal (BCD) numerals into pure binary numerals.”).

The patent-ineligible end of the spectrum includes fundamental economic practices, *Alice*, 134 S. Ct. at 2357; *Bilski*, 561 U.S. at 611; mathematical formulas, *Flook*, 437 U.S. at 594–95; and basic tools of scientific and technological work, *Benson*, 409 U.S. at 69. On the patent-eligible side of the spectrum are physical and chemical processes, such as curing rubber, *Diamond*, 450 U.S. at 182 n.7, “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores,” and a process for manufacturing flour, *Gottschalk*, 409 U.S. at 67.

Claim 23 recites receiving and storing price and related information, receiving a query and searching the stored information to answer the query, communicating the answer to the requestor making the query, receiving a selection from the requestor based on the answer to the query, communicating the selection to a third party, and either forwarding to the requestor a refusal from the third party, or processing payment from the requestor to the third party, along with forwarding content for display to the

third party. As alluded to by the Examiner, this appears to be the same process long employed for operating advertising on billboards, with a billboard replaced by a “display device,” and with the additional requirement to communicate via e-mail and with the involvement of a “controller.”

Ans. 3–5.

The Specification does not define or describe the claimed “controller,” but describes that every “user interface 40 includes a controller 41,” where

[t]he user interface 40 *can be* a computer, a personal digital assistance (“PDA”), a telephone, or any other device that allows users 25 to access their accounts 30 on the network system 15 via the Internet or any other communication network. Every *user interface* 40 includes a *controller* 41 (e.g., a processor of a computer, not shown in Fig. 1).

Spec. ¶ 18 (emphases added). In further non-limiting manner, the Specification describes that “the invention is not limited in its application to the details of construction and the arrangement of components described herein or illustrated in the drawings. The invention is capable of other embodiments and of being practiced or carried out in various ways.” *Id.*

¶ 14.

A controller, thus, could be a computer processor, but we construe the claims as broadly encompass other types of “controller.” As a result, we rely on the ordinary and customary meaning of “controller” as “one that controls.” AMERICAN HERITAGE® DICTIONARY OF THE ENGLISH LANGUAGE, Fifth Edition, 2016 (last retrieved at <http://www.thefreedictionary.com/controller> on July 20, 2017). The claimed controller, therefore, encompasses a person who controls the inventory of “display devices.”

The Specification describes that the “display device 45 can be a television screen, a monitor, or any other type of screen that can electronically display different types of content.” Spec. ¶ 18. The “display device” is, thus, an electronic display.

Setting aside for the moment the claim’s requirements for the use of e-mail, an electronic display, and “allowing the owner to download the content to the selected display device,” the remainder of the claim is directed to a process for finding acceptable displays for an interested party, and selling display space if there is a match. As noted by the Examiner, this is a fundamental economic practice in, for example, the billboard advertising industry, that has long been practiced where billboard displays have been available for rent, where a broker acts in between renters and owners.

Ans. 5. As also noted by the Examiner, the process of finding acceptable displays and selling display space, as claimed, also concerns the organization of human behavior in the process of making displays available for rent, by reciting specific steps taken by the person who is the controller of the process, as well as the requestor and owner of the display. Ans. 3–5. Therefore, we are persuaded that independent claim 23 is directed to an abstract idea.

If the claim is “directed to” a patent-ineligible abstract idea, we then consider the elements of the claim—both individually and as an ordered combination—to assess whether the additional elements transform the nature of the claim into a patent-eligible application of the abstract idea. *Alice*, 134 S. Ct. at 2355. This is a search for an “inventive concept”—an element or combination of elements sufficient to ensure that the claim amounts to “significantly more” than the abstract idea itself. *Id.*

Claim 23 recites the use of e-mail, and electronic display device. The electronic display device is utilized in the claim only as an output device, to which content is “downloaded” and displayed (“allowing the owner to download the content to the selected display device, add the content to a playlist for the display device, and display the content on the selected display device according to the playlist”). This is merely an output step, and is considered insignificant extra-solution activity. “*Flook* stands for the proposition that the prohibition against patenting abstract ideas ‘cannot be circumvented by attempting to limit the use of the formula to a particular technological environment’ or adding ‘insignificant postsolution activity.’” *Bilski*, 561 U.S. at 610–11 (quoting *Diamond*, 450 U.S. at 191–92).

As to the requirement for the use of e-mail to communicate, we note that e-mail is a basic function of generic computers. “[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible. The bare fact that a computer exists in the physical rather than purely conceptual realm is beside the point.” *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) (internal citations and quotation marks omitted).

Therefore, the claims are not “deeply rooted in computer technology,” as argued, because they require only the use of a generic computer and electronic output device, along with a process that can be performed by humans using, for example, information stored on paper.

Nothing in the claims purports to improve computer functioning or “effect an improvement in any other technology or technical field.” *Alice*, 134 S. Ct. at 2359. Nor do claims solve a problem unique to the Internet. *See DDR Holdings*, 773 F.3d at 1257.



We, therefore, conclude that claims 23–40 are directed to an abstract idea, and nothing in the claim transforms them into patent-eligible subject matter.

In addition to the use of e-mail and an electronic display device, which we have already addressed, the Appellants additionally argue that processing payments cannot be done mentally. Reply Br. 5. We disagree, because “processing a payment” encompasses the person who is the “controller” accepting cash as payment for the use of the display device. This is also an aspect of the fundamental economic practice of managing an inventory of display devices for rent, and we are persuaded that this is a human-implemented step long practiced in our system of commerce.

We have considered the Appellants’ additional arguments, but are unpersuaded by them in light of the analysis set forth above. *See* Appeal Br. 9–15; Reply Br. 2–5.

For these reasons, we sustain the rejection of claims 23–40 under 35 U.S.C. § 101 as disclosing an abstract idea.

*Rejection of Independent Claims 23 and 40 under 35 U.S.C. § 103(a)*

The Appellants argue independent claims 23 and 40 together as a group. Appeal Br. 27. We select claim 23 as representative. *See* 37 C.F.R. § 41.37(c)(1)(iv).

We begin with two general arguments about alleged shortcomings in Wolinsky, which are based on language that is not recited in the claims. We are, for example, unpersuaded by the Appellants’ argument that “Wolinsky fails to teach or suggest allowing any type of interaction between subscribers.” Appeal Br. 17. The argument fails because it is not

commensurate with the scope of the claim, in that the claims do not recite any “subscribers,” nor any interaction between the “user” who requests display pricing, other than with the “controller,” and, through the “controller,” the owner.

We also are not persuaded by the Appellants’ argument that “Wolinsky clearly fails to teach or suggest an ‘open’ marketplace as recited in the pending claims.” Appeal Br. 19–20, 26. The argument fails, again, because it is not commensurate with the scope of the claim, as the claims do not recite an “open” marketplace as a requirement. In addition, the Specification does not describe an “open marketplace.”

The Appellants next argue alleged shortcomings in the use of price information in Wolinsky, asserting that

while Wolinsky uses the term “pricing,” Wolinsky fails to teach or suggest (1) that the “pricing” is display rates for individual display devices, (2) that the “pricing” is provided to a user in response to a user-initiated query for display devices, or (3) that the “pricing” is used to automatically process a payment between a party requesting display of content and the owner of the display device where the content is displayed.

Appeal Br. 19; *see also id.* at 21–24. We are unpersuaded by the Appellants’ arguments. To an extent, the argument is one of *ipsissimis verbis*, asserting that because Wolinsky does not explicitly disclose individual prices for individual devices, the ordinary artisan would not know that “pricing,” generically, would encompass price granularity to the level of a single device.

Wolinsky discloses “the scheduling/transmission user interface **5604** may include pricing to be provided to the subscribers **204** and **206** in a dynamic fashion as the subscribers **204** and **206** define the content to be

broadcast.” Wolinsky, col. 80, ll. 15–19. Because Wolinsky provides that the user interface “allows the subscribers **204** and **206** to establish times, locations, and/or visual appliances **308** for the content being maintained by the library to be broadcast” (*id.* at col. 79, ll. 61–64), the providing of price information is in response to a user query about display devices selected.

In addition, we are persuaded that the ordinary artisan would have recognized that providing a price for each display unit, and billing, or taking payment, for the quoted price for each unit, would be a normal and expected way a system would have worked when providing meaningful pricing information to enable decisions about displaying content on available devices. *See KSR Int'l. Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (In making the obviousness determination one “can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.”). It is a common practice in our system of commerce to price components individually, or grouped, or both. Thus, even if Wolinsky were interpreted to disclose only group pricing, which we do not, we are persuaded that pricing at the individual-unit level would have been a well-known variation.

We also are unpersuaded by the Appellants’ arguments the Examiner’s use of Official Notice was traversed, by pointing out that the claims recite subject matter outside of the scope of Official Notice, and that the primary reference teaches away from the officially-noticed facts. Appeal Br. 20. For example, the Appellants reference a response from January 8, 2015, where “the Applicant rebutted each instance of Official Notice by setting forth that the claims recite more than the ‘facts’ of which the Examiner took Official Notice” and “that Wolinsky teaches away from all of

the Officially Noticed ‘facts.’” Appeal Br. 20 (citing Appellants’ Response, filed Jan. 8, 2015 (“January 2015 Response”)).

Our reviewing court has held that an adequate traverse to an Examiner’s finding of Official Notice must “contain adequate information or argument” to create on its face “a reasonable doubt regarding the circumstances justifying the . . . notice” of what is well known to an ordinarily skilled artisan. *In re Boon*, 439 F.2d 724, 728 (CCPA 1971). “To adequately traverse such a finding [of Official Notice], an applicant must specifically point out the supposed errors in the [E]xaminer’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.” MPEP § 2144.03(C). *See also* 37 C.F.R. § 1.111(b). Here, and in the January 2015 Response, the Appellants have not set forth any information or arguments as to why the Officially Noticed facts were not well known. Instead, the arguments focused on claim language beyond what was within the scope of the facts noticed, or attacks on the primary reference. As such, the Examiner’s taking of Official Notice has not been properly traversed, and the facts so noticed are deemed to be admitted prior art. *Id.*

The Appellants argue that Wolinsky does not disclose approving a request to display specific content on a specific display device. Appeal Br. 25. We are unpersuaded by the Appellants’ argument. Wolinsky discloses submitting content (col. 38, l. 67 to col. 39, l. 2) to an approver for approval (col. 40, ll. 57–58), and that the approver may approve the content (col. 41, ll. 44–47). We are unpersuaded that the ordinary artisan would not have recognized that a single display device was also contemplated here, as

Wolinsky does not limit its method to only approve content for display on a group of display devices. *See KSR*, 550 U.S. at 418.

We are not persuaded by the Appellants' argument that Wolinsky, according to the Appellants, fails to disclose the use of e-mail to communicate between users. Appeal Br. 25. Wolinsky discloses “[i]n notifying the approvers, the system may utilize e-mail or other communication means about the new scheduled record(s) awaiting approval.” Wolinsky col. 40, l. 67 to col 41, l. 2.

We are also unpersuaded by the Appellants' argument that “Wolinsky makes no mention whatsoever of notifying a user of a rejection of a request.” Appeal Br. 25–27. Wolinsky discloses the user may display unapproved requests to submit to an approver (*id.* at col. 41, ll. 35–43), and that requests with schedule conflicts are communicated to the user (*id.* at col. 41, ll. 54–56). We are unpersuaded that the ordinary artisan would not have recognized that requests that are not approved also would be communicated, just as other request states are reported directly to a user. *See KSR*, 550 U.S. at 418.

In addition, rather than relying on Wolinsky for this claim language, the Examiner took Official Notice that it is old and well-known “to notify requestors of the status of their requests, such as whether the request was accepted, rejected, or had other problems that precluded it from being presented to the approver.” Answer 11–12. We concluded, above, this finding of fact has not been shown to be in error.

For these reasons, we sustain the rejection of independent claims 23 and 40 under 35 U.S.C. § 103(a).

Rejection of Dependent Claims 24 and 25 under 35 U.S.C. § 103(a)

Dependent claim 24 recites “receiving a proposed price from the user, wherein the proposed price is different than the display price for the selected display device stored in the database, and including the proposed price in the request.”

Claim 24 was introduced by amendment filed March 24, 2014. In rejecting the claim language in the Action mailed September 8, 2014, the Examiner indicates “Official Notice is taken that it was old and well known at the time of the invention for advertisers and publishers (owners of the display devices) to negotiate the price for displaying the advertisement on the display device.” Non-Final Act. 15, Sept. 8, 2014. In response to the rejection, the Appellants argued:

Applicant traverses the Examiner’s assertion of Official Notice. The Examiner has not provided evidentiary support for such an assertion and particular, Applicant notes that Claims 24-25 recite providing a proposed price as part of a user-initiated request for display of specific content on a specific display device. If the Examiner desires to continue to reject Claims 24-25, the Examiner must provide evidentiary support that shows the claimed price proposal used as part of a device-specific request for display of content within a display management system. In particular, Applicant is not claiming allowing price negotiation in the abstract but recites allowing a proposed price to be included to a specific request for displaying content within an “open” marketplace and using the proposed price when performing automatic payment processing.

Appellants’ Remarks 25, filed Jan. 8, 2015.

As with claim 23, the Appellants have not set forth any information or arguments as to why the Officially Noticed facts were not well known. As such, the Examiner’s taking of Official Notice has not been properly traversed, and is considered admitted prior art.

We have considered the Appellants' remaining arguments, and determine that they are unpersuasive, because they are essentially the same arguments advanced above for independent claim 23.

For these reasons, we sustain the rejection of dependent claim 24 under 35 U.S.C. § 103(a), as well as dependent claim 25 that was not separately argued with specificity.

*Rejection of Dependent Claim 26 under 35 U.S.C. § 103(a)*

Dependent claim 26 recites “receiving at least a portion of the information defining a plurality of display devices stored in the database based on a profile associated with the owner on at least one social network.”

We are unpersuaded that Wolinsky teaches away from the claimed limitation, because “Wolinsky’s system is a ‘closed system,’ it is unlikely that information stored in a user’s social network would be usable for a profile in the ‘closed’ system.” Appeal Br. 29–30.

The term “social network” is not defined, limited, or described in the Appellants’ Specification. We construe it broadly as a set of linked users.

Wolinsky discloses a system that links users through the system, in that

the system management packages 705 and 752 of the service provider server 702 and local server 304, respectively, are utilized to communicate information, such as scheduling and/or system management information, via the network 220 to enable subscribers 204 and 206 to utilize the content management and distribution services provided by the service provider 202.

Wolinsky, col. 20, ll. 3–10 (emphasis omitted). Wolinsky discloses profile information is stored from users, in that users enter “facility information” that the system stores. *Id.* at col. 30, ll. 45–53. Wolinsky, thus, discloses

information from profiles on a social network is used, thus, meeting the claim language.

For this reason, we sustain the rejection of dependent claim 26 under 35 U.S.C. § 103(a).

*Rejection of Dependent Claim 27 under 35 U.S.C. § 103(a)*

The Appellants argue the Examiner erred in the use of Official Notice to reject claim 27. As with claim 23, the Appellants have not set forth any information or arguments as to why the Officially Noticed facts were not well known. *See* Appellants' Remarks 27–28, filed Jan. 8, 2015. As such, the Examiner's taking of Official Notice has not been properly traversed.

We have considered the Appellants' remaining arguments and determine that they are unpersuasive, because they are essentially the same arguments advanced for independent claim 23.

For these reasons, we sustain the rejection of dependent claim 27 under 35 U.S.C. § 103(a).

*Rejection of Dependent Claims 28 and 29 under 35 U.S.C. § 103(a)*

Claim 28 recites “wherein generating and sending the email message to the owner of the selected display device includes attaching the content to the email message.” Claim 29 recites “wherein generating and sending the email message to the owner of the selected display device includes adding a link to the email message for downloading the content.”

We are not persuaded by the Appellants' argument that the Examiner applies impermissible hindsight, and improperly modifies Wolinsky to conclude it would be obvious to use email attachments or links within an



email, because Wolinsky instead stores content in a shared database for access by all users. Appeal Br. 31–32. The Examiner correctly points out that, inasmuch as Wolinsky discloses using email for communications (*see* Wolinsky col. 40, l. 67 to col. 41, l. 2), it would be “obvious that the email message could either include the records themselves or links to where the records are stored. This would be a design choice made by the system administrator and could be based on such criteria as the size or number of records to be approved.” Answer 18. In providing content to an approving owner, there are a limited number of choices to enable this communication, including attachments, links, downloading, a shared database, and physical delivery such as via a postal system. We are unpersuaded that providing attachments or links to content would not have been recognized by the ordinary artisan as normal manners to communicate content files.

For this reason we sustain the rejection of dependent claims 28 and 29 under 35 U.S.C. § 103(a).

*Rejection of Dependent Claim 30 under 35 U.S.C. § 103(a)*

Dependent claim 30 recites:

wherein allowing the owner to download the content to the selected display device when the owner accepts the request includes automatically downloading the content to the selected display device and automatically processing the payment from the account associated with the user to the account associated with the owner when the automatic download completes successfully.

We are persuaded by the Appellants’ argument that Wolinsky does not disclose automatically processing a payment in response to a particular

event, as claimed. Appeal Br. 32–33. The Examiner’s response is to focus only on the “timing” aspect of the claim, asserting

it is obvious that the payment would not be processed until the advertisement (content) has at least been downloaded to the display device in order to prevent the advertiser from being charged if the display device could not receive the advertisement to display (e.g. the network goes down, the display device’s memory was full, etc.). However, the timing of the processing of the payment would be a design decision agreed upon by the parties involved, and thus, is giving little, if any, patentable weight.

Answer 19. The cited sections of Wolinsky fail to disclose any automated process. *See* Wolinsky col. 76, ll. 36–65 and col. 81, ll. 53–56. The Examiner, thus, has not addressed the full scope of the claim language, at least in part because no automated downloading and payment is set forth in the cited sections.

For this reason, we do not sustain the rejection of dependent claim 30 under 35 U.S.C. § 103(a).

*Rejection of Dependent Claim 31 under 35 U.S.C. § 103(a)*

Dependent claim 31 recites “further comprising automatically generating and sending an email message to the user when the automatic download completes successfully.”

We are persuaded by the Appellants’ argument of error by the Examiner on the basis that “merely providing usage information to a user is not the same as automatically notifying a user when the user’s requested content was successfully downloaded to the user’s requested display device.” Appeal Br. 33. The Examiner, citing Wolinsky column 76, lines 36–65, speculates that “Wolinsky reports the usage to the user

(subscriber 206) via email, i.e. after the download has been successfully completed.” Answer 19. The cited portion of Wolinsky, however, is silent on sending an email report after a successful download.

For this reason we do not sustain the rejection of dependent claim 31 under 35 U.S.C. § 103(a).

*Rejection of Dependent Claim 32 under 35 U.S.C. § 103(a)*

Dependent claim 32 recites “automatically cancelling the request when the owner does not accept or reject the request with a predetermined period of time.”

In rejecting claim 32, the Examiner finds the language is not disclosed by Wolinsky, but nevertheless determines that it is obvious, to cancel requests after a certain time passes, “in order to eliminate requests whose requested display time had passed.” Answer 20.

We are persuaded by the Appellants’ argument that because Wolinsky “fails to disclose providing a requested display time for content submitted for approval,” the Examiner appears to be using impermissible hindsight. Appeal Br. 34. There may be other reasons for *not* canceling a request that remains pending past a predetermined interval after submission, such as to enable reuse of the request, or for auditing purposes. The Examiner has not sufficiently established the obviousness of the claimed step.

For this reason, we do not sustain the rejection of dependent claim 32 under 35 U.S.C. § 103(a).

Rejection of Claims 33-39 under 35 U.S.C. § 103(a)

Claim 33 recites “receiving an address from the owner, the address associated with the selected display device and automatically determining additional location information for the selected display device based on the address.”

We are persuaded by the Appellants’ argument that asserts error on the part of the Examiner, because “the Examiner merely cites to portions of Wolinsky that disclose receiving different types of information from a user and fails to cite to any support in Wolinsky for automatically generated additional information based on the user-entered information.” Appeal Br. 35. The Examiner cites Wolinsky, column 31, lines 23–27 and 51–54, and column 32, lines 37–44 (Answer 20), but each of these citations disclose only a user entering information, without any automatic determining, as claimed. The Examiner has, thus, failed to support adequately the conclusion of obviousness.

For this reason, we do not sustain the rejection of dependent claim 33 under 35 U.S.C. § 103(a), nor of claims 34–39 that depend, directly or indirectly, from claim 33.

DECISION

We AFFIRM the rejection of claims 23–40 under 35 U.S.C. § 101.

We AFFIRM the rejection of claims 23–29 and 40 under 35 U.S.C. § 103(a).

We REVERSE the rejection of claims 30–39 under 35 U.S.C. § 103(a).

Appeal 2016-002305  
Application 13/211,079

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED