UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/931,471	06/28/2013	Anmol Bhasin	3080.052US1	1812

45839   7590   06/29/2018
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ART UNIT	PAPER NUMBER
3629	

NOTIFICATION DATE	DELIVERY MODE
06/29/2018	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte ANMOL BHASIN, CHRISTIAN POSSE, WING H. LI, and
KUN LIU

_____

Appeal 2016-003353
Application 13/931,471[1,2]
Technology Center 3600

_____

Before JAMES W. DEJMEK, MICHAEL M. BARRY, and
AARON W. MOORE, *Administrative Patent Judges*.

DEJMEK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of

claims 1–22. We have jurisdiction over the pending claims under 35 U.S.C.

§ 6(b).

We affirm.

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[1] Appellants identify LinkedIn Corporation as the real party in interest. App.
Br. 2.

[2] Appellants indicate the following pending application is related to the
instant application: Application No. 13/932,748 (Appeal No. 2016-003355).
App. Br. 3.

STATEMENT OF THE CASE

Introduction

Appellants' disclosed and claimed invention relates to "analyzing and processing a variety of data for the purpose of determining and quantifying a member's intent and a member's interests in connection with how and why the member interacts with a social networking service." Spec. ¶ 2. In a disclosed embodiment, a score-generating module collects and uses various member data (e.g., member profile data, social graph data, and member-activity or behavioral data) to derive various member-intent and member interest scores for members. Spec. ¶ 8. According to the Specification, "a member-intent score is a measure of a member's attitude or desire for certain activities, while a member-interest score represents a more granular level of insight into a particular intent of the member." Spec. ¶ 8. After the particular scores have been determined, they may be made available to other services and applications that may then be personalized for the member based on the derived scores. Spec. ¶ 7.

Claim 1 is representative of the subject matter on appeal and is reproduced below with the disputed limitation emphasized in *italics*:

> 1.   A method comprising:
>
> with a processor-based score-generating module:
>
> detecting and logging activities of a member of a social networking service;
>
> analyzing one or more of profile data, social graph data, and historical activity data of a member of a social networking service to derive for the member:
>
>> i) a plurality of member-intent scores, with each member-intent score comprising a combination of counts of specified user

interactions with a particular application or service of the social networking service, and

ii) *a plurality of member-interest scores for each member-intent score, with each member-interest score comprising a combination of the counts of the specified user interactions that relate to a particular subject matter specified as being associated with the particular member-intent score*;

storing the plurality of member-intent scores and the corresponding member-interest scores in association with a member identifier of the member; and

providing the plurality of member-intent scores and the corresponding member-interest scores via an application-programming interface (API).

The Examiner's Rejections

1.   Claims 1–22 stand provisionally rejected under the doctrine of obviousness-type double patenting over claims 1, 5, 11, 13, and 17 of co-pending Application No. 13/932,748. Final Act. 1–4.

2.   Claims 1–22 stand rejected under 35 U.S.C. § 112(a) as failing to comply with the written description requirement. Final Act. 5–6.

3.   Claims 1–22 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 6–7.

4.   Claims 1–4, 9, 11–15, 20, and 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Wana et al. (US 2012/0290565 A1; Nov. 15, 2012) ("Wana") and Green et al. (US 2009/0240647 A1; Sept. 24, 2009) ("Green").[3] Final Act. 8–13.

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[3] Appellants claim priority to provisional Application No. 61/770,628 (filed February 28, 2013). Spec. ¶ 1. AIA 35 U.S.C. § 103 applies "to any patent application that contains or contained at any time a claim to a claimed invention that has an effective filing date that is on or after March 16, 2013."

5.   Claims 5, 6, 16, and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Wana, Green, and Calderaro et al. (US 2003/0004790 A1; Jan. 2, 2003) ("Calderaro"). Final Act. 13–14.

6.   Claims 7, 8, 10, 18, 19, and 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Wana, Green, and Gurion et al. (US 2012/0095931 A1; Apr. 19, 2012) ("Gurion"). Final Act. 14–15.

ANALYSIS[4]

Rejection under doctrine of obviousness-type double patenting

Appellants do not respond to the Examiner's provisional rejection of claims 1–22 under the doctrine of obviousness-type double patenting other than to request that the rejection "be held in abeyance." App. Br. 7; Reply Br. 2. Appellants have not filed a terminal disclaimer, nor has the Examiner withdrawn the rejection or agreed to hold the rejection in abeyance. *See* Ans. *passim.*

To the extent Appellants have not advanced separate, substantive arguments for particular claims or issues, such arguments are considered waived. *See* 37 C.F.R. § 41.37(c)(1)(iv)(2015); *see also Hyatt v. Dudas,* 551 F.3d 1307, 1314 (Fed. Cir. 2008) ("When the appellant fails to contest a ground of rejection to the Board, . . . the Board may treat any argument with

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MPEP § 2159.02. We leave it to the Examiner to determine whether the rejection is more properly identified as under pre-AIA 35 U.S.C. § 103(a).

[4] Throughout this Decision, we have considered the Appeal Brief, filed July 29, 2015 ("App. Br."); the Reply Brief, filed February 8, 2016 ("Reply Br."); the Examiner's Answer, mailed December 8, 2015 ("Ans."); and the Final Office Action, mailed June 4, 2015 ("Final Act."), from which this Appeal is taken.

respect to that ground of rejection as waived."). Additionally, "[i]f a ground of rejection stated by the examiner is not addressed in the appellant's brief, appellant has waived any challenge to that ground of rejection and the Board may summarily sustain it unless the examiner subsequently withdrew the rejection in the examiner's answer." Manual of Patent Examining Procedure ("MPEP") § 1205.02 (9th ed. Rev. 08.2017, Jan. 2018).

Accordingly, we summarily sustain the Examiner's rejection of claims 1–22 under the doctrine of obviousness-type double patenting.

Rejection under 35 U.S.C. § 112(a)

The Examiner rejected claims 1–22 under 35 U.S.C. § 112(a) as failing to comply with the written description requirement. Final Act. 5–6. The Examiner identifies the claim terms "member-intent scores" and "member-interest scores" and finds "the scope of the claims encompasses all techniques to attain that result ('all solutions') without describing how the terms are functionally related." Final Act. 5. Additionally, the Examiner finds the Specification fails to describe in sufficient detail how the scores are computed. Final Act. 5; Ans. 16–17.

To satisfy the written description requirement, the disclosure must reasonably convey to skilled artisans that Appellants possessed the claimed invention as of the filing date. *See Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc). Specifically, the description must "clearly allow persons of ordinary skill in the art to recognize that [the inventor] invented what is claimed" and

> the test requires an objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art. Based on that inquiry, the specification must describe an

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invention understandable to that skilled artisan and show that the
inventor actually invented the invention claimed.

Ariad Pharms., Inc., 598 F.3d at 1351 (internal quotations and citations
omitted). Additionally, the Examiner has the initial burden of presenting
evidence or reasons why persons skilled in the art would not recognize in an
applicant's disclosure a description of the invention defined by the claims.
In re Wertheim, 541 F.2d 257, 265 (CCPA 1976).

Here, we agree with Appellants (*see* App. Br. 8–10; Reply Br. 3–4)
that both the claims and Specification provided adequate written description
support for the claimed member-intent and member-interest scores.
Appellants' Specification broadly describes how the intent and interest
scores may be calculated based on the combination of input data. Spec.
¶ 28. Further, the data comprising the combined score may be weighted or
subject to timing parameters such that more recent activities have a greater
impact on the determined score. Spec. ¶ 28. Additionally, the claim
language recites that member intent scores "compris[e] a combination of
counts of specified user interactions with a particular application or service"
and member-interest scores "compris[e] a combination of the counts of the
specified user interactions that relate to a particular subject matter specified
as being associated with the particular member-intent score." Claim 1.
Although very broadly claimed, we agree with Appellants that a person of
ordinary skill in the art would understand the intent and interest scores are
determined by combining counts of particular detected and logged activities
(e.g., user interactions with an application) and that the inventors had
possession of the claimed subject matter (i.e., the member-intent and
member-interest scores) as of the filing date.

Accordingly, we do not sustain the Examiner's rejection of claims 1–22 under 35 U.S.C. § 112(a).

Rejection under 35 U.S.C. § 101

Appellants dispute the Examiner's conclusion that the pending claims are directed to patent-ineligible subject matter under 35 U.S.C. § 101. App. Br. 10–24; Reply Br. 4–7. In particular, Appellants assert the Examiner failed to make an evidentiary showing to establish a prima facie case of ineligibility. App. Br. 10–15. Further, Appellants argue the claims are not directed to patent-ineligible subject matter, but rather "to a particular technical solution for detecting and logging a user's network activities and generating data that is descriptive of the detected and logged activities for storage and dissemination via an API [(application programming interface)]." App. Br. 15–19; Reply Br. 4–6.

Contrary to Appellants' assertions, neither *Alice Corp. v. CLS Bank Int'l*, 134 S. Ct. 2347 (2014), nor the Board's holdings in *PNC Bank v. Secure Axcess, LLC*, Case No. CBM2014-00100 (PTAB Sept. 9, 2014) or *Ex Parte Renald Poisson*, Appeal No. 2010-011084 (PTAB Feb. 27, 2015), stand for the proposition that Examiners *must* provide evidentiary support in every case before a conclusion can be made that a claim is directed to an abstract idea. There is no such requirement. *See, e.g.*, para. IV "July 2015 Update: Subject Matter Eligibility" to 2014 Interim Guidance on Subject Matter Eligibility (2014 IEG), 79 Fed. Reg. 74618 (Dec. 16, 2014) ("The courts consider the determination of whether a claim is eligible (which involves identifying whether an exception such as an abstract idea is being claimed) to be a *question of law*. Accordingly, courts do not rely on

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evidence that a claimed concept is a judicial exception, and in most cases resolve the ultimate legal conclusion on eligibility without making any factual findings.") (emphasis added). Further, the Office did not change the standard in the May 4, 2016 Memorandum, *Formulating a Subject Matter Eligibility Rejection and Evaluating the Applicant's Response to a Subject Matter Eligibility Rejection*. Evidence may be helpful in certain situations where, for instance, facts are in dispute. However, it is not always necessary. It is not necessary in this case.

Additionally, the Federal Circuit has repeatedly noted that "the prima facie case is merely a procedural device that enables an appropriate shift of the burden of production." *Hyatt v. Dudas*, 492 F.3d. 1365, 1369 (Fed. Cir. 2007) (citing *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992)). The court has, thus, held that the USPTO carries its procedural burden when its rejection satisfies the requirements of 35 U.S.C. § 132 by notifying the applicant of the reasons for rejection, "together with such information and references as may be useful in judging of the propriety of continuing the prosecution of [the] application." *In re Jung*, 637 F.3d 1356, 1362 (Fed. Cir. 2011). Thus, all that is required of the Office is that it set forth the statutory basis of the rejection in a sufficiently articulate and informative manner as to meet the notice requirement of 35 U.S.C. § 132. *Jung*, 637 F.3d at 1362; *see also Chester v. Miller*, 906 F.2d 1574, 1578 (Fed. Cir. 1990) (Section 132 "is violated when a rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection."). As set forth in the Final Office Action, the Examiner has met the notice requirements of Section 132 in rejecting claims 1–22 under 35 U.S.C. § 101. *See* Final Act. 6–7.

The Supreme Court's two-step framework guides our analysis of patent eligibility under 35 U.S.C. § 101. *Alice*, 134 S. Ct. at 2355. If a claim falls within one of the statutory categories of patent eligibility (i.e., a process, machine, manufacture, or composition of matter) then the first inquiry is whether the claim is directed to one of the judicially recognized exceptions (i.e., a law of nature, a natural phenomenon, or an abstract idea). *Alice*, 134 S. Ct. at 2355. If so, the second step is to determine whether any element, or combination of elements, amounts to significantly more than the judicial exception. *Alice*, 134 S. Ct. at 2355.

Although the independent claims each broadly fall within the statutory categories of patentability, the Examiner concludes the claims are directed to a judicially recognized exception—i.e., an abstract idea. Final Act. 6–7. In particular, the Examiner concludes the claims recite a series of steps for quantifying the intents and interests of users of a social network by analyzing profile and activity data to derive a score, "which is considered to be a mathematical relationship or formula and thus directed to an abstract idea." Final Act. 6. More particularly, the Examiner concludes the claims are similar to "organizing information through mathematical correlations." Final Act. 6.

Instead of using a definition of an abstract idea, "the decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen—what prior cases were about, and which way they were decided." *Amdocs (Isr.) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016) (citing *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016)); *accord* United States Patent and Trademark Office, *July 2015 Update: Subject Matter*

Eligibility (July 30, 2015), https://www.uspto.gov/sites/default/files/ documents/ieg-july-2015-update.pdf (instructing Examiners that "a claimed concept is not identified as an abstract idea unless it is similar to at least one concept that the courts have identified as an abstract idea"). As part of this inquiry, we must "look at the 'focus of the claimed advance over the prior art' to determine if the claim's 'character as a whole' is directed to excluded subject matter." *Affinity Labs of Tex., LLC v. DirecTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016).

Our reviewing court has concluded that abstract ideas include the concepts of collecting data, recognizing certain data within the collected data set, and storing the data in memory. *Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.*, 776 F.3d 1343, 1347 (Fed. Cir. 2014); *see also Smart Sys. Innovations, LLC v. Chicago Transit Authority*, 873 F.3d 1364, 1372 (Fed. Cir. 2017) (concluding "claims directed to the collection, storage, and recognition of data are directed to an abstract idea"). Additionally, the collection of information and analysis of information (e.g., recognizing certain data within the dataset) are also abstract ideas. *Elec. Power*, 830 F.3d at 1353. Similarly, "collecting, displaying, and manipulating data" is an abstract idea. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017); *see also SAP Am., Inc. v. InvestPic, LLC*, 890 F.3d 1016, 1021 (Fed. Cir. 2018) ("merely presenting the results of abstract processes of collecting and analyzing information . . . is abstract as an ancillary part of such collection and analysis") (citations omitted). Moreover, our reviewing court recently has concluded that acts of parsing, comparing, storing, and editing data are

abstract ideas. *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1366 (Fed. Cir. 2018).

Further, merely combining several abstract ideas does not render the combination any less abstract. *RecogniCorp, LLC v. Nintendo Co. Ltd.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) ("Adding one abstract idea (math) to another abstract idea . . . does not render the claim non-abstract."); *see also FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016) (determining the pending claims were directed to a combination of abstract ideas).

Here, Appellants' claims generally relate to computing scores (i.e., member-intent scores and member-interest scores) by analyzing data relating to member activities that had been detected and logged. Once the scores have been derived, they are stored and may be provided via an API to a requesting application. Appellants characterize the claims as being directed to a particular method for determining member-intent and member-interest scores. Reply Br. 7.

The detecting and logging of user activity is similar to the collection and analysis of information, which our reviewing court has concluded to be an abstract idea. *Elec. Power*, 830 F.3d at 1354. Further, performing mathematical operations on the data to derive member-intent and member-interest scores does not make the analysis of data any less abstract. *See RecogniCorp*, 855 F.3d at 1327; *see also Digitech Image Techs., LLC v. Elec. for Imaging, Inc.*, 758 F.3d 1344, 1350 (Fed. Cir. 2014) (concluding "a process of organizing information through mathematical correlations and is not tied to a specific structure or machine" to be abstract); *Parker v. Flook*, 437 U.S. 584, 595 (1978) ("If a claim is directed essentially to a method of

calculating, using a mathematical formula, even if the solution is for a specific purpose, the claimed method is nonstatutory."). Accordingly, we agree with the Examiner that the claims are directed to the abstract idea of calculating member-intent and member-interest scores from detected user activities, which is organizing information using mathematical correlations. *See* Final Act. 6; Ans. 18.

Additionally, we disagree with Appellants that the claimed solution is necessarily rooted in computer technology and overcomes a problem arising in the realm of computer networks. *See* App. Br. 22–23 (referring to *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014)). In the Specification, Appellants describe that it is known in the industry to collect and maintain profile information related to users of social networking services. Spec. ¶ 4. Appellants do not present sufficient persuasive evidence or argument that the claims are directed to an improvement specific to a computer network. *See* App. Br. 21–22. Rather, the focus of the claims is on the calculation of member-intent and member-interest scores based on collected data using generic computers and networks as tools, not on improvements in the computer. *See Alice*, 134 S. Ct. at 2359.

Because we determine the claims are directed to an abstract idea or combination of abstract ideas, we analyze the claims under step two of *Alice* to determine if there are additional limitations that individually, or as an ordered combination, ensure the claims amount to "significantly more" than the abstract idea. *Alice*, 134 S. Ct. at 2355 (*citing Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 79–80 (2012)). The implementation of the abstract idea involved must be "more than [the] performance of 'well-understood, routine, [and] conventional activities

previously known to the industry.'" *Content Extraction*, 776 F.3d at 1347–
48 (quoting *Alice*, 134 S. Ct. at 2359) (alteration in original). "Whether
something is well-understood, routine, and conventional to a skilled artisan
at the time of the patent is a factual determination." *Berkheimer*, 881 F.3d at
1369.

Here, we agree with the Examiner that the additional limitations,
separately, or as an ordered combination, do not provide meaningful
limitations (i.e., do not add significantly more) sufficient to transform the
abstract idea into a patent eligible application. Final Act. 6–7; Ans. 18–21.
The Examiner finds, and we agree, a processor-based score-generating
module for detecting and logging of user activity, analyzing the logged data
to derive intent and interest scores, storing the derived scores and providing
the scores via an API merely uses generic computer elements to perform
"purely generic computer functions." Final Act. 6–7; Ans. 20–21. "The
concept of data collection, recognition, and storage is undisputedly well-
known." *Content Extraction*, 776 F.3d at 1347. Additionally, we note that
Appellants describe the machine to perform the claimed embodiments as
being either a server computer, personal computer, a tablet PC, "or any
machine capable of executing instructions . . . that specify actions to be
taken by that machine." Spec. ¶ 34, Fig. 5 (illustrating a block diagram of a
generic computing platform). Accordingly, we do not find that the claims
recite "significantly more" to transform the abstract idea into a patent-
eligible application.

Appellants also contend the pending claims would not preempt
quantifying the intent and interests of users of a social network. App.
Br. 17–18, 22–23.

"'[W]hile preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.'" *FairWarning IP*, 839 F.3d at 1098 (quoting *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) ("[T]hat the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract."). Further, "[w]here a patent's claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot." *Ariosa*, 788 F.3d at 1379; *see also* Ans. 19–20.

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner's rejection of independent claim 1 under 35 U.S.C. § 101. For similar reasons, we also sustain the Examiner's rejection of independent claim 12 under 35 U.S.C. § 101. Additionally, we sustain the Examiner's rejection of claims 2–11 and 13–22, which depend directly or indirectly therefrom and were not argued separately. *See* App. Br. 23–24; Reply Br. 7; 37 C.F.R. § 41.37(c)(1)(iv).

Rejections under 35 U.S.C. § 103

In rejecting independent claims 1 and 12, the Examiner relies on the combined teachings and suggestions of Wana and Green. Final Act. 8–9. In particular, the Examiner finds Wana teaches detecting and logging activities of a member, and analyzing the collected data to derive a plurality of *member-interest scores*. Final Act. 8 (citing Wana ¶¶ 15, 64, 75–77, and

80). The Examiner finds Green teaches calculating a plurality of *member-intent scores*. Final Act. 9 (citing Green ¶¶ 30, 80–121, 242–243, and 356).

Appellants assert that, as recited in the claims, the member-interest scores are based on "specified user interactions that relate to a particular subject matter specified as being associated with the particular member-intent score." App. Br. 25–28; *see* claim 1. Appellants note the Examiner stated that Wana fails to teach a plurality of member-intent scores. App. Br. 26. Because Wana does not teach member-intent scores, Appellants argue Wana also fails to teach member-interest scores which are based on and associated with member-intent scores. App. Br. 26–27.

In response, the Examiner explains:

> The Wana reference discusses the sub-scores, which are read as the member-intent scores, which are then used in Green's behavioral modeler algorithm to calculate a confidence scores which are read as the member interest scores; not the master score of Wana as Appellants state.

Ans. 21. Thus, the Examiner seems to rely on Wana to teach the claimed member-intent scores and Green to teach the member-interest scores. However, as the Examiner further explains, the sub-scores of Wana "have been broadly interpreted . . . as the *interest scores* for a member or user." Ans. 21 (emphasis added). Additionally, the Examiner "has broadly interpreted . . . the confidence score generated by Green's behavior modeler algorithm as a *member's intent score*." Ans. 21 (emphasis added).

The Examiner's findings and explanations are inconsistent regarding which reference is being relied upon to teach the claimed member-intent scores and member-interest scores. For us to sustain the Examiner's rejection, we would need to resort to impermissible speculation or unfounded assumptions or rationales to cure the deficiencies in the factual

bases of the rejection before us. *In re Warner*, 379 F.2d 1011, 1017 (CCPA 1967). We decline to do so.

For the reasons discussed *supra*, and constrained by the record before us, we do not sustain the Examiner's rejection of independent claim 1 under 35 U.S.C. § 103. For similar reasons, we also do not sustain the Examiner's rejection of independent claim 12, which recites similar limitations and for which the Examiner relies on similar findings and reasoning. *See* Final Act. 8–9. Additionally, we do not sustain the Examiner's rejection of claims 2–4, 9, 11, 13–15, 20, and 22, which depend directly or indirectly therefrom.

Dependent claims 5, 6, 16, and 17 were rejected over the combined teachings of Wana, Green, and Calderaro, whereas dependent claims 7, 8, 10, 18, 19, and 21 were rejected over the combined teachings of Wana, Green, and Gurion. Final Act. 13–15. The Examiner, however, does not rely on either Calderaro or Gurion to cure the deficiencies related to the rejection of independent claims 1 and 12. Accordingly, we do not sustain the Examiner's rejection of dependent claims 5–8, 10, 16–19, and 21.

DECISION

We summarily affirm the Examiner's decision provisionally rejecting claims 1–22 under the doctrine of obviousness-type double patenting.

We reverse the Examiner's decision rejecting claims 1–22 under 35 U.S.C. § 112(a).

We affirm the Examiner's decision rejecting claims 1–22 under 35 U.S.C. § 101.

We reverse the Examiner's decision rejecting claims 1–22 under 35 U.S.C. § 103.

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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED