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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
13/909.625 06/04/2013 Kenneth D. Tuchman 9092P007D 7757

8791 7590 05/01/2018
WOMBLE BOND DICKINSON (US) LLP
Attn: IP Docketing
P.O. Box 7037
Atlanta, GA 30357-0037

EXAMINER

AIRAPETIAN, MILA

ART UNIT PAPER NUMBER

3625

NOTIFICATION DATE DELIVERY MODE

05/01/2018

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KENNETH D. TUCHMAN, BRUCE A. SHARPE,
and
HENRY D. TRUONG

Appeal 2017-001158
Application 13/909,625¹
Technology Center 3600

Before CARLA M. KRIVAK, HUNG H. BUI, and JON M. JURGOVAN,
Administrative Patent Judges.

BUI, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants seek our review under 35 U.S.C. § 134(a) of the Examiner’s Final Rejection of claims 1–20, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.²

¹ According to Appellants, the real party in interest is TeleTech Holdings, Inc. Br. 3.

² Our Decision refers to Appellants’ Appeal Brief (“Br.”) filed May 31, 2016; Examiner’s Answer (“Ans.”) mailed August 29, 2016; Final Office Action (“Final Act.”) mailed December 29, 2015; and original Specification (“Spec.”), filed June 4, 2013.

STATEMENT OF THE CASE

Appellants' invention relates to a data processing system, method, and machine-readable medium for "providing life-cycle product support services." Title (capitalization altered). Appellants' invention provides life-cycle product services via "a single platform" that "provide[s] not only support services to a product registered by a user, but also other services" including "selling or disposal of the product, participation in a discussion forum associated with the product, and providing advertisements, promotions, rewards, and/or recall associated with the product on behalf of a client or manufacturer." Spec. ¶¶ 2, 28. According to Appellants, the services are "provided to or initiated from a user through an application running within a mobile device through a variety of communications channels, without having to leave the same application from the mobile device and without requiring the user to provide detailed information about the product." Spec. ¶ 28; Abstract.

Claims 1, 9, and 17 are independent. Claim 1 illustrates Appellants' invention, as reproduced below:

1. A computer-implemented method useful for providing life cycle support services for a product, the method comprising:

receiving, at a data processing system, a first request from a mobile device communicatively coupled to the data processing system over a communications network, the first request requesting a support service for a product that has been acquired by a user of the mobile device and previously registered with the data processing system, the registration of the product being stored in a database associated with the data processing system, wherein the data processing system provides support services concerning a plurality of products on behalf of a plurality of product providers;

in response to the first request, establishing, by a multi-channel communication system associated with the data processing system, a communications session over the communications network between the mobile device and a support agent, the communications session being established using a first communications channel that is available to the support agent to allow the support agent to provide the support service for the registered product, wherein the first communications channel is one of a plurality of communications channels that has been previously registered with the data processing system as preferred communications channels by the user and stored in the database associated with the data processing system;

receiving, by a messaging system hosted by the data processing system, a plurality of messages from one or more computer systems of the plurality of product providers, the plurality of messages identifying at least one of a promotion of another product that is not the registered product, an upgrade of the registered product, a service schedule reminder for the registered product, a suggestion of an accessory for the registered product, or a recall of the registered product;

determining, by an analysis module, that a selected one of the plurality of messages should be routed to the mobile device using a set of one or more filtering rules associated with the registered product, the set of one or more filtering rules being previously configured by the user and stored in the database, wherein the set of one or more filtering rules includes a rule that allows the selected message to be routed to the mobile device based on at least one of a source of the selected message or a subject matter of the selected message; and

transmitting, by the messaging system, the selected message to the mobile device over the communications network using a second communications channel, wherein the second communications channel is one of the plurality of communications channels that was previously registered with the data processing system as preferred communications channels.

Br. 65–72 (Claims App'x).

Examiner's Rejection

Claims 1–20 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Final Act. 4–6.

ANALYSIS

In *Alice Corp. Pty. v. CLS Bank Int'l*, 134 S. Ct. 2347 (2014), the Supreme Court reiterates an analytical two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 79 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 134 S. Ct. at 2355. The first step in the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts,” such as an abstract idea. *Id.* If the claims are directed to eligible subject matter, the inquiry ends. *Thales Visionix Inc. v. United States*, 850 F.3d 1343, 1349 (Fed. Cir. 2017); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1339 (Fed. Cir. 2016). If the claims are directed to a patent-ineligible concept, the second step in the analysis is to consider the elements of the claims “individually and ‘as an ordered combination’” to determine whether there are additional elements that “‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 134 S. Ct. at 2355 (citing *Mayo*, 566 U.S. at 79, 78). In other words, the second step is to “search for an ‘inventive concept’—*i.e.*, an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Id.* (citing *Mayo*, 566 U.S. at 72–73).

In rejecting independent claims 1, 9, and 17, and dependent claims 2–8, 10–16, and 18–20 under 35 U.S.C. § 101, the Examiner finds these claims are directed to an abstract idea of “providing life cycle support services for a product using [an] algorithm” of “storing communication channels (e.g., email, chat, texting, etc.) preferred by the user [of the product] in a database and using one of the preferred communication channels for communicating with the user” to provide product support, which is analogous or similar to the abstract ideas of organizing and storing information discussed in *Cyberfone*, comparing information and using rules to identify options discussed in *SmartGene*, manipulating and communicating data in order to manage commercial transactions discussed in *Ultramercial*, and “a fundamental economic practice” discussed in *Alice*, *Bilski*, and *buySAFE*. Ans. 4–6 (citing *Cyberfone Sys., LLC v. CNN Interactive Grp., Inc.*, 558 F. App’x 988 (Fed. Cir. 2014); *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709 (Fed. Cir. 2014); *Alice*, 134 S. Ct. at 2347; *Bilski v. Kappos*, 561 U.S. 593 (2010); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014)); Final Act. 3–4 (citing *SmartGene, Inc. v. Advanced Biological Labs., SA*, 852 F. Supp. 2d 42 (D.D.C. 2012), *aff’d* 555 F. App’x 950 (Fed. Cir. 2014)).

The Examiner also finds “[t]he claims do not include additional elements that are sufficient to amount to significantly more than the judicial exception.” Final Act. 5. Particularly, the Examiner finds the additional claimed elements of a non-transitory machine-readable medium, processor, memory, application programming interface, data processing system, communication system, messaging system, and analysis module are generic computing elements and systems “operat[ing] using well-understood, routine, and conventional activity” including “[c]ommunications between

computer systems” and “receiving, verifying, selecting, applying . . . for input, memory, look-up, comparison, and output.” Ans. 5–6, 8; Final Act. 2–3, 5.

As to the first step of the *Alice* inquiry, Appellants contend independent claims 1, 9, and 17 (together with their dependent claims 2–4, 8, 10–12, 16, and 18–20), and dependent claims 5–7 and 13–15 are not directed to an abstract idea. Br. 17–47. That is, Appellants argue these claims are “directed to (i) a specific implementation of a solution to a problem in the software arts (*see, e.g., Enfish* at 18), and (ii) to resolving a business challenge that is particular to the communications network, such as the Internet and social communities (*see, e.g., DDR Holdings*, at 1257).” Br. 33 (citing *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016); *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257, 1259 (Fed. Cir. 2014)). Appellants argue “like the claims identified in *Enfish*, claim 1 is *not* simply directed to *any* form of storing data, **but instead [is] specifically directed to a specific type of computer database (e.g., the ‘database’ associated with storing ‘preferred communication channels’) that improves the database operation.**” Br. 20; *see also* Br. 33, 46 (citing Spec. ¶¶ 37–38, 44–48, 54). Appellants also argue

as identified by the Federal Circuit in *DDR Holdings*, each of claims 1–4, 8–12, and 16–20 is directed to techniques of providing product support services for a user of a mobile device, where a one-touch application on the mobile device can serve as a central service point to a support center that provides support services to a variety of products or services provided by a variety of product providers that are independent of each other over a communications network using **a variety of communications channels**. . . . Specifically, *the business challenge can be defined as providing support services for a product on at least*

one electronic device associated with an owner of the product based on at least one of the following claimed solutions: (i) a preferred group of communications channels that were selected by the user and configured in a data processing system providing the support services; and (ii) at least one of a source of a message providing the support services or a subject matter of a message providing the support services. . . . These recitations are **not** discovered principles, prominent ideas in the mind, or generalized algorithms. Rather, they are a practical application for providing tangible product support services to users of registered products over a communications network, such as the Internet.

Br. 46–47 (citing Spec. ¶¶ 7, 33–42, 58, 63, 76–83, 93–95, 99).

Appellants’ arguments are not persuasive. At the outset, we note these arguments are not commensurate with the scope of claims 1, 9, and 17. Claims 1, 9, and 17 do not recite “a *one-touch application on the mobile device [that] can serve as a central service point to a support center,*” providing support services on behalf of “a variety of product providers *that are independent of each other,*” or a “*message providing the support services,*” as advocated by Appellants. *See* Br. 22, 46–47 (emphasis added). Instead, claim 1 (and similarly, claims 9 and 17) merely recites a data processing system that “provides support services concerning a plurality of products *on behalf of a plurality of product providers*” and stores a “registration of [a] product” that “has been acquired by a user of the mobile device.” With respect to *support services*, the claim recites “a communications session over the communications network between the mobile device and a support agent” to “*allow the support agent to provide the support service for the registered product*”; and with respect to *messaging*, the claim recites transmitting a selected message from a

“plurality of messages identifying *at least one of a promotion* of another product that is not the registered product, *an upgrade* of the registered product, *a service schedule reminder* for the registered product, *a suggestion of an accessory* for the registered product, *or a recall* of the registered product.” *See* Br. 65 (Claims App’x) (emphasis added).

Thus, claims 1, 9, and 17 merely require receiving a request for requesting a support service for the user’s product, and allowing a support agent (e.g., “a customer representative,” “service center personnel,” “support specialist,” or “support expert” that “respond to customer requests”) to communicate (e.g., via “real-time” voice, “voice over Internet protocol or VoIP,” or “call back” which may be a “scheduled call back”) for providing the support service. *See* Br. 65 (Claims App’x); Spec. ¶¶ 35, 38, 40, 58, 63. Claims 1, 9, and 17 further require transmitting a message—such as a promotion or accessory suggestion—to the user’s mobile device. *See* Br. 65 (Claims App’x).

We, therefore, agree with the Examiner that Appellants’ claims 1, 9, and 17 are directed to the abstract ideas of organizing, manipulating, and transmitting information identified in *Cyberfone* and *SmartGene*. Ans. 6; Final Act. 3–4; *see SmartGene, Inc. v. Advanced Biological Labs., SA*, 852 F. Supp. 2d 42 (D.D.C. 2012), *aff’d* 555 F. App’x 950 (Fed. Cir. 2014); *Cyberfone*, 558 F. App’x at 988, 992; *see also Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014) (employing mathematical algorithms to manipulate existing information); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1347–48 (Fed. Cir. 2014) (finding that “[t]he concept of data collection, recognition, and storage is undisputedly well-known,” and

“humans have always performed these functions”); *Electric Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016) (collecting information and “analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, [are] essentially mental processes within the abstract-idea category”); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015) (tailoring information presented to a user based on particular information); *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1346 (Fed. Cir. 2013) (generating tasks in an insurance organization); and *Versata Dev. Grp. Inc. v. SAP Am. Inc.*, 793 F.3d 1306, 1333–34 (Fed. Cir. 2015) (price-determination method involving arranging organizational and product group hierarchies).

Furthermore, “a selected one of the plurality of messages” as claimed, is merely information, and as such is intangible. *See, e.g., Microsoft Corp. v. AT & T Corp.*, 550 U.S. 437, 451 n.12 (2007); *Alice*, 134 S. Ct. at 2355; *Gottschalk v. Benson*, 409 U.S. 63, 67–68, 71–72 (1972) (“Phenomena of nature, though just discovered, mental processes, and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work”); and *Parker v. Flook*, 437 U.S. 584, 589, 594–95 (1978) (“Reasoning that an algorithm, or mathematical formula, is like a law of nature, *Benson* applied the established rule that a law of nature cannot be the subject of a patent”). Information collection and analysis, including when limited to particular content, is within the realm of abstract ideas. *See, e.g., Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1349 (Fed. Cir. 2015); *Digitech*, 758 F.3d at 1351; and *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011). That is,

“[w]ithout additional limitations, a process that employs mathematical algorithms to manipulate existing information to generate additional information is not patent eligible.” *Digitech*, 758 F.3d at 1349–51 (“Data in its ethereal, non-physical form is simply information that does not fall under any of the categories of eligible subject matter under section 101”).

As further recognized by the Examiner, claims 1, 9, and 17 are abstract because they are directed to “providing additional services related to registered products” and commercially promoting products, which are abstract ideas similar to transactional practices identified in *Alice*, *Bilski*, and *buySAFE*, and advertising practices identified in *Ultramercial*. Ans. 6; Final Act. 4; *see Alice*, 134 S. Ct. at 2356–57 (intermediated settlement to mitigate risk); *Bilski*, 561 U.S. at 599 (risk hedging); *buySAFE*, 765 F.3d at 1355 (guaranteeing a party’s performance of its online transaction); *Ultramercial*, 772 F.3d at 709, 715–16. As explained in Appellants’ Specification, the method and data processing system provide “support services to a product registered by a user” and “other services such as . . . providing advertisements, promotions, rewards” thus “enabl[ing] the manufacturers or retailers to reach their customers, similar to targeted advertisement.” *See* Spec. ¶¶ 2, 28, 52. These “other services” are provided via the claimed “selected message” transmitted to the user’s mobile device via “a second communications channel” such as the “Web, and/or [an] online community-based forum” including “FacebookTM or TwitterTM.” *See* Br. 65 (Claims App’x); Spec. ¶¶ 38, 40. Advertising and disseminating product information to generate sales, and providing product support services to build customer loyalty are fundamental business practices long prevalent in our system of commerce.

Appellants also argue their claims, like the claims of *DDR*, “**resolve a communications network-centric or an Internet-centric business challenge of providing users with support services over a communications network using multiple communications channels associated with the users**” and “**are inextricably tied to computer technology.**” Br. 33, 54, 58, 63 (citing *DDR*, 773 F.3d at 1257). Appellants further argue their claims are similar to the claims of *Enfish* because the claims are “**specifically directed to a specific type of computer database (e.g., the ‘database’ associated with storing ‘preferred communication channels’) that improves the database operation.**” Br. 20, 27, 33, 36, 58, 62 (citing *Enfish*, 822 F.3d at 1327).

We remain unpersuaded, as Appellants have not demonstrated their claimed generic processor, database, data processing system, and communications channels operate in combination to perform *functions that are not merely generic*, as were the claims in *DDR*. See *DDR Holdings*, 773 F.3d at 1256–58 (holding the claims at issue patent eligible because “they do not broadly and generically claim ‘use of the Internet’ to perform an abstract business practice (with insignificant added activity),” and “specify how interactions with the Internet are manipulated to yield a desired result—a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink”). Additionally, claims 1, 9, and 17 focus on the *problems* of providing product support services and advertising/marketing product information—problems that are not technical problems or problems rooted in computer technology or particular only to the Internet. Ans. 8; see Spec. ¶¶ 2, 7–8, 28, 52. Claims 1, 9, and 17 also do not recite a specific improvement to the way computers operate, and

Appellants do not present evidence to establish these claims recite a specific improvement to the computers. Ans. 4; *see Enfish*, 822 F.3d at 1336, 1339.

Appellants also have not demonstrated their claims “improve the way a computer stores and retrieves data in memory,” as the claims in *Enfish* did via a “self-referential table for a computer database.” *See Enfish*, 822 F.3d at 1336, 1339. For example, the claimed “database” stores product registrations by users (*see* Spec. ¶ 44), filtering rules (user preferences, *see* Spec. ¶¶ 32, 94), and generically-claimed “preferred communications channels” (which may be “a variety of communication channels or media, such as, for example, email, chat, voice . . . , video, Web, . . . , etc.,” *see* Spec. ¶ 40) for communicating over a “communications network.” This does not demonstrate an actual improvement in computer memory or storage operations or in the technical functioning of the network. Ans. 4–5.

In fact, none of the steps and elements recited in Appellants’ claims provide, and nowhere in Appellants’ Specification can we find, any description or explanation as to how the claimed data manipulation steps are intended to provide: (1) a “solution . . . necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks,” as explained by the Federal Circuit in *DDR*, 773 F.3d at 1257; (2) “a specific improvement to the way computers operate,” as explained in *Enfish*, 822 F.3d at 1336; or (3) an “unconventional technological solution . . . to a technological problem” that “improve[s] the performance of the system itself,” as explained in *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1300, 1302 (Fed. Cir. 2016).

We are also unpersuaded by Appellants’ arguments that claim 1 is not abstract because the claimed communication session and support service

provide “**a tangible non-abstract outcome.**” Br. 17, 20, 34. However, as the Supreme Court emphasized in *Bilski*, “although the machine-or-transformation test is not the only test for patentability, this by no means indicates that anything which produces a ‘useful, concrete, and tangible result,’ *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d 1368, 1373 (CA Fed. 1998), is patentable.” *Bilski*, 561 U.S. at 658–660 (Breyer, J., concurring).

Accordingly, we agree with the Examiner that claims 1, 9, and 17 are directed to an abstract idea.

Under step two of the *Alice* framework, Appellants argue claim 1 (and similarly, claims 2–4, 8–12, and 16–20) “contains at least one ‘inventive concept’ sufficient to ensure that each claim, **as a whole**, amounts to ‘significantly more’ than any alleged abstract idea” because claim 1’s “limitations . . . are clearly specialized for the function of ‘providing life cycle support services for a product’ and are **not** a conventional use of a computer for a routine function, nor the use of a computer in a generic manner.” Br. 33, 52.

We disagree. Instead, we agree with and adopt the Examiner’s findings on pages 5, 6, and 8 of the Answer. We find the additional limitations, taken individually and as a whole in the ordered combination, do not add significantly more to the abstract idea of manipulating data to provide product support services or transform the abstract idea into a patent-eligible application. *Alice*, 134 S. Ct. at 2357. Particularly, claims 1, 9, and 17 recite well-understood, routine, and conventional elements (i.e., processors, memory, application programming interface, data processing system, communication system, messaging system, analysis module, and

machine-readable medium) that enable manipulation of information contained in support requests, support services, and product provider messages using “a generic computer system” and other generic elements “operat[ing] using well-understood, routine, and conventional activity” including “[c]ommunications between computer systems” and “receiving, verifying, selecting, applying . . . for input, memory, look-up, comparison, and output.” Ans. 5–6, 8; Final Act. 2–3, 5. “[T]he use of generic computer elements like a microprocessor or user interface do not alone transform an otherwise abstract idea into patent-eligible subject matter.” *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1096 (Fed. Cir. 2016) (citing *DDR Holdings*, 773 F.3d at 1256); *see also Ultramercial*, 772 F.3d at 715–16 (claims merely reciting the abstract idea of using advertising as currency as applied to particular technological environment of the Internet are not patent eligible); *Accenture Global Servs.*, 728 F.3d at 1345 (claims reciting “generalized software components arranged to implement an abstract concept [of generating insurance-policy-related tasks based on rules to be completed upon the occurrence of an event] on a computer” are not patent eligible); and *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333–34 (Fed. Cir. 2012) (“Simply adding a ‘computer aided’ limitation to a claim covering an abstract concept, without more, is insufficient to render [a] claim patent eligible”).

Appellants also argue claims 1, 9, and 17 “**resolve a communications network-centric or an Internet-centric business challenge**” by “using a data processing system to propagate tailored messages to a mobile device using *only* communications channels that are preferred by the user of the product,” and “are clearly specialized for the function of ‘providing life

cycle support services for a product’ and are **not** a conventional use of a computer for a routine function, nor the use of a computer in a generic manner.” Br. 52, 54, 57 (citing *DDR*, 773 F.3d at 1245, 1257). This argument is not persuasive because Appellants have not identified a specific improvement to computer technology or an Internet network effected by Appellants’ claims. Additionally, as discussed *supra*, we are not persuaded Appellants’ stated advantages and selective use of communication channels based on user’s preferences are caused by *a technical improvement* to database operation, computer operation, or network routing technology. For example, claim 1’s method may use *only the “preferred communications channels”* (e.g., phone and email) simply because the user has provided only his/her phone number and email to the support platform/data processing system.

Because Appellants’ claims 1, 9, and 17 are directed to a patent-ineligible abstract concept and do not recite something “significantly more” under the second prong of the *Alice* analysis, we sustain the Examiner’s rejection of these claims under 35 U.S.C. § 101.

With respect to dependent claim 5 (and claims 6, 7, and 13–15 argued therewith), Appellants argue claim 5 is not abstract because it provides a “**tangible non-abstract outcome**” by the promotional “selected message [that] identifies a promotion of another product that is not the registered product,” and by providing the “selected message to the mobile device only if it is determined that the user is likely interested in the other product based on the prior user interactions.” Br. 62. Appellants also argue “identifying and transmitting a selected message based on a promotion of a product and prior user interactions is **not** an abstract concept that can be performed

mentally in a world that preceded communications networks, such as the Internet.” Br. 62 (citing *DDR*, 773 F.3d at 1245, 1257). However, these arguments are unpersuasive for the same reasons discussed above. We additionally note claim 5 is directed to marketing of products—by distributing commercial information (“the selected message [that] identifies a promotion”) about “another product” deemed interesting to the customer based on prior information on the customer. Thus, claim 5 is directed to a fundamental business practice (marketing) long prevalent in our system of commerce.

No separate arguments are presented for dependent claims 2–4, 6–8, 10–16, and 18–20, which fall with one of claims 1, 5, 9, and 17. 37 C.F.R. § 41.37(c)(1)(iv). We, therefore, sustain the rejection under 35 U.S.C. § 101 of claims 2–4, 6–8, 10–16, and 18–20.

CONCLUSION

On the record before us, we conclude Appellants have not demonstrated the Examiner erred in rejecting claims 1–20 under 35 U.S.C. § 101.

DECISION

As such, we affirm the Examiner’s final rejection of claims 1–20.

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