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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* MATT BIXLER, ROBERT NEWTON, DEAN SEIFERT,  
DAVE OWEN, and ELIZABETH PETRI

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Appeal 2017-003753<sup>1</sup>  
Application 12/123,856  
Technology Center 3600

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Before ST. JOHN COURTENAY III, LARRY J. HUME, and  
JOYCE CRAIG, *Administrative Patent Judges*.

HUME, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the Final Rejection of claims 1, 4–8, 12–17, 19, 21, and 22, which are all the claims pending in the application. Appellants have canceled claims 2, 3, 9–11, 20, and 23. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> According to Appellants, the real party in interest is Western Union Co. App. Br. 2.

## STATEMENT OF THE CASE<sup>2</sup>

### *The Invention*

Appellants' disclosed embodiments and claimed invention relate to "financial transaction reporting." More specifically the invention relates to tracking and reporting a financial transaction's status as the transaction is processed. Spec. ¶ 2.

### *Exemplary Claim*

Claim 1, reproduced below, is representative of the subject matter on appeal (*emphases* added to contested prior-art claim limitations):

1. A method for tracking and reporting multiple financial transactions, the method comprising:
  - initiating, at a payment server, a plurality of financial transactions by a user at an interface, wherein the financial transactions include a plurality of transactional steps and a plurality of notifications, with at least one notification for each of the plurality of transactional steps, and wherein the interface is configured to provide, for the plurality of transactions, a centralized view of each of the plurality of transactional steps and plurality of notifications for the plurality of transactions;
  - receiving, at the payment server, prior to receiving the plurality of financial transactions, from the user a selection of at least a first notification method for a first type of transaction and a second notification method for a second type of transaction, wherein the first type of transaction is different from the second type of transaction, wherein the first notification method and the second notification method are each selected from a group consisting of: email, interactive voice*

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<sup>2</sup> Our decision relies upon Appellants' Appeal Brief ("App. Br.," filed March 25, 2016); Examiner's Answer ("Ans.," mailed Oct. 25, 2016); Final Office Action ("Final Act.," mailed Sept. 9, 2015); and the original Specification ("Spec.," filed May. 20, 2008). We note Appellants did not file a Reply Brief to respond to the Examiner's factual findings and legal conclusions in the Answer.

recognition, short message system, telephone, Internet, branch location, and postal carrier service, and wherein the first notification method is different from the second notification method;

receiving, at the payment server, from the user at least one restriction regarding notifications to other parties, wherein the at least one restriction limits what type of notifications other parties are allowed to receive;

generating, at the payment server, a first notification for each of the plurality of transactions for which payment has been initiated, *and sending, by the payment server, the first notification to the user, wherein a notification method for sending the first notification is based on the selection received from the user and a type of transaction for each of the plurality of transactions;*

generating, at the payment server, a second notification for each of the plurality of transactions which have been processed and released for payment, *and sending, by the payment server, the second notification to the user, wherein a notification method for sending the second notification is based on the selection received from the user and a type of transaction for each of the plurality of transactions;*

generating, at the payment server, a third notification for each of the plurality of transactions for which funds associated with the transaction have been made available, and sending, by the payment server, the third notification to the user, *wherein a notification method for sending the third notification is based on the selection received from the user and a type of transaction for each of the plurality of transactions;*

generating, at the payment server, a fourth notification for each of the plurality of transactions to indicate a shipping status of goods associated with the financial transaction, and sending, by the payment server, the fourth notification to the user, wherein a notification method for sending the fourth notification is based on the selection received from the user and a type of transaction for each of the plurality of transactions;

sending, by the payment server, at least one of the first notification, the second notification, the third notification, or the fourth notification to another party besides the user, wherein

which notifications are sent is determined at least in part on the at least one restriction received from the user;

displaying, at the payment server, each of the plurality of notifications within the centralized view of the interface; and

dynamically updating, at the payment server, the centralized view in response to receiving new notifications or updated notifications for each of the plurality of transactions.

*Prior Art*

The Examiner relies upon the following prior art as evidence in rejecting the claims on appeal:

Lai et al. ("Lai")	US 2005/0219061 A1	Oct. 6, 2005
Keohane et al. ("Keohane")	US 2006/0089908 A1	April 27, 2006
Singh et al. ("Singh")	US 2006/0253339 A1	Nov. 9, 2006
Ahuja et al. ("Ahuja")	US 2007/0174448 A1	July 26, 2007
Cole et al. ("Cole")	US 7,464,057 B2	Dec. 9, 2008
Mengerink et al. ("Mengerink")	US 8,775,273 B2	July 8, 2014

*Rejections on Appeal*

R1. Claims 1, 4–8, 12–17, 19, 21, and 22 stand rejected under U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Act. 3.

R2. Claims 1, 4–8, 12–17, 19, 21, and 22 stand rejected under 35 pre-AIA 35 U.S.C. § 103(a) as being unpatentable over the combination of Singh, Ahuja, Cole, Lai, Keohane, and Mengerink. Final Act. 4.

CLAIM GROUPING

Based on Appellants' arguments (App. Br. 6–10), we decide the appeal of patent-ineligible subject matter Rejection R1 of claims 1, 4–8, 12–17, 19, 21, and 22 on the basis of representative claim 1; and we also decide

the appeal of obviousness Rejection R2 of claims 1, 4–8, 12–17, 19, 21, and 22 on the basis of representative claim 1.

### ISSUES AND ANALYSIS

In reaching this decision, we consider all evidence presented and all arguments actually made by Appellants. We do not consider arguments Appellants could have made but chose not to make in the Briefs, and we deem any such arguments waived. 37 C.F.R. § 41.37(c)(1)(iv).

We disagree with Appellants' arguments with respect to claim 1 and, unless otherwise noted, we incorporate by reference herein and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken, and (2) the reasons and rebuttals set forth in the Examiner's Answer in response to Appellants' arguments. We highlight and address specific findings and arguments regarding claim 1 for emphasis as follows.

1. § 101 Rejection R1 of Claims 1, 4–8, 12–17, 19, 21 and 22

Issue 1

Appellants argue (App. Br. 6–9) the Examiner's rejection of claim 1 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter is in error. These contentions present us with the following issue:

Did the Examiner err in concluding claim 1 is patent-ineligible because it merely implements an abstract idea without providing an improvement to the underlying technology or functioning of the computer?

Analysis

*Alice Framework*

Section 101 provides that anyone who "invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof" may obtain a patent. 35 U.S.C. § 101. The Supreme Court has repeatedly emphasized that patent protection should not extend to claims that monopolize "the basic tools of scientific and technological work." *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972); *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71 (2012); *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014). Accordingly, laws of nature, natural phenomena, and abstract ideas are not patent-eligible subject matter. *Id.*

The Supreme Court's two-part *Mayo/Alice* framework guides us in distinguishing between patent claims that impermissibly claim the "'buildin[g] block[s]' of human ingenuity" and those that "integrate the building blocks into something more." *Alice*, 134 S. Ct. at 2354. First, we "determine whether the claims at issue are directed to a patent-ineligible concept." *Id.* at 2355. If so, we "examine the elements of the claim to determine whether it contains an 'inventive concept' sufficient to 'transform' the claimed abstract idea into a patent-eligible application." *Id.* at 2357 (quoting *Mayo*, 566 U.S. at 72, 79). While the two steps<sup>3</sup> of the *Alice* framework are related, the "Supreme Court's formulation makes clear that

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<sup>3</sup> Applying this two-step process to claims challenged under the abstract idea exception, the courts typically refer to step one as the "abstract idea" step and step two as the "inventive concept" step. *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016).

the first-stage filter is a meaningful one, sometimes ending the § 101 inquiry." *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). We note the Supreme Court "has not established a definitive rule to determine what constitutes an 'abstract idea'" for the purposes of step one. *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1334 (Fed. Cir. 2016) (citing *Alice*, 134 S. Ct. at 2357).

However, our reviewing court has held claims ineligible as directed to an abstract idea when they merely collect electronic information, display information, or embody mental processes that could be performed by humans. *Elec. Power Grp.*, 830 F.3d at 1353–54 (collecting cases). At the same time, "all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas." *Mayo*, 566 U.S. at 71. Abstract ideas may include, but are not limited to, fundamental economic practices, methods of organizing human activities, an idea of itself, and mathematical formulas or relationships. *Alice* 134 S. Ct. at 2355–57. Under this guidance, we must therefore ensure at step one that we articulate what the claims are directed to with enough specificity to ensure the step one inquiry is meaningful. *Id.* at 2354 ("[W]e tread carefully in construing this exclusionary principle lest it swallow all of patent law.").

Under the "abstract idea" step we must evaluate "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 Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016) (internal citation omitted). If the claims are not directed to a patent-ineligible concept, the inquiry ends. See *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1262 (Fed. Cir. 2017). If the concept is directed to a patent-ineligible

concept, we proceed to the "inventive concept" step. For that second step we must "look with more specificity at what the claim elements add, in order to determine 'whether they identify an "inventive concept" in the application of the ineligible subject matter' to which the claim is directed." *Affinity Labs*, 838 F.3d at 1258 (quoting *Elec. Power Grp.*, 830 F.3d at 1353).

*Alice Step 1 — Abstract Idea*

Our reviewing court has held claims ineligible as being directed to an abstract idea when they merely collect electronic information, display information, or embody mental processes that could be performed by humans. *Elec. Power Grp.*, 830 F.3d at 1353–54 (collecting cases). At the same time, "all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas." *Mayo*, 566 U.S. at 71. Under this guidance, we must therefore ensure at step one that we articulate what the claims are directed to with enough specificity to ensure the step one inquiry is meaningful. *Alice*, 134 S. Ct. at 2354 ("[W]e tread carefully in construing this exclusionary principle lest it swallow all of patent law.").

Under the "abstract idea" step we must evaluate "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*, 838 F.3d at 1257 (citation omitted).

Turning to the claimed invention, claim 1 recites, "[a] method for tracking and reporting multiple financial transactions." Claim 1 (preamble). Method claim 1's limitations also require various steps including initiating, receiving, generating, sending, displaying and updating financial transaction

notifications. The Examiner concludes, "Claims 1, 4–8, 12–17, 19, 21, and 22 are directed to the abstract idea of '*tracking and reporting financial transactions to users*' which is similar to the abstract ideas held by the courts to be judicial exceptions." Final Act. 3 (citations omitted). Further, "the concept of '*tracking and reporting financial transactions to users*' is described by the 'initiating,' 'receiving,' 'receiving,' 'generating,' 'generating,' 'generating,' 'generating,' 'sending,' 'displaying,' and 'updating' steps in claims 1, 19, and 22." *Id.*

Appellants state the claimed subject matter of "tracking and reporting financial transactions to users" is assumed to be a fundamental economic practice. App. Br. 7. We agree with Appellants' assumption.

As the Specification discloses, "[t]his invention relates generally to financial transaction reporting. More specifically the invention relates to tracking and reporting a financial transaction's status as the transaction is processed." Spec. ¶ 2. Further, "[e]mbodiments of the present invention are directed to a method of tracking and reporting multiple financial transactions." Spec. ¶ 5.<sup>4</sup> We conclude this type of activity, i.e., comparing

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<sup>4</sup> See also Spec. 20 ("Abstract"):

This disclosure describes, generally, methods and systems for tracking and reporting multiple financial transactions. The method may include initiating a financial transaction by a user at an interface. The financial transaction may include multiple transactional steps. The method may further include generating notifications corresponding to the plurality of transactional steps. A first notification may be configured to indicate to the user that payment for the transaction has been initiated. A second notification may be configured to indicate to the user that the transaction has been processed and released for payment, and a third notification may be configured to indicate

new and stored information and generating reports, for example, includes longstanding conduct that existed well before the advent of computers and the Internet, and could be carried out by a human with pen and paper. *See CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1375 (Fed. Cir. 2011) ("That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*.").<sup>5</sup>

Our reviewing court has previously held other patent claims ineligible for reciting similar abstract concepts. For example, while the Supreme Court has enhanced the § 101 analysis since *CyberSource* in cases like *Mayo* and *Alice*, they continue to "treat[ ] analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category." *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1146–47 (Fed. Cir. 2016) (alteration in original) (quoting *Elec. Power Grp.*, 830 F.3d at 1354).

In addition, 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). 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 1353–54 (collecting information

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to the user that the transaction's funds have been made available.

<sup>5</sup> *CyberSource* further guides that "a method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101." *CyberSource*, 654 F.3d at 1373.

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"). 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). Further, a process that employs mathematical algorithms to manipulate existing information to generate additional information is abstract. *Digitech Image Techs., LLC v. Elec. for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014). Also, more recently, our reviewing court has also concluded that acts of parsing, comparing, storing, and editing data are abstract ideas. *Berkeimer v. HP Inc.*, 881 F.3d 1360, 1367 (Fed. Cir. 2018).

Appellants further argue,

Each of the claims includes specific limitations other than what is well-understood, routine and conventional in the field, or add unconventional steps that confine the claim to a particular useful application. As detailed below, the claims overcome the current § 103 rejections, and are therefore novel and non-obvious. Novel and non-obvious claims, by their very definition, must include limitations other than what is well-understood, routine, and conventional in the field, or else they wouldn't be novel and non-obvious. Because the alleged abstract idea has been labeled a fundamental economic practice by the Office Action, novelty and non-obviousness cannot lie within that portion of the claim, as fundamental economic practices are "long prevalent in our system and taught in any introductory finance class" (*Alice*, 573 U.S. at p. 9). Consequently, something besides the alleged abstract idea in the claims must be novel and non-obvious, and therefore significantly more than the alleged abstract idea is present in the claim.

App. Br. 8–9.

The Supreme Court guides, "[t]he 'novelty' of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter." *Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981). Our reviewing court further indicates that "[e]ven assuming" that a particular claimed feature was novel does not "avoid the problem of abstractness." *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1263 (Fed. Cir. 2016).

Therefore, under step one, we agree with the Examiner that each of the inventions claimed in independent claims 1, 19, and 22 is directed to an abstract idea, i.e., fundamental economic and business practices, e.g., tracking and reporting financial transaction to users. *Id.*

*Alice Step 2—Inventive Concept*

If the claims are directed to a patent-ineligible concept, as we conclude above, we proceed to the "inventive concept" step. For that step we must "look with more specificity at what the claim elements add, in order to determine 'whether they identify an "inventive concept" in the application of the ineligible subject matter' to which the claim is directed." *Affinity Labs*, 838 F.3d at 1258 (quoting *Elec. Power Grp.*, 830 F.3d at 1353).

In applying step two of the *Alice* analysis, our reviewing court guides we must "determine whether the claims do significantly more than simply describe [the] abstract method" and thus transform the abstract idea into patentable subject matter. *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014). We look to see whether there are any "additional features" in the claims that constitute an "inventive concept," thereby

rendering the claims eligible for patenting even if they are directed to an abstract idea. *Alice*, 134 S. Ct. at 2357. Those "additional features" must be more than "well-understood, routine, conventional activity." *Mayo*, 566 U.S. at 77, 79.

Appellants contend "[b]eyond the mere abstract idea of 'tracking and reporting financial transactions to users,' each of the claims provides improvements to the capabilities of mobile devices." App. Br. 7. Specifically, Appellants contend these improvements include mobile devices being used to monitor funds transfers, gain greater financial control, and gain more expediency in conducting transfers. App. Br. 7–8. Appellants further argue particular non-generic computers, i.e., servers, are necessary to implement the systems and methods of the claims. App. Br. 8.

Evaluating representative claim 1 under step 2 of the *Alice* analysis, we agree with the Examiner that the additional elements of a "payment server," "an interface" and one of more of an "email, interactive voice recognition, short message system, telephone and internet" do not amount to significantly more than the abstract idea. *See* Ans. 3. The Examiner finds "Appellants' claims do not provide an improvement in computer-related technology (e.g. computer functionality, performance) and/or provide benefits over conventional software/processes." Ans. 4. The Examiner specifically finds the computer components recited in the claims would be routine in any computer implementation of the abstract idea. Ans. 5.

We agree with the Examiner because, as in *Alice*, we find the recitation of a server, an interface and other generic computer-related elements (claim 1) is simply not enough to transform the patent-ineligible

abstract idea here into a patent-eligible invention. *See Alice*, 134 S. Ct. at 2357 ("[C]laims, which merely require generic computer implementation, fail to transform [an] abstract idea into a patent-eligible invention.").<sup>6</sup>

Moreover, Appellants' own specification describes such elements as generic, general purpose and well-known components.<sup>7</sup>

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<sup>6</sup> Appellants merely allege:

Further akin to Example 2 and the Court's opinion in *DDR Holdings*, the Appellant's claims do not "merely recite the performance of some business practice known from the pre-[computer] world with the requirement to perform it on [the computer]." *See* Examples, P. 6. Appellant's claimed solution is instead "necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks." *Id.* The Appellant's claims provide methods and systems for improving the manner in which specific spend profiles are determined for consumers. Thus, the present claims are similar to those of Example 2, for at least the reasons set forth above (e.g., because they are rooted in and require technology and provide a technical improvement inseparable from the devices recited in the Appellant's claims).

App. Br. 13. We disagree with this contention because we find nothing in Appellants' Specification or claim identifies an improvement in the underlying conventional computer technology.

<sup>7</sup> *See*, e.g., "[w]ell known circuits, processes algorithms, structures, and techniques may be shown without unnecessary detail in order to avoid obscuring the embodiments." Spec. ¶ 15. *See also*, "[t]hese user computers 405 can also have any of a variety of applications, including one or more applications configured to perform methods of the invention, as well as one or more office applications, database client and/or server applications, and web browser applications. Alternatively, the user computers 405 can be any other electronic device, such as a thin-client computer, Internet-enabled mobile telephone, and/or personal digital assistant, capable of communicating via a network (e.g. the network 410 described below) and/or displaying and navigating web pages or other types of electronic documents. Although the exemplary system 400 is shown with three user computers

Accordingly, based upon the guidance from our reviewing courts above, on this record, we are not persuaded of error in the Examiner's conclusion that the appealed claims are directed to patent-ineligible subject matter. Therefore, we sustain the Examiner's § 101 rejection of independent claim 1, and grouped claims 4–8, 12–17, 19, 21 and 22, not argued separately, and which fall therewith. *See Claim Grouping, supra.*

2. § 103 Rejection R2 of Claims 1, 4–8, 12–17, 19, 21 and 22  
Issue 2

Appellants argue (App. Br. 9–10) the Examiner's rejection of claim 1 under 35 U.S.C. § 103(a) as being obvious over the combination of Singh, Ahuja, Cole, Lai, Keohane and Mengerink is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art combination teaches or suggests "[a] method for tracking and reporting multiple financial transactions" in which a user selects different alert methods for different transaction types prior to the transaction being received or initiated, as recited in claim 1?

Analysis

*The Reference Combination Teaches or Suggests disputed Limitations*

Appellants argue, "[b]ut nowhere does Keohane disclose, or the Office Action even allege, that Keohane disclose, that a user selects different alert methods for different transaction types prior to the transaction being received or initiated." App. Br. 9–10. We note at the outset that Appellants

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405, any number of user computers can be supported. Spec. ¶ 53. *See also*, ¶¶ 54–57.

do not point to specific limitations, but instead argue paraphrased claim limitations.

We are not persuaded by Appellants' arguments because we find Keohane's ATM user creating specific alerts that he wishes to receive when he later uses an ATM, teaches or at least suggests the disputed limitations. Keohane ¶¶ 19, 9, 25, 34, 35, 38; Ans.7.

We are also not persuaded by Appellants' arguments because Keohane's variety of different types of alerts, i.e., for withdrawals over a specific amount, for pending transactions, for customers' service emails, etc., teach or at least suggest "different alert methods for different transaction types," contrary to Appellants argument.

We note Appellants have not filed a Reply Brief, and do not address the Examiner's further findings and clarifications in the Answer regarding the § 103 rejections. Arguments not made are waived.

Accordingly, on this record, and by a preponderance of the evidence, we are not persuaded of error in the Examiner's reliance on the cited prior art combination to teach or suggest the disputed limitations of claim 1, nor do we find error in the Examiner's resulting legal conclusion of obviousness. Therefore, we sustain the Examiner's obviousness rejection R2 of independent claim 1, and grouped claims 4–8, 12–17, 19, 21, and 22, which fall therewith. *See Claim Grouping, supra.*

## CONCLUSIONS

(1) The Examiner did not err regarding Rejection R1 of claims 1, 4–8, 12–17, 19, 21 and 22 under 35 U.S.C. § 101, as being directed to patent-ineligible subject matter, and we sustain the rejection.

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(2) The Examiner did not err with respect to obviousness Rejection R2 of claims 1, 4–8, 12–17, 19, 21 and 22 under 35 U.S.C. § 103(a) over the cited prior art combination of record, and we sustain the rejection.

#### DECISION

We affirm the Examiner's decision rejecting claims 1, 4–8, 12–17, 19, 21, and 22.

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