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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STEVEN W. LUNDBERG

Appeal 2017-004158
Application 14/010,391
Technology Center 3600

Before JOHN A. JEFFERY, JUSTIN BUSCH, and DANIEL N. FISHMAN,
Administrative Patent Judges.

JEFFERY, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's decision to reject claims 1–9. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

Appellant's invention provides a patent monitoring tool. A user identifies a patent for automated monitoring at a patent office, and selects various monitors including "a no-assignment-filed monitor, an assignment-

changed monitor, and a patent-fee monitor.” *See generally* Abstract.

Claims 1 and 3 are illustrative:

1. A computer-implemented method comprising:
 - providing, via a website or other communication portal, a patent monitoring tool including at least one interactive user interface;
 - allowing a user to identify, via the interactive user interface, a patent for automated monitoring at a patent office;
 - allowing a user to select, via the interactive user interface, engagement of:
 - an automated patent-fee advisory monitor for the identified patent, wherein the automated patent-fee advisory monitor is automatically to check at the patent office and report to the user if a patent fee is not paid, and wherein the automated patent-fee advisory monitor is to initiate a patent revival process in the event a patent fee is not paid, and
 - an automated assignment advisory monitor for the identified patent, wherein the automated assignment advisory monitor is automatically to check at the patent office and report to the user that no assignment is filed against the patent at the patent office within a given time frame, and wherein the automated assignment advisory monitor is automatically to check at the patent office and report to the user that an assignment change is recorded against the patent at the patent office.

3. The computer-implemented method of claim 1, wherein the automated assignment advisory monitor is further to provide an ownership change metric that compares ownership changes for a first set of patents in a class or subclass of the identified patent to ownership changes for a second set of patents in at least one other class or subclass.

RELATED APPEALS

Appellant did not identify any related appeals. *See* App. Br. 3.

However, there are at least thirty-one (31) related appeals, which are:

<u>Appeal No.</u>	<u>Application No.</u>	<u>Decided/Status</u>
2009-005709	10/128,141	Decision mailed Mar. 23, 2010
2009-006404	10/874,486	Decision mailed Aug. 2, 2010
2011-009966	11/061,383	Decision mailed Jan. 31, 2014
2012-004166	11/061,312	Decision mailed Nov. 4, 2014
2015-000321	13/309,127	Decision mailed July 26, 2017
2015-003180	13/309,039	Decision mailed Sept. 23, 2016
2015-007422	13/309,146	Decision mailed June 1, 2016
2016-000319	13/309,080	Decision mailed May 27, 2016
2016-000912	13/309,060	Decision mailed Aug. 25, 2017
2016-001687	11/888,632	Decision mailed Jan. 19, 2017
2016-002121	13/309,200	Decision mailed Aug. 28, 2017
2016-002680	13/310,279	Decision mailed Aug. 30, 2017
2016-002792	12/605,030	Decision mailed Sept. 1, 2017
2016-006797	13/310,368	Decision mailed Aug. 30, 2017
2016-007186	13/573,803	Decision mailed July 28, 2017
2016-007415	13/464,598	Decision mailed July 31, 2017
2016-007623	13/408,877	Decision mailed Sept. 6, 2017
2016-007787	13/310,322	Decision mailed Sept. 20, 2017
2016-008030	13/253,936	Decision mailed Aug. 3, 2017
2017-000280	13/408,917	Decision mailed Sept. 12, 2017
2017-000386	11/098,761	Pending
2017-002337	14/010,376	Decision mailed Sept. 8, 2017

Appeal 2017-004158
Application 14/010,391

2017-003702	14/483,903	Decision mailed Sept. 25, 2017
2017-003815	14/094,542	Decision mailed Sept. 18, 2017
2017-004159	14/010,380	Decision mailed Sept. 27, 2017
2017-004188	14/010,400	Pending
2017-006390	13/409,189	Pending
2017-006642	13/310,452	Decision mailed Sept. 27, 2017
2017-011247	13/253,811	Pending
2017-011549	14/608,520	Pending
2017-011552	14/628,941	Pending

THE REJECTIONS

The Examiner rejected claims 1–9 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Act. 2–3.¹

The Examiner rejected claims 1–9 under 35 U.S.C. § 103(a) as unpatentable over Grainger (US 2002/0091542 A1; July 11, 2002). Final Act. 3–7.

THE § 101 REJECTION

The Examiner finds that the claims are directed to an abstract idea because they merely involve administrative tasks associated with a patent, namely tracking assignments and maintenance fee payments, which are said to be methods of organizing human activity. Ans. 2–3. The Examiner adds

¹ Throughout this opinion, we refer to (1) the Final Rejection mailed September 15, 2015 (“Final Act.”); (2) the Appeal Brief filed August 15, 2016 (“App. Br.”); (3) the Examiner’s Answer mailed November 9, 2016 (“Ans.”); and (4) the Reply Brief filed January 9, 2017 (“Reply Br.”).

that tracking patent maintenance fee due dates and reviving lapsed patents are also fundamental economic activities and, therefore, constitute an abstract idea. Ans. 3.

According to the Examiner, the recited use of a generic computer to perform the recited steps does not add significantly more to the abstract idea. Ans. 3–4. The Examiner further finds a computer is not necessary for carrying out the invention, and in any event, the claims contain no more than routine and generic computer components without any meaningful limitations. *Id.* Given these findings, the Examiner concludes the claims are ineligible under § 101. Final Act. 2–3; Ans. 2–5.

Appellant argues that the Examiner fails to meet the basic requirements for establishing a prima facie case of subject matter ineligibility under § 101. App. Br. 8–10; Reply Br. 2–4. According to Appellant, the Examiner fails to establish that: (1) the claims are directed to an abstract idea (App. Br. 8–9); and (2) the additional elements of the claims do not amount to significantly more than an abstract idea (App. Br. 9–10; Reply Br. 2–4). Appellant further contends the claims improve a user interface of a patent monitoring tool by allowing a user to select engagement of two patent monitors, and thus, the combination of elements as a whole amounts to significantly more than an abstract idea. App. Br. 10.

ISSUES

I. Has the Examiner met the basic requirements for establishing a prima facie case of subject matter ineligibility under § 101?

II. Has the Examiner erred in rejecting claim 1 as directed to ineligible subject matter under § 101?

ANALYSIS

In *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 71–73 (2012), the Supreme Court established an analytical framework under § 101 to distinguish patents that claim patent-ineligible laws of nature, natural phenomena, and abstract ideas—or add too little to such underlying ineligible subject matter—from those that claim patent-eligible applications of those concepts. To determine whether claims are patent eligible under § 101, we apply the Supreme Court’s two-step test articulated in *Alice Corp. Pty. Ltd. v. CLS Bank International*, 134 S. Ct. 2347 (2014).

Prima Facie Case

Appellant’s contention that the Examiner has failed to make a prima facie case of unpatentability is unavailing. *See* App. Br. 8–10; Reply Br. 2–4. Appellant’s argument effectively asks this panel to transform the (1) *July 2015 Update on Subject Matter Eligibility*, 80 Fed. Reg. 45,429 (July 30, 2015); and (2) *Recent Subject Matter Eligibility Decisions*, Memorandum, (Nov. 2, 2016) into a requirement that the Examiner must rely on case law precedent. *See* App. Br. 8, 10; Reply Br. 3, n. 7. We decline to do so.

As the Federal Circuit has clarified,

the PTO carries its procedural burden of establishing a prima facie case when its rejection satisfies 35 U.S.C. § 132, in “notify[ing] the applicant . . . [by] stating the reasons for [its] rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of [the] application.” 35

U.S.C. § 132. That section “is violated when a rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection.” *Chester v. Miller*, 906 F.2d 1574, 1578 (Fed. Cir. 1990).

In re Jung, 637 F.3d 1356, 1362 (Fed. Cir. 2011) (brackets in original).

Here, we find the Examiner’s rejection satisfies the initial burden of production by identifying that the claims are directed to a fundamental economic practice and a method of organizing human activity (step one of the *Alice* analysis) and that the remainder of the claims do not include significantly more than the abstract idea because the generically-recited computer elements are well-understood, routine, and conventional, and therefore do not add meaningful limitations to the abstract idea (step two of the *Alice* analysis). *See* Final Act. 2–3; Ans. 2–5. Accordingly, the Examiner has set forth the statutory basis for the rejection, namely 35 U.S.C. § 101, concluded that the claimed invention is directed to a judicial exception to § 101, namely an abstract idea, and explained the rejection in sufficient detail to permit Appellant to respond meaningfully. Thus, we find that the Examiner set forth a prima facie case of ineligibility.

Alice Step One

According to *Alice* step one, “[w]e must first determine whether the claims at issue are *directed to* a patent-ineligible concept,” such as an abstract idea. *Alice*, 134 S. Ct. at 2355 (emphasis added). The “‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether ‘their character as a whole is directed to excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327,

1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)).

According to the Specification, “for each patent that is allowed, maintenance fees must be paid at a variety of intervals to keep the patent in force.” Spec. ¶ 5. Appellant’s invention proposes a “patent guard tool” (*id.*, Title) “for protect[ing] ownership of a patent and keep a patent in force” (*id.* ¶ 170).

“An idea of itself is not patentable.” *Diamond v. Diehr*, 450 U.S. 175, 185 (1981) (citation omitted); *see also Gottschalk v. Benson*, 409 U.S. 63, 67 (1972) (“[M]ental processes, and abstract intellectual concepts are not patentable.”). It is well settled that if a method can be performed by human thought alone, or by a human using pen and paper, it is merely an abstract idea and not patent-eligible under § 101. *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372–73 (Fed. Cir. 2011).

Appellant argues the claims rejected under § 101 as a group. *See* App. Br. 8–10; Reply Br. 2–4. We, therefore, select independent claim 1 as the representative claim for this group, and claims 2–9 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv). Here, applying *Alice* step one, we agree with the Examiner (*see* Ans. 4) that claim 1 as a whole, and in light of the Specification discussed above, is directed to an abstract idea, namely mental steps and a human using pen and paper. That is, a human can mentally (or use pen and paper to do so) (1) identify a patent for monitoring at a patent office; and (2) select engagement of various monitors for the identified patent. Further, a human can orally request (or use pen and paper) to inspect the patent’s file history at the United States Patent and Trademark

Office (USPTO)² and (1) self-report if a patent fee is not paid; and (2) self-initiate a patent revival process by petition under 37 C.F.R. § 1.378³.

Further, upon checking at the USPTO, the human can self-report that no assignment is filed against the patent within a given time frame or that an assignment change is recorded.⁴

That claim 1 adds a “computer-implemented method,” “at least one interactive user interface,” and “a website or other communication portal” does not change our conclusion. Mental processes remain unpatentable even when automated to reduce the burden on the user of what once could have been done with pen and paper. *See CyberSource*, 654 F.3d at 1375 (“That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk*.”); *see also Bancorp Servs., LLC v. Sun Life Assurance Co.*, 687 F.3d 1266, 1279 (Fed. Cir. 2012) (“Using a computer to accelerate an ineligible mental process does not make that process patent-eligible.”).

Therefore, claim 1 is directed to an abstract idea under the first step of the analysis.

Alice Step Two

Turning to the second step of the *Alice* analysis, because we find that claim 1 is directed to an abstract idea, we “consider the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a

² *See* MPEP § 104(IV); *see also* 37 C.F.R. §§ 1.11–1.14.

³ *See* MPEP § 2590.

⁴ *See* MPEP § 301.01; *see also* 37 C.F.R. §§ 1.12.

patent-eligible application.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 78). The Supreme Court describes the second step of this analysis as “a 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.* (brackets in original) (internal quotations omitted).

That claim 1 is directed to “[a] computer-implemented method” does not change our conclusion. Despite this computer implementation, the claimed invention does not improve the computer’s functionality or efficiency, or otherwise change the way the computer functions. *Cf. Enfish*, 822 F.3d at 1335. Nor does specifically improving a user interface by allowing a user to select engagement of two monitors via the user interface, as argued by Appellant. *See* App. Br. 10. Rather, claim 1 recites nothing more than using an intended generic computer to perform the method of claim 1. But merely reciting an intended generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. *See Alice*, 134 S. Ct. at 2358. In other words, merely reciting an abstract idea while adding the words “apply it with a computer” does not render an abstract idea non-abstract: there must be more. *See id.* at 2358.

Appellant nominally argues the Examiner fails to discuss the claims as an ordered combination, as *Bascom Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1348 (Fed. Cir. 2016) suggests is necessary for a proper analysis under step two of the *Alice/Mayo* test. Reply Br. 2–3. Appellant further argues *Bascom* holds that an inventive concept is found in an arrangement of elements known in the art, in general, and not just for arrangements involving a filter action. *Id.* at 3. We disagree. First,

Bascom did not hold that merely having an arrangement of elements known in the art was sufficient to satisfy the second step of *Alice*. Instead, *Bascom* held that “an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces.” *Bascom*, 827 F.3d at 1349–50. Second, the record here shows that the claimed arrangement is entirely conventional. For the reasons discussed below, claim 1 recites well-known and conventional business practices involving a patent attorney providing competent representation of a patentee. Appellant does not explain persuasively how the recited ordered combination of these elements amounts to an inventive concept that converts an abstract idea into patent-eligible subject matter.

Thus, “the claims at issue amount to ‘nothing significantly more’ than an instruction to apply the abstract idea . . . using some unspecified, generic computer.” *Alice*, 134 S. Ct. at 2360 (citing *Mayo*, 566 U.S. at 71). Accordingly, we are not persuaded the Examiner erred in rejecting claim 1, and claims 2–9 not argued separately with particularity, as being directed to ineligible subject matter under 35 U.S.C. § 101.

THE OBVIOUSNESS REJECTION

The Examiner finds that Grainger’s method for paying intellectual property (IP) annuity and maintenance fees teaches every recited element of claim 1, including, upon automatically checking a user’s identified patent at a patent office, reporting to the user that (1) a patent fee is not paid; or (2)(a) no assignment is filed against the patent within a given time frame or (b) an assignment change is recorded. Final Act. 4–6. In particular, the Examiner finds Grainger’s system interfaces with the USPTO’s Patent Application

Information Retrieval (PAIR) system. Ans. 6. According to the Examiner, a person of ordinary skill in the art knows that (1) maintenance fees must be paid at regular intervals for the duration of a patent until its expiration; and (2) the patent may be revived by paying fees and filing the necessary forms. *Id.* at 5–6. Further, according to the Examiner, it would have been obvious for a person of ordinary skill in the art to obtain assignment change information from the PAIR system. *Id.* at 6.

Appellant asserts Grainger’s storage structures may include assignment papers, but argues the Examiner’s attempt to use common knowledge to demonstrate the missing elements of the claim is ineffective. App. Br. 13–14. Appellant further argues the Examiner failed to articulate why knowing how to initiate revival of an expired patent suggests initiating revival of the expired patent. *Id.* at 15. Appellant further argues the Examiner provides no reasoned rationale explaining how and why a person of ordinary skill in the art would modify Grainger, and thus, fails to provide adequate support to establish a prima facie case of obviousness for claim 1. *Id.* at 16.

ISSUES

I. Under § 103, has the Examiner erred by finding that Grainger would have taught or suggested:

(1) upon automatically checking a user’s identified patent at a patent office, (a) reporting to the user a patent fee is not paid and initiating a patent revival process, (b) reporting to the user no assignment is filed against the patent within a given time frame, and (c) reporting to the user an assignment change is recorded, as recited in claim 1; and

(2) providing an ownership change metric that compares ownership changes for a first set of patents to a second set of patents, as recited in claim 3?

II. Is the Examiner's proposed combination supported by articulated reasoning with some rational underpinning to justify the Examiner's obviousness conclusion?

ANALYSIS

Claims 1, 2, 4, 5, 7, and 8

During examination, claims are given their broadest reasonable interpretation consistent with the specification. *See In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Here, we begin by construing the phrase “*allowing* a user to select . . . engagement of: an automated patent-fee advisory monitor . . . and an automated assignment advisory monitor,” as recited in claim 1. App. Br. 20 (Claims App'x) (emphasis added). The term “allow” is defined as “[t]o let do or happen; permit.” THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 50 (3rd ed. 1992). In light of this plain meaning, the claim, therefore, requires the capability to permit the user to select engagement of the two separate monitors regardless of whether the user actually performs this selection.

On this record, we see no error in the Examiner's obviousness rejection of claim 1 as being unpatentable over Grainger. Grainger generally relates to managing intellectual property (IP). Grainger ¶ 4. Grainger's database stores information including “assignment papers and other forms and papers filed in or generated by a patent office, etc.” *Id.* ¶ 26. Grainger's

electronic mailroom communicates with patent offices and enters the information into the database. *Id.* ¶ 27. Grainger’s electronic mailroom tracks and updates the information for patent applications by interfacing with the USPTO’s PAIR system. *Id.* ¶ 28.

It is well settled that a person of ordinary creativity is a “hypothetical person who is presumed to know the relevant prior art.” *In re GPAC*, 57 F.3d 1573, 1579 (Fed. Cir. 1995). “Factors that may be considered in determining level of ordinary skill in the art include: . . . (2) type of problems encountered in the art; (3) [and] prior art solutions to those problems.” *Envtl. Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 696 (Fed. Cir. 1983) (citing *Orthopedic Equip. Co. v. All Orthopedic Appliances, Inc.*, 707 F.3d 1376, 1381–82 (Fed. Cir. 1983)). Appellant does not persuasively rebut the Examiner’s specific findings that a person of ordinary skill in the art, at the time the invention was made, “is a patent attorney or agent or even a clerk at a law firm tasked with filing documents with [the] government.”
Ans. 7. We agree with the Examiner’s findings and adopt them as our own.

A claim can be obvious even where all of the claimed features are not found in specific prior art references, where “there is a showing of a suggestion or motivation to modify the teachings of [the prior art] to the claimed invention.” *SIBIA Neurosciences, Inc. v. Cadus Pharm. Corp.*, 225 F.3d 1349, 1356 (Fed. Cir. 2000) (concluding that patent would have been obvious in light of teachings in prior art which provided motivation and suggestion to modify existing techniques to arrive at method in question).

Ormco Corp. v. Align Tech., Inc., 463 F.3d 1299, 1307 (Fed. Cir. 2006).

The Examiner finds that a patent attorney’s daily job includes regularly tracking a client’s patent application information using the USPTO’s PAIR

system. Ans. 7. The Examiner further finds that because Grainger's system interfaces with the PAIR system, it would have been obvious for one of ordinary skill in the art (i.e., a patent attorney) to periodically query Grainger's database for assignee and maintenance fee information to report to a client any changes to the client's patent as claimed. Ans. 6–7.

We agree. “A practitioner shall provide competent representation to a client. Competent representation requires the legal, scientific, and technical knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” 37 C.F.R. § 11.101. A patent attorney providing competent representation to a client knows that “[i]t is the responsibility of the patentee to ensure that the maintenance fees are paid to prevent expiration of the patent.” MPEP § 2575. To this end, the patent attorney providing competent representation to a client regularly checks the PAIR system and, if a patent fee is not paid, (1) reports to a client, and (2) initiates a patent revival process by petitioning under 37 C.F.R. § 1.378 to reinstate the patent due to delayed payment of the patent's maintenance fee. *See* MPEP § 2590. Similarly, the patent attorney providing competent representation regularly checks the PAIR system and reports to a client that (1) no assignment is filed against the patent within a given time; and (2) an assignment change is recorded against the patent at the USPTO.

Appellant does not rebut the Examiner's proffered rationale, which takes into account the level of ordinary skill in the art (i.e., a patent attorney as discussed above), the inferences the ordinarily skilled artisan would be expected to draw when reading Grainger, and common sense. The Examiner has rightly taken into account such inferences and knowledge within the art in the determination of obviousness. *See KSR Int'l Co. v. Teleflex, Inc.*,

550 U.S. 398, 418 (2007). Thus, we find unavailing Appellant's contention the Examiner provides no reasoned rationale explaining how and why a person of ordinary skill in the art would modify Grainger. *See* App. Br. 16. Therefore, on this record, we find that the Examiner's proposed modification is supported by articulated reasoning with some rational underpinning to justify the Examiner's obviousness conclusion.

Accordingly, for the reasons discussed above, Appellant's contention that the Examiner failed to make a prima facie case of obviousness under § 103 is unavailing. *See* App. Br. 11–16. The Examiner satisfies 35 U.S.C. § 132 by setting forth (1) the statutory basis of the rejection (i.e., 35 U.S.C. § 103) of claim 1; and (2) the references relied upon (i.e., Grainger) in a sufficiently articulate and informative manner as to meet the notice requirement of 35 U.S.C. § 132. *See In re Jung*, 637 F.3d at 1362. By satisfying the requisite burden of production to justify the rejection of claim 1 under § 132, the Examiner established a prima facie case.

Therefore, we are not persuaded of error in the Examiner's rejection of claim 1, and claims 2, 4, 5, 7, and 8 not argued separately with particularity.

Claims 3, 6, and 9

We do not sustain the Examiner's rejection of claim 3, which recites providing an ownership change *metric* that compares ownership changes for a first set of patents in a class or subclass of the identified patent to

ownership changes for a second set of patents in at least one other class or subclass.

In the Final Rejection, the Examiner finds Grainger discloses the recited ownership change metric that compares ownership changes for the first and second set of patents. Final Act. 7 (citing Grainger ¶¶ 26, 39, 50). Appellant asserts Grainger's storage structures include assignment papers, but argues Grainger lacks the recited elements of claim 3. App. Br. 17. In response, the Examiner finds that "since every patent is classified based on the art it describes, therefore, comparing ownership across classes is no different from obtaining ownership of patents in each class from the patent database." Ans. 8.

"Every nonprovisional application . . . must be classified" by the USPTO. MPEP § 903.08(b). Grainger tracks and updates status information for a selected patent application using the USPTO's PAIR system, including the selected patent application's class and subclass. Grainger ¶ 28. Grainger further displays a web page including information for the selected patent application. *Id.* ¶ 44. Because Grainger displays information for the selected patent application, in that sense, then, Grainger at least suggests displaying multiple web pages, each web page including a separate selected patent application's classification for comparison. However, the Examiner has not shown that an ownership change *metric* compares ownership changes for each web page including a patent application's classification.

Therefore, we are persuaded that the Examiner erred in rejecting (1) claim 3; and (2) claims 6 and 9 which recite commensurate limitations.

CONCLUSION

The Examiner did not err in rejecting claims 1–9 under § 101.

The Examiner did not err in rejecting claims 1, 2, 4, 5, 7, and 8 under § 103, but erred in rejecting claims 3, 6, and 9 under § 103.

DECISION

The Examiner’s decision in rejecting claims 1–9 is affirmed.

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

AFFIRMED