



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/970,494	12/16/2010	Mark C. Hampton	AU920100022US1 (020)	6223
46321	7590	04/24/2018	EXAMINER	
CRGO LAW STEVEN M. GREENBERG 7900 Glades Road SUITE 520 BOCA RATON, FL 33434			LIAO, JASON G	
			ART UNIT	PAPER NUMBER
			2156	
			NOTIFICATION DATE	DELIVERY MODE
			04/24/2018	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@crgolaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* MARK C. HAMPTON and  
ERIC MARTINEZ DE MORENTIN

---

Appeal 2017-004365  
Application 12/970,494  
Technology Center 2100

---

Before ST. JOHN COURTENAY III, DENISE M. POTHIER, and  
SCOTT E. BAIN, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–20, which are all the claims pending in this application. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

*Introduction*

Appellants’ invention “relates to ordered list management and more particularly to ordered list management in a replicated environment.” (Spec. ¶ 1).

*Representative Claim*

Claim 1 is representative of the invention and reads as follows:

1. A method for ordered list management in a replication environment comprising:

selecting an item for positioning in a replicant of an ordered list by an ordered list manager executing in memory by at least one processor of a computer, the replicant of the ordered list being a copy of an ordered list configured to be edited locally;

[L1] *determining an intent of positioning for the selected item relative to other items in the ordered list;*

[L2] *associating the determined intent with the selected item in the replicant of the ordered list by computing an order number for the determined intent and associating the order number with the selected item; and,*

replicating the replicant with the ordered list by synchronizing changes in the replicant with other changes applied to other replicants of the ordered list.

(Contested limitations L1 and L2 emphasized in italics).

*Rejections<sup>1</sup>*

- A. Claims 1–4, 8, and 12–16 are rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. (Final Act. 14–15).
- B. Claims 1–4, 8, and 12–15 are rejected under pre-AIA 35 U.S.C. § 102(b) as being anticipated by Elliott et al. (US 7,603,362 B2, issued Oct. 13, 2009) (hereinafter “Elliott”). (Final Act. 18–21).
- C. Claims 5–7, 9–11, and 16–20 are rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over Elliott, in view of Chen et al. (US 2007/0073655 A1, published Mar. 29, 2007) (hereinafter “Chen”), and

---

<sup>1</sup> The Examiner withdrew the rejection under pre-AIA 35 U.S.C. § 112, second paragraph. Ans. 2.

further in view of Dahl et al. “Event List Management In Distributed Simulation” (hereinafter “Dahl”). (Final Act. 22–30).

*Issues on Appeal*

Did the Examiner err in rejecting claims 1–4, 8, and 12–16 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter?

Did the Examiner err in rejecting claims 1–4, 8, and 12–15 under pre-AIA 35 U.S.C. § 102(b) as being anticipated over Elliott?

Did the Examiner err in rejecting claims 5–7, 9–11, and 16–20 under pre-AIA 35 U.S.C. § 103(a), as being obvious over the cited combination of references?

ANALYSIS

We have considered all of Appellants’ arguments and any evidence presented. To the extent Appellants have not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). We highlight and address specific findings and arguments for emphasis in our analysis below.

*Mayo/Alice Analysis under 35 U.S.C. § 101*

Under 35 U.S.C. § 101, a patent may be obtained for “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” The Supreme Court has “long held that this provision contains an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014) (quoting *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 133 S. Ct. 2107, 2116 (2013)). The Supreme Court in *Alice* reiterated the two-step framework

previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 82–84 (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 that analysis is to determine whether the claims at issue are directed to one of those patent-ineligible concepts, such as an *abstract idea*. 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. *Id.* at 2355–57.

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).

Otherwise, the inquiry proceeds to the **second step** in which the elements of the claims are considered “individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 79, 78). We consider the question of whether the claims are directed to a *specific improvement* in the capabilities of the computing devices, or, instead, “a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016).

We, therefore, decide under **step two** whether the claims: (a) set forth an *inventive concept* that provides a specific means or method that *improves* the relevant technology, **or** (b) are directed to a result or effect that itself is

the abstract idea, in which the claims merely invoke generic processes and machinery. *See Enfish*, 822 F.3d at 1336.

*Rejection A under 35 U.S.C. § 101*

Regarding the first part of the *Alice/Mayo* analysis, the Examiner concludes claims 1–4, 8, and 12–16 are directed to the abstract idea of: “simply describing a *decision* to order items in a list, deciding how the order should be applied, and checking with others who may have also made [a] separate decision of ordering to find and resolve inconsistencies.” (Final Act. 14 (emphasis added)).<sup>2</sup>

Regarding the **second step** of the *Mayo/Alice* analysis, the Examiner finds that claims 1–4, 8, and 12–16 do not:

recite anything significantly more than sorting, so do not contain anything “significantly more.” Applicants have alleged that claiming [a] relationship of position to order number alone can qualify, but at best, this is organizing or ranking. Above and beyond that, applicants only claim an association, but never do anything with the formed association.

(Final Act. 15).<sup>3</sup>

---

<sup>2</sup> “Patent eligibility under § 101 presents an issue of law.” *Accenture Glob. Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1340 (Fed. Cir. 2013).

<sup>3</sup> The patent eligibility inquiry may contain underlying issues of fact. *Mortg. Grader, Inc. v. First Choice Loan Servs. Inc.*, 811 F.3d 1314, 1325 (Fed. Cir. 2016). In particular, “[t]he question of whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field is a question of fact.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018).

However, the Examiner finds the “remaining dependent claims [5, 9–11, and 17–20], by virtue of [the] recitation of their use of a **timestamp** as part of the implementation of the order number, [are] considered to be . . . *significantly more.*” (Final Act. 15 (emphasis added)). Thus, dependent claims 5, 9–11, and 17–20 are not rejected under § 101.

In the Answer, the Examiner further explains the basis for the § 101 rejection of claims 1–4, 8, and 12–16:

The instant claims are of the category “An Idea of Itself,” because the example of “organizing information through mathematical correlations” is explicitly set forth in that category; since little math is discussed in the claim, the claims are even more generic than the example. The claims are of the category “Mathematical Relationships/Formulas” since sorting is a well-established field of Computer Science.

Ans. 4 (referring to the Office’s Quick Reference Sheet of the July 2015 Update: Interim Eligibility Guidance).

Thus, the Examiner concludes that claims 1–4, 8, and 12–16 are not patent-eligible under 35 U.S.C. § 101.

*Mayo/Alice Analysis — Step 1*

In response, and regarding *Alice* Step 1, Appellants contend, *inter alia*, that the Examiner has not performed a proper analysis under *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016). (App. Br. 7–8). However, in support, Appellants merely enumerate the steps of method claim 1, followed by reproducing the supporting descriptions from paragraphs 17 and 18 of the Specification. (App. Br. 9).

We note the Federal Circuit in *Enfish* concluded the claims at issue were “not directed to an abstract idea within the meaning of *Alice.*” *Enfish*, 822 F.3d at 1336. Rather, the court found the *Enfish*’s claims were “directed

to a specific *improvement to the way computers operate, embodied in the self-referential table.*” (*Id.* (emphasis added)).

In particular, the court found *Enfish*’s invention was an “improvement of an existing technology” that, unlike conventional relational and object-oriented databases, did not require a programmer to predefine a structure to which subsequent data entry must conform. *Enfish*, 822 F.3d at 1337. The court found *Enfish*’s invention achieved several “other benefits over conventional databases, such as increased flexibility, faster search times, and smaller memory requirements.” (*Id.*).

Here, Appellants’ claims 1–4, 8, and 12–16 are *silent* regarding any mention of a database. Thus, none of Appellants’ claims is directed to a “self-referential table for a computer database” of the type considered by the court in *Enfish*. (*Id.*). Nor do we find any claimed *improvement* to the generically recited computer, memory, or processor in the claims, as discussed further under *Alice – Step 2, infra*. Thus, we conclude that independent claims 1, 8, and 12 are not related to the type of patent-eligible claim considered by the court in *Enfish*.

Regarding the claimed use of a generic “processor of a computer” (claim 1), the Supreme Court guides that “the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Alice*, 134 S. Ct. at 2358; *see also Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1348 (Fed. Cir. 2016) (“An abstract idea on ‘an Internet computer network’ or on a generic computer is still an abstract idea.”),

Moreover, but for the recitation of a generic processor, memory, and computer (independent claims 1, 8, and 12), we find the recited steps or

functions which, *inter alia*, “select[] an item for positioning,” “determin[e] an intent of positioning for the selected item relative to other items in the ordered list,” “associate[e] the determined intent . . . by computing an order number for the determined intent,” and, replicate “the replicant with the ordered list by synchronizing changes in the replicant with other changes applied to other replicants of the ordered list” (claim 1), could be performed as **mental steps**, or with the aid of 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*.”).

This guidance is applicable here. Therefore, on this record, we are not persuaded of error regarding the Examiner’s legal conclusion that claims 1–4, 8, and, 12–16 are directed to the abstract idea of: “simply describing a **decision** to order items in a list, deciding how the order should be applied, and checking with others who may have also made [a] separate decision of ordering to find and resolve inconsistencies.” (Final Act. 14 (emphasis added)).<sup>4</sup>

#### *Mayo/Alice Analysis – Step 2*

Because the claims are directed to an abstract idea, we turn to the second part of the *Alice/Mayo* analysis. We analyze the claims to determine if there are additional limitations that individually, or as an ordered

---

<sup>4</sup> *Cf. Ex Parte Pink et al.*, 2015 WL 3827160 at \* 5 (PTAB, June 18, 2015) (holding that voting is an abstract idea of **decision** making.) (nonprecedential) (emphasis added).

combination, ensure the claims amount to “significantly more” than the abstract idea. *Alice*, 134 S. Ct. at 2357.

Regarding *Alice* Step 2, Appellants urge: “when considering the specific claim elements of independent claim 1 as a whole in light of the teachings of the specification, it is clear that Appellants’ claims are directed to a process driven *improvement to the functionality of a computer*. Therefore, it is believed that no further analysis under *Mayo* part 2 is required.” (App. Br. 9–10 (emphasis added)).

In support, Appellants urge that “Appellants’ claims, unlike the claims of Internet Patents indeed are restricted as to how the innovative concept of ‘ordered list management in a replication environment’ is achieved without foreclosing other ways of solving the problem at hand while reciting a specific series of steps that result in a departure from the routine and conventional sequence of events.” (App. Br. 13–14).<sup>5</sup>

The Examiner disagrees. The Examiner further explains the basis for the rejection in the Answer:

[A]s a factual matter, the claim merely discloses computing an order number. Nothing, whether sorting or otherwise, is done with that order number. For that matter, the claim does not even disclose that sorting is conducted at all. This is worth emphasizing once more: There is no step in any claim on appeal that affirmatively performs the act of sorting, or describes a process of sorting. [footnotes omitted] Having failed to even claim that critical step, one need not even reach the veracity of Appellants’ proposed “how” test to show significantly more,

---

<sup>5</sup> Appellants note that “[i]n Internet Patents, the claim language lacked [] a restriction as to **how** the innovative concept is achieved, and therefore, the claims in Internet Patents were rightfully rejected as being directed to non-statutory subject matter.” (App. Br. 12), citing *Internet Patents Corporation v. Active Network, Inc.*, 790 F.3d 1343 (Fed. Cir. 2015) (emphasis added).

because the claims cannot show what was never discussed in the first place.

(Ans. 8.)

Appellants' arguments do not persuade us the Examiner erred, because Appellants do not substantively explain *how* the recited functionality of the claims in this application improves the functioning of the generically recited computer, processor, or memory. To the extent that Appellants' recited steps or acts (or functions) may be performed faster or more efficiently using a computer, our reviewing court provides applicable guidance:

While the claimed system and method certainly purport to accelerate the process of analyzing audit log data, **the speed increase comes from the capabilities of a general-purpose computer, rather than the patented method itself.** See *Bancorp Servs., L.L.C. v. Sun Life Assurance Co. of Can.* (U.S.), 687 F.3d 1266, 1278 (Fed. Cir. 2012) (“[T]he fact that the required calculations could be performed **more efficiently** via a computer does not materially alter the patent eligibility of the claimed subject matter.”).

*FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1095 (Fed. Cir. 2016) (emphases added).

Our reviewing court provides additional guidance regarding the use of *generic computers* and/or computer/network components. See *Elec. Power Grp.*, 830 F.3d at 1355 (“We have repeatedly held that such invocations of computers and networks that are not even arguably inventive are ‘insufficient to pass the test of an inventive concept in the application’ of an abstract idea.”); *Intellectual Ventures I*, 850 F.3d 1332, 1341 (Fed. Cir. 2017) (“Rather, the claims recite both a generic computer element—a processor—and a series of generic computer ‘components’ that merely

restate their individual functions. . . . That is to say, they merely describe the functions of the abstract idea itself, without particularity. This is simply not enough under step two.”).

Nor do we find Appellants’ claims similar to the claimed solution the court held to be patent-eligible in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014). Here, we conclude Appellants’ claimed solution is not rooted in computer technology, such that the invention on appeal overcomes a problem specifically arising in the realm of computers, including computer networks, as was the case with the type of claim the court concluded was patent-eligible in *DDR Holdings*.<sup>6</sup> (*Id.* at 1257).

We find no language in the claims on appeal that focuses on a specific means or method that *improves* the recited processor, computer, or memory. (Independent claims 1, 8, and 12). In particular, we find the claims on appeal are *silent* regarding specific limitations directed to an *improved* computer system, processor, memory, network, database, or Internet. Because none of Appellants’ claims on appeal is directed to an *improvement* in a processor, database, or other computer/network component, we conclude that none of the claim limitations, viewed “both individually and as an ordered combination,” amount to significantly more than the judicial exception in order to sufficiently transform the nature of the claims into patent-eligible subject matter. *See Alice*, 134 S. Ct. at 2355 (internal quotations omitted) (quoting *Mayo*, 566 U.S. at 79).

---

<sup>6</sup> We note Appellants’ claims on appeal are silent regarding any mention of a computer “network.”

We emphasize that our review for patent-eligible subject matter under 35 U.S.C. § 101 is independent from our review of the second and third grounds of rejection presented in this appeal, which are based upon anticipation and obviousness (addressed *infra*).<sup>7</sup>

Applying the aforementioned guidance from our reviewing courts to the claims before us on appeal, we conclude, in our *Mayo/Alice* analysis, that each of Appellants' claims 1–4, 8, and 12–16, considered as a whole, is directed to a *patent-ineligible abstract idea* (under *step one*), and under *step two*, does not recite something “*significantly more*” to transform the nature of the claim into a patent-eligible application.

Therefore, we conclude the additional elements recited in the claims of a processor or a computer, and the inclusion of certain steps, acts, or functions that may be performed without a computer as **mental steps** (although more slowly than a computer using pen and paper), *do not provide an inventive concept, without more*. Accordingly, for at least the reasons discussed above, we sustain the Examiner's rejection A under 35 U.S.C.

---

<sup>7</sup> The Supreme Court emphasizes: “[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) (emphasis added). Our reviewing court further guides that “[e]ligibility and novelty are separate inquiries.” *Two-Way Media Ltd. v. Comcast Cable Comm., LLC*, 874 F.3d 1329, 1340 (Fed. Cir. 2017); *see also Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1263 (Fed. Cir. 2016) (holding that “[e]ven assuming” that a particular claimed feature was novel does not “avoid the problem of abstractness”).

§ 101 of claims 1–4, 8, and 12–16, as being directed to patent-ineligible subject matter in light of *Alice* and its progeny.<sup>8</sup>

*Rejection B of Claims 1–4, 8, and 12–15 under § 102(b)*

**Issue:** Under pre-AIA 35 U.S.C. § 102(b), did the Examiner err in finding the cited Elliott reference expressly or inherently discloses the contested limitations:

[L1] *determining an intent of positioning for the selected item relative to other items in the ordered list;*

[L2] *associating the determined intent with the selected item in the replicant of the ordered list by computing an order number for the determined intent and associating the order number with the selected item[,]*

within the meaning of independent claim 1?<sup>9</sup> Independent claims 8 and 12 recite similar language having commensurate scope, and are also rejected under anticipation rejection B.

In traversing the Examiner’s anticipation rejection of claim 1, Appellants merely recite the language of claim 1 (App. Br. 18), reproduce (App. Br. 19) the Examiner’s statement of rejection for claim 1, reproduce (App. Br. 20) Figure 1 of Elliott, and then reproduce (App. Br. 21) lines 15–61 of column 3 of Elliott, which describe Figure 1.

---

<sup>8</sup> To the extent Appellants have not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

<sup>9</sup> We give the contested claim limitation the broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

Appellants then contend, *inter alia*:

[A] review of Figure 1 will reveal that there is no "determination of intent of positioning" evident from Figure 1. Further, there is no associating the determined intent with the selected item in the replicant of the ordered list by computing an order number for the determined intent and associating the order number with the selected item. All of the foregoing is claimed with Appellants' claim 1. As such, Examiner has failed to account for all claim limitations in the cited Elliot reference. (App. Br. 22 (emphasis omitted)).

The Examiner disagrees, and finds:

Fig. 1 shows an intent to reposition list elements and associating said selected elements with numbers, in the manner claimed. This is expressly set forth in [Elliott's] Col 3 lines 49-61, which is the detailed description of Fig 1, and is reproduced here for convenience:

Because the play list is being shared via peer-to-peer technology, users of any of the client devices may modify the play list at any time. This is illustrated in FIG. 1 with displays 116 and 118. Display 116 is associated with client device 104 and illustrates a user modifying the play list by moving the first item in the list (i.e., the song, "Taxman") to the fourth position in the list. As a result, each of the other items in the list moves up one position. Similarly, display 118 is associated with client device 106 and illustrates a user modifying the play list by moving the second item in the list (i.e., the song, "Eleanor Rigby") from the second position in the list to the third position in the list. As a result the item that was third in the list moves up to the second position.

Based upon our review of the Appeal Brief and Reply Brief, we find Appellants have failed to advance any persuasive, substantive arguments traversing the Examiner's finding of anticipation regarding representative claim 1. (App. Br. 18-21; Reply Br. 7-11). Appellants do not provide any

compelling evidence in support of their assertions that limitations L1 and L2 are not disclosed by Elliott. (*Id.*) It is well settled that mere attorney arguments and conclusory statements, which are unsupported by factual evidence, are entitled to little probative value. *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *see also In re Pearson*, 494 F.2d 1399, 1405 (CCPA 1974) (attorney argument is not evidence); *In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984); *see also Ex parte Belinne*, 2009 WL 2477843, at \*3–4 (BPAI Aug. 10, 2009) (informative).

For at least these reasons, we sustain the Examiner’s anticipation Rejection B of representative independent claim 1. Claims 2–4, 8, and 12–15, also rejected under rejection B, fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

*Rejection C of Claims 5–7, 9–11, and 16–20 under § 103(a)*

Appellants advance no separate substantive arguments regarding Rejection C under §103(a). Appellants merely assert: “However, at least for the reasons set forth in connection with claim 1, [the] Examiner's rejection of claims 5 through 7, 9 through 11 and 16 through 20 are believed to be reversible error.” (App. Br. 23.)

Because we find no deficiencies with the Examiner’s anticipation rejection B of claim 1 over Elliott, on this record, we are not persuaded the Examiner erred regarding Rejection C of claims 5–7, 9–11, and 16–20, under §103(a).

Accordingly, we sustain § 103(a) Rejection C of claims 5–7, 9–11, and 16–20.

## CONCLUSIONS

The Examiner did not err in rejecting claims 1–4, 8, and 12–16, under 35 U.S.C. § 101, as being directed to patent-ineligible subject matter.

The Examiner did not err in rejecting claims 1–4, 8, and 12–15, under pre-AIA 35 U.S.C. § 102(b), as being anticipated by Elliott.

The Examiner did not err in rejecting claims 5–7, 9–11, and 16–20, under pre-AIA 35 U.S.C. § 103(a), as being obvious over the combined teachings and suggestions of the cited references.

### *Reply Brief*

To the extent Appellants may advance new arguments in the Reply Brief not in response to a shift in the Examiner’s position in the Answer, we note arguments raised in a Reply Brief that were not raised in the Appeal Brief, or are not responsive to arguments raised in the Examiner’s Answer, will not be considered except for good cause. *See* 37 C.F.R. § 41.41(b)(2).

DECISION

We affirm the Examiner's decision rejecting claims 1–4, 8, and 12–16, under 35 U.S.C. § 101.

We affirm the Examiner's decision rejecting claims 1–4, 8, and 12–15, under pre-AIA 35 U.S.C. § 102(b).

We affirm the Examiner's decision rejecting claims 5–7, 9–11, and 16–20 under pre-AIA 35 U.S.C. § 103(a).

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