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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/615,289	09/13/2012	Lee Linden	19487.352.1	4933
107193	7590	11/01/2018	EXAMINER	
Keller Jolley Preece/Facebook 1010 North 500 East Suite 210 North Salt Lake, UT 84054			SEIBERT, CHRISTOPHER B	
			ART UNIT	PAPER NUMBER
			3625	
			NOTIFICATION DATE	DELIVERY MODE
			11/01/2018	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LEE LINDEN and BENJAMIN LEWIS

Appeal 2017-005937
Application 13/615,289¹
Technology Center 3600

Before MARC S. HOFF, JASON J. CHUNG, and JOYCE CRAIG,
Administrative Patent Judges.

CRAIG, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants² appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–29, which are all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ According to Appellants, this application is related to copending Application No. 13/615,328, copending Application No. 13/615,321, and copending Application No. 13/615,307, all currently on appeal. App. Br. 1.

² According to Appellants, the real party in interest is Facebook, Inc. App. Br. 1.

INVENTION

Appellants' invention relates to a method for enabling a gift transaction. Abstract. Claim 1 is illustrative and reads as follows:

1. A method comprising:

receiving, using at least one computer system having at least one processor, a gift request from a sender, the gift request specifying a recipient and a gift item;

sending an approval electronic message, by the at least one processor, to the recipient, the approval electronic message seeking approval of the gift item from the recipient;

receiving a modification of the gift item by the recipient and approval of the modified gift item from the recipient;

in response to approval of the modified gift item by the recipient but prior to the sender purchasing the modified gift item:

posting, by the at least one processor, a first notification of the modified gift item to an online social network, the first notification indicating that the sender has gifted the gift item to the recipient, that the recipient has modified the gift, and the modification;

controlling access to the first notification by limiting access to only the sender and connections of the sender within the online social network;

posting, by the at least one processor, a second notification of the modified gift item to the online social network, the second notification indicating that the recipient has been gifted the gift item by the sender, that the recipient has modified the gift, and the modification;

controlling access to the second notification by limiting access to only the recipient and connections of the recipient; and

initiating, by the at least one processor, payment for the modified gift item, on behalf of the sender, in response to approval of the modified gift item by the recipient.

REJECTIONS

Claims 13 and 14 stand rejected under 35 U.S.C. § 112 (pre-AIA), second paragraph, as indefinite. Final Act. 2–3.

Claims 1–29 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to a judicial exception, without significantly more. Final Act. 3–5.

Claims 1–18, 20–22, and 24–28 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over the combination of O’Sullivan et al. (US 2010/0280879 A1; published Nov. 4, 2010) (“O’Sullivan”), Morgenstern (US 2008/0189188 A1; published Aug. 7, 2008). Final Act. 5–13.

Claim 5 stands rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over the combination of O’Sullivan, Morgenstern, and Maeda (US 2002/0038347 A1; published Mar. 28, 2002). Final Act. 13–14.

Claims 14, 15, 19, and 23 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over the combination of O’Sullivan, Morgenstern, and Bhosle et al. (US 8,364,559 B1; issued Jan. 29, 2013) (“Bhosle”). Final Act. 14–15.

Claim 29 stands rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over the combination of O’Sullivan, Morgenstern, and Eggink et al. (US 2009/0013002 A1; published Jan. 8, 2009) (“Eggink”). Final Act. 16–17.

Claims 1 and 16 stand provisionally rejected on the ground of nonstatutory double patenting as unpatentable over claim 1 of copending Application No. 13/615,307, claim 1 of copending Application No.

13/615,321, and claim 1 of copending Application No. 13/615,328. Final Act. 17.

ANALYSIS

We have reviewed the rejections of claims 1–29 in light of Appellants’ arguments that the Examiner erred. We have considered in this decision only those arguments Appellants actually raised in the Briefs. Any other arguments Appellants could have made, but chose not to make, in the Briefs are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellants’ arguments are not persuasive of error. We agree with and adopt as our own the Examiner’s findings of facts and conclusions as set forth in the Answer (Ans. 3–10) and in the Action from which this appeal was taken (Final Act. 2–17). We provide the following explanation for emphasis.

Rejection of claims 13 and 14 under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claim 13 for indefiniteness because the limitation “the gift request form” lacks antecedent basis. Final Act. 2–3. The Examiner rejected claim 14 for indefiniteness because the limitation “wherein the limitation comprises an indication...” lacks antecedent basis. *Id.*

Because Appellants do not address the indefiniteness rejections of claims 13 and 14 in the Appeal Brief, we sustain the Examiner’s rejections of claims 13 and 14 under 35 U.S.C. § 112, second paragraph, *pro forma*.

Rejection of Claims 1–29 under 35 U.S.C. § 101

Under 35 U.S.C. § 101, an invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101

to include an implicit exception: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *See, e.g., Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014). In determining whether a claim falls within the excluded category of abstract ideas, we are guided in our analysis by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Alice*, 134 S. Ct. at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 76–77 (2012)).

In accordance with that framework, we first determine whether the claim is “directed to” a patent-ineligible abstract idea. *See id.* at 2356.

If the claim is “directed to” a patent-ineligible abstract idea, we then consider the elements of the claim—both individually and as an ordered combination—to assess whether the additional elements transform the nature of the claim into a patent-eligible application of the abstract idea. *Id.* at 2355. This is a search for an “inventive concept”—an element or combination of elements sufficient to ensure that the claim amounts to “significantly more” than the abstract idea itself. *Id.* (internal quotations and citation omitted). The Court acknowledged in *Mayo* that “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. We, therefore, look to whether the claims focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016).

In rejecting independent claims 1 and 16, and dependent claims 2–15 and 17–29, under 35 U.S.C. § 101, the Examiner determined the claims are directed to an abstract idea of “gift shopping,” i.e., a “fundamental economic

practice.” Ans. 3. The Examiner also determined the claims as a whole do not amount to significantly more than the abstract idea itself. Final Act. at 4–5.

Alice Step 1: Abstract Idea

As to the first step of the *Alice* inquiry, Appellants contend the Examiner erred by inventing an abstract idea and not citing case authority for the conclusion that “gift shopping” is an abstract idea akin to a fundamental economic practice and a method of organizing human activity. App. Br. 14.

We are not persuaded of error. To determine whether the claims at issue are directed to an abstract idea, we need only look to other decisions where similar concepts were previously found abstract by the courts. *See Amdocs (Israel) Limited v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016) (“Instead of a definition [for what an ‘abstract idea’ encompasses], then, the decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen—what prior cases were about, and which way they were decided.”)

We agree with the Examiner that the claimed invention resembles the claims at issue in *Alice*. *See* Final Act. 3; *see also* Ans. 3. Claim 1 is directed to gift shopping, whereby a sender specifies a recipient and a gift item, a gift request for approval is sent to the recipient, and the sender purchases the gift after the recipient modifies the gift item and approves the modified gift item, and after two notifications about the gift have been posted on an online social network, with controlled access. Gift shopping is a fundamental economic practice, long prevalent in our system of commerce, like the risk hedging in *Bilski* (*see Bilski v. Kappos*, 561 U.S. 593

(2010)) and the intermediated settlement in *Alice* (*see Alice*, 134 S. Ct. at 2356–57). Thus, gift shopping, like the fundamental economic practices above, is an “abstract idea” beyond the scope of § 101. *See Alice*, 134 S. Ct. at 2356. Accordingly, we see no error in the Examiner’s conclusion that the claims are directed to a fundamental economic practice. *See Final Act*. 3–4.

Appellants next argue the Examiner’s analysis overly generalizes the claims because the general concept of “gift shopping” does not involve several elements from claim 1. App. Br. 16. Appellants assert that the Examiner merely copied and pasted the claim language and concluded, without further analysis, that all of the elements are ““directed to the abstract idea.”” *Id.* at 15.

We are not persuaded of error. Appellants’ argument does not address the Examiner’s determinations as to which claim elements are part of the abstract idea and which are additional elements. *See Ans.* 4–5. For example, the Examiner determined that

posting first a notification of the modified gift item to a social network, the first notification indicating that the sender has gifted the gift item to the recipient, that the recipient has modified the gift, and the modification

is directed to the abstract idea itself, while “by the at least one processor,” and “online [social network],” are additional limitations. *Id.* at 4.

Additional elements are addressed in step 2 of the *Alice* analysis, which endeavors to identify additional elements “sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 566 U.S. at 73).

Appellants also argue the claims are directed to concrete, patent-eligible concepts, not mere “gift shopping.” App. Br. 19. In Appellants’ view, the claims are directed to

utilizing a computer system to provide digital notifications via an online social network to a sender and recipient (and connections of the sender and recipient) in relation to a gift item and recipient modifications to the gift item prior to the sender purchasing the gift item for the recipient via the online social network.

Id. (citing *Enfish*).

We are not persuaded. In *Enfish*, “the plain focus of the claims is on an improvement to [the] computer functionality itself.” *Enfish*, 822 F.3d at 1336. In contrast, we do not find a claimed focus on an improvement to the computer functionality here. Appellants point to the Specification, but none of the cited paragraphs explains how using a social networking system to provide digital notifications and messages prior to a sender purchasing a gift improves any computer functionality. *See* App. Br. 20 (citing Spec. ¶¶ 18, 50, 55, 56). We agree with the Examiner that the claims are directed to solving a business or commercial problem, not a technical problem. *See* Ans. 6.

For these reasons, we are not persuaded of error in the Examiner’s determination that the claims are directed to “gift shopping,” which is a fundamental economic practice and an “abstract idea.”

Alice Step 2: Inventive Concept

As to the second step of the *Alice* inquiry, Appellants argue “the actual elements of the claims go far beyond the general idea of ‘gift shopping.’” App. Br. 21. As in step 1 of the *Alice* analysis, Appellants again identify claim elements that Appellants do not consider part of the abstract idea of “gift shopping.” *Id.* Appellants argue that the Examiner

failed to analyze any additional elements in step 2 because the Examiner determined that *all* of the claim elements are directed to the abstract idea of “gift shopping” in step 1. *See id.*

Appellants’ arguments are not persuasive. The question in step 2 of the *Alice* analysis is not whether there are additional elements in the claims, but whether the additional elements add anything “significantly more” to transform the abstract concept into patentable eligible subject matter. *Alice*, 134 S. Ct. at 2355. The Examiner identified the recited posting, monitoring, and updating “by the online social network,” that the recited notification is “on the online social network,” and the recited “electronic message” as additional elements. Ans. 7. The Examiner identified the limitation “by the at least one processor” and the social network being “online” as additional elements. *Id.* The Examiner determined the additional elements are merely instructions to perform the abstract idea on a generic computer. *Id.* Appellants have presented no argument challenging the Examiner’s determinations with regard to the additional elements identified by the Examiner. Nor have Appellants argued that any additional element adds something “significantly more” such that the claims are patent-eligible. *See App. Br. 20–25.*

For example, Appellants do not argue that any of the elements of claims 1 and 16 are individually inventive. *See App. Br. 21–22.* Instead, in the Reply Brief (Reply Br. 7–8), Appellants rely on *DDR Holdings, LLC v. Hotels.com L.P.*, 773 F.3d 1245 (Fed. Cir. 2014), in which the Federal Circuit found claims were “necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer

networks” because they addressed a technical issue unique to Internet website problems. 773 F.3d at 1257.

Here, unlike in *DDR Holdings*, the claims merely use technology to address issues of communication between gift senders, gift recipients, and others, without solving any underlying technological issues. As recognized by the Supreme Court, “the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *See Alice*, 134 S. Ct. at 2358–59 (concluding claims “simply instruct[ing] the practitioner to implement the abstract idea of intermediated settlement on a generic computer” not patent eligible); *see also Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715–16 (Fed. Cir. 2014) (Claims merely reciting abstract idea of using advertising as currency as applied to particular technological environment of the Internet not patent-eligible.); *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1344–45 (Fed. Cir. 2013) (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” not patent eligible.); *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.”).

We are also not persuaded by Appellants’ argument that the claimed limitations as an ordered combination include an inventive concept because “they provide an inventive concept that provides a technical solution to a technical problem.” App. Br. 22 (citing *Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016)). Appellants argue

“the ordered combination of limitations in the claims provide an inventive concept that goes beyond mere recitation of ‘gift shopping.’” *Id.* at 23. In particular, Appellants argue the claims

include inventive concepts of utilizing a computer system to generate a list of recommended gift items based on a first list of gift items specified by previous senders in previous gift requests (*see* claim 16) and utilizing an online social network and electronic notifications to notify a sender, recipient, and connections of the sender and recipient regarding a pending electronic gift transaction (including recipient modifications to a gift item) prior to the sender consummating the pending electronic gift transaction (*see* claim 1 and claim 16).

Id. Appellants further argue the claimed invention “serves to provide a digital solution that can remove concerns regarding the absence of a brick-and-mortar store”; “serves to remove the hurdle of entering payment or delivery information prior to selecting a gift”; and “serves to further encourage the sender to take necessary steps to complete the digital transaction.” App. Br. 24.

The claims here are distinguishable from those in *Bascom*. In *Bascom*, the system claims were directed to a “content filtering system for filtering content retrieved from an Internet computer network,” which the court held were directed to an abstract idea. *Bascom*, 827 F.3d at 1348–49. The court further held the claims included an inventive concept in the ordered combination of system components, including a local client computer and a remote ISP server connected to the client computer and Internet computer network providing for “the installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user.” *Id.* at 1350. The claims at issue here do not involve a similar or analogous arrangement or “ordered combination” of

components. We agree with the Examiner that the additional limitations are not improvements to the functioning of a computer or some other technology (*see* Ans. 5–6), and that any problems being solved are commercial, not technological. Indeed, we find nothing in Appellants’ claims that adds anything “significantly more” to transform the abstract concept of gift shopping.

Because Appellants’ claims 1–29 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.

Rejection of Claims 1–29 under 35 U.S.C. § 103(a)

In rejecting independent claims 1 and 16 for obviousness, the Examiner found the combination of O’Sullivan and Morgenstern teaches or suggests all of the recited limitations. Final Act. 5–13.

Appellants contend the Examiner erred because the cited references fail to teach or suggest the limitations

in response to approval of the modified gift item by the recipient but prior to the sender purchasing the modified gift item:

posting, by the at least one processor, a first notification of the modified gift item to an online social network, the first notification indicating that the sender has gifted the gift item to the recipient, that the recipient has modified the gift, and the modification;

controlling access to the first notification by limiting access to only the sender and connections of the sender within the online social network;

posting, by the at least one processor, a second notification of the modified gift item to the online social network, the second notification indicating that the recipient has

been gifted the gift item by the sender, that the recipient has modified the gift, and the modification; [and]
controlling access to the second notification by limiting access to only the recipient and connections of the recipient, as recited in independent claim 1, and as similarly recited in independent claim 16. App. Br. 27–28. In particular, Appellants argue one of ordinary skill would not have read O’Sullivan and Morgenstern as teaching, in response to approval of the modified gift item by the recipient, but prior to the sender purchasing the modified gift item, posting a first notification of the modified gift item to an online social network, the first notification indicating that the sender has gifted the gift item to the recipient, that the recipient has modified the gift, and the modification. *Id.* at 29. Appellants further argue that one of ordinary skill in the art would not have read O’Sullivan and Morgenstern as teaching, in response to approval of the modified gift item by the recipient, but prior to the sender purchasing the modified gift item, controlling access to the first notification by limiting access to only the sender and connections of the sender within the online social network, as recited in claims 1 and 16. *Id.*

We are not persuaded the Examiner erred. Although Appellants contend an artisan of ordinary skill would not read the prior art references as teaching the disputed limitations of claims 1 and 16, Appellants do not provide any basis for those arguments. *See* App. Br. 29. 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).

Appellants next contend the Examiner fails to provide “any cogent reason” that one of ordinary skill in the art would read Morgenstern’s teaching of posting a notification of a purchased gift item and O’Sullivan’s teaching to provide a gift suggestion as teaching the disputed limitations. App. Br. 30.

We are not persuaded the Examiner erred. On page 9 of the Answer, the Examiner explained how the combination of O’Sullivan and Morgenstern teaches or suggests the disputed limitations. Ans. 9. Appellants have not rebutted the Examiner’s findings persuasively. In addition, we find the Examiner provided “articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

Appellants further argue in the Reply Brief that the portions of O’Sullivan cited by the Examiner do not teach “posting” notifications, but simply teach sending approval messages to a recipient. Reply Br. 10. Appellants contend “[s]ending a message to a recipient *for approval* of a gift item is fundamentally different than posting multiple notifications to an online social network *in response to approval* of a modified gift item but prior to the sender purchasing the modified gift item.” *Id.*

We are not persuaded by Appellants’ argument because Appellants argue the references separately. Nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *See In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). The test for obviousness is not whether the claimed invention is suggested expressly in any one or all of the references, but whether the claimed subject matter would have been obvious to those of

ordinary skill in the art in light of the combined teachings of those references. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

Here, the Examiner relied on O’Sullivan as teaching posting a notification of the gift item. Final Act. 6. The Examiner relied on Morgenstern as teaching posting a notification of the gift item for viewing by the sender and friends of the sender on an online social network in response to approval of the gift item by the recipient and wherein the notification comprises an indication of the sender the recipient, and a modification to the gift item by the recipient. *Id.* Appellants do not address whether the disputed limitation would have been obvious to those of ordinary skill in the art in light of the combined teachings of those references.

For these reasons, we are not persuaded that the Examiner erred in finding the combination of O’Sullivan and Morgenstern teaches or suggests the disputed limitation recited in claims 1 and 16.

Appellants next contend that the disputed subject matter would not have been obvious because O’Sullivan teaches away from the Examiner’s proposed combination. App. Br. 30; Reply Br. 11–14. In particular, Appellants argue that O’Sullivan teaches away from the disputed “posting” limitation because “*O’Sullivan* warns that sharing direct information about ‘selections, specifications, or rejections’ may undermine the relationship between the sender and the recipient.” App. Br. 30–31 (citing O’Sullivan ¶ 9). Appellants further argue that “*O’Sullivan* explains that information should be maintained in ‘an anonymous manner’ to avoid violating ‘social norms.’” *Id.* at 31 (citing O’Sullivan ¶ 70). Further, Appellants argue that

“*O’Sullivan* teaches that ‘explicitness’ would ‘devalue the gift and/or the entire gift giving process.” *Id.* (citing *O’Sullivan* ¶ 6).

Appellants’ “teaching away” argument fails because Appellants have not identified where *O’Sullivan* actually criticizes, discredits, or otherwise discourages

posting . . . a first notification of the modified gift item to an online social network, the first notification indicating that the sender has gifted the gift item to the recipient, that the recipient has modified the gift, and the modification, [and] posting, by the at least one processor, a second notification of the modified gift item to the online social network, the second notification indicating that the recipient has been gifted the gift item by the sender, that the recipient has modified the gift, and the modification.

Claim 1; *See In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004); *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 567 F.3d 1314, 1327 (Fed. Cir. 2009) (“A reference does not teach away, however, if it merely expresses a general preference for an alternative invention but does not ‘criticize, discredit, or otherwise discourage’ investigation into the invention claimed”) (citing *Fulton*).

The paragraphs in *O’Sullivan* cited by Appellants do not actually criticize, discredit, or otherwise discourage the disputed limitation. Paragraph 6 of *O’Sullivan* explains, for example, that “having the gift recipient specify a gift to eliminate uncertainty in gift selection removes the element of surprise and may also obligate the gift giver to an uncomfortable price point or type of gift.” *O’Sullivan* ¶ 6. Paragraph 9 describes a “gift incentive engine [that] combines an interactive distributed environment for gathering anonymous (and opaque) gift selection advice from relevant parties” *O’Sullivan* ¶ 9. Paragraph 70 describes that “knowledge held

by one party that would be beneficial to another party is obtained in an anonymous manner (anonymous from the point of view of the non-input providing parties).” O’Sullivan ¶ 70. As the Examiner points out, “O’Sullivan teaches both anonymous and public notifications and therefore cannot be said to be teaching away from a public notification.” Ans. 10 (citing O’Sullivan ¶ 38).

Appellants also argue the Examiner “fails to provide any cogent reason that one of ordinary skill in the art would read *Morgenstern’s* teaching (to post a notification of a purchased gift item) with *O’Sullivan’s* teaching (to provide a gift suggestion) in combination as teaching” the disputed limitations. App. Br. 30.

We disagree. The Examiner provided “articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Kahn*, 441 F.3d at 988; *see* Final Act. 6. Thus, we are not persuaded of error in the Examiner’s ultimate conclusion that claims 1 and 16 are obvious over the combined teachings of O’Sullivan and Morgenstern.

Accordingly, we sustain the Examiner’s § 103(a) rejection of independent claims 1 and 16. We also sustain the Examiner’s § 103(a) rejection of dependent claims 2–15 and 17–29, not argued separately with particularity. App. Br. 32–34.

Non-Statutory Double Patenting Rejection of Claims 1 and 16

Claims 1 and 16 stand provisionally rejected on the ground of nonstatutory double patenting as unpatentable over claim 1 of copending Application No. 13/615,307, claim 1 of copending Application No. 13/615,321, and claim 1 of copending Application No. 13/615,328. Final Act. 17.

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Because Appellants make no arguments related to this rejection, we sustain the rejection *pro forma*. Arguments not made are waived.

DECISION

We affirm the Examiner's decision rejecting claims 1–29.

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