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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LUKE A. HAMMOCK, JANUSZ MICHAEL NICZYPORUK,
DREW JACOBS, and STEVEN G. CHIAGOURIS

Appeal 2017-007096
Application 14/052,715¹
Technology Center 3600

Before MARC S. HOFF, CARL L. SILVERMAN, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants² appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 21 and 23–40 which constitute the only pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ The real party in interest is identified as CAPITAL ONE FINANCIAL CORPORATION. App. Br. 3.

² We note Appellants' Reply Brief states "An oral hearing is being concurrently requested." *See* Reply Br. 1. However, no proper request for an oral hearing or payment of the oral hearing fee has been made.

STATEMENT OF THE CASE

The invention relates generally relate to determining loan terms based on customer information at the point of sale location. Abstract; Spec. ¶¶ 2, 5–7. Claim 21 is exemplary of the matter on appeal (emphasis added):

21. A system for providing a loan to a user associated with a user device, comprising:
- a storage device storing instructions; and
 - a processor configured to execute the instructions in the storage device to:
 - receive, from the user device, a first loan request for a loan for the purchase of a first automobile, wherein the first loan request includes information provided by the user;
 - assess a loan risk for the first automobile purchase by the user based on the first loan request;
 - generate an initial loan offer based on the first loan request and the loan risk assessment, the initial loan offer representing an agreement by a loan provider to provide the loan to the user for the automobile purchase upon acceptance by the user, and the initial loan offer including first loan terms;
 - provide the initial loan offer to the user device;
 - receive, from the user device at a point-of-sale location, a second loan request for purchase of the first automobile, wherein the second loan request includes at least one of new or revised information determined at the point-of-sale location and not included in the first loan request;*
 - reassess the loan risk for the first automobile purchase based on the second loan request;*
 - generate a revised loan offer based on the revised loan request and the reassessed loan risk, the second loan offer reflecting an agreement by the loan provider to provide a revised loan to the user for purchase of the first automobile, the revised loan offer including a second loan term that is different from the first loan terms; and*
 - provide the revised loan offer to the user device while the user device remains at the point-of-sale-1ocation,

wherein the new or revised information includes automobile information that reflects one or more characteristics of the first automobile.

Claims Appendix. 2–3.

THE REJECTIONS

Claims 21 and 23–40 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Final Act. 4–13.

Claims 21–27 and 29–40 are rejected under U.S.C. § 103(a) as being unpatentable over Benavides, III (US 8,438,048 B1; issued May 7, 2013) (“Benavides”) in view of Abrahams et al., (US 8,521,631 B2; issued Aug. 27, 2013) (“Abrahams”), and Dion (US 2006/0015422 A1; published Jan 19, 2006) (“Dion”). Final Act. 13–27.

Claim 28 is rejected under U.S.C. § 103(a) as being unpatentable over Benavides, Abrahams, Dion, and Roach et al. (US 2013/0120595 A1; published May 16, 2013) (“Roach”). Final Act. 27–28.

ANALYSIS

The § 101 Rejection

The Examiner determines the claims are directed to the abstract idea of facilitating providing a loan to a customer electronically and is similar to other concepts that have been found by the courts as abstract. Final Act. 4–5

(citing *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347 (2014)). The Examiner then determines the claims as a whole are not significantly more than the abstract idea because the additional elements are generic components that perform their basic functions. *Id.* at 5–7. In particular, the Examiner determines

the recitation of the additional elements including a storage device storing instructions; and a processor configured to execute the instructions to implement the steps described above are not enough by itself to transform the exception into a patentable exception, because the elements recited are generic computer components performing generic computer components performing generic computer functions at a high level of generality. Merely using generic computer components to perform the identified basic functions does not constitute meaningful limitations that would amount to significantly more than the abstract idea.

The storage device recited performs only its basic function of storing instructions and receiving and transmitting data/information for implementing the steps described above.

The processor recited performs only its basic function of processing/executing computer instructions and data/information in order to implement the steps described above which is a well-known function of computer processor devices.

In this instance, the computer related devices are only used to facilitate the execution of steps considered as routine and conventional activities and, that amount to nothing more than mere instructions such as “receiving a first loan request for a loan . . . ”; “assess[ing] a loan risk . . . ”; “generat[ing] an initial loan offer . . . including first loan terms”; “provid[ing] the initial loan offer to the user device . . . ”; “receiv[ing] a second loan request . . . ”; “generat[ing] a revised loan offer . . . ”; “providing the revised loan offer to the user device . . . “ in order to implement the abstract idea. As such, the claim as a whole does not amount to significantly more than the abstract idea itself.

These additional elements are well-understood, routine and conventional limitations that amount to mere instructions to implement the abstract idea of facilitating providing a loan to a customer electronically. Taking these computer limitations as an ordered combination adds nothing that is not already present when the elements are taken individually. Therefore, the claim does not amount to significantly more than the recited abstract idea. Therefore, the claim is not patent eligible.

Id. at 6–7.

Appellants argue that the Examiner’s analysis is improper, there is no prima facie case, the Examiner misapplies the identified court decisions and fails to apply applicable court decisions, and errs in concluding the claims are directed to an abstract idea and, even if the claims are directed to an abstract idea, the Examiner errs because the claims amount to significantly more than an abstract idea. App. Br. 9–20; Reply Br. 2–31.

In the Answer, the Examiner refers to *Alice* and determines claim 21 is directed to the abstract idea of facilitating providing a loan to a customer electronically and is similar to concepts that have been identified as abstract such as

a fundamental economic practice (e.g., concepts relating to the economy and commerce; performance of financial obligations; creating a contractual relationship as in *BuySAFE*), as well as certain methods of organizing human activity (e.g., processing loan information as in *DealerTrack*), and an idea of itself (e.g., collecting and comparing known information as in *Classen*).

Ans. 3–5.

The Examiner’s analysis maps the limitations to the identified abstract idea, identifies court cases, and concludes the steps of the claim, taken

individually or as an ordered combination, are directed to abstract ideas. *Id.* at 5–7. The Examiner finds that independent claims 32 and 40 recite substantially the same limitations and are also directed to the identified abstract idea.

The Examiner finds that *Enfish* is not applicable because there is no improvement to computer capabilities and no improvement to the operations or physical structure of the additional elements. *Id.* at 8. The Examiner finds *BASCOM* is not applicable because the installation of a filtering tool at a specific locations constituted an inventive concept whereas the current claims present no such actual improvement. *Id.* at 9.

The Examiner finds the claims do not amount to significantly more than an abstract idea because the claimed invention is an abstract idea implemented on a generic computer. *Id.* at 9. The Examiner identifies the claimed steps and finds these steps describe what generic computers do: “e.g., receive and transmit data and/or information; perform (process) calculations; store data and/or information and/or instructions, etc.) with regards to facilitating processing a conventional loan application in an automated manner” and “[a]s such, there is nothing “significantly more.” *Id.* at 9–10.

According to Appellants, Appellants’ claims are not similar to *buySAFE*’s claims which recite “receiving . . .” and “processing . . . [a] request . . . to provide [a] transaction performance guaranty service,” and were therefore “squarely about creating a contractual relationship.” *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1351–52, 1355 (Fed. Cir. 2014). Reply Br. 18. Appellants argue the claims do not just recite “creating a contractual relationship” because the claim elements recite a

particular way to achieve the desired outcome of “creating a contractual relationship.” *Id.*

Appellants argue the claimed use of a clearing house for car loans in *Dealertrack* does not support the Examiner’s finding of methods of organizing human activity because the claimed invention includes elements that “do not just limit the claims to . . . applying for car loans.” *Id.* at 19–20. Rather, according to Appellants, the claimed invention recites a specific process of reassessing loan risk and providing a revised loan offer for an automobile purchase based on revised information. *Id.*

Appellants argue *Classen* does not support the Examiner’s finding that the claims are directed to “an idea of itself” because the claimed invention is not just collecting and comparing known information. *Id.* at 20. According to Appellants, the additional steps regarding the second loan request wherein the reassessed loan risk is not known information, and the steps of “reassessing,” “generating,” and “providing” are not similar to “collecting and comparing information.” *Id.*

Appellants further argue the Examiner’s analysis is improper because it does not consider whether the claims as a whole are similar to the cited cases. *Id.* at 21. Appellants argue the proper analysis is whether the claims focus on “a result or effect” or “a specific means or method.” *Id.* at 21–22 (citing *Amdocs (Isr.) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016)). Appellants then argue the claims are similar to *Amdocs* and *DDR Holdings* because the claims recite a specific approach to providing an automobile loan in response to multiple requests for a loan. *Id.* at 23.

Appellants argue the claims are similar to *Enfish* because they provide a specific process to solve the problem in which “financial service providers may not be able to provide the most competitive loan offers to potential customers, decreasing the probability of a potential customer consummating a loan offer.” *Id.* at 24–25 (citing Spec. ¶¶ 5, 6). According to Appellants, the claims are not directed to an abstract idea because “the claims enable[] computerized provisioning of loans to automobile customers based on up-to-date information” and “plainly improve both the technical problem of efficiently utilizing computer resources as well as the industry problem of provisioning loan offers, and the Examiner has failed to rebut this.” *Id.* at 25.

Appellants further argue the Examiner’s conclusion that the claims do not recite significantly more than an abstract idea is erroneous because the Examiner presents insufficient basis for why the claims are “well-understood, routine, and conventional.” *Id.* at 25–26 (citing *Bascom Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016); *McRO, Inc. v. Namco Bandai Games Am. Inc.*, 23 F. Supp. 3d 1113 (Fed. Cir. 2013)). According to Appellants, the Examiner presents no reason or analysis regarding whether the claimed computer components in combination with any other additional elements perform well-understood, routine, conventional activity. *Id.* at 28.

Appellants argue, like *Bascom*, the claims recite a “technology-based solution” for providing a loan to a user associated with a user device. *Id.* at 30–31. According to Appellants:

These claim elements, in an ordered combination, recite an inventive concept for reassessing loan risk based on new or revised information determined at the point-of-sale location and revising a previously

determined loan offer based at least in part on the reassessed loan risk. Therefore, the claimed invention provides a technology-based solution to the technical challenge of providing a loan offer using up-to-date information through a specific means or method.

Id. at 30.

As discussed below, we are not persuaded by Appellants' arguments and agree, instead, with the Examiner's conclusion that the claims are patent ineligible.

As an initial matter, we do not agree with Appellants' arguments regarding a prima facie case and notice. Regarding the notice requirement as set forth by 35 U.S.C. § 132, our reviewing court explains:

[T]he 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).

Here, the Examiner presents adequate basis for Appellants to respond. See Final Act. 3–13; Ans. 3–10.

The Supreme Court in *Alice*, reiterated the framework set out in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012) for "distinguishing patents that claim . . . abstract ideas from those that claim patent-eligible applications of those concepts." *Alice*, 134 S. Ct. at 2355.

The first step in the analysis is to determine if the claim is directed toward a

patent-ineligible concept and, if so, the second step is to determine whether there are additional elements that transform the nature of the claim into a patent eligible application. *Id.* (citing *Mayo*, 566 U.S. at 78–79). The second step searches for an inventive concept that is sufficient to ensure that the patent amounts to significantly more than a patent on the patent-ineligible concept. *Id.* (citing *Mayo*, 566 U.S. at 72–73).

The question is not whether claims mention a computing environment but what they are “directed to.” 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.” *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015); *see Genetic Techs. Ltd. v. Merial L.L.C.*, 818 F.3d 1369, 1376, (Fed. Cir. 2016) (inquiring into “[t]he focus of the claimed advance over the prior art”); *Enfish*, 822 F.3d at 1335. “The ‘abstract idea’ step of the inquiry calls upon us to look at 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) (quoting *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016)). “In determining the eligibility of respondents’ claimed process for patent protection under § 101, their claims must be considered as a whole.” *Diamond v. Diehr*, 450 U.S. 175, 188 (1981).

We conclude that each of Appellants’ claims on appeal is distinguishable from the type of claim considered by the court in *Enfish*, *DDR*, and *Bascom*.

We conclude none of Appellants' claims is "directed to an improvement in the functioning of a computer," as was found by the court regarding the subject claim in *Enfish*, 822 F.3d at 1338. To the extent that the recited steps or acts 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) (emphasis added). *See also Electric Power Grp., v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016), to the extent that Appellants' claims similarly collect information, analyze it in some fashion, and present or communicate the result.

Applying this reasoning to Appellants' claims on appeal, we similarly find any purported faster or more efficient performance of the claimed steps or acts merely comes from the capabilities of a general-purpose computer and/or computer related elements, rather than from Appellants' claimed steps or functions.

Appellants' reliance on *DDR Holdings* and *Bascom* is unpersuasive because claim 21 provides no improvement of the operation of a computer system commensurate with improvement to computer technology, and there is no ordered arrangement set forth which is non-conventional. The

Specification supports the view that the elements recited in claim 21 are conventional. *See, e.g.*, Spec. ¶¶ 26–36, 70.

In *DDR*, the claims at issue involved, *inter alia*, “web page[] displays [with] at least one active link associated with a commerce object associated with a buying opportunity of a selected one of a plurality of merchants.” *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 1249, (Fed. Cir. 2014) (claim 18 of Ross, US 7,818,399 B1, Oct. 19, 2010). The Federal Circuit found the claims in *DDR* to be patent eligible under step two of the *Mayo/Alice* test because “the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.” *Id.* at 1257. Specifically, the Federal Circuit found the claims addressed the “challenge of retaining control over the attention of the customer in the context of the Internet.” *Id.* at 1258. The rejected claims are dissimilar to *DDR*’s web page with an active link, and the Specification does not support the view that the computer related claim elements are unconventional, *supra*.

The claims before us are dissimilar to *Bascom*’s improvement over technical ways of filtering content on the Internet that improves the computer itself. The claims before us are dissimilar to *McRo*’s computer automation in which “[i]t is the incorporation of the claimed rules, not the use of the computer, that ‘improved [the] existing technological process’ by allowing the automation of further tasks.” *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016).

We additionally conclude Appellants’ claims are analogous to the method claim considered by the court in *Electric Power Group*, at least to the extent that Appellants’ claims are similarly directed to “merely selecting

information, by content or source, for collection, analysis, and display [which] does nothing significant to differentiate a process from ordinary mental processes.” *Id.* at 1355. The claims do not require any nonconventional computer or network components, or even a “non-conventional and non-generic arrangement of known, conventional pieces,” but merely call for performance of the claimed information collection, analysis, and display functions on generic computer components and display devices. *Id.*

Our reviewing court has “made clear that mere automation of manual processes using generic computers does not constitute a patentable improvement in computer technology.” *Credit Acceptance Corp. v. Westlake Svcs.*, 859 F.3d 1044, 1055 (Fed. Cir. 2017). Like the claims in *Credit Acceptance*, the focus of the claims is on the business practice, “and the recited generic computer elements ‘are invoked merely as a tool.’” *Id.* (citing *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016)); see *Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1334 (Fed. Cir. 2015) (collecting cases).

Applying the first step of *Alice*, we agree with the Examiner that the claims are directed to the identified abstract idea. In addition, we agree the Examiner has considered the abstract idea in the aggregate. Accordingly, we find that the claims are directed to a patent-ineligible concept.

Having determined that the claims are directed to a patent-ineligible concept, step 2 of the analysis considers whether the claims contain an inventive concept such as additional limitations that add significantly more to the claim so that they do not fully cover the abstract idea itself. See *Alice*, 134 S. Ct. at 2357. Here, we agree with the Examiner that no inventive

concept is present. Moreover, the hardware features are the type of generic element that has been determined to be insufficient by the Supreme Court to transform a patent-ineligible claim into one that is patent-eligible. *See Alice*, 134 S. Ct. at 2358. The claims include no limitations that prevent it from covering the abstract idea itself. Therefore, we are unpersuaded by Appellants' argument that the claims constitute an inventive concept that is significantly more than a patent on the patent-ineligible concept.

Regarding preemption, “[w]hile preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility. . . . Where a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (“that the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract”).

In view of the above, we sustain the rejection of independent claims 21, 32, and 40, and dependent claims 23–31 and 33–39 as these claims are not argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv).

The § 103(a) Rejection

Appellants argue the Examiner errs in finding the combination of Benavides, Abrahams, and Dion teaches “reassessing a loan risk for the first automobile *based on such a second loan request* and generating a revised loan offer *based on such a reassessed loan risk.*” App. Br. 21. In particular,

Appellants argue the combination does not teach the disputed claim 21 limitations:

receive, from the user device at a point-of-sale location, a second loan request for purchase of the first automobile, wherein the second loan request includes at least one of new or revised information determined at the point-of-sale location and not included in the first loan request;

reassess the loan risk for the first automobile purchase based on the second loan request;

generate a revised loan offer based on the revised loan request and the reassessed loan risk.

App. Br. 21–25; Reply Br. 31–34.

In the Final Action, the Examiner finds Benavides teaches receiving a loan request and providing a loan offer. Final Act. 13–15 (citing Benavides 3:10–16, 5:41–46, 1:52–58, 8:60–64, 9:63–67). The Examiner finds Abrahams teaches risk credit assessment in the evaluation in loan decisions. *Id.* (citing Abrahams 3:11–17, 4:28–34). The Examiner concludes that one of ordinary skill in the art would utilize the Benavides’ loan process teaching and Abrahams’ credit risk assessment to enhance profitability although reducing risk exposure. *Id.* at 14. The Examiner finds Dion teaches processing a second loan request and one of ordinary skill in the art would incorporate Dion’s teaching into Benavides to make borrowing more affordable for the buyer by making it possible for the borrower to modify terms of a loan. *Id.* at 15–17 (citing Dion ¶¶ 8, 9, 28, 33, 37).

Appellants argue the Examiner’s conclusion of obviousness is conclusory and there is no teaching in Dion of assessing any loan risk. App. Br. 22–24. According to Appellants, Dion “biweekly payment schedule” is just a payment schedule and the only changes to the pre-existing financing

are the “supplemental allowance[s],” “revised loan payment,” and the “revised loan term.” *Id.* at 24 (citing Dion ¶¶ 28, 29). According to Appellants, Dion does not teach these changes involve any risk assessment, Dion teaches away from changes to the pre-existing financing because Dion aims to have the “revised loan payment” be “substantially similar” to the “initial loan payment” and the “revised loan term” be “substantially similar” to the “initial loan term.” *Id.* Appellants further argue, because Dion does not teach re-assessing a loan risk, it cannot teach the limitation “generat[ing] a revised loan offer *based on . . . the reassessed loan risk.*” *Id.*

In the Answer, the Examiner finds that Dion expressly teaches that the “[b]orrower may renegotiate existing financing or obtain new offer for financing” and the Examiner finds Dion teaches a “loan for a customer or borrower may be reassessed (‘renegotiated’).” Ans. 12 (citing Dion Fig. 7, element 750). The Examiner “further asserts that whether a loan constitutes a first or second loan request does not affect the functionality of the invention and/or how the invention is supposed to perform” and “[i]n other words, the steps for processing a loan transaction generally remain[] the same and is merely repeated for each subsequent transaction.” *Id.* The Examiner additionally “asserts that the assessment of credit risk in the issuance of financing and/or loan products is both well-known and commonplace in the industry.” *Id.* (citing Dion ¶ 29).

In the Reply Brief, Appellants argue the Examiner’s reference to “routine and conventional” is not the correct legal standard and the Examiner is applying hindsight. Reply Br. 31–32. Appellants argue Dion

does not teach a reason why unwillingness to accept biweekly payments is due to concern with risks. *Id.* at 33 (citing Dion ¶¶ 33, 36).

We are not persuaded by Appellants' arguments that the Examiner's findings and claim interpretation are unreasonable, overbroad, or inconsistent with Appellants' Specification. We note the terms "assess" and "re-assess" a "loan risk" are not defined in the Specification. We agree with the Examiner that Dion's teaching that a second loan may or may not be acceptable constitutes "re-assess[ing]" a "loan risk" as broadly, but reasonably, interpreted. Claim terms in a patent application are given the broadest reasonable interpretation consistent with the specification, as understood by one of ordinary skill in the art. *In re Crish*, 393 F.3d 1253, 1256 (Fed. Cir. 2004).

Moreover, even assuming Dion does not teach "reassess the loan risk," we agree with the Examiner's finding that "the steps for processing a loan transaction generally remain[] the same [and] is merely repeated for each subsequent transaction." *See supra*, Ans. 12. We agree with the Examiner's finding that the combination of Benavides and Abrahams teaches the first loan and the loan risk assessment, and Dion teaches at least the second loan. *See* Final Act. 13–15. Therefore, one of ordinary skill in the art would employ the Abrahams loan risk assessment for the first loan and for the second loan. We note further that, contrary to Appellants' argument, the Dion second loan is not limited to the original amount. *See* Final Act. 13 (citing Dion ¶ 31). We also note that Abrahams teaches various types of loans, including automobile loans. *See, e.g.*, Abrahams 1:52–58.

As stated by the Supreme Court, the Examiner's obviousness rejection must be based on:

“[S]ome articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Appellants argue the references individually although the rejection is based on the combination of the teachings of the cited references. *In re Keller*, 642 F.2d 413, 426 (CCPA 1981) (“[O]ne cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references.” (citation omitted)); *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

Appellants also argue an unreasonably narrow teaching of the cited references and an overly demanding standard of obviousness. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. *Keller*, 642 F.2d at 425.

In view of the above, we sustain the rejection of independent claim 21, and independent claim 40 which is argued together with claim 21. We also sustain the rejection of independent claim 32 which is commensurate in

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scope with claims 21 and 40. We also sustain the rejection of dependent claims 23–31 and 33–39 as these claims are not argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

We affirm the Examiner’s decision rejecting claims 21 and 23–40 under 35 U.S.C. § 103(a).

We affirm the Examiner’s decision rejecting claims 21 and 23–40 under 35 U.S.C. § 101.

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. § 1.136(a)(1)(iv).

AFFIRMED