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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JEROME N. BLOCK, ULF HANSSON, and
NICHOLAS Z. HEGEDUS

Appeal 2017-007129
Application 12/511,302¹
Technology Center 3600

Before JUSTIN BUSCH, JENNIFER L. McKEOWN, and
CATHERINE SHIANG, *Administrative Patent Judges*.

SHIANG, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–13, 15–19, 24, 26, 27, 30, and 31, which are all the claims pending and rejected in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

¹ Appellants identify GREENTIRE ENERGY LLC as the real party in interest. Appeal Br. 3.

STATEMENT OF THE CASE

Introduction

According to the Specification, the present invention relates to locating and operating industrial plants, and more particularly to locating and operating gasification plants. *See* Spec. 1.

Principles of the present invention provide techniques for locating and operating a gasification plant having predominately scrap tire rubber as feedstock. In one aspect, an exemplary method (which can be at least partially computer-implemented) for locating and operating a gasification plant employing predominately tire-derived fuel as a feedstock includes the steps of identifying a parcel of land on which to site the plant, the parcel of land being located such that at least about 3,500,000 scrap tires per year are available for substantially regular and substantially continuous delivery to the plant, at a predetermined adequate tipping fee; locating the plant on the parcel of land; and selling at least one of synthesis gas, electricity, and steam produced by the plant.

Spec. 1. Claim 1 is exemplary:

1. A method for locating and operating a gasification plant employing predominately tire-derived fuel as a feedstock, said method comprising the steps of:
 - identifying a parcel of land on which to site said plant, said parcel of land being located such that at least about 3,500,000 scrap tires per year are available for substantially regular and substantially continuous delivery to said plant, at a predetermined adequate tipping fee;
 - locating said plant on said parcel of land;
 - operating said plant on said parcel of land by:
 - shredding at least a portion of said 3,500,000 scrap tires into pellets; and
 - gasifying said pellets to produce synthesis gas, by:
 - introducing said pellets into an updraft, fixed-bed gasifier; and

introducing into said updraft, fixed-bed gasifier, adjacent said pellets, at least one of air, oxygen, and steam;
flowing said synthesis gas in an updraft to a gas exit of said updraft, fixed-bed gasifier, during operation of said updraft, fixed-bed gasifier; and
selling at least one of said synthesis gas, electricity produced by combusting said synthesis gas, and steam produced by combusting said synthesis gas;
wherein said step of introducing said pellets into said updraft, fixed-bed gasifier comprises introducing said pellets at a rate of from about 7,990 lbs/hour to about 17,123 lbs/hour;
and
wherein said step of introducing said at least one of air, oxygen, and steam into said updraft, fixed-bed gasifier comprises introducing air in sub-stoichiometric amounts.

References and Rejections²

Claims 1–13, 15–19, 24, 26, 27, 30, and 31 stand rejected under 35 U.S.C. § 101 because they are directed to patent-ineligible subject matter. Final Act. 4–19.

Claims 1–12, 26, 27, and 30³ stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over “Feasibility Study for a Small-Scale Biomass Project for the Warrenton, VA Area”, November 2, 2007 (“Warrenton”), “Nexterra’s Gasification Technology”, July 28, 2009

² Throughout this opinion, we refer to the (1) Final Rejection dated February 3, 2016 (“Final Act.”); (2) Appeal Brief dated December 5, 2016 (“Appeal Br.”); (3) Examiner’s Answer dated February 2, 2017 (“Ans.”); and (4) Reply Brief dated April 3, 2017 (“Reply Br.”).

³ The Final Action’s heading omits claim 3, which appears to be a typographical error. *See* Final Act. 21, 39–40.

(“Nexterra”), and Prentice III (US 7,028,478 B2, pub. Apr. 18, 2006). Final Act. 21–40.

Claims 13, 15–19, 24, and 31 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Warrenton, Nexterra, Prentice III, and Knopp (US 2005/0031197 A1, pub. Feb. 10, 2005). Final Act. 40–44.

Alternatively, Claims 18 and 24 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Warrenton, Nexterra, Prentice III, Knopp, and Kline (US 2005/0080520 A1, pub. Apr. 14, 2005). Final Act. 44–45.

Claim 7 stands rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Warrenton, Nexterra, Prentice III, and Kline. Final Act. 44–45.

PRINCIPLES OF LAW

“[W]hen the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be nonobvious.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007) (citation omitted).

“A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” *In re Kahn*, 441 F.3d 977, 990 (Fed. Cir. 2006) (citation omitted).

The “mere disclosure of alternative designs does not teach away” and “just because better alternatives exist in the prior art does not mean that an

inferior combination is inapt for obviousness purposes.” *In re Mouttet*, 686 F.3d 1322, 1334 (Fed. Cir. 2012) (citations omitted).

Although a reference that teaches away is a significant factor to be considered in determining unobviousness, the nature of the teaching is highly relevant, and must be weighed in substance. A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use.

In re Gurley, 27 F.3d 551, 553 (Fed. Cir. 1994).

“The prior art’s mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed in the . . . application.” *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004).

ANALYSIS

35 U.S.C. § 101

The Examiner rejects the claims under 35 U.S.C. § 101 because they are directed to patent-ineligible subject matter. *See* Final Act. 4–19; Ans. 2–5. In particular, the Examiner determines “claim 1 recite steps for locating and operating a gasification plant employing predominately tire-derived fuel as a feedstock or in general ‘a project planning’” (Final Act. 9) and constitutes:

a fundamental economic/business practice

Conducting a feasibility study for a small scale waste/scrap material project for a local area and operation of the waste heat boiler, wherein the generated products such as steam, electricity, and gas are for sale, is fundamental economic

practice. See the cited reference, “Feasibility Study for a Small-Scale Biomass Project for the Warrenton, VA Area”, by Antares Group Incorporated, November 2, 2007. The selection of different types of was[te] material, scrap tires, and different types of waste heat boiler, is within the skill of the artisan.

This technique was practiced prior to the earliest available filing date as evidenced by . . . the cited reference[s]
. . . .

The concept of forming a project for a feasibility study for a small scale waste/scrap material project for a local area and operation of the waste heat boiler is an economic practice long prevalent in our system of commerce and squarely within the realm of abstract ideas. As for the operation of the waste heat boiler, i.e. updraft, fixed-bed gasifier, these steps are conventional and well known when burning scrap tires pellets, as taught by NEXTERRA article.

Final Act. 9–10 (original emphases omitted).

Alternatively, the Examiner determines claim 1 is directed to “business process management” (Final Act. 10) and constitutes “a fundamental economic/business practice, or . . . a method of organizing human activities.” Final Act. 10–12. The Examiner determines the claims do not identify an inventive concept to transform the nature of the claims into a patent-eligible application. *See* Final Act. 13–19.

Appellants argue the Examiner’s analysis under *Alice* step one is incorrect, as the Examiner ignores claim elements and fails to consider the claims as a whole. *See* Appeal Br. 18–20; Reply Br. 26–32. Appellants contend the claims are also patent eligible under *Alice* step two, because they recite specific technology improvements. *See* Appeal Br. 20–21; Reply Br. 32–33.

For the reasons stated below, we agree with Appellants that the Examiner erred in determining claim 1 is directed to patent-ineligible subject matter. *See* Appeal Br. 18–22; Reply Br. 26–33.

Section 101 of the Patent Act provides “[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.” 35 U.S.C. § 101. That 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)). According to the Supreme Court:

[W]e set forth a framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts. First, we determine whether the claims at issue are directed to one of those patent-ineligible concepts. . . . If so, we then ask, “[w]hat else is there in the claims before us?” . . . To answer that question, 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 patent-eligible application. . . . We have described step two 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.”

Alice Corp., 134 S. Ct. at 2355.

The Federal Circuit has described the *Alice* step-one inquiry as looking at the “focus” of the claims, their “character as a whole,” and the *Alice* step-two inquiry as looking more precisely at what the claim elements

add—whether they identify an “inventive concept” in the application of the ineligible matter to which the claim is directed. *See Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016); *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015).

Turning to step one of the *Alice* analysis, the Examiner is correct that the preamble of claim 1 recites a method for “locating and operating a gasification plant employing predominately tire-derived fuel as a feedstock.” *See* Final Act. 8; *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1340 (Fed. Cir. 2017) (“we see no error here in the district court citing to the preamble in its review of whether the claims are directed to an abstract idea”).

However, the Examiner erred in concluding claim 1 is directed to “project planning” or “business process management” and, therefore, constitutes a fundamental economic or business practice, or a method of organizing human activities (Final Act. 9–12). The Examiner erred because “[i]n determining the eligibility of respondents’ claimed process for patent protection under § 101, their claims must be considered as a whole.” *Diamond v. Diehr*, 101 S. Ct. 1048, 1057–58 (1981); *see also McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016) (the question is whether the claims as a whole “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”).

Although claim 1 involves the abstract idea of “identifying a parcel of land . . . locating said plant on said parcel of land” (claim 1), the Federal

Circuit explains the “directed to” inquiry is not simply asking whether the claims involve a patent-ineligible concept:

The “directed to” inquiry [] cannot simply ask whether the claims *involve* a patent-ineligible concept, because essentially every routinely patent-eligible claim involving physical products and actions *involves* a law of nature and/or natural phenomenon—after all, they take place in the physical world. *See Mayo*, 132 S.Ct. at 1293 (“For all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.”). Rather, 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, 822 F.3d at 1335.

Considering claim 1 as a whole, we disagree with the Examiner’s determination that claim 1 is directed to an abstract idea (Final Act. 9–12). Claim 1 recites locating a gasification plant, operating the plant, and selling products produced from the plant. *See* claim 1. In particular, operating the plant includes detailed steps of shredding scrap tires into pellets, gasifying the pellets to produce synthesis gas, and flowing the synthesis gas. *See* claim 1.

Therefore, claim 1 is directed to locating and operating a gasification plant employing a particular chemical process, which transforms scrap ties into synthesis gas. Our determination is supported by the Specification, which describes rising interests in alternative sources of energy and seeking proper methods of disposing waste materials (such as scrap ties) to protect the environment. *See* Spec. 1. The Specification describes the transformation process in detail:

the United States generates far more scrap tires than it can dispose of, and this trend shows no signs of abating. To the extent scrap tires generated in the United States are disposed of at all, the disposal techniques used are not environmentally sound (e.g., incineration, spreading the rubber across a wider surface area of the Earth, selling scrap tires for use and/or disposal in Third World countries), and none of these techniques (apart from incineration) takes advantage of the tire rubber's substantial, untapped BTU value.

Aspects of the invention provide techniques for locating and operating a plant for disposal of scrap tires in an environmentally "clean" and sound manner while recovering the tires' untapped energy, via a gasification plant using predominantly tire rubber as its feedstock. One or more embodiments of the invention provide a method for locating and operating a plant which carries out the thermo-chemical conversion, by gasification, of tire rubber feedstock into Syngas. The Syngas itself can, for example, be sold, burned to fire a boiler to make steam for sale, burned in a gas turbine to make electricity for sale, and/or burned to fire a boiler to make steam for a steam turbine to generate electricity for sale, and to generate associated, saleable renewable energy credits. As noted elsewhere herein, in one or more embodiments, predominately (that is, more than 50%) tire rubber is used as feedstock, preferably at least 90% tire rubber as feedstock, more preferably 95-100% tire rubber as feedstock, and most preferably only tire rubber (together with those trace impurities commonly found in pelletized tires).

Spec. 9–10.

As a result, this case is similar to *Diehr*. In that case, the U.S. Supreme Court determines an industrial process of transforming uncured synthetic rubber into cured rubber is patent eligible:

The respondents' claims were not directed to a mathematical algorithm or an improved method of calculation but rather recited an improved process for molding rubber articles by

solving a practical problem which had risen in the molding of rubber products.

....

[A] physical and chemical process for molding precision synthetic rubber products falls within the § 101 categories of possibly patentable subject matter. That respondents' claims involve the transformation of an article, in this case raw, uncured synthetic rubber, into a different state or thing cannot be disputed. The respondents' claims describe in detail a step-by-step method for accomplishing such, beginning with the loading of a mold with raw, uncured rubber and ending with the eventual opening of the press at the conclusion of the cure. Industrial processes such as this are the types which have historically been eligible to receive the protection of our patent laws.

Diehr, 101 S. Ct. at 1054–1055.

Similar to the claims of *Diehr*, claim 1 recites an improved process for operating a gasification plant employing predominately tire-derived fuel by solving a practical problem that occurred in operating a gasification plant. *See Diehr*, 101 S. Ct. at 1055. Similar to the claims of *Diehr*, claim 1 “involve[s] the transformation of” scrap tires into synthesis gas—a different thing. *Diehr*, 101 S. Ct. at 1055. Similar to the claims of *Diehr*, claim 1 describes in detail a step-by-step method for accomplishing the transformation, beginning with the shredding of the scrap ties and ending with synthesis gas at the conclusion of the operation. *See Diehr*, 101 S. Ct. at 1055. That kind of industrial process has “historically been eligible to receive the protection of our patent laws.” *Diehr*, 101 S.Ct. at 1055.

Therefore, similar to the claims of *Diehr*, claim 1 is patent eligible because it is not directed to an abstract idea. *See Diehr*, 101 S. Ct. at 1055.

For similar reasons, claims 2–13, 15–19, 24, 26, 27, 30, and 31, which depend on claim 1, are also patent eligible because they are not directed to an abstract idea.

Because we conclude claims 1–13, 15–19, 24, 26, 27, 30, and 31 are not directed to an abstract idea under step one of the *Alice* analysis, we do not need to reach Appellants’ arguments about step two of the *Alice* analysis. *See Enfish*, 822 F.3d at 1339.

Accordingly, we reverse the Examiner’s rejection of claim 1–13, 15–19, 24, 26, 27, 30, and 31 under 35 U.S.C. § 101, as the Examiner fails to provide sufficient basis for the rejection.

35 U.S.C. § 103

Claims 1–12, 26, 27, and 30

On this record, the Examiner did not err in rejecting claim 1.

We disagree with Appellants’ arguments, and agree with and adopt the Examiner’s findings and conclusions in (i) the action from which this appeal is taken (Final Act. 21–34) and (ii) the Answer (Ans. 6–7) to the extent they are consistent with our analysis below.⁴

⁴ To the extent Appellants advance new arguments in the Reply Brief without showing good cause, Appellants have waived such arguments. *See* 37 C.F.R. § 41.41(b)(2).

I

Appellants contend the Examiner erred in determining the cited references collectively teach claim 1. *See* Appeal Br. 6–11; Reply Br. 6–14, 16. In particular, Appellants argue Prentice III teaches away from claim 1 because “use of air is expressly required by the unambiguous literal language of the claim” and “there is overwhelming teaching away from the use of air within the four corners of Prentice III.” Appeal Br. 7 (original emphases omitted). Appellants cite eight extensive excerpts of Prentice III and contend, based on such excerpts, “Prentice III repeatedly criticizes, discredits, and discourages use of air.” Appeal Br. 7.

Appellants have not persuaded us of error.

Claim 1 recites air in these limitations: “introducing into said updraft, fixed-bed gasifier, adjacent said pellets, at least one of air, oxygen, and steam” (“Introducing Limitation”) and “wherein said step of introducing said at least one of air, oxygen, and steam into said updraft, fixed-bed gasifier comprises introducing air in sub-stoichiometric amounts” (“Wherein Limitation”).

The Examiner finds the primary reference Warrenton teaches the Introducing Limitation. *See* Final Act. 27. The Examiner further finds the combination of Warrenton and Nexterra inherently teaches the Wherein Limitation. *See* Final Act. 28–30. Appellants do not dispute those findings.

The Examiner cites Prentice III as a secondary reference for teaching “shredding at least a portion of said 3,500,000 scrap tires into pellets.” *See* Final Act. 32–33. Appellants do not dispute that finding. The Examiner modifies Warrenton’s method to include Nexterra’s and Prentice III’s features. *See* Final Act. 21–33. The modification includes Prentice III’s

teaching of shredding at least a portion of said 3,500,000 scrap tires into pellets, but no other teachings of Prentice III. *See* Final Act. 21–33.

Appellants’ contentions about Prentice III are unpersuasive. In particular, Appellants do not contend—let alone show—Prentice III criticizes or discourages using air for the shredding operation, which is the only Prentice III feature used by the combination. Further, regardless of whether Prentice III teaches away from using air in *its own operation*, that operation is not included in the Examiner’s proposed combination. Therefore, Appellants’ teaching away argument based on Prentice III is unpersuasive.

II

Appellants contend their teaching away argument (discussed above) is “strongly bolstered” by the expert declaration of Dr. George Mallan dated February 6, 2014 (“Declaration” or “Decl.”). Appeal Br. 12; Reply Br. 15.

We disagree. Appellants acknowledge the Declaration’s assertions about Bishop (US 2005/0000162 A1, pub. Jan. 6, 2005) are no longer relevant, as the Examiner no longer cites that reference for the rejection. *See* Appeal Br. 12.

We find unpersuasive the Declaration’s assertion that:

an attempt to combine Prentice III . . . and “Nexterra’s Gasification Technology” to obtain the invention claimed in Claim 1 of the above-identified US Patent Application, as pending after the Amendment filed in response thereto on December 19, 2013, would change the principle of operation of Prentice III (combustion to produce steam only - paragraph 8, *supra* and Prentice III abstract).

Decl 3.

Appellants have not shown the above assertion about claim 1 is applicable, as the assertion is directed to a claim from 2013—nearly five years ago. And Appellants have not compared the outdated claim 1 with the current claim 1 to show they are identical. In any event, the Declaration’s assertion that the combination “would change the principle of operation of Prentice III” is not directed to the Examiner’s specific combination. As discussed above, the Examiner does not use Prentice III as the primary reference, and does not modify Prentice III’s system for the proposed combination.

Likewise, we find unpersuasive the Declaration’s assertion that:

Prentice III teaches away from any combination with . . . ‘Nexterra’s Gasification Technology” to obtain the invention claimed in Claim 29 of the above-identified US Patent Application, as pending after the Amendment filed in response thereto on December 19, 2013, since Prentice III teaches combustion using an oxidizer other than air.

Decl. 3–4. Claim 29 is not before us, as it has been cancelled. *See* Final Act. 2. In any event, the above argument is unpersuasive. As discussed above, the Examiner modifies Warrenton’s method (as modified by Nexterra) to include Prentice III’s sole feature of the shredding technique, and Appellants do not contend Prentice III criticizes or discourages using air for the shredding technique. Further, regardless of whether Prentice III teaches away from using air in *its own operation*, that operation is not included in the Examiner’s proposed combination.

III

Appellants contend:

Even if the references are combined as proposed by the Examiner, at a minimum, they fail to teach or suggest “identifying a parcel of land on which to site said plant, said parcel of land being located such that at least about 3,500,000 scrap tires per year are available for substantially regular and substantially continuous delivery to said plant, at a predetermined adequate tipping fee.” At pages 22-25 of the Final Office Action, the Examiner relies on passages of WARRENTON reproduced in the Office Action. However, it is respectfully submitted that these passages are best understood not as directed to identifying a parcel of land within the meaning of the cited passage of Claim 1. Rather, it is respectfully submitted that these passages, in essence, already assume that the plant will be built near Warrenton, VA and merely survey what amount of tires at what tipping fee are available near that town; they do not fairly teach or suggest the minimum desired number of scrap tires per year and tipping fee for economic operation when seeking to locate a plant with a “blank slate.” Compare passages of WARRENTON reproduced on Office Action pages 23-25 with page 11 of the present specification.

Appeal Br. 12–13; *see also* Reply Br. 15–16.

Appellants have not persuaded us of error. It is well established that during examination, claims are given their broadest reasonable interpretation consistent with the specification and should be read in light of the specification as it would be interpreted by one of ordinary skill in the art, *but without importing limitations from the specification*. *See In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted); *SuperGuide Corp. v. DirecTV Enters., Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004). Because page 11 of the Specification merely provides *non-limiting, exemplary* description of the disputed limitation, we decline to import

limitations from the Specification into the disputed claim limitation. Therefore, Appellants' statement about comparing the cited prior art excerpts with "page 11 of the present specification" (Appeal Br. 12–13; Reply Br. Reply Br. 15–16) is unhelpful.

Further, Appellants' assertion about "seeking to locate a plant with a 'blank slate[]'" (Appeal Br. 12) is not commensurate with the scope of the claim, as Appellants have not shown claim 1 requires such language.

Because the claim limitation "identifying a parcel of land" is broadly worded, we agree with the Examiner that under the broadest reasonable interpretation of that term, the cited Warrenton excerpts teach that limitation. *See* Final Act. 22–25; Warrenton 1 (describing identifying a parcel of land in Warrenton, Virginia).

Because Appellants have not persuaded us the Examiner erred, we sustain the Examiner's rejection of independent claim 1.

We also sustain the Examiner's rejection of corresponding dependent claims 2–12, 26, 27, and 30 (including the alternative rejection of claim 7), as Appellants do not advance separate substantive arguments about those claims.

Claims 13, 15–19, 24, and 31⁵

We have reviewed the Examiner's rejection in light of Appellants' contentions and the evidence of record. We concur with Appellants' contention that the Examiner erred in determining the cited portions of

⁵ Appellants raise additional arguments about this group of claims. Because the identified issue is dispositive of the appeal with respect to this group of claims, we do not reach the additional arguments.

Warrenton teach “generating a visual representation of a geographic region of interest, wherein said visual representation includes at least one window adjacent at least one *tire supplier location*,” as recited in claim 13 (emphasis added). *See* Appeal Br. Br. 14–16; Reply Br. 17.

Specifically, we agree with Appellants that the Examiner has not adequately mapped the italicized limitation, as the Examiner’s rejection maps “generating a visual representation of a geographic region of interest, wherein said visual representation includes at least one window adjacent said at least *interest feature*” (emphasis added) instead. *See* Appeal Br. 14–16. And the Examiner fails to explain how the “interest feature” is equivalent to, or at least teaches or suggests a tire supplier location.

Further, we have reviewed the Knopp excerpts cited by the Examiner, and absent further explanation by the Examiner, we do not see how they teach “generating a visual representation of a geographic region of interest, wherein said visual representation includes at least one window adjacent at least one *tire supplier location*,” as required by claim 13 (emphasis added).

Because the Examiner fails to provide sufficient evidence or explanation to support the rejection, we are constrained by the record to reverse the Examiner’s rejection of claim 13.

We also reverse the Examiner’s rejection of dependent claims 15–19, 24, and 31, which depend on claim 13. Although the Examiner cites an additional reference for rejecting dependent claims 18 and 24 under an alternative ground of rejection, the Examiner has not shown the additional reference overcomes the deficiency discussed above in the rejection of claim 13.

DECISION

We reverse the Examiner's decision rejecting claims 1–13, 15–19, 24, 26, 27, 30, and 31 under 35 U.S.C. § 101.

We affirm the Examiner's decision rejecting claims 1–12, 26, 27, and 30 under 35 U.S.C. § 103.

We reverse the Examiner's decision rejecting claims 13, 15–19, 24, and 31 under 35 U.S.C. § 103.

Because we affirm at least one ground of rejection with respect to claims 1–12, 26, 27, and 30, we affirm the Examiner's decision rejecting claims 1–12, 26, 27, and 30. *See* 37 C.F.R. § 41.50(a)(1).

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-IN-PART