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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* IAN O. PARTRIDGE, ADAM J. PILKINGTON,  
DAVID S. RENSHAW, and ANDREW TAYLOR

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Appeal 2017-009283  
Application 13/813,468  
Technology Center 2400

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Before JAMES R. HUGHES, ERIC S. FRAHM, and  
JOHN P. PINKERTON, *Administrative Patent Judges*.

PINKERTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1–17 and 21–23, which constitute all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> Appellants identify IBM Corporation as the real party in interest. App. Br. 1.

## STATEMENT OF THE CASE

### *Introduction*

Appellants' disclosed and claimed invention is generally directed to "providing collaborative help for user applications." Spec. 1, ll. 3–4.<sup>2</sup>

Claim 1 is representative and reproduced below (with the disputed limitations emphasized in italics):

1. A method for collaborative help for user applications, comprising:

generating, using a processor, a message, the message being reflective of a user's experience in using a user application;

sending the message to a collaborative help server to share the message with other users; and

*receiving a response from the server providing information regarding one or more other users' experience similar to the user's experience reflected in the message.*

App. Br. 28 (Claims App'x).

### *Rejections on Appeal*

Claims 1–17 and 21–23 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter.

Claims 1, 3–5, 7–12, 15–17, and 21–23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hawthorne et al. (US 2010/0106668 A1;

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<sup>2</sup> Our Decision refers to the Final Office Action mailed Oct. 11, 2016 ("Final Act."); Appellants' Appeal Brief filed Mar. 8, 2017 ("App. Br.") and Reply Brief filed June 16, 2017 ("Reply Br."); the Examiner's Answer mailed May 4, 2017 ("Ans."); and the original Specification filed Jan. 31, 2013 ("Spec.").

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published Apr. 29, 2010) (“Hawthorne”) and Bhamidipaty et al. (US 2008/0148110 A1; published June 19, 2008) (“Bhamidipaty”).

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Hawthorne, Bhamidipaty, and Stiegemeier et al. (US 6,192,381 B1; issued Feb. 20, 2001) (“Stiegemeier”).

Claims 6 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhamidipaty, Hawthorne, and Shroff et al. (US 2009/0164589 A1; published June 25, 2009) (“Shroff”).

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhamidipaty, Hawthorne, and Knight et al. (US 6,493,703 B1; issued Dec. 10, 2002) (“Knight”).

## ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments in the Briefs. For the reasons discussed *infra*, we are not persuaded by Appellants’ arguments that the Examiner erred in rejecting (1) claims 1–17 and 21–23 under 35 U.S.C. § 101 and (2) claims 1, 3–17, and 21–23 under 35 U.S.C. § 103(a). However, we are persuaded by Appellants’ arguments the Examiner erred in rejecting claim 2 under 35 U.S.C. § 103(a).

### *Rejection of Claims 1–17 and 21–23 under § 101*

#### Applicable Law

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) (internal quotation marks and citation omitted).

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, 75–77 (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 the analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* For example, abstract ideas 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. The “directed to” inquiry asks not whether “the claims *involve* a patent-ineligible concept,” but instead whether, “considered in light of the specification, . . . ‘their character as a whole is directed to excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (internal citations omitted). In that regard, we determine whether the claims “focus on a specific means or method that improves the relevant technology” or are “directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.” *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016).

If, at the first stage of the *Alice* analysis, we conclude that the claim is not directed to a patent-ineligible concept, it is considered patent eligible

under § 101 and the inquiry ends. *Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1047 (Fed. Cir. 2016).

If the claims are directed to a patent-ineligible concept, the second step in the analysis is to consider the elements of the claims “individually and ‘as an ordered combination’” to determine whether there are additional elements that “‘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). In other words, the second step is to “search for an “‘inventive concept’”—*i.e.*, an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Id.* (brackets in original) (quoting *Mayo*, 566 U.S. at 72–73). The prohibition against patenting an abstract idea “‘cannot be circumvented by attempting to limit the use of the formula to a particular technological environment’ or adding ‘insignificant postsolution activity.’” *Bilski v. Kappos*, 561 U.S. 593, 610–11 (2010) (internal citation omitted).

#### Examiner’s Findings

The Examiner finds claim 1 “is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more.” Final Act. 2. In particular, the Examiner finds the claim “is directed to sharing a message of a user that reflects a user’s experience and based on the message and information, providing information similar to [the] user’s experience.” *Id.* The Examiner also finds the steps of claim 1 can be performed mentally, and the claim “is similar to concepts that have been identified as abstract by the courts, such as comparing new and stored information and using rules to identify options in *SmartGene* or collecting and comparing known information in *Classen*.” *Id.*

at 3. The Examiner further finds “[t]he claims does not include additional elements when considered both individually and as a combination do not amount to significantly more than the abstract idea.” *Id.* In that regard, the Examiner finds the limitations of “generating, using, sending, and receiving are simply generic computer functions as known in the art and the use of a computer readable storage device with instructions is a well known element in the art.” *Id.* at 3–4. Further, the Examiner finds “[t]he claimed invention provides no meaningful limitations on the abstract idea, although a processor/computer is utilized no improvement to the computer or another technology is realized.” *Id.* at 4. In response to Appellants’ arguments that claim 1 is not directed to an abstract idea, the Examiner finds Appellants have not provided reasoning or evidence in regard to seven issues, including why the claim limitations, in view of the Specification, provide improvements to the functioning of the computer itself. Ans. 4–5.

#### Appellants’ Arguments<sup>3</sup>

Appellants argue all of the pending claims “meet the explicit requirements of 35 U.S.C. § 101” because they are directed to a method or process (claims 1–15), a computer program product (claims 16 and 17), and a computer hardware system (claims 21–23). App. Br. 10–11. Regarding step one of *Alice*, Appellants argue “the Examiner did not identify an alleged

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<sup>3</sup> Although Appellants misstate the claims rejected by the Examiner under § 101 (*see* App. Br. 4) and the claims being argued under this rejection (*see* App. Br. 10), we discern that Appellants argue the rejection of all of claims 1–17 and 21–23 under § 101 and do so as a group, focusing on claim 1. We consider claim 1 to be representative of the claimed subject matter on appeal and, therefore, we decide the rejection of claims 1–17 and 21–23 on the basis of representative claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv)(2016).

‘abstract idea, ’” but merely repeated certain limitations of claim 1. *Id.* at 12. Appellants also argue the limitations of claim 1 are tied to a machine, i.e., a processor and server, and, therefore, “the claimed invention meets the machine or transformation test, which is an ‘important and useful clue’ that the claimed invention, as whole, is directed to statutory subject matter.” *Id.* at 12–13. Appellants further argue the Examiner erred by finding the claims are directed to an abstract idea, which can be performed mentally and is similar to concepts in other cases found to be abstract. *Id.* at 13.

Specifically, Appellants argue the Examiner erred in relying on *SmartGene, Inc. v. Advanced Biological Labs*, 555 F. App’x 950 (Fed. Cir. 2014) (nonprecedential) and *Classen Immunotherapies Inc. v. Biogen IDEC*, 659 F.3d 1057 (Fed. Cir. 2011) because the Examiner “has not reasonably tied the claimed invention to the facts of . . . [these] decisions.” *Id.* at 13–16. Regarding step two of *Alice*, Appellants’ argue that because the Examiner has failed to show the claimed invention is directed to an abstract idea, “the Examiner’s analysis as to Step 2B is moot.” *Id.* at 16. In regard to the Examiner’s list of issues regarding which Appellants have not responded, Appellants argue “the Examiner has the burden of establishing that the claimed invention is directed to an abstract idea” and for the reasons argued by Appellants, “the Examiner has not met this burden.” *Id.* at 16–17.

#### *Step One of Alice*

We are not persuaded by Appellants’ arguments that the Examiner erred in concluding claim 1 is directed to patent-ineligible subject matter—an abstract idea. First, although Appellants correctly argue that the claims are directed to categories of patentable subject matter identified in § 101, as stated *supra*, the Supreme Court held in *Alice* there are implicit exceptions to

these categories that are not patentable, including abstract ideas. *Alice*, 134 S. Ct. at 2354. Second, we are not persuaded by Appellants' argument the Examiner did not identify an abstract idea, but merely recited certain limitations of claim 1. App. Br. 12. Contrary to Appellants' argument, we determine the Examiner's rejection under § 101 is reasonably interpreted as finding claim 1 is directed to the abstract idea of "sharing a message of a user that reflects a user's experience [with an application] and based on the message and information, providing information similar to the user's experience." Final Act. 2–3.

Third, we are not persuaded by Appellants' argument that the Examiner has not met his burden of establishing claim 1 is directed to an abstract idea. Procedurally, we note the Examiner is merely required to provide Appellants reasonable notice as to the basis of the § 101 rejection. The notice requirement is set forth by 35 U.S.C. § 132.

[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 stated the statutory bases for the rejection and performed the two-part *Alice* test. See Final Act. 2–7. Thus, we conclude the Examiner provided an adequate explanation of the rejection under § 101 and met the notice requirement of 35 U.S.C. § 132.

Substantively, considering the focus of claim 1 as a whole, in view of the Specification, we agree with the Examiner’s conclusion that claim 1 is directed to an abstract idea—helping the user of an application by providing user information that is used to search for similar information from other users. We note Appellants argue that “the claimed invention involves an automated collaborative help system that uses certain information to search for other information that is relevant to a user.” Reply Br. 2. The preamble of claim 1 recites “[a] method for collaborative help for user applications.” The claim recites three steps: (1) generating a message reflecting a user’s experience in using a user application; (2) sending the message to a server to share the message with other users; and, (3) receiving a response regarding one or more other user’s experience similar to the user’s as reflected in the message. These steps define recording, sending, and receiving information regarding the use of an application. We see no meaningful difference in claim 1 and similar or analogous claims in other cases that our reviewing court has found are directed to an abstract idea. *See Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (“[t]he concept of data collection, recognition, and storage is undisputedly well-known”); *Electric Power Grp, LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016) (claims focus on the abstract idea of collecting information, analyzing it, and displaying certain results of the collection and analysis); *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1341 (Fed. Cir. 2017) (holding that the claimed

invention is directed to the abstract idea of “collecting, displaying, and manipulating data of particular documents”).<sup>4</sup>

We also agree with the Examiner that the steps recited in claim 1 could be “performed mentally” by a human with pen and paper. *See* Final Act. 3. In that regard, our reviewing court has held that “analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, [are] essentially mental processes within the abstract-idea category.” *Electric Power*, 830 F.3d at 1354; *see also Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1146 (Fed. Cir. 2016). “[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.” *Bancorp Servs., LLC v. Sun Life Assurance Co. of Can. (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012).<sup>5</sup>

Fourth, we are not persuaded by Appellants’ argument that claim 1, as a whole, is directed to patent-eligible subject matter because it is tied to a machine, i.e., a processor and server, and therefore passes the machine or transformation test. App. Br. 12–13. “[I]n *Mayo*, the Supreme Court emphasized that satisfying the machine-or-transformation test, by itself, is not sufficient to render a claim patent-eligible, as not all transformations or

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<sup>4</sup> Even if we were to agree with Appellants’ arguments that *SmartGene* and *Classen* are factually distinguishable (*see* App. Br. 13–16), the Examiner’s reliance on those cases does not amount to reversible error in view of the recent Federal Circuit decisions cited here and the two-step *Alice* analysis set forth herein.

<sup>5</sup> *See also 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*).

machine implementations infuse an otherwise ineligible claim with an ‘inventive concept.’” *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014). Here, claim 1 does not pass the machine-or-transformation test because it is “not tied to any particular novel machine or apparatus,” but only uses a generic processor and conventional server. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 716–17 (Fed. Cir. 2014). Appellants do not argue, much less provide persuasive reasoning or support in the Specification, that these components are anything other than well-know, conventional, and generic components. Although claim 1 recites tangible components, the recited physical components merely provide the platform on which to perform the abstract idea. As the court noted in *In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607 (Fed. Cir. 2016), “not every claim that recites concrete, tangible components escapes the reach of the abstract-idea inquiry.” *Id.* at 611.

#### *Step Two of Alice*

Regarding step two of the *Alice* analysis, the Examiner finds the “claims does not include additional elements when considered both individually and as a combination do not amount to significantly more than the abstract idea.” Final Act. 3. The Examiner also finds “[t]he limitation[s] of generating, using, sending, and receiving are simply generic computer functions as known in the art and the use of a computer readable storage device with instructions is a well known element in the art.” *Id.* at 3–4. The Examiner further finds “[t]he claimed invention provides no meaningful limitations on the abstract idea, although a processor/computer is utilized no improvement to the computer or another technology is realized.” *Id.* Appellants do not substantively respond to these findings, but assert the

Examiner’s analysis under step two of *Alice* is moot because the Examiner failed to establish the claimed invention is directed to an abstract idea under step one of *Alice*. App. Br. 16. For the reasons discussed *supra* regarding step one of *Alice*, we do not agree with Appellants that consideration of step two of *Alice* is moot.

As stated, Appellants have not argued or identified any portions of the Specification indicating that there are any technological improvements or advances in claim 1’s processor and server. Claim 1 does not “focus on a specific means or method that improves the relevant technology,” but is “directed to a result or effect that itself is the abstract idea and merely invoke[s] generic processes and machinery.” *McRO*, 837 F.3d at 1314. This is not enough to transform an abstract idea into patent-eligible subject matter. *See, e.g., Alice*, 134 S. Ct. at 2360 (explaining that claims that “amount to ‘nothing significantly more’ than an instruction to apply the abstract idea . . . using some unspecified, generic computer” “is not ‘*enough*’ to transform an abstract idea into a patent-eligible invention” (quoting *Mayo*, 566 U.S. at 77, 79)); *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d at 1342 (“[T]he claim language here provides only a result-oriented solution, with insufficient detail for how a computer accomplishes it. Our law demands more.”). Thus, we see nothing in the limitations of claim 1, considered “both individually and as an ordered combination,” that transforms the claimed abstract idea into patent-eligible subject matter.

Accordingly, for the reasons discussed above, we sustain the Examiner’s rejection of claim 1 under § 101. For the same reasons, we sustain the rejection of independent claims 10, 16, 17, 21, and 22, and

dependent claims 2–9, 11–15, and 23, which are not separately argued, under § 101.

*Rejection of Claims 1, 3–5, 7–12, 15–17, and 21–23 under § 103(a)*  
Claims 1, 3–5, 8–12, 15–17, and 21–23<sup>6</sup>

Appellants argue the combination of Bhamidipaty and Hawthorne fails to teach or suggest “receiving a response from the server *providing information regarding one or more other users’ experience similar to the user’s experience reflected in the message,*” as recited in claim 1. In particular, Appellants argue Bhamidipaty teaches error messages are input into search engines and the results are returned to a user, but “this is only marginally relevant” because an error message is not the claimed “information.” App. Br. 17. Appellants argue paragraph 67 of Hawthorne teaches “the solution engine 118 is able to browse through the solution library 128 to retrieve solutions and/or items relevant to a problem submitted by the user,” but these are not “information regarding one or more other users’ experience similar to the user’s experience reflected in the message,” as claimed. *Id.* at 18. Appellants also argue the Examiner’s reliance on paragraphs 19–25 of Hawthorne “improperly conflates the claimed ‘user’s experience in using a user application’ with the ‘problem’ described by Hawthorne.” *Id.* at 18–19.

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<sup>6</sup> Appellants argue these claims as a group based on representative claim 1. App. Br. 17. Thus, we decide the rejection of these claims on the basis of representative claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv)(2016).

We are not persuaded by Appellants' arguments. Contrary to Appellants' argument (*see* App. Br. 18–19), the Examiner does not improperly conflate the claimed “‘user’s experience in using a user application’ with the ‘problem’ described by Hawthorne.” In describing working examples of the claimed method, Appellants' Specification states that, when computer users encounter problems, “[t]he approach is to share all information and error messages between a broad set of users.” Spec. p. 12, ll. 15–17. The Specification also states:

When shared messages indicate a common thread of issues of problems, two or more users can be matched and put in contact with each other. When a user resolves a problem or has feedback on an issue or task, he/she can author tips, help or guidance which can be shared with other users receiving messages exhibiting similar problems.

*Id.* at p.12, ll. 17–21.

Considering the Specification, we conclude the broadest reasonable interpretation of the limitation “user’s experience” in using a user application includes a user’s issues, problems, tips, help, guidance, and solutions. Accordingly, for the following reasons stated by the Examiner, we agree with the Examiner’s finding that Hawthorne teaches the limitation “information regarding one or more user’s experience similar to the user’s experience[:.]”

Hawthorne, Fig. 4, para.19–25; teaches a system where a user solicit[s] a community of users for potential solutions to a problem, the user sends a request for wisdom (RFW), then a user community responds with personal stories or essays/potential solutions to the problem, since the community of users responds with the potential solution to the problem, this teaches receiving a response which provides information (potential solution) regarding one or more users’ experience similar to the user’s

experience reflected in the message, the problem is interpreted as the “user’s experience.”

Ans. 6–7.

Accordingly, we sustain the Examiner’s rejection of claim 1, as well as claims 3–5, 8–12, 15–17, and 21–23 under § 103(a).

#### Claim 7

Claim 7 depends from claim 1 and recites “wherein the response from the server provides a ranked list of other users’ experiences.” Appellants argue that, although paragraph 57 of Bhamidipaty describes “assign different numerical metrics to each of the potential answers,” “nowhere does Bhamidipaty describe providing ‘a ranked list’ of other user’s experiences.” App. Br. 20–21 (quoting claim 7). Appellants also argue Hawthorne’s teaching of assigning different numerical metrics to each of the “potential answers” or “potential solutions,” as characterized by the Examiner, does not teach “a ranked list of other user’s experiences.” Reply Br. 5.

We are not persuaded by Appellants’ arguments that the Examiner erred. The Examiner explains that paragraph 57 of Hawthorne, rather than Bhamidipaty, is relied on to teach the limitation of claim 7. In that regard, the Examiner finds Hawthorne teaches “a ranked list of other user’s experiences” because paragraph 57 teaches the solution engine may characterize the potential solutions and “assign different numerical metrics to each of the potential answer[s].” Ans. 8–9. Considering the broadest reasonable interpretation of “user’s experiences,” which includes “solutions” or “answers” to a user’s issues or problems, we agree with the Examiner that Hawthorne’s assigning of numerical metrics to the potential answers teaches

or suggests “a ranked list of other users’ experiences,” as recited in claim 7. Thus, we affirm the Examiner’s rejection of claim 7 under § 103(a).

*Rejection of Claim 2 under § 103(a)*

Claim 2 depends from claim 1 and recites “wherein generating a message includes the created content and any error messages.” The Examiner relies on Stiegemeier as teaching this limitation. Final Act. 14 (citing Stiegemeier col. 4, ll. 9–15; col 12, ll. 11–25; Fig. 5B, element 555). Appellants argue the teachings relied on by the Examiner describe “client-side validation,” which is not relevant to claim 2 because such validation “involves generating a message *for a user* — not a message *to be sent to a collaborative help server*.” App. Br. 21–22; *see also* Reply Br. 5–6. We are persuaded by Appellants’ arguments that the Examiner erred. Thus, we do not sustain the rejection of claim 2 under § 103(a).

*Rejection of Claims 6, 13, and 14 under § 103(a)*

Appellants argue the rejection of claims 6 and 13 is in error in view of the arguments presented regarding claims 1 and 10, from which they respectively depend. Appellants also argue Shroff does not cure the deficiencies in the rejection of claims 1 and 10, and in any event, the proposed combination of Hawthorne, Bhamidipaty, and Shroff “would not yield the claimed invention.” App. Br. 24. These arguments are not persuasive. For the reasons discussed *supra* regarding claim 1, there are no deficiencies in the rejections of claims 1 and 10 based on the combination of Hawthorne and Bhamidipaty. Further, regarding Appellants’ argument the combination does not teach the claimed invention, we agree with the Examiner’s finding this is not a valid argument for separate patentability. Ans. 10; *see also* 37 C.F.R. § 41.37(c)(1)(iv) (“A statement which merely

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points out what a claim recites will not be considered an argument for separate patentability of the claim.”); *see also In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011).

Appellants make substantially the same arguments with respect to claim 14 and the combination of Hawthorne, Bhamidipaty, and Knight. For the same reasons stated regarding claims 6 and 13, we are not persuaded by Appellants’ arguments regarding claim 14.

Accordingly, we sustain the Examiner’s rejection of claims 6, 13, and 14 under § 103(a).

#### DECISION

We affirm the Examiner’s decision rejecting claims 1–17 and 21–23 under 35 U.S.C. § 101.

We affirm the Examiner’s decision rejecting claims 1, 3–17, and 21–23 under 35 U.S.C. § 103(a).

We reverse the Examiner’s rejection of claim 2 under 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). *See* 37 C.F.R. § 1.136(a)(1)(iv)(2016).

AFFIRMED