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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* RAVI LOGANATHAN, RONALD SCOTT ALCORN,  
SANDRA LETTERLY, JAMES KAUFMAN, and LAURA WEINFLASH

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Appeal 2017-010487<sup>1</sup>  
Application 14/970,212<sup>2</sup>  
Technology Center 3600

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Before NINA L. MEDLOCK, KENNETH G. SCHOPFER, and  
TARA L. HUTCHINGS, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

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<sup>1</sup> Our decision references Appellants' Specification, ("Spec.", filed Dec. 15, 2015; Appeal Brief ("App. Br.," filed March 6, 21017) and Reply Brief ("Reply Br.," filed August 4, 2017), and the Examiner's Answer ("Ans.," mailed June 6, 2017) and Final Office Action ("Final Act.," mailed September 8, 2016).

<sup>2</sup> Appellants identify Early Warning Services, LLC as the real party in interest. App. Br. 3.

## STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 20–35. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

## CLAIMED INVENTION

Appellants' claimed invention relates to “systems and methods for locating and accessing assets, such as accounts” (Spec. ¶ 7).

Claims 20, 31, and 35 are the independent claims on appeal.

Claims 20 and 35, reproduced below with bracketed notations added, are illustrative of the claimed subject matter:

20. A system, comprising:

[(a)] a database storing data for accounts from a plurality of institutions, wherein the database is maintained by an asset verification service separate from and serving more than one of the institutions, the stored data for each respective account comprising at least a personal identifier for an account holder of that respective account, and the database also storing negative contributed information received from one or more sources about a number of account holders; and

[(b)] a processor configured to:

[(b1)] receive via an electronic network from a loan originator a request to locate assets, the request including a submitted personal identifier;

[(b2)] automatically locate one or more accounts at one or more of the institutions by matching the submitted personal identifier to a personal identifier stored in the database for the located accounts;

[(b3)] retrieve from the database stored data associated with the located accounts;

[(b4)] retrieve from the database at least some of the negative contributed information associated with the submitted personal identifier;

[(b5)] produce a report, the report indicating the assets contained in the one or more located accounts, the report also including at least some of the negative contributed information; and

[(b6)] provide the report to the loan originator from which the request to locate assets was received.

35. A method, comprising:

[(a)] receiving a mortgage application from an applicant, the mortgage application including personal identifying information about the applicant;

[(b)] transmitting the personal identifying information about the applicant via an electronic network to an asset location and verification service provider;

[(c)] receiving via the electronic network a report from the asset location and verification service provider, the report including information about assets owned by or associated with the applicant;

[(d)] making a determination, based in part on the report, to approve the mortgage application; and

[(e)] sending an identifier of the report, but not the content of the report, directly to a government sponsored enterprise.

### REJECTIONS<sup>3</sup>

Claims 20–35 are rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

Claims 20–24 and 26–34 are rejected under 35 U.S.C. § 103 as unpatentable over O’Neill et al. (US 2011/0087495 A1, pub. Apr. 14, 2011) (“O’Neill”), Green et al. (US 2003/0009418 A1, pub. Jan. 9, 2003) (“Green”), and Nightengale et al. (US 2010/0268696 A1, pub. Oct. 21, 2010) (“Nightengale”).

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<sup>3</sup> The Examiner has withdrawn the double patenting rejection and the rejections under 35 U.S.C. §§ 112(a) and 112(b). *See* Ans. 2.

Claim 25 is rejected under 35 U.S.C. § 103 as unpatentable over the O’Neill, Green, Nightengale, and Chapman et al. (US 8,229,806 B1, iss. July 24, 2012) (“Chapman”).

Claim 35 is rejected under 35 U.S.C. § 103 as unpatentable over Tealdi et al. (US 2001/0029482 A1, pub. Oct. 11, 2001) (“Tealdi”), Green, Orfano (US 2006/0116952 A1, pub. June 1, 2006) and Kiai et al. (US 2005/0273423 A1, pub. Dec. 8, 2005) (“Kiai”).

## ANALYSIS

### *Patent-Ineligible Subject Matter*

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. *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

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 (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 Corp.*, 573 U.S. at 217. The first step in that analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* If the claims are not directed to a patent-ineligible concept, e.g., an abstract idea, the inquiry ends. Otherwise, the inquiry proceeds to the second step where the elements of the claims are considered “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.” *Id.* (quoting *Mayo*, 566 U.S. at 79, 78).

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. Therefore, the Federal Circuit has instructed that claims are to be considered in their entirety to determine “whether their character as a whole is directed to excluded subject matter.” *McRO, Inc. v. Bandai Namco Games Am., Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)).

*Independent Claims 20 and 31 and Dependent Claims 21–30 and 32–34*

We are not persuaded, as an initial matter, by Appellants’ argument that the Examiner erred in determining that claims 20–34 are directed to an abstract idea (App. Br. 5–7). The Federal Circuit has explained that “the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the [S]pecification, based on whether ‘their character as a whole is directed to excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp.*, 790 F.3d at 1346). It asks whether the focus of the claims is on a specific improvement in relevant technology or on a process that itself qualifies as an “abstract idea” for which computers are invoked merely as a tool. *See id.* at 1335–36. Here, it is clear from the Specification, including the claim language, that the claims focus on an abstract idea, and not on any improvement to technology and/or a technical field.

The Specification is entitled “SYSTEM AND METHOD TO SEARCH AND VERIFY BORROWER INFORMATION USING BANKING AND

INVESTMENT ACCOUNT DATA AND PROCESS TO SYSTEMATICALLY SHARE INFORMATION WITH LENDERS AND GOVERNMENT SPONSORED AGENCIES FOR UNDERWRITING AND SECURITIZATION PHASES OF THE LENDING CYCLE.” The Specification describes that account balance and other information held by an account owner are often needed by third parties for various reasons, e.g., in connection with an application for a mortgage or for government benefits (Spec. ¶ 2). However, according to the Specification, searching for, and verifying account balances can be difficult and time consuming, e.g., because the applicant has a number of accounts at different financial institutions, has incomplete account numbers, or may not remember or provide information on all accounts (*id.* ¶ 3).

The claimed invention is intended to address this issue by storing data for accounts from a plurality of institutions, including a personal identifier for each account holder, in a single database system so that accounts across all these institutions can be searched and/or verified with a single request (*id.* ¶ 26). Thus, when a request for asset information, including a submitted personal identifier, is received, the system locates accounts by matching the submitted personal identifier to the identifier stored in the data for the located accounts, retrieves the stored data associated with the located accounts, and produces a report, which then is provided to the party submitting the request (*id.* ¶ 8). The Specification describes that this approach eliminates the need for contacting multiple institutions or agencies, and also permits the data from individual or multiple accounts to be analyzed for risk-related factors, e.g., suspicious deposits, links to known fraudsters, etc. (*id.* ¶ 26).

Understood in light of the Specification, independent claim 20 is, thus, directed to (1) collecting and storing account information in a database, i.e., information for accounts from a plurality of institutions, including a personal identifier for each account holder, (limitation (a)); (2) receiving a request for account information, i.e., a request to locate assets, including a personal identifier, from a loan originator (limitation (b1)); (3) locating and retrieving the requested information from the database, i.e., locating one or more accounts matching the personal identifier and retrieving stored data associated with the located accounts and negative contributed information associated with the personal identifier (limitations (b2) through (b4)); (4) producing a report containing the requested information, i.e., the assets contained in the located accounts and the negative contributed information, (limitation (b5)); and (5) providing the report to the party from whom the request was received, i.e., the loan originator (limitation (b6)). Simply put, independent claims 20 and 31<sup>4</sup> are directed to storing account and asset information, retrieving requested account and asset information from storage, and generating a report —i.e., to a method of organizing human activities and, therefore, to an abstract idea.

The Federal Circuit has consistently held that abstract ideas include the concepts of collecting data, analyzing the data, and displaying the results of the collection and analysis, including when limited to particular content. *See, e.g., Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017) (identifying the abstract idea of collecting, displaying, and manipulating data); *Elec. Power Grp., LLC v. Alstom S.A.*,

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<sup>4</sup> Claim 20 is an apparatus claim, and representative of claim 31, which recites a corresponding method.

830 F.3d 1350, 1354 (Fed. Cir. 2016) (characterizing collecting information, analyzing information by steps people go through in their minds, or by mathematical algorithms, and presenting the results of collecting and analyzing information, without more, as matters within the realm of abstract ideas); *see also SAP America, Inc. v. Investpic, LLC*, 898 F.3d 1161, 1168 (Fed. Cir. 2018) (“As many cases make clear, even if a process of collecting and analyzing information is ‘limited to particular content’ or a particular ‘source,’ that limitation does not make the collection and analysis other than abstract.” (quoting *Elec. Power Grp.*, 830 F.3d at 1353, 1355 (citing cases))). Reporting account balance and other asset information, e.g., in connection with an application for a mortgage or for government benefits, also is a fundamental economic practice (*see, e.g.*, Spec. ¶¶ 2, 3) and, therefore, an abstract idea.

*Independent Claim 35*

We also are not persuaded that the Examiner erred in determining that independent claim 35 is directed to an abstract idea. Claim 35 recites a method comprising five steps: (1) receiving a mortgage application, including personal identifying information regarding the applicant; (2) transmitting the personal identification information to a third party, i.e., an asset location and verification service provider; (3) receiving a report from the asset location and verification service provider; and (4) making a determination, based in part on the report, to approve the mortgage application; and (5) sending an identifier of the report, but not the content of the report, directly to a government sponsored enterprise. In other words, claim 35 is directed to processing a mortgage application, i.e., to a fundamental economic practice, and, therefore, to an abstract idea.

It also is significant here that although claim 35 recites that the personal identifying information is transmitted to the asset location and verification service provider via an electronic network, and that the report from the asset location and verification service provider is received via the electronic network, the method steps involve no more than the exchange of information and, as the Examiner observes (*see* Final Act. 16), can be performed by a human, e.g., using a pen and paper, without the use of a computer network or any other machine. For example, a mortgage company could communicate the personal identifying information to the asset location and verification service provider either orally or via written correspondence, e.g., using pen and paper. And the asset location and verification service provider could likewise provide its report via an oral or written communication.

The law is clear that a process that can be performed in the human mind or by a human using pen and paper is an unpatentable mental process, i.e., an abstract idea. *See CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011); *see also Gottschalk v. Benson*, 409 U.S. 63, 67 (1972) (“Phenomena of nature . . . , mental processes, and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work.”). Moreover, mental processes remain unpatentable even when automated to reduce the burden on the user of what once could have been done with pen and paper. *CyberSource*, 654 F.3d at 1375 (“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*.”).

*Appellants' Arguments*

Appellants argue that the claims do not seek to patent “locating assets” (referring to claims 20–34) or “how to approve a mortgage” (referring to claim 35) but instead recite “specific communications conducted over an *electronic network* among entities in a novel arrangement” (App. Br. 7). Appellants ostensibly maintain that the claims cannot be abstract because the claims require “hardware infrastructure” (*id.*). Yet, claims to an abstract idea are not made less abstract simply because a computer and/or other hardware components are required. *See, e.g., In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016) (“[N]ot every claim that recites concrete, tangible components escapes the reach of the abstract-idea inquiry.”).

We find no indication in the Specification, nor do Appellants direct us to any indication, that the operations recited in claims 20 and 35, for example, invoke any assertedly inventive programming, require any specialized computer hardware or other inventive computer components, i.e., a particular machine, or that the claimed invention is implemented using other than generic computer components to perform generic computer functions. *See DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) (“[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.”). In fact, the Specification discloses just the opposite, i.e., that the claimed invention may be implemented using only generic computer components (*see, e.g., Spec.* ¶¶ 56–58).

We also find no indication in the Specification that the claimed invention effects a transformation or reduction of a particular article to a

different state or thing or an improvement in computer functionality. Nor do we find anything in the Specification that attributes an improvement in another technology or technical field to the claimed invention or otherwise indicates that the claimed invention integrates the abstract idea into a “practical application,” as that phrase is used in the USPTO’s “2019 Revised Patent Subject Matter Eligibility Guidance,” 84 Fed. Reg. 50, 55 (January 7, 2019).<sup>5</sup>

We also are not persuaded of Examiner error to the extent Appellants argue that the claims are patent eligible because they pose no risk of preemption (App. Br. 7 (“[C]laim 20 recites a computer system specifically programmed to . . . receive messages over an electronic network, and to locate and report assets in a novel way. These limitations obviate any risk that claim 20 could be interpreted to cover all possible techniques for locating assets.”); *see also id.* at 10 (“Appellant’s [sic] claims do not preempt all ways of performing asset verifications.”)). There is no dispute that the Supreme Court has described “the concern that drives [the exclusion of abstract ideas from patent eligible subject matter] as one of pre-emption.” *Alice Corp.*, 573 U.S. at 216. But, characterizing preemption as a driving concern for patent eligibility is not the same as characterizing preemption as the sole test for patent eligibility. “The Supreme Court has made clear that

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<sup>5</sup> In accordance with the USPTO’s revised guidance, a claim will be considered “directed to” an abstract idea if (1) the claim recites subject matter falling within one of the following groupings of abstract ideas: (a) mathematical concepts; (b) certain methods of organizing human interactions, e.g., fundamental economic principles or practices, commercial or legal interactions; and (c) mental processes, and (2) the claim does not integrate the abstract idea into a practical application. *See Revised Guidance*, 84 Fed. Reg. at 54–55.

the principle of preemption is the basis for the judicial exceptions to patentability” and “[f]or this reason, questions on preemption are inherent in and resolved by the § 101 analysis.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (citing *Alice Corp.*, 134 S. Ct. at 2354). “[P]reemption may signal patent ineligible subject matter, [but] the absence of complete preemption does not demonstrate patent eligibility.” *Id.*

Appellants further argue that claims 20–35 are patent-eligible in light of *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016) and *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288 (Fed. Cir. 2016) (App. Br. 8–11). Yet, we can find no parallel between the present claims and those at issue in either *BASCOM* or *Amdocs*.

Appellants argue that, just as an “inventive concept” could be found in *BASCOM*’s claims by “the installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user,” an inventive concept can be found in “the arrangement of elements” in claim 20, which allows data from a number of institutions to be searched in response to a single request without having to contact each institution individually (*id.* at 8–10). We do not agree that *BASCOM* is sufficiently analogous to control the outcome here.

In *BASCOM*, the Federal Circuit held that the second step of the *Mayo/Alice* framework was satisfied because the claimed invention “represents a ‘software-based invention[ ] that improve[s] the performance of the computer system itself.’” *BASCOM*, 827 F.3d at 1351 (stating that like *DDR Holdings*, where the patent “claimed a technical solution to a

problem unique to the Internet,” the patent in *BASCOM* claimed a “technology-based solution . . . to filter content on the Internet that overcomes existing problems with other Internet filtering systems . . . making it more dynamic and efficient”) (citations omitted). Appellants ostensibly maintain that storing data for accounts from a plurality of institutions in a single database maintained by an asset verification service separate from the institutions, as called for in claim 20, and that providing an asset location/verification service provider separate from the loan originator, as called for in claim 35, provides a technological improvement analogous to that in *Bascom* (App. Br. 9–10). But, we are not persuaded that aggregating account data in a single database or providing an asset location/verification service provider separate from a loan originator is a technological improvement, as opposed to an improvement in a business practice for which generic computer components are used in their ordinary capacity.

We also see no parallel between the present claims and the claims in *Amdocs* (see App. Br. 10–11). In *Amdocs*, the Federal Circuit held the claim was patent eligible because the claim entails an unconventional technological solution (enhancing data in a distributed fashion) to a technological problem (massive record flows which previously required massive databases). Although the solution requires generic components, the court determined that “the claim’s enhancing limitation necessarily requires that these generic components operate in an unconventional manner to achieve an improvement in computer functionality” and that the “enhancing limitation depends not only upon the invention’s distributed architecture, but also depends upon the network devices and gatherers — even though these

may be generic — working together in a distributed manner.” *Amdocs*, 841 F.3d at 1300–01.

Appellants argue that claim 20 is patent-eligible in light of *Amdocs* because “claim 20 is far, far more concrete than the claim from *Amdocs*” (i.e., in that claim 20 recites “actual hardware — specifically a network interface and a processor” and “the arrangement of entities in the invention of . . . claim 20 is spelled out in the claim itself, and need not be inferred by reference to the specification”), and that independent claims 31 and 35 and the dependent claims are patent-eligible for similar reasons (App. Br. 11). But, Appellants do not identify any “distributed architecture” comparable to that in *Amdocs* or otherwise establish that the generic components recited in the pending claims operate in an unconventional manner.

We also are not persuaded by Appellants’ argument that the § 101 rejection should be withdrawn in light of *Ex parte Ravenel*, Appeal 2015-003604 (PTAB 2016) (App. Br. 11–14). What a different panel did in a different situation under a different set of facts has little bearing on the proper disposition of this case. *Ravenel* also is a non-precedential decision of the Board; therefore, it is not binding on this panel.

In rejecting the claims under § 101, the Examiner determined that “[c]laims 20–34 are directed to the abstract idea of a series of steps instructing how to locate account and asset information and data which is a fundamental economic practice and thus an abstract idea” (Final Act. 16). Appellants argue that the dependent claims do not stand or fall with their independent claims in an analysis under 35 U.S.C. § 101, and that the Examiner has failed to establish a prima facie case of patent-eligibility with

respect to dependent claims 21–30 and 32–34 (App. Br. 14; *see also* Reply Br. 2–3).

We decline to find error in the Examiner’s decision not to address the patent-eligibility of each of claims 20–34 separately inasmuch as the claims are all directed to the same abstract idea. *See. Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1348 (Fed. Cir. 2014) (explaining that when all claims are directed to the same abstract idea, “addressing each claim of the asserted patents [is] unnecessary.”). Independent claims 20 and 31, as described above, are substantially similar. Claim 20 recites a system for locating, accessing, and reporting account information responsive to a request; claim 31 recites a corresponding method; and the dependent claims merely further detail the nature of the request and the account information and the contents of the report. Aside from asserting that the Examiner failed to consider the limitations of dependent claims 21–30 and 32–34 individually, Appellants offer no separate arguments for the patent-eligibility of these dependent claims.

We are not persuaded, on the present record, that the Examiner erred in rejecting claims 20–35 under 35 U.S.C. § 101. Therefore, we sustain the Examiner’s rejection.

#### *Obviousness*

#### *Independent Claims 20 and 31 and Dependent Claims 21–24, 26–30, and 32–34*

We are persuaded by Appellants’ argument that the Examiner erred in rejecting independent claims 20 and 31 under 35 U.S.C. § 103(a) because O’Neill, on which the Examiner relies, does not disclose or suggest

“receiv[ing] . . . from a loan originator a request to locate assets” and “produc[ing] a report . . . indicating the assets contained in the one or more located accounts,” as recited in independent claim 20, and similarly recited in independent claim 31 (App. Br. 15–16).

O’Neill is directed to a system and method for monitoring financial institution business activity for the purpose of identifying suspicious activity, and discloses that the identification of suspicious activities serves to identify the individual(s) associated with the suspicious activities and/or other information related to the individual(s), e.g., physical location, electronic location, telephone number and the like (O’Neill Abstract). In rejecting claims 20 and 31 under § 103(a), the Examiner cites paragraphs 10, 13, and 67 of O’Neill as disclosing “receiv[ing] . . . from a loan originator a request to locate assets” (Final Act. 23–24), and cites paragraph 27 of O’Neill as disclosing “produc[ing] a report . . . indicating the assets contained in the one or more located accounts” (*id.* at 25–26).

We have carefully reviewed the cited portions of O’Neill, on which the Examiner relies, and we agree with Appellants that O’Neill, at best, discloses identifying, i.e., locating, accounts (App. Br. 15). But, we find nothing in the cited portions of O’Neill that discloses or suggest receiving a request to locate asserts and producing a report indicating assets contained in one or more located accounts, as called for in independent claims 20 and 31.

Therefore, we do not sustain the Examiner’s rejection of independent claims 20 and 31 under 35 U.S.C. § 103(a). For the same reasons, we also do not sustain the rejection of dependent claims 21–24, 26–30, and 32–34. *Cf. In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (“dependent claims

are nonobvious if the independent claims from which they depend are nonobvious”).

*Dependent Claim 25*

Claim 25 depends from independent claim 20. The rejection of dependent claim 25 does not cure the deficiency in the rejection of independent claim 20. Therefore, we do not sustain the Examiner’s rejection of claim 25 for the same reasons set forth above with respect to claim 20.

*Independent Claim 35*

We are persuaded by Appellants’ argument that the Examiner erred in rejecting independent claim 35 under 35 U.S.C. § 103(a) because Tealdi, on which the Examiner relies, does not disclose or suggest “sending an identifier of the report, but not the content of the report, directly to a government sponsored enterprise (App. Br. 17–19).

Tealdi is directed to an online mortgage approval settlement system and method (*see, e.g.*, Tealdi ¶ 2). In rejecting claim 35 under § 103(a), the Examiner cites paragraph 50 of Tealdi as disclosing the argued limitation (Final Act. 35–36). There, Tealdi describes the recordation process, in which a county recorder is informed of a sale of real estate, and records certain information about the sale in the public record. We agree with Appellants that, even assuming that a county recorder is a government sponsored enterprise, there is nothing in the cited paragraph that discloses or suggests “sending an identifier of the report [including information about assets owned by or associated with the mortgage applicant], but not the content of the report,” to the recorder, as called for in claim 35 (App. Br. 18).

Appeal 2017-010487  
Application 14/970,212

Therefore, we do not sustain the Examiner's rejection of claim 35 under 35 U.S.C. § 103(a).

#### DECISION

The Examiner's rejection of claims 20–35 under 35 U.S.C. § 101 is affirmed.

The Examiner's rejections of claims 20–35 under 35 U.S.C. § 103(a) are reversed.

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).

AFFIRMED