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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* DHIRAJ BAWADHANKAR, FATEEN SHARABY, and  
SUNHIL CUTINHO

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Appeal 2017-010701  
Application 14/033,276  
Technology Center 3600

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Before ST. JOHN COURTENAY III, JASON J. CHUNG, and  
JOYCE CRAIG, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–23. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We Affirm.

STATEMENT OF THE CASE

*Introduction*

Appellants' invention generally relates to “post-order management of financial instruments.” Title.

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<sup>1</sup> According to Appellants, the real party in interest is Chicago Mercantile Exchange Inc., which is the assignee of the present application. App. Br. 2.

*Exemplary Claim*

1. A computer-implemented method for managing a plurality of orders for a financial instrument, *each of the plurality of orders indicative of an executed trade between two counterparties wherein each of the plurality of orders has at least one counterparty in common with the others of the plurality of orders*, the method comprising:

accepting, by a processor, the plurality of orders for clearing, each of the plurality of orders being characterized by one or more economic factors, the plurality of orders being characterized by a first result based on each of the one or more economic factors;

sending, by the processor, based on the accepting, a cleared confirmation message indicating that the plurality of orders has been cleared;

receiving, by the processor, notification to group the plurality of cleared orders;

*terminating*, by the processor responsive in real time to receipt of the notification, *the plurality of cleared orders*, *computing one or more economic factors of a single order characterized by a second result approximately identical to the first result and creating the single new order characterized by the computed one or more economic factors*; and

sending, by the processor, a cleared confirmation message for the single new order.

App. Br. 18 (Claims Appendix). (Contested limitations emphasized).

*Rejections*

- A. Claims 1–23 are rejected under 35 U.S.C. § 101, as being directed to a judicial exception, without significantly more.<sup>2</sup> Final Act. 3.
- B. Claims 1–23 are rejected under 35 U.S.C. § 103, as being obvious over the combined teachings and suggestions of Claus et al. (US 2007/0143203 A1; publ. June 21, 2007) (“Claus”), Allen et al. (US 2002/0138401 A1; publ. Sept. 26, 2002) (“Allen”), Chait et al. (US 2006/0235785 A1; publ. Oct. 19, 2006) (“Chait”), and Hawkins et al. (US 5,497,317; iss. Mar. 5, 1996) (“Hawkins”). Final Act. 8.

*Grouping of Claims*

Based upon Appellants’ arguments, we decide the appeal of claims 1–23, rejected under § 103 rejection B, on the basis of representative claim 1. To the extent Appellants have not advanced separate, substantive arguments for particular rejected claims or issues, such arguments are waived. *See* 37 C.F.R. §41.37(c)(1)(iv).

ANALYSIS

We have considered all of Appellants’ arguments and any evidence presented. Regarding rejections A and B, we adopt as our own: (1) the findings and legal conclusions set forth by the Examiner in the Final Office Action from which this appeal is taken (Final Act. 3–18), and (2) the findings, legal conclusions, and explanations set forth in the Answer in

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<sup>2</sup> *See* MANUAL OF PATENT EXAMINING PROCEDURE (MPEP) § 706.03(a) (9th Ed., Rev. 08.2017, Jan. 2018).

response to Appellants' arguments (Ans. 16–17). We highlight and address specific findings and arguments for emphasis in our analysis below.

*Rejection A under 35 U.S.C. § 101*

**Issue:** Did the Examiner err in rejecting claims 1–23 under 35 U.S.C. § 101, as being directed to a judicial exception, without significantly more?

*Mayo/Alice Analysis*

Under 35 U.S.C. § 101, a patent may be obtained for “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” The Supreme Court has “long held that this 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.*, 569 U.S. 576, 589 (2013)). 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, 82–84 (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 that analysis is to determine whether the claims at issue are directed to one of those patent-ineligible concepts, such as an *abstract idea*. Abstract ideas may 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.

If the “acts” of a claimed process manipulate only numbers, abstract concepts or ideas, or signals representing any of the foregoing, the acts are not being applied to appropriate subject matter. *See Gottschalk v. Benson*, 409 U.S. 63, 71–72 (1972). “Phenomena of nature, though just discovered, mental processes, and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work.” *In re Ferguson*, 558 F.3d 1359, 1363 (Fed. Cir. 2009) (quoting *Benson*, 409 U.S. at 67). Moreover, if a method can be performed by human thought alone, or by a human using pen and paper, it is merely an abstract idea and is not patent eligible under § 101. *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372–73 (Fed. Cir. 2011).

If the claims are *not directed* to a patent-ineligible concept, *the inquiry ends*. *See Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1262 (Fed. Cir. 2017).

Otherwise, the inquiry proceeds to the second step in which the elements of the claims are considered “individually and ‘as an ordered combination’ to determine whether the additional elements ‘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). We consider the question of whether the claims are directed to a *specific improvement* in the capabilities of the computing devices, or, instead, “a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016).

We, therefore, decide under step two, whether the claims: (a) set forth an *inventive concept* that provides a specific means or method that *improves* the relevant technology, or (b) are directed to a result or effect that itself is

the abstract idea, in which the claims merely invoke generic processes and machinery. *See Enfish*, 822 F.3d at 1336.

*The Examiner's Rejection A under 35 U.S.C. § 101*

Regarding the first step of the *Alice/Mayo* analysis, the Examiner concludes that claims 1–23 are directed to a judicial exception, i.e., “the concept of managing a plurality of orders for a financial instrument including accepting a plurality of orders for clearing where each order is characterized by economic factors; confirming that the order has been cleared; grouping the plurality of cleared orders; [and] terminating the orders.” Final Act. 4. The Examiner thus concludes the claims are directed to “a fundamental economic activity (abstract idea) simply being carried out via an electronic device, a general purpose computer and/or a computer system.” *Id.*<sup>3</sup>

Regarding the second step of the *Mayo/Alice* analysis, the Examiner concludes the claims’ limitations do not include additional elements that amount to significantly more than the judicial exception, because:

The claims as a whole, do not amount to significantly more than the abstract idea itself because the claims do not effect an improvement to another technology or technical field (e.g., the field of computer coding technology is not being improved); the claims do not amount to an improvement to the functioning of an electronic device itself which implements the abstract idea (e.g., the client device, general purpose computer, and/or computer system which implements the process are not made more

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<sup>3</sup> “Patent eligibility under § 101 presents an issue of law.” *Accenture Glob. Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1340–41 (Fed. Cir. 2013).

efficient or technologically improved); the claims do not perform a transformation or reduction of a particular article to a different state or thing (i.e., the claims do not use the abstract idea in the claimed process to bring about a physical change.

Final Act. 6–7.<sup>4</sup>

For the aforementioned reasons, the Examiner concludes that all claims 1–23 on appeal are not patent eligible under 35 U.S.C. § 101.

*Mayo/Alice Analysis – Step 1*

Regarding *Alice* Step 1, Appellants argue the claims are not directed to an abstract idea. Appellants further contend:

even if [the claims] were directed to an abstract idea, Applicant’s claims do not relate to nor do they entirely preempt or tie up, for example, mere trading of financial instruments, the mere clearing of such trades or mere consolidation of orders. *See Bascom Global Internet v. AT&T Mobility LLC*, 2015-1763 (Fed. Cir. June 27, 2016).

App. Br. 6.

Regarding Appellants’ contention asserting the absence of preemption (*id.*), our reviewing court provides applicable guidance: “While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *Ultramercial*,

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<sup>4</sup> The patent-eligibility inquiry may contain underlying issues of fact. *Mortg. Grader, Inc. v. First Choice Loan Servs. Inc.*, 811 F.3d 1314, 1325 (Fed. Cir. 2016). In particular, “[t]he question of whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field is a question of fact.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018).

*Inc. v. Hulu LLC*, 722 F.3d 1335, 1346 (Fed. Cir. 2013). Therefore, we are not persuaded by Appellants’ argument regarding the absence of complete preemption.

Regarding Appellants’ reliance on *Bascom Global Internet Services, Inc. v. AT&T Mobility LLC* (827 F.3d 1341 (Fed. Cir. 2016)), we emphasize the *Bascom* court guides that implementing “[a]n abstract idea on ‘an Internet computer network’ or on a generic computer is still an abstract idea.” *Id.* at 1348.

Appellants additionally contend:

As previously stated, the claims are directed to a specific, novel and patentable system which can be used by an electronic trading system to offer improved transactional capacity thereby improving market participation. Furthermore, the claimed invention, i.e. the claims as a whole, represents an improvement to transaction processing systems by selectively grouping multiple orders into a single equivalent transaction and thereby reducing the number of transaction processed by the system. The claimed invention improves upon the technical field of transaction processing and risk management by reducing transactional load on the system.

App. Br. 7.

In determining whether claims are patent-eligible under Section 101, “the decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen—what prior cases were about, and which way they were decided.” *Amdocs (Isr.) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016). The Federal Circuit also guides that “[E]xaminers are to continue to determine if the claim recites (i.e., sets forth or describes) a concept that is similar to concepts previously found abstract by the courts.” *Id.* at 1294 n.2.

We find nothing in the claims on appeal that focuses on a specific means or method that *improves* the recited “processor” or “computer.” (Independent claims 1, 11, and 21–23). In particular, we find the claims on appeal are silent regarding specific limitations directed to an *improved* computer or processor.

Appellants also cite in support to *Enfish, LLC v. Microsoft Corp.* (822 F.3d 1327 (Fed. Cir. 2016)), arguing, generally, that software claims are not inherently abstract. App. Br. 11.

We note the court in *Enfish* held that the subject claims “are not directed to an abstract idea within the meaning of *Alice*. Rather, they are directed to a specific *improvement to the way computers operate, embodied in the self-referential table.*” *Enfish* 822 F.3d at 1336 (emphasis added).

We emphasize the *self-referential logical table* considered by the court in *Enfish* was found to be a specific type of data structure that was designed to *improve* the way a computer stores and retrieves data in memory. *Id.* at 1339. Thus, because the self-referential database table *improved* the way the computer stored and retrieved data, the *Enfish* court stopped the analysis after *Alice* step one, and concluded the *Enfish* claims were not directed to an abstract idea. *Id.* at 1336.

Here, Appellants have not shown that any features of the claims before us on appeal improve the way the recited computer or processor stores and retrieves data in memory. None of Appellants’ claims 1–23 include a database, much less a self-referential database table of the type considered by the court in *Enfish* that was found to improve the way a computer stores and retrieves data in memory.

Therefore, on this record, we are not persuaded that Appellants' claimed invention improves the recited generic computer components' functionality or efficiency, or otherwise changes the way the claimed computer components function, at least in the sense contemplated by the Federal Circuit in *Enfish*.

We are also not persuaded by Appellants' analogy of the claimed invention on appeal to the subject claims considered by the court in *McRO, Inc. v Bandai Namco Games America Inc.*, 837 F.3d 1299 (Fed. Cir. 2016). App. Br. 8–9.

We do not consider the claims in *McRO* to be similar, or otherwise analogous, to Appellants' claimed invention. At the outset, we note that Appellants' claims are directed to a fundamental economic activity (e.g., “sending, by the processor, a cleared confirmation message for the single new order” — claim 1), which is completely unlike the *automated, animated lip-synchronization* claims in *McRO*.

We note *McRO* concerned a method for automatically animating lip synchronization and facial expressions. *McRO*, 837 F.3d at 1303. The *McRO* court concluded that the subject claim did not recite an abstract idea because the computer animation improved the prior art through the use of *rules*, rather than artists, to set morph weights and transitions between phonemes. *Id.* at 1308, 1309. Thus, the claimed invention in *McRO* allowed for computer performance of animation steps that previously had to be performed by human animators. *Id.* at 1309. Thus, the court concluded that *McRO*'s exemplary claim was patent eligible because it “uses the limited *rules* in a process specifically designed to achieve an improved

technological result” over “existing, manual 3-D animation techniques.”  
*McRO*, 837 F.3d at 1316 (emphasis added).

Unlike the subject claims considered by the court in *McRO*, Appellants’ claimed invention does not apply positively recited rules, *per se*. Rather, the claimed invention under appeal is directed to the *result* of accepting, sending, and receiving data and messages regarding orders. We emphasize that *McRO* (837 F.3d at 1312) guides that “[t]he abstract idea exception prevents patenting a *result* where ‘it matters not by what process or machinery the result is accomplished.’” (quoting *O’Reilly v. Morse*, 56 U.S. 62, 113 (1854)) (emphasis added).

Applying the aforementioned guidance from our reviewing courts to the claims before us on appeal, we conclude, in our *Mayo/Alice* analysis, that each of Appellants’ claims 1–23, considered as a whole, is directed to (under step one), a patent-ineligible abstract idea, i.e., a fundamental economic practice.

#### *Mayo/Alice Analysis – Step 2*

Because we conclude the claims are directed to an abstract idea for essentially the same reasons articulated by the Examiner (Final Act. 3–6; Ans. 16–17), we turn to the second part of the *Alice/Mayo* analysis. We analyze the claims to determine if there are additional limitations that individually, or as an ordered combination, ensure the claims amount to “significantly more” than the abstract idea. *Alice*, 134 S. Ct. at 2357.

Regarding *Alice* Step 2, Appellants argue: “those additional elements when viewed in combination” most certainly “amount to significantly more

than the exception by meaningfully limiting the judicial exception.” App. Br. 9.

Appellants argue:

the claimed accepting of a plurality of orders, indicative of executed trades, for clearing, and termination of those orders in favor of a single order computed to have substantially similar economic characteristics, as claimed, is a specific implementation which has NOT been used before and therefore is *not well understood, routine or conventional in the art*.

App. Br. 8–9 (emphasis added).

Appellants also argue “[a]s with the invention of DDR, Appellants’ claims do not generically recite ‘use of a communications network’ to perform a business practice, but instead recite[] a specific way to process transactions in an anonymized and centralized processing environment.

App. Br. 11.

In response to Appellants’ arguments, we do not find Appellants’ claims are similar to the claimed solution the court held to be patent-eligible in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014). In particular, we note the *DDR* court emphasized that the ‘399 patent claims *did not* “recite a fundamental economic or longstanding commercial practice.” *DDR*, 773 F.3d at 1257. As distinguished from the claims considered by the court in *DDR*, we conclude Appellants’ claims 1–23, which perform accepting, sending, receiving data and messages regarding trade orders, *are* directed to at least a *fundamental economic practice* (i.e., grouping and sending messages regarding trade orders).

In *DDR*, the Federal Circuit applied the Supreme Court’s *Alice* two-step framework, and upheld the validity of *DDR*’s patent on its web-page display technology. *DDR*, 773 F.3d at 1255. However, we conclude

Appellants' claims 1–23, which are directed to “a method for managing a plurality of orders for a financial instrument” (e.g., claim 1) are not similar or otherwise analogous to the specific technical problem addressed by the subject claims in *DDR*, which were directed to *retaining a website visitor when the visitor clicked on a third-party merchant's advertisement on the host website*. Instead of taking the visitor to the third-party merchant's website (and thus losing the visitor to the third-party merchant), *DDR*'s claimed system generated a *hybrid web page* that: (1) displayed product information from the third-party merchant, but also (2) retained the host website's “look and feel.” *Id.* at 1248–49.

As distinguished from the claims considered by the court in *DDR*, Appellants' claims 1–23 are not directed to generating a *hybrid web page* that retains the host website's “look and feel” while displaying product information from a *third-party merchant*. *See DDR*, 773 F.3d at 1257. Although Appellants' invention is directed to the *result* of accepting, sending, and receiving data and messages regarding trade orders (claims 1–23), we find no language in the claims on appeal that focuses on a specific means or method that improves the recited generic computer system.

We find the claims on appeal are silent regarding specific limitations directed to an improved computer system or processor. Therefore, we find Appellants' claimed invention does not provide a solution “necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks,” as considered by the court in *DDR*, 773 F.3d at 1257.

Further, regarding the use of the recited generic “computer” and “processor,” the Supreme Court held “the mere recitation of a generic

computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Alice*, 134 S. Ct. at 2358; *see also Bascom*, 827 F.3d at 1348 (“An abstract idea on ‘an Internet computer network’ or on a generic computer is still an abstract idea”). On this record, we are of the view that Appellants’ claims do not operate the recited generic computer components in an unconventional manner to achieve an improvement in computer functionality.

Because we find Appellants have not established that claims 1–23 are directed to an *improvement* in the recited generic computer or processor, we conclude that none of the claim limitations, viewed both individually and as an ordered combination, amount to significantly more than the judicial exception in order to sufficiently transform the nature of the claims into patent-eligible subject matter under *Alice*, step two.

In light of the foregoing, we conclude, under the *Mayo/Alice* analysis, that each of Appellants’ claims 1–23, considered as a whole, is directed to a *patent-ineligible abstract idea* (under *step one*), and under *step two*, does not recite something *significantly more* to transform the nature of the claim into a patent-eligible application.

Accordingly, for the reasons discussed above, we sustain the Examiner’s rejection A under 35 U.S.C. § 101 of claims 1–23, as being directed to a judicial exception, without significantly more.<sup>5</sup>

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<sup>5</sup> To the extent Appellants have not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

*Rejection B of claims 1–23 under 35 U.S.C. § 103*

**Issue:** Under 35 U.S.C. § 103, did the Examiner err by finding the cited combination of Claus, Allen, Chait, and Hawkins teaches or suggests the contested limitations:

A computer-implemented method for managing a plurality of orders for a financial instrument, each of the plurality of orders indicative of an executed trade between two counterparties wherein each of the plurality of orders has at least one counterparty in common with the others of the plurality of orders

...

terminating, by the processor responsive in real time to receipt of the notification, the plurality of cleared orders, computing one or more economic factors of a single order characterized by a second result approximately identical to the first result and creating the single new order characterized by the computed one or more economic factors[,]

within the meaning of representative claim 1? <sup>6</sup>

Appellants contend all the cited references fail to disclose accepting and grouping a plurality of orders into a single order as claimed. App. Br. 13. Appellants first argue Claus teaches the opposite of what Appellants are claiming: “Claus teaches splitting one order into multiple orders” whereas “Appellants’ claims relate to replacing multiple incoming orders indicative

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<sup>6</sup> We give the claims their broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). Although we interpret claims broadly but reasonably in light of the Specification, we nonetheless must not import limitations from the Specification into the claims. *See In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993). Because “applicants may amend claims to narrow their scope, a broad construction during prosecution creates no unfairness to the applicant or patentee.” *In re ICON Health and Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007) (internal citation omitted).

of executed transactions, as opposed to unexecuted orders, e.g., requests for a transaction, with a single equivalent order indicative of execution.” App. Br. 14.

Appellants also argue that Hawkins, which Appellants contend the Examiner cites for this limitation together with Chait (App. Br. 14, citing Non-Final Office Action filed 2/22/2016 and Final Act. 8–9), relates to the consolidation of orders submitted for execution that had NOT YET been executed. App. Br. 15. Appellants specifically argue “it would further NOT be obvious to apply the pre-execution consolidation of Hawkins to implement post execution consolidation as claimed by Appellants.” App. Br. 16.

We are not persuaded by Appellants’ arguments because Appellants are arguing the references separately.<sup>7</sup> The Examiner cites both Chait and Hawkins for teaching or suggesting the disputed limitation:

terminating, by the processor responsive in real time to receipt of the notification, the plurality of cleared orders, computing one or more economic factors of a single order characterized by a second result approximately identical to the first result and creating the single new order characterized by the computed one or more economic factors[,]

as recited in independent claim 1. *See* Final Act. 8–9.

We find a preponderance of the evidence supports the Examiner’s factual findings. We find Chait’s order that is allocated into sub-accounts *after* the order is executed teaches or suggests processing orders indicative

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<sup>7</sup> One cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

of executed transactions, as opposed to unexecuted orders. *See* Chait, Abstract, ¶ 5.

This is nothing more than a predictable result. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 401 (2007) (“[A] combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”).

Moreover, our reviewing court guides: “[T]he question under 35 USC 103 is not merely what the references expressly teach but what they would have *suggested* to one of ordinary skill in the art at the time the invention was made.” *Merck & Co., Inc. v. Biocraft Labs., Inc.*, 874 F.2d 804, 807 (Fed. Cir. 1989) (quoting *In re Lamberti*, 545 F.2d 747, 750 (CCPA 1976)) (emphasis added); *see also* MPEP § 2123.

Applying this reasoning here, we find a preponderance of the evidence supports the Examiner’s underlying factual findings and ultimate legal conclusion of obviousness. Accordingly, we sustain the Examiner’s rejection B under § 103 of representative independent claim 1. Associated dependent claims 2–23 (not argued separately) fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2015).

### *Reply Brief*

To the extent Appellants *may* advance new arguments in the Reply Brief not in response to a shift in the Examiner’s position in the Answer, we note arguments raised in a Reply Brief that were not raised in the Appeal Brief, or are not responsive to arguments raised in the Examiner’s Answer, will not be considered except for good cause. *See* 37 C.F.R. § 41.41(b)(2).

Appeal 2017-010701  
Application 14/033,276

DECISION

We affirm the Examiner's decision rejecting claims 1–23 under 35 U.S.C. § 101.

We affirm the Examiner's decision rejecting claims 1–23 under 35 U.S.C. § 103.

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