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Ste. 3700
Chicago, IL 60603

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte YOUNG JEA SHIN and ROGER JOHN STANTON

Appeal 2017-010994
Application 13/551,404¹
Technology Center 3600

Before JAMES R. HUGHES, JUSTIN BUSCH, and
JASON J. CHUNG, *Administrative Patent Judges*.

CHUNG, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the Final Rejection of claims 1, 10–13, 16–20, and 22. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

The invention is directed to an automated process for recruiting qualified candidates for open job positions. Spec. ¶ 2. Claim 1 is illustrative of the invention and is reproduced below:

1. A recruitment system for generating a Job Report in a network environment, the recruitment system comprising: a server coupled to a plurality of job seeker devices and at least an

¹ According to Appellants, Job Search Television Network is the real party in interest. App. Br. 1.

employer device via a communication network, wherein an employer uploads using the employer device a text-based job description relating to a job opening to the server via the communication network link between the employer device and the server, wherein the server includes a multimedia requirement system for the production of a Job Report produced by transforming the text-based job description using a platform into a script and a graphic form, by inputting the script into a teleprompter to be read by an on air talent and recorded using a camera as a first video, and by inputting the graphic form into a character generator for producing a second video, by storing the first and second videos in a storage area network, and editing the first and second videos to produce with both the first and second videos the Job Report, and wherein the Job Report is viewed by at least a job seeker using one of the plurality of job seeker devices over the communication network from the server, wherein the character generator creates a graphic overlay that comprises an employer name, an employer logo, and at least one graphic area.

REJECTIONS AT ISSUE

Claims 1, 10–13, and 16–20² stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Ans. 2.

Claims 1, 10, 12, 13, 16, 20, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ebrahimian (US 2009/0228323 A1; published Sept. 10, 2009), Howard (US 2007/0260968 A1; published Nov. 8, 2007), and Kikinis (US 8,522,266 B1; filed Sept. 13, 2000). Ans. 4.

² We note that the Examiner does not reject claim 22 under 35 U.S.C. § 101. Ans. 2; Final Act. 2–4.

Claims 11 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ebrahimian, Howard, Kikinis, and admitted prior art. Ans. 11.

Claims 18 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ebrahimian, Howard, Kikinis, and Wehrle (US 8,600,931 B1; filed Apr. 2, 2007). Ans. 13.

ANALYSIS

1. Rejection Under 35 U.S.C. § 101

A. The Examiner's Conclusions and Appellants' Arguments

The Examiner concludes the present claims are directed to disseminating job descriptions through creation of a video for advertising the job description, which the Examiner analogizes to “concepts relating to interpersonal and intrapersonal activities, such as managing relationships or transactions between people, social activities, and human behavior . . . advertising, marketing, and sales activities or behaviors.” Final Act. 2; Ans. 16–17. The Examiner determines the present claims are not significantly more than any abstract idea because the Examiner finds they implement instructions recited in the present claims using generic computer components that are well-understood, routine, and conventional. Final Act. 3–4.

Appellants argue the Examiner overgeneralizes the present claims at a high level of abstraction because the Examiner ignores specific limitations. App. Br. 27–28. We agree with Appellants.

B. Legal Principles

An invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101.

However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g.*, *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 219 (“On their face, the claims before us are drawn to the concept of intermediated settlement, i.e., the use of a third party to mitigate settlement risk.”); *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk.”).

Concepts determined to be abstract ideas, and thus patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 192 (1981)); “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores” (*id.* at 184 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1854))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 176; *see also id.* at 192 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, . . . and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (citing *Benson and Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (quotation marks omitted). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

The PTO recently published revised guidance on the application of § 101. USPTO’s January 7, 2019 Memorandum, *2019 Revised Patent Subject Matter Eligibility Guidance* (“Memorandum”). Under that guidance, we first look to whether the claim recites:

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human interactions such as a fundamental economic practice, or mental processes); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)).

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look to whether the claim:

- (3) adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or
- (4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

See Memorandum.

We have only considered those arguments that Appellants actually raised in the Briefs. Arguments Appellants could have made, but chose not to make, in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

C. Discussion

i. Alice Step 1, prongs 1 and 2

Claim 1 (with emphases) is reproduced below.

1. *A recruitment system for generating a Job Report in a network environment, the recruitment system comprising: a server coupled to a plurality of job seeker devices and at least an employer device via a communication network, wherein an employer uploads using the employer device a text-based job description relating to a job opening to the server via the communication network link between the employer device and the server, wherein the server includes a multimedia requirement system for the production of a Job Report produced by transforming the text-based job description using a platform into a script and a graphic form, by inputting the script into a teleprompter to be read by an on air talent and recorded using a camera as a first video, and by inputting the graphic form into a character generator for producing a second video, by storing the first and second videos in a storage area network, and editing the first and second videos to produce with both the first and second videos the Job Report, and wherein the Job Report is viewed by at least a job seeker using one of the plurality of job seeker devices over the communication network from the server, wherein the character generator creates a graphic overlay that comprises an employer name, an employer logo, and at least one graphic area.*

We conclude the emphasized portions of claim 1 are not directed to the abstract idea of: (1) mathematical concepts; (2) mental processes; and (3) certain methods of organizing human activity. Therefore, the present claims are patent eligible.

To the extent that one concludes the present claim are directed to certain methods of organizing human activity (i.e., (1) commercial interactions including agreements in the form of contracts, advertising, or

business relations; or (2) managing personal behavior or relationships or interactions between people), we conclude the present claims integrate such an abstract idea into a practical application. In particular, we conclude that independent claims 1 and 13 invoke the machine-or-transformation test by reciting “transforming the text-based job description using a platform into a script and a graphic form” for the production of a first video and a second video. *See In re Abele*, 684 F.2d 902, 909 (CCPA 1982).

Because the present claims are not directed to an abstract idea or integrate an abstract idea into a practical application, we need not proceed to discussing *Alice* step 2. Accordingly, we do not sustain the Examiner’s rejection of: (1) independent claims 1 and 13; and (2) dependent claims 10–12 and 16–20 under 35 U.S.C. § 101.

2. *Rejection Under 35 U.S.C. § 103*

A. *Claims 1 and 13*

The Examiner finds Howard teaches material fed into a teleprompter and closed captioning, which the Examiner maps to the limitation “script and a graphic form” recited in claims 1 and 13. Ans. 6; Final Act. 6 (citing Howard ¶ 32). The Examiner finds Kikinis teaches combining inserting a stored video into a broadcast. Ans. 8–9; Final Act. 7 (citing Kikinis, 4:21–34). The Examiner also finds a person having ordinary skill in the art at the time of the invention would have inserted an employer name, an employer logo, and a graphic area into the graphic information since it is data related to the job for which the Job Report was created. Final Act. 8.

Appellants first argue Howard fails to teach “script **and** a graphic form” (emphasis added) recited in claims 1 and 13 because Howard teaches a single text rather than two different elements. App. Br. 16–18; Reply Br.

5–8. Second, Appellants argue Kikinis fails to teach merger of two recorded videos to create a third video because Kikinis teaches concurrently broadcasting two videos. App. Br. 18–19. Third, Appellants argue the Examiner improperly dismisses the informational content of the graphic overlay, that is the employer’s name, an employer’s logo, and a graphic area related to the job for which the Job Report was created. *Id.* at 20. We disagree with Appellants.

As to Appellants’ first argument, Appellants’ Specification states “[t]he graphic forms 450 **are text to be displayed on the screen** of the Job Report” (emphasis added). Spec. ¶ 40. Consequently, the cited portions of Howard teach material fed into a teleprompter (i.e., the words displayed on the teleprompter teach or suggest the recited script) and closed captioning (i.e., a graphic form), which teaches the limitation “script and a graphic form” recited in claims 1 and 13. Ans. 6; Final Act. 6 (citing Howard ¶ 32).

Regarding Appellants’ second argument (App. Br. 18–19), the claim does not recite “merger” of two videos or that the Job Report is a video. Nonetheless, the cited portions of Kikinis teach inserting a stored video into a broadcast (i.e., a broadcast is at least temporarily stored before it is aired); the resulting video is a broadcast with an insertion of a stored video, which teaches combining two videos to create a third video. Ans. 8–9; Final Act. 7 (citing Kikinis, 4:21–34).

As for Appellants’ third argument, as pointed out by the Examiner (*see* Ans. 10), Appellants misconstrue the rejection. Contrary to Appellants’ argument (*see* Appeal Br, 20), the Examiner did not state the information came from or was located in the Job Report. Further, the informational content of the graphic overlay does not distinguish Appellants’ claim 1 from

the prior art. We construe “wherein the character generator creates a graphic overlay that comprises an employer name, an employer logo, and at least one graphic area” recited in claim 1 (and similarly recited in claim 13) as “wherein the character generator creates a graphic overlay” because the phrase “comprises an employer name, an employer logo, and at least one graphic area” is non-functional descriptive material. That is, the informational content of non-functional descriptive material is not entitled to weight in the patentability analysis. *See Ex parte Nehls*, 88 USPQ2d 1883, 1887–90 (BPAI 2008) (precedential); *Ex parte Curry*, 84 USPQ2d 1272 (BPAI 2005) (informative), *aff’d*, No. 2006-1003 (Fed. Cir. June 12, 2006) (Rule 36); *Ex parte Mathias*, 84 USPQ2d 1276 (BPAI 2005) (informative), *aff’d*, 191 F. App’x 959 (Fed. Cir. 2006).

We, therefore, disagree with Appellants’ argument that the Examiner’s improperly dismisses the informational content of the graphic overlay (App. Br. 20) because Appellants misinterpret the Examiner’s rejection. In particular, the Examiner finds “[o]ne of ordinary skill in the art would have understood that **the above listed data would be inserted into the graphic information**, since it is data related to the job for which the Job Report was created.” Final Act. 8 (emphasis added). Stated differently, the Examiner finds an employer name, an employer logo, and at least one graphic area is inserted into the graphic information (i.e., inserted a graphic overlay) and this information is related to the job from which the Job Report was created—i.e., the job description.

Appellants do not argue separately dependent claims 11, 16, and 18–20 with particularity. App. Br. 8–25. Accordingly, we sustain the

Examiner's rejection of: (1) independent claims 1 and 13; and (2) dependent claims 11, 16, and 18–20 under 35 U.S.C. § 103.

B. Claim 10

Dependent claim 10 recites “wherein the at least one graphic area includes information selected from a group consisting of: a job name, a location of the job, a type of job, a level of experience needed for the job, and a description of responsibilities and duties.”

The Examiner finds it would have been obvious to a person having ordinary skill in the art at the time of the invention to have included an employer name, an employer logo, a job name, a location of the job, a type of job, a level of experience needed for the job, and/or a description of responsibilities and duties in the information depicted by the graphic areas in the video inserted into the graphic information because the above listed data is related to the job for which the Job Report was created. Final Act. 9–10.

Appellants argue that selection of these elements for display in the graphic form and in the one graphic area to generate the Job Report is unknown; that is, sorting or selecting is known, but the specific way of sorting is unknown. We disagree with Appellants.

As an initial matter, we construe “wherein the at least one graphic area includes information selected from a group consisting of: a job name, a location of the job, a type of job, a level of experience needed for the job, and a description of responsibilities and duties” recited in claim 10 as not having patentable weight because it recites non-functional descriptive material. *See Ex parte Nehls*, 88 USPQ2d at 1887–90. In particular, “the at least one graphic area” has antecedence to claim 1; and as stated *supra* in the discussion of claim 1, this phrase is not entitled to patentable weight.

Likewise, the phrase “wherein the at least one graphic area includes information selected from a group consisting of: a job name, a location of the job, a type of job, a level of experience needed for the job, and a description of responsibilities and duties” recited in claim 10 does not add any functionality to “the at least one graphic area.” We, therefore, sustain the Examiner’s rejection of claim 10 under 35 U.S.C. § 103.

Additionally, in order to rebut a prima facie case of unpatentability, Appellant must distinctly and specifically point out the supposed Examiner errors, and the specific distinctions believed to render the claims patentable over the applied references. *See* 37 C.F.R. § 41.37(c)(vii) (“A statement which merely 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) (“[W]e hold that the Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art.”); *cf. In re Baxter Travenol Labs.*, 952 F.2d 388, 391 (Fed. Cir. 1991) (“It is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for [patentable] distinctions over the prior art.”). Here, Appellants do not argue specifically why the Examiner’s finding is insufficient to render claim 10 unpatentable; instead, Appellants provide a general statement that this specific way of sorting is unknown.

Accordingly, we sustain the Examiner’s rejection of claim 10 under 35 U.S.C. § 103 for this additional reason.

C. Claim 12

Dependent claim 12 recites “wherein the Job Report includes a contact information segment at the end of the Job Report.”

The Examiner finds a person having ordinary skill in the art would have modified the base combination of Ebrahimian, Howard, and Kikinis to have contact information at the end of the video because it is a combination of known elements that would have yielded predictable results. Final Act. 10–11.

Appellants argue no art exists that shows Job Reports are produced in any way that suggests displaying contact information at the end of a video. App. Br. 21. We disagree with Appellants.

We construe “wherein the Job Report includes a contact information segment at the end of the Job Report” as not having patentable weight because it recites non-functional descriptive material. *See Ex parte Nehls*, 88 USPQ2d at 1887–90. In particular, the phrase “wherein the Job Report includes a contact information segment at the end of the Job Report” recited in claim 12 does not add any functionality to “the Job Report.”

Accordingly, we sustain the Examiner’s rejection of claim 12 under 35 U.S.C. § 103.

D. Claim 17

On page 13 of the Non-Final Rejection mailed on September 11, 2015, the Examiner takes Official Notice that the features recited in claim 17 are notoriously well known in the art at the time of the invention and, in the Final Rejection, the Examiner finds that this is now Appellants’ admitted prior art. *Compare* Non-Final Act. 13 mailed on Sept. 11, 2015, *with* Final Act. 11–12.

Appellants argue sending a customer a script as an intermediary step of the process of producing the finished product, which is akin to “review” recited in claim 17 is not known or common. App. Br. 21–22. We disagree with Appellants.

At the outset, MPEP § 2144.03(C) pertains to Official Notice and states:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.

Moreover, MPEP § 2144.03(C) states:

If applicant does not traverse the examiner’s assertion of official notice or applicant’s traverse is not adequate, **the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art** because applicant either failed to traverse the examiner’s assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

(Emphasis added.)

The Examiner clearly fulfilled the bolded text above. *Compare* Non-Final Act. 13 mailed on Sept. 11, 2015, *with* Final Act. 11–12. Although the Examiner does not explicitly state “applicant either failed to traverse the examiner’s assertion of official notice or that the traverse was inadequate” or provide “an explanation as to why it was inadequate,” we note this language is not a requirement for the Examiner due to the word “should.” Put another way, MPEP § 2144.03(C) states “should,” which is a suggestion, rather than “must,” which is a requirement.

We, therefore, determine that Appellants improperly traverse this Official Notice. In particular, on page 13 of the Non-Final Rejection mailed on September 11, 2015, the Examiner takes Official Notice that the features recited in claim 17 are notoriously well known in the art at the time of the invention. Non-Final Act. 13 mailed on Sept. 11, 2015. In the response filed on March 11, 2016, Appellants do not proffer any arguments pertaining to claim 17. *See generally* Response filed Mar. 11, 2016 (lacking any arguments pertaining to claim 17). Subsequently, in the Final Rejection, the Examiner finds that this is now Appellants' admitted prior art. *Compare* Non-Final Act. 13 mailed on Sept. 11, 2015, *with* Final Act. 11–12.

Accordingly, we sustain the Examiner's rejection of claim 17 under 35 U.S.C. § 103.

E. Claim 22

The Examiner finds Ebrahimian teaches employers posting job openings and candidates viewing and responding to job descriptions and Howard teaches a newscaster reading material from a teleprompter. Final Act. 4–6 (citing Ebrahimian, Abstract, Figs. 2–4; Howard ¶ 32). The Examiner finds it would have been obvious to a person having ordinary skill in the art at the time of the invention to combine Ebrahimian and Howard to make use of Howard's teaching of a newscaster reading from a teleprompter, which does not require undue experimentation nor risk unexpected results. Final Act. 6–8.

Appellants argue including information from the news industry in a job postings video is not obvious or known. App. Br. 22. We disagree with Appellants.

The cited portions of Ebrahimian teach employers posting job openings and candidates viewing and responding to job descriptions and the cited portions of Howard teach a newscaster reading material from a teleprompter. Final Act. 4–6 (citing Ebrahimian, Abstract, Figs. 2–4; Howard ¶ 32). We agree with the Examiner’s finding that it would have been obvious to a person having ordinary skill in the art at the time of the invention to combine Ebrahimian and Howard to make use of Howard’s teaching of a newscaster reading from a teleprompter, which does not require undue experimentation nor risk unexpected results. Final Act. 6–8.

Accordingly, we sustain the Examiner’s rejection of claim 22 under 35 U.S.C. § 103.

F. Analogous Art Discussion

The Examiner finds it would have been obvious to a person having ordinary skill in the art to combine Ebrahimian, Howard, and Kikinis as a combination of known elements yielding predictable results. Final Act. 7–8.

Appellants first argue Howard and Kikinis are not analogous with each other because they are classified in different classification areas. App. Br. 23. Second, Appellants also argue Howard and Kikinis are not analogous because the claim pertains to creating a Job Report, whereas Kikinis allows for emergency broadcasts to reach viewers by highjacking normal airwaves and Howard teaches a more complex movie editing system designed to enhance the speed at which live television shows are produced. *Id.* at 23–24. We disagree with Appellants.

At the outset, we note Appellants’ argument that Howard and Kikinis are not analogous with each other because they are classified in different classification areas (*id.* at 23) is an incorrect test for analogous art. The

correct statement is that a reference “qualifies as prior art for an obviousness determination under § 103 only when it is analogous to the claimed invention.” *In re Klein*, 647 F.3d 1343, 1348 (Fed. Cir. 2011) (emphasis added). We, therefore, disagree with Appellants’ first argument that Howard and Kikinis are not analogous with each other because they are classified in different classification areas (App. Br. 23).

Regarding Appellants’ second argument, the test for determining whether a prior art reference constitutes analogous art to the claimed invention is: (1) whether the prior art is from the same field of endeavor, regardless of the problem addressed, or (2) if the reference is not within the field of the inventor’s endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved. *See In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004).

In determining the field of endeavor, we look to the Appellants’ written description and claims, including the structure and function of the invention. *Bigio*, 381 F.3d at 1326. And we determine that in defining the field of invention, and in determining the relevance of Howard and Kikinis to the obviousness inquiry, here a broad approach should be taken. Indeed, the Supreme Court provided guidance in determining the applicability of a reference’s teachings in an obviousness inquiry. In *KSR Int’l Co. v. Teleflex Inc.*, the Court explained that if a feature has been used to improve one device, and a person of ordinary skill in the art would have recognized that it would improve a similar device in that field or another, implementing that feature on the similar device is likely obvious. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007).

Here, the appropriate scope of the field of endeavor is creating a job posting using videos displaying human and written highlights. Spec. ¶ 2; claims 1, 13. We determine Howard is within the field of endeavor because it teaches creating a video with a human newscaster reading a story from a teleprompter. Howard, Abstract, ¶¶ 32–35. In addition, we determine that Kikinis is within the field of endeavor because it teaches multiple videos with an overlay of written highlights. Kikinis, 5:36–53.

Because we determine that Howard and Kikinis are within the same field of endeavor as the claimed invention, we need not consider whether Howard and Kikinis are reasonably pertinent to the particular problem with which Appellants are involved.

Accordingly, we sustain the Examiner’s determination that Howard and Kikinis are analogous to the claimed invention.

DECISION

We reverse the Examiner’s decision rejecting claims 1, 10–13, and 16–20 under 35 U.S.C. § 101.

We affirm the Examiner’s decision rejecting claims 1, 10–13, 16–20, and 22 under 35 U.S.C. § 103.

Because we affirm on at least one ground of rejection with respect to each claim on appeal, we affirm the Examiner’s decision to reject claims 1, 10–13, 16–20, and 22. *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).

AFFIRMED