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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* BERNADETTE A. CARTER and ARTHUR R. FRANCIS

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Appeal 2018-004277  
Application 13/739,359<sup>1, 2</sup>  
Technology Center 2400

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Before JOHNNY A. KUMAR, JENNIFER L. McKEOWN, and  
JAMES W. DEJMEK, *Administrative Patent Judges*.

DEJMEK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a Non-Final Rejection of claims 1–10, 17–22, and 26–29. Appellants have canceled claims 11–16 and 23–25. App. Br. 40, 43. We have jurisdiction over the remaining pending claims under 35 U.S.C. § 6(b). *See Ex parte Lemoine*, 46 USPQ2d 1420, 1423 (BPAI 1994) (precedential).

We affirm.

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<sup>1</sup> Appellants identify International Business Machines Corporation as the real party in interest. App. Br. 3.

<sup>2</sup> Appellants have identified the following co-pending application as being related to the instant application: Application No. 14/074,391 (Appeal No. 2018-007756).

STATEMENT OF THE CASE  
*Introduction*

Appellants' disclosed and claimed invention generally relates to personalizing a user's social networking profile page based on user preferences and characteristics of the viewer viewing the profile page. Spec. ¶ 2. The Specification describes a profile page may contain pieces of personal data and a plurality of entries on the site—i.e., posts or “artifacts.” Spec. ¶ 9. Rather than displaying all the artifacts in chronological order, in a disclosed embodiment, certain artifacts may be emphasized or de-emphasized (e.g., suppressed) in a presentation of the profile page, based on user preference settings or based on the viewer. Spec. ¶¶ 11–12.

Claim 1 is exemplary of the subject matter on appeal and is reproduced below with the disputed limitations emphasized in *italics*:

1. A computer network comprising:
  - a number of user devices; and
  - a preferences control module;in which the preferences control module:
  - receives user preferences from an owner of a social network profile;
  - receives data describing a viewer of the owner's social networking profile; and
  - distinguishes a number of artifacts on the owner's social networking profile, *via the emphasis and de-emphasis thereof*, from other artifacts on the profile based on the user preferences and data describing a viewer of the owner's social networking profile; and
  - provides a first of a number of versions of the owner's social networking profile to the viewer of the owner's social networking profile; the first version of the

owner's profile comprising artifacts distinguished based on the data describing the viewer;

*wherein the first version comprises emphasized artifacts based on the number of instances when the viewer has viewed the owner's profile; and*

*wherein distinguishing a number of artifacts on the owner's social networking profile from other artifacts on the profile further comprises preventing a de-emphasis of time-sensitive artifacts describing where the owner of the social networking profile is located and when the owner of the social networking profile will be available.*

### *The Examiner's Rejections*<sup>3</sup>

1. Claims 1–3, 5, 10, 17, and 19–22 stand provisionally rejected under the doctrine of obviousness-type double patenting over the claims of co-pending Application No. 14/074,391. Non-Final Act. 3.

2. Claims 1–10, 17–22, and 26–29 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter.<sup>4</sup> Non-Final Act. 3–6.

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<sup>3</sup> In various statements of rejection, we note the Examiner states the claims are rejected pre-AIA 35 U.S.C. § 102(b) rather than pre-AIA 35 U.S.C. § 103(a). *See, e.g.*, Non-Final Act. 14, 23, and 30. The Examiner corrects the statements in the Answer. *See* Ans. 2–4. Appellants do not claim to have been prejudiced by the typographical error. Thus, we treat the Examiner's typographical error as harmless. For the statements of rejection, we cite to the correct statute.

<sup>4</sup> We note that in the statement of rejection, the Examiner identifies claims 1–10, 17–22, and 26–20, but that the body of the rejection addresses claims 1–10, 17–22, and 26–29. *See* Non-Final Act. 3–6. Appellants do not claim to have been prejudiced by the typographical error and have presented arguments directed to claims 1–10, 17–22, and 26–29. *See* App. Br. 29–35. Thus, we treat the Examiner's typographical error as harmless.

3. Claims 1–10 and 26–29 stand rejected under pre-AIA 35 U.S.C. § 112, second paragraph, as being indefinite. Non-Final Act. 6–9; 11–13.

4. Claims 1–6, 9, and 10 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Galbreath et al. (US 2005/0267766 A1; Dec. 1, 2005) (“Galbreath”); Shuman et al. (US 2013/0185285 A1; July 18, 2013) (“Shuman”); and Malleshaiah (US 2013/0086078 A1; Apr. 4, 2013). Non-Final Act. 14–20.

5. Claim 7 stands rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Galbreath, Shuman, Malleshaiah, and Hyatt et al. (US 2012/0150888 A1; June 14, 2012) (“Hyatt”). Non-Final Act. 20–21.

6. Claim 8 stands rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Galbreath, Shuman, Malleshaiah, and Brikman et al. (US 2014/0025596 A1; Jan. 23, 2014) (“Brikman”). Non-Final Act. 22–23.

7. Claims 17–20 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Galbreath, Shuman, Malleshaiah, and Tseng (US 2012/0166433 A1; June 28, 2012). Non-Final Act. 23–30.

8. Claim 26 stands rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Galbreath, Shuman, Malleshaiah, and Obasanjo et al. (US 2011/0225170 A1; Sept. 15, 2011) (“Obasanjo”). Non-Final Act. 30–32.

9. Claims 27 and 28 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Galbreath, Shuman, Malleshaiah, Obasanjo, and Hyatt. Non-Final Act. 33–34.

10. Claims 21 and 22 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Galbreath, Shuman, Malleshaiah, Tseng, and Kuehr-McLaren et al. (US 2009/0228486 A1; Sept. 10, 2009) (“Kuehr-McLaren”). Non-Final Act. 35–37.

11. Claim 29 stands rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Galbreath, Shuman, Malleshaiah, Obasanjo, Hyatt, and Morin et al. (US 2012/0124479 A1; May 17, 2012) (“Morin”). Non-Final Act. 37–38.

## ANALYSIS<sup>5</sup>

### *Provisional Obviousness-type Double Patenting Rejection*

Appellants do not respond to the Examiner’s provisional rejection of claims 1–3, 5, 10, 17, and 19–22 under the doctrine of obviousness-type double patenting other than to request that the rejection “be held in abeyance.” App. Br. 14; Reply Br. 5.

Although the Examiner agreed to hold the rejection “in abeyance,” the Examiner notes that “[a]bsent the filing of a terminal disclaimer or compelling argument to withdraw the rejection, the rejection is still maintained.” Ans. 4. Because the rejection is still maintained (i.e., the Examiner has not withdrawn the rejection), it is still properly before the Board.

To the extent Appellants have not advanced separate, substantive arguments for particular claims or issues, such arguments are considered waived. *See* 37 C.F.R. § 41.37(c)(1)(iv)(2017); *see also Hyatt v. Dudas*, 551 F.3d 1307, 1314 (Fed. Cir. 2008) (“When the appellant fails to contest a ground of rejection to the Board, . . . the Board may treat any argument with

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<sup>5</sup> Throughout this Decision, we have considered the Appeal Brief, filed September 21, 2017 (“App. Br.”); the Reply Brief, filed March 14, 2018 (“Reply Br.”); the Examiner’s Answer, mailed January 22, 2018 (“Ans.”); and the Non-Final Office Action, mailed June 26, 2017 (“Non-Final Act.”), from which this Appeal is taken.

respect to that ground of rejection as waived.”). Additionally, “[i]f a ground of rejection stated by the examiner is not addressed in the appellant’s brief, appellant has waived any challenge to that ground of rejection and the Board may summarily sustain it, unless the examiner subsequently withdrew the rejection in the examiner’s answer.” Manual of Patent Examining Procedure (“MPEP”) § 1205.02 (9th ed. Rev. 08.2017, Jan. 2018).

Accordingly, we summarily sustain the Examiner’s provisional rejection of claims 1–3, 5, 10, 17, and 19–22 under the doctrine of obviousness-type double patenting.

*Rejection under pre-AIA 35 U.S.C. § 112, second paragraph*

In rejecting claims 1–10 and 26–29 under pre-AIA 35 U.S.C. § 112, second paragraph, the Examiner sets forth two different bases for the rejection. Non-Final Act. 6–9, 11–13. Regarding the first basis for the rejection, the Examiner concludes that “preventing a de-emphasis” (claim 1) and “preventing the suppression” (claim 26) are “unclear without further information [as to] what precise steps would be [necessary]” to prevent a de-emphasis or prevent a suppression. Non-Final Act. 7–9. More specifically, in distinguishing from the disclosure in the Specification regarding not de-emphasizing information (*see* Spec. ¶ 43), the Examiner explains that “preventing something [(as recited in the claims)] is different than not doing something, preventing is an action of keeping something from happening.” Ans. 5–6. The Examiner determines the Specification “does not recite that a prevention of de-emphasis, but rather not performing a de-emphasis.” Ans. 6. However, the Examiner does not reject the claims for lack of written description support under pre-AIA 35 U.S.C. § 112, first paragraph. Ans. 6.

Instead, the Examiner because there may be different means of de-emphasis, each may require different means to be prevented. Ans. 6. Thus, the Examiner concludes “preventing a de-emphasis” is indefinite. Ans. 6.

The test for definiteness under 35 U.S.C. § 112, second paragraph, is whether “those skilled in the art would understand what is claimed when the claim is read in light of the specification.” *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986). Merely that a claim is broad does not mean that it is indefinite. *See In re Johnson*, 558 F.2d 1008, 1016 n.17 (CCPA 1977); *In re Miller*, 441 F.2d 689, 693 (CCPA 1971); *In re Gardner*, 427 F.2d 786, 788 (CCPA 1970).

Here, the Examiner does not conclude that an ordinarily skilled artisan would not understand what is claimed, but rather, that it is not “clear to one of ordinary skill in the art how to prevent de-emphasis.” *See* Ans. 6. Thus, it appears that the Examiner concludes the claims are not enabled under pre-AIA 35 U.S.C. § 112, first paragraph. *See Genentech, Inc. v. Novo Nordisk, A/S*, 108 F.3d 1361, 1365 (Fed. Cir. 1997) (“[T]o be enabling, the specification of a patent [application] must teach those skilled in the art how to make and use the full scope of the claimed invention without undue experimentation.”) (internal quotations omitted). However, a rejection for lack of enablement is not before us. Although the Board is authorized to reject claims under 37 C.F.R. § 41.50(b), no inference should be drawn when the Board elects not to do so. *See* Manual of Patent Examining Procedure (MPEP) § 1213.02 (9th ed. Rev. 08.2017, Jan. 2018).

For the reasons discussed *supra*, we do not sustain the first basis of the Examiner’s rejection of claims 1–10 and 26–29 under pre-AIA 35 U.S.C. § 112, second paragraph.

The Examiner also sets forth a *second* basis for rejecting claims 1–10 and 26–29 under pre-AIA 35 U.S.C. § 112, second paragraph. *See* Non-Final Act. 11–13. In particular, the Examiner concludes the claimed “preference control module” invokes the provisions of pre-AIA 35 U.S.C. § 112, sixth paragraph, as a means-plus-function limitation. Non-Final Act. 12–13. Additionally, the Examiner finds the Specification “fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function.” Non-Final Act. 12.

If the applicant fails to disclose adequate corresponding structure for a mean-plus-function limitation, the applicant has failed to particularly point out and distinctly claim the invention as required by pre-AIA 35 U.S.C. § 112, second paragraph. *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1351–52 (Fed. Cir. 2015); *see also Noah Sys. Inc. v. Intuit Inc.*, 675 F.3d 1302, 1311–12 (Fed. Cir. 2012); *AllVoice Computing PLC v. Nuance Commc'ns., Inc.*, 504 F.3d 1236, 1241 (Fed. Cir. 2007) (“[A] means-plus-function clause is indefinite if a person of ordinary skill in the art would be unable to recognize the structure in the specification and associate it with the corresponding function in the claim.”).

Appellants do not present arguments to rebut the Examiner’s findings and conclusion. *See* Appeal Br. *passim*. Thus, Appellants have waived any arguments with respect to this basis of rejection. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Accordingly, we summarily sustain the Examiner’s rejection under pre-AIA 35 U.S.C. § 112, second paragraph, of claims 1–10 and 26–29.

*Rejection under 35 U.S.C. § 101*

Appellants dispute the Examiner’s conclusion that the pending claims are directed to patent-ineligible subject matter. App. Br. 29–35; Reply Br. 22–26. In particular, Appellants argue the claims recite patent-eligible subject matter because they are “directed to an improvement to the computer functionality rather than being directed to an abstract idea.”<sup>6</sup> App. Br. 29, 32; Reply Br. 22. Appellants allege determining which artifacts in a social networking profile are to be de-emphasized based on the viewer of the profile, as well as preventing certain other artifacts from being de-emphasized “improves the capabilities of the computer network, . . . [and also] improves the capabilities of a physical device operating on the network generally.” App. Br. 32; Reply Br. 24–25. Appellants assert the improvement to the computer’s functionality results from “providing a social networking site that allows an owner of a social network profile to specifically control what viewers do and do not see with regards to posts from or to the owner.” App. Br. 33 (emphasis omitted). Additionally, Appellants assert the Examiner did not support the conclusion that the claims are directed to an abstract idea. App. Br. 30–31. Moreover,

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<sup>6</sup> Appellants note that in an earlier Office Action (mailed November 2, 2016), the Examiner agreed with Appellants’ argument that the claims were directed to an improvement to computer functionality. App. Br. 29. At that time, the Examiner withdrew the rejection under 35 U.S.C. § 101. *See* Final Office Action 4. However, in the currently pending Office Action, the Examiner newly rejected the claims under 35 U.S.C. § 101. Non-Final Act. 3–6. It is this rejection that is before the Board. Accordingly, we confine our analysis to the Examiner’s findings and conclusions as set forth in the Office Action mailed on June 26, 2017.

Appellants contend the claims recite significantly more than the alleged abstract idea. App. Br. 33–34.

The Supreme Court’s two-step framework guides our analysis of patent eligibility under 35 U.S.C. § 101. *Alice Corp. Pty. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014). If a claim falls within one of the statutory categories of patent eligibility (i.e., a process, machine, manufacture, or composition of matter) then the first inquiry is whether the claim is directed to one of the judicially recognized exceptions (i.e., a law of nature, a natural phenomenon, or an abstract idea). *Alice*, 134 S. Ct. at 2355. If so, the second step is to determine whether any element, or combination of elements, amounts to significantly more than the judicial exception. *Alice*, 134 S. Ct. at 2355.

Although the independent claims each broadly fall within the statutory categories of patentability, the Examiner concludes the claims are directed to a judicially recognized exception—i.e., an abstract idea. Non-Final Act. 3–4. In particular, the Examiner concludes the claims are directed to the abstract ideas of “collecting information, analyzing the information, and displaying certain results of the analysis,” similar to the claims at issue in *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). Non-Final Act. 3–4; Ans. 7–8. Further, the Examiner concludes the claims do not recite significantly more to transform the abstract idea into a patent eligible application. Non-Final Act. 4–6. Instead, the claims recite generic computer functions/elements performing generic computer functions that are well-understood, routine, and conventional. Non-Final Act. 5.

Instead of using a definition of an abstract idea, “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) (citing *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353–54 (Fed. Cir. 2016)); accord United States Patent and Trademark Office, July 2015 Update: Subject Matter Eligibility 3 (July 30, 2015), <https://www.uspto.gov/sites/default/files/documents/ieg-july-2015-update.pdf> (instructing Examiners that “a claimed concept is not identified as an abstract idea unless it is similar to at least one concept that the courts have identified as an abstract idea.”). As part of this inquiry, we must “look at the ‘focus of the claimed advance over the prior art’ to determine if the claim’s ‘character as a whole’ is directed to excluded subject matter.” *Affinity Labs of Tex., LLC v. DirecTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016).

Our reviewing court has concluded that abstract ideas include the concepts such as the collection and analysis of information. *Elec. Power*, 830 F.3d at 1353; see also *Elec. Power*, 830 F.3d at 1354 (“analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category”). Additionally, the collecting of data, recognizing certain data within the collected data set, and storing the data in memory are also abstract ideas. *Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.*, 776 F.3d 1343, 1347 (Fed. Cir. 2014). Similarly, “collecting, displaying, and manipulating data” is an abstract idea. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017); see also *SAP Am., Inc. v. InvestPic, LLC*, 890 F.3d 1016, 1021 (Fed. Cir. 2018) (“merely presenting the results of abstract processes of collecting and

analyzing information . . . is abstract as an ancillary part of such collection and analysis”) (quotations omitted). Further, in *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015) the court concluded customizing information and presenting it to users based on particular characteristics is an abstract idea.

Further, merely combining several abstract ideas does not render the combination any less abstract. *RecogniCorp, LLC v. Nintendo Co. Ltd.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) (“Adding one abstract idea (math) to another abstract idea . . . does not render the claim non-abstract.”); *see also FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016) (determining the pending claims were directed to a combination of abstract ideas).

Here, Appellants’ claims are generally directed to personalizing a social networking profile page based on various pieces of information. The information used to personalize a profile page includes user preferences settings and data about the viewer of the social networking profile page. Spec. ¶ 2. Based on the user preferences and visitor-related data, content (i.e., artifacts) of a user’s social networking profile page may be emphasized or de-emphasized to create different versions of the profile page. Spec. ¶¶ 31–33.

The receiving of user preferences and visitor data is similar to the abstract idea of collecting and gathering information to be analyzed. *See Elec. Power*, 830 F.3d at 1354; *Content Extraction*, 776 F.3d at 1347. Further, the emphasis/de-emphasis of certain content (i.e., artifacts) based on the analysis of the received data is similar to the abstract idea of customizing information and presenting it to users based on particular characteristics.

*Capital One Bank*, 792 F.3d at 1370. The additional limitations recited in the independent claims (e.g., preventing a de-emphasis of time-sensitive artifacts) or in the dependent claims (which refine how the artifacts are emphasized/de-emphasized, how the data is characterized or partitioned within the system, or how the data is received) do not alter the character of the claims, which is directed to an abstract idea, discussed *supra*.

Additionally, the Examiner determines the current claims are not directed to a specific improvement in the way computers operate, but instead describe a desired outcome from computer operation. Ans. 8. Contrary to Appellants' arguments (*see, e.g.*, App. Br. 31–33), the claims are distinguishable from the self-referential table claimed in *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016). Ans. 9–11. As opposed to the specific technological improvement claimed in *Enfish* (i.e., a self-referential table over a traditional database), Appellants do not provide persuasive arguments that de-emphasizing certain artifacts of a social network profile are an improvement to computer technology. *See* Ans. 10–11. We agree with the Examiner that Appellants' claims are not directed to an improvement in the ways computers operate or the capabilities of a physical device operating on a network.

Because we determine the claims are directed to an abstract idea or combination of abstract ideas, we analyze the claims under step two of *Alice* 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 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72–73, 77–79 (2012)). The implementation of the abstract idea involved must be “more than [the]

performance of ‘well-understood, routine, [and] conventional activities previously known to the industry.’” *Content Extraction*, 776 F.3d at 1347–48 (quoting *Alice*, 134 S. Ct. at 2359) (alteration in original).

Here, we agree with the Examiner that the claims do not require any nonconventional computer, network, or display or a non-conventional and non-generic arrangement of known conventional pieces. Non-Final Act. 4–6. *See also Elec. Power*, 830 F.3d at 1355; *Bascom Global Internet Servs. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349–52 (Fed. Cir. 2016); *cf. Spec. ¶ 52* (describing that the claimed invention may be embodied in a computer program product); *see also Mortgage Grader, Inc. v. First Choice Loan Servs. Inc.*, 811 F.3d 1314, 1324–25 (Fed. Cir. 2016) (finding generic computer components such as an “interface,” “network,” and “database,” fail to satisfy the inventive concept requirement); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (“That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive.”).

For the reasons discussed *supra*, we are unpersuaded that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Accordingly, we sustain the Examiner’s rejection of claim 1. Additionally, we sustain the Examiner’s rejection of independent claims 17 and 26, which recite similar limitations and were not argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv). Further, we sustain the Examiner’s rejection of claims 2–10, 18–22, and 27–29, which depend directly or indirectly therefrom and were not argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv).

*Rejections under 35 U.S.C. § 103*

In rejecting independent claim 1, *inter alia*, the Examiner relies on Malleshaiah to teach generating a version of a social networking profile page that emphasizes certain artifacts “based on the number of instances when the viewer has viewed the owner’s profile.” *See* Non-Final Act. 15–16 (citing Malleshaiah ¶¶ 5, 68). Independent claims 17 and 26 recite commensurate limitations and the Examiner relies on the same teachings of Malleshaiah in rejecting these claims. *See* Non-Final Act. 26, 31.

Appellants argue that Malleshaiah fails to teach using the number of instances (i.e., a tally) when a viewer has viewed the owner’s profile to emphasize artifacts on a version of the owner’s social networking profile page. App. Br. 18–19; Reply Br. 10. Instead, Appellants assert Malleshaiah describes maintaining and updating a user interest profile according to information most recently or frequently requested and accessed by the user. App. Br. 19 (citing Malleshaiah ¶ 68).

In response, the Examiner disagrees with Appellants that the claimed number of views should be interpreted as a “tally.” Ans. 15. Instead, the Examiner explains the claims merely require emphasizing an artifact based on a number of views, which may include a frequency of views (but not necessarily an absolute number, or tally). Ans. 15. Further, the Examiner finds that Malleshaiah is not limited only to viewing certain profiles (e.g., a preferred artist), but that “it is commonly known for profiles to contain interest information in the form of personal data indicating a user interest.” Ans. 16. Additionally, the Examiner finds Malleshaiah describes a user may become a visitor when he/she visits the social page of another user in the social network. Ans. 16 (citing Malleshaiah ¶ 64). Thus, the Examiner

finds Malleshaiah “teaches that the interest score would be calculated based on the viewer visiting the social page of another user.” Ans. 17.

Malleshaiah is generally directed to dynamically generating a social page of a user based on the visiting user’s interests. Malleshaiah, Abstract. In the disclosed system, a customized version of a user’s social networking profile is generated based on the visiting user’s interests. Malleshaiah ¶ 7. In other words, certain information (i.e., artifacts) of a user’s social networking profile that correspond to a visiting user’s interests will be presented (i.e., emphasized) to the visiting user. Malleshaiah ¶¶ 7–9. In a disclosed example, Malleshaiah describes a visitor having a preference for the paintings of Michelangelo as opposed to Di Vinci. Malleshaiah ¶ 68. Thus, based on the social networking pages or blogs viewed, an interest profile for that visitor/user would reflect a greater interest in Michelangelo over Di Vinci and, accordingly, when visiting a social networking profile of another user, information related to Michelangelo would be presented (i.e., emphasized) over that of Di Vinci, to the extent such information is available on the visited user’s profile. Malleshaiah ¶¶ 64, 67–68.

However, the Examiner has not provided sufficient persuasive evidence or reasoning that Malleshaiah teaches the social networking profile of a user is updated for a visitor based on the number of times that visitor has viewed the user’s profile. As the Examiner explains, Malleshaiah teaches the interest score of a user is calculated based on the viewer visiting the social page of another user. Ans. 17.

For the reasons discussed *supra*, we do not sustain the Examiner’s rejection of independent claim 1 under pre-AIA 35 U.S.C. § 103(a). For similar reasons, we do not sustain the Examiner’s rejections of independent

claims 17 and 26, which recite similar limitations. Additionally, we do not sustain the Examiner's rejections under pre-AIA 35 U.S.C. § 103(a) of claims 2–10, 18–22, and 27–29, which depend directly or indirectly therefrom. Because we do not sustain the Examiner's rejection under pre-AIA 35 U.S.C. § 103(a) for the reasons discussed herein, we need not address Appellants' further arguments. *See Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1423 (Fed. Cir. 1984) (finding an administrative agency is at liberty to reach a decision based on “a single dispositive issue”).

#### DECISION

We summarily affirm the Examiner's decision provisionally rejecting claims 1–3, 5, 10, 17, and 19–22 under the doctrine of obviousness-type double patenting.

We summarily affirm the Examiner's decision rejecting claims 1–10 and 26–29 under pre-AIA 35 U.S.C. § 112, second paragraph.

We affirm the Examiner's decision rejecting claims 1–10, 17–22, and 26–29 under 35 U.S.C. § 101.

We reverse the Examiner's decision rejecting claims 1–10, 17–22, and 26–29 under pre-AIA 35 U.S.C. § 103(a).

Because we affirm at least one ground of rejection with respect to each claim on appeal, the Examiner's decision rejecting claims 1–10, 17–22, and 26–29 is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED