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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ANAND VARADARAJAN

Appeal 2018-005537
Application 14/720,016
Technology Center 3600

Before ANTON W. FETTING, MICHAEL C. ASTORINO, and
BRUCE T. WIEDER, *Administrative Patent Judges*.

WIEDER, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134, Appellant¹ appeals from the Examiner's rejection of claims 1–6, 8–17, and 19–22. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Amazon Technologies, Inc. (Appeal Br. 2.)

CLAIMED SUBJECT MATTER

Appellant's invention "relates to associating item images with item catalog data." (Spec. ¶ 8.)

Claims 1, 3, and 15 are the independent claims on appeal. Claim 1 is illustrative. It recites:

1. A non-transitory computer-readable medium embodying a program that, when executed in a computing device, causes the computing device to at least:

obtain an image depicting at least one item;

identify the at least one item from the image based at least in part on data derived from a plurality of reference images that are associated with a respective at least one item of a catalog of items;

responsive to an indication that identifying the at least one item was incorrectly performed, track the image as a misidentified image, wherein an accuracy of a subsequent identification is improved based at least in part on the misidentified image;

responsive to an indication that identifying the at least one item was correctly performed, associate catalog data corresponding to the at least one item with the image;

obtain the catalog data about the at least one item from a client responsive to at least one of: the indication that identifying the at least one item was incorrectly performed, or being unable to identify the at least one item in the image; and

add the catalog data to a catalog of a merchant in an electronic marketplace.

REJECTIONS

Claims 1–6, 8–17, and 19–22 are rejected on the ground of nonstatutory double patenting as unpatentable over claims 1, 13, and 16, respectively, of U.S. Patent No. 9,043,232 B1 (the '232 patent).²

Claims 1–6, 8–17, and 19–22 are rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

The double patenting rejection

Claims 1–6, 8–17, and 19–22 are rejected on the ground of nonstatutory double patenting over claims 1, 13, and 16, respectively, of the '232 patent. (Final Action 17–18.) Appellant does not present arguments in response to this rejection.

Therefore, we summarily affirm this rejection.

The § 101 rejection

“Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.” 35 U.S.C. § 101. Section 101, however, “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*, 573 U.S. 208, 216 (2014) (quoting *Assoc. for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)).

² Because the claims are rejected over an issued patent, we treat the Examiner’s reference to “provisionally rejected” as a typographical error. (See Final Action 17.)

Alice applies a two-step framework, earlier set out 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*, 573 U.S. at 217.

Under the two-step framework, it must first be determined if “the claims at issue are directed to a patent-ineligible concept.” *Id.* at 218. If the claims are determined to be directed to a patent-ineligible concept, e.g., an abstract idea, then the second step of the framework is applied to determine if “the elements of the claim . . . contain[] an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Id.* at 221 (citing *Mayo*, 566 U.S. at 72–73, 79).

With regard to step one of the *Alice* framework, we apply a “directed to” two prong test to: 1) evaluate whether the claim recites a judicial exception, and 2) if the claim recites a judicial exception, evaluate whether the claim “appl[ies], rel[ies] on, or use[s] the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” *See* USPTO, 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50, 54 (Jan. 7, 2019) (hereinafter “2019 Guidance”).

Here, the Examiner determines that claim 1 is directed “to a medium, system, and method of associating item images with item catalog data which is considered to be an abstract idea. Associating item images with item catalog data is a method of organizing human activity.” (Final Action 19.) The Examiner also determines that “claim 1 recites steps . . . that can be

performed in the human mind or by a human using a pen and paper.” (*Id.* at 21–22.)

Appellant argues that

the present claims are directed to a specific computer-implemented solution to the technical challenge of improving an accuracy of subsequent identifications of an item in an image by a computer by tracking incorrect identifications and updating reference data based on the incorrect identifications. The solution to improving accuracy for subsequent identifications of an item is accomplished by identifying whether images are correctly identified, associating the image to the item in catalog data, and tracking misidentified images to improve accuracy for subsequent identifications. Then, a client provides updated catalog data to be added to the catalog data for a merchant when the item is incorrectly identified or the item is unable to be identified in the image.

(Appeal Br. 10–11; *see also id.* at 13.) Appellant also argues that “the present claims cannot be performed in the human mind, or by a human with pen and paper because the claims relate to identifying items in images using a computing device.” (*Id.* at 11.)

Under step one of the *Alice* framework, we “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 Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016) (quoting *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016)).

The ‘directed to’ inquiry . . . cannot simply ask whether the claims *involve* a patent-ineligible concept, because essentially every routinely patent-eligible claim involving physical products and actions *involves* a law of nature and/or natural phenomenon Rather, the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether ‘their character as a whole is directed to excluded subject

matter.’ *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015).

Enfish, LLC v. Microsoft Corp., 822 F.3d 1327, 1335 (Fed. Cir. 2016). In other words, the first step of the *Alice* framework “asks whether the focus of the claims is on the specific asserted improvement in [the relevant technology] or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Id.* at 1335–36; *see also* 2019 Guidance at 54–55.

The Specification provides evidence as to what the claimed invention is directed. In this case, the Specification discloses that the invention “relates to associating item images with item catalog data.” (Spec. ¶ 8.) Claim 1 provides further evidence. Claim 1 recites “obtain[ing] an image depicting at least one item,” “identify[ing] the . . . item from the image based . . . on data . . . from . . . images . . . associated with . . . a catalog,” “responsive to an indication that identifying the . . . item was incorrectly performed, track[ing] the image as a misidentified image,” “responsive to an indication that identifying the . . . item was correctly performed, associat[ing] catalog data corresponding to the . . . item with the image,” “obtain[ing] the catalog data . . . from a client responsive to . . . [an] indication that identifying the . . . item was incorrectly performed, or being unable to identify the . . . item,” “and add[ing] the catalog data to a catalog of a merchant.”

In view of the above, we agree with the Examiner that these recited steps can be performed in the human mind, i.e., that the claim recites mental processes. (*See* Final Action 21–22; Answer 6; *see also* 2019 Guidance at 52.)

Nonetheless, Appellant argues that “the present claims cannot be performed in the human mind . . . because the claims relate to identifying items . . . using a computing device.” (Appeal Br. 11.) We do not find this argument persuasive. It is well established that where, as in this case, the “recitation of a computer amounts to a mere instruction to ‘implemen[t]’ an abstract idea ‘on . . . a computer,’ that addition cannot impart patent eligibility.” *Alice*, 573 U.S. at 223 (quoting *Mayo*, 566 U.S. at 84).

We also do not find persuasive Appellant’s argument that

[w]hen a human is recognizing an item in an image, no one really knows how a human recognizes the item, but the human is not recognizing the item “based at least in part on data derived from a plurality of reference images that are associated with a respective at least one item of a catalog of items” as recited in claim 1 or using “hashes, histograms based on image characteristics, extracted features..., or other data relating to image characteristics” as set forth in the Specification.

(Reply Br. 6.³) As an initial matter, claim 1 does not recite “recognizing the item.” Instead, claim 1 recites “identify the at least one item from the image,” and we note that claim 1 does not recite what constitutes a correct identification. Nor does claim 1 recite use of hashes or histograms. In short, Appellant’s argument is not commensurate with the scope of the claim.

Regardless, claim 1 recites “identify the at least one item from the image based at least in part on data derived from a plurality of reference images.” In other words, an evaluation/identification is to be made based on the observation of reference images and associating/comparing the at least

³ Appellant also quotes from dependent claims 4 and 13. But Appellant does not present separate arguments for the rejection of these claims in the Reply Brief. (*See* Reply Br. 5–6.) Nor did Appellant separately argue the rejection of claims 4 and 13 in the Appeal Brief.

one item with information from that observation. Thus, this claim limitation “recites nothing more than the abstract mental steps necessary to compare two different [images/items].” *In re BRCA1- and BRCA2-Based Hereditary Cancer Test Patent Litig.*, 774 F.3d 755, 763 (Fed. Cir. 2014) (quoting *Assoc. for Molecular Pathology v. Myriad Genetics, Inc.*, 689 F.3d 1334 (Fed. Cir. 2012), *aff’d in part, rev’d in part*, 569 U.S. 576 (2013)); *see also* Spec. ¶ 11. Therefore, we do not find Appellant’s argument persuasive.

Additionally, we agree with the Examiner that claim 1 recites advertising, marketing or sales activities or behaviors, e.g., “add the catalog data to a catalog of a merchant.” (*See* Non-Final Action 3; *see also* 2019 Guidance at 52.)

The steps of claim 1 are accomplished by obtaining an image/information, identifying an item from the image, tracking the image, associating data with the image/information, obtaining data, and adding data to a catalog/database. *See, e.g., Content Extraction and Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (“[T]he claims of the asserted patents are drawn to the abstract idea of 1) collecting data, 2) recognizing certain data within the collected data set, and 3) storing that recognized data in a memory.”); *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1339–40 (Fed. Cir. 2017) (Claims to manipulating documents including the step of mapping components of each data object to one of a plurality of record types, determined to be “at their core, directed to the abstract idea of collecting, displaying, and manipulating data.”); *In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016) (Claims directed “to the concept of

classifying an image and storing the image based on its classification” determined to be directed to an abstract idea.)

Appellant argues that the claims are not directed to an abstract idea but are directed to “a specific technical approach of improving an accuracy of subsequent identifications of an item in an image by a computer by tracking incorrect identifications and updating reference data based on the incorrect identifications.” (Appeal Br. 12.) Appellant also argues that “claim 1 sets forth a technical improvement of performing the identification ‘based at least in part on data derived from a plurality of reference images that are associated with a respective at least one item of a catalog of items.’” (Reply Br. 5.) We do not find these arguments persuasive. Claim 1 does not recite “a particular way of programming or designing the software . . . , but instead merely claim[s] the resulting [method].” *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1241 (Fed. Cir. 2016). Indeed, none of the limitations recite technological implementation details. Claim 1 simply recites the functional results to be achieved by any means.

Additionally, Appellant’s Specification makes clear that the “non-transitory computer-readable medium embodying a program” recited in the preamble of claim 1 includes a well-understood, routine, and conventional storage medium. (*See* Spec. ¶ 60 (“[A]ny logic or application described herein . . . that comprises software or code can be embodied in any non-transitory computer-readable medium for use by or in connection with an instruction execution system.”).) Appellant’s Specification also makes clear the “computing device” recited in the preamble of claim 1 “may comprise, for example, a server computer or any other system providing computing capability.” (*Id.* ¶ 13.)

We do not see how the recitation of a generic “non-transitory computer-readable medium” and a generic “computing device,” even in conjunction with the recited functions, “ensure[s] ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract ideas].’” *Alice*, 573 U.S. at 221 (brackets in original) (quoting *Mayo*, 566 U.S. at 77.)

Although we and the Examiner describe, at different levels of abstraction, to what the claim is directed, it is recognized that “[a]n abstract idea can generally be described at different levels of abstraction.” *Apple, Inc.*, 842 F.3d at 1240. That need not and, in this case, does not “impact the patentability analysis.” *See id.* at 1241.

In view of the above, we determine that claim 1 is directed to advertising, marketing or sales activities or behaviors, and concepts performed in the human mind. (*See* 2019 Guidance at 52.) And further in view of the above, we determine that claim 1 is directed to the abstract ideas of certain methods of organizing human activity, and mental processes. (*See id.*)

Regardless, Appellant argues that “[t]he present claims are similar to claim 1 of example 23 in Appendix 1 of the July 2015 Update.” (Appeal Br. 16 (footnote omitted) (citing July 2015 Update Appendix 1: Examples at 8 (available at <https://www.uspto.gov/sites/default/files/documents/ieg-july-2015-app1.pdf>).)) We disagree.

As an initial matter, we note that the Update Appendix simply presents hypothetical examples. (*See* Update Appendix 1.) Moreover, “[e]ligibility-related guidance issued prior to the Ninth Edition, R-08.2017, of the MPEP (published Jan. 2018) should not be relied upon.” (2019 Guidance at 51.) Nonetheless, we further note that claim 1 of Example 23

recites a “method for dynamically relocating textual information within an underlying window displayed in a graphical user interface.” The Update Appendix explains that this method, unlike claim 1 in the present application, “is necessarily rooted in computer technology to overcome a problem specifically arising in graphical user interfaces.” (Update Appendix 9.) Appellant does not persuasively argue how claim 1, which does not recite any technological implementation details, is rooted in computer technology to overcome a technological problem. Thus, we do not find Appellant’s argument persuasive.

Appellant also seeks to analogize the present claim 1 to claim 1 in *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1313 (Fed. Cir. 2016). (Reply Br. 4–6.) Specifically, Appellant argues that

[s]imilar to claim 1 in *McRO*, which obtains a first set of rules and a timed data file, claim 1 of the present application sets forth that “an image depicting at least one item” is obtained. Further, similar to *McRO*, which sets forth that an intermediary stream being generated by evaluating sub-sequences against said first set of rules and a final stream being generated from said intermediate stream (*Id.*, claim 1), claim 1 of the present application involves a computing device identifying “at least one item from the image” using “data derived from a plurality of reference images that are associated with a respective at least one item of a catalog of items” and improving “an accuracy of a subsequent identification ... based at least on part on the misidentified image.”

(*Id.* at 5.)

We do not find this argument persuasive. “The claimed improvement [in *McRO*] was to how the physical display operated (to produce better quality images), unlike (what is present here) a claimed improvement in [an associating] technique with no improved display mechanism.” *SAP Am.*,

Inc. v. InvestPic, LLC, 898 F.3d 1161, 1167 (Fed. Cir. 2018). In other words, in *McRO*, data was used to improve the technology, i.e., the display mechanism. Here, although claim 1 recites, e.g., “obtain[ing],” “identify[ing],” “track[ing],” “associat[ing],” “obtain[ing],” and “add[ing],” it merely recites the functional results to be achieved. For example, claim 1 does not recite *how* the claimed method arrives at the recited “indication that identifying the at least one item was incorrectly performed.” “Indeed, the claim language here provides only a result-oriented solution, with insufficient detail for how a computer accomplishes it. Our law demands more.” *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017).

Additionally, Appellant argues that dependent “claim 2 sets forth that a computer program causes a computing device to determine at least one of a sales-success factor or a distinctiveness factor for an item,” and that this shows that the claim is “not directed to certain methods of organizing human activity.” (Appeal Br. 13.)

But Appellant does not persuasively argue why determining a factor regarding an item for a catalog would result in the claim no longer being directed to advertising, marketing or sales activities or behaviors, i.e., certain methods of organizing human activity, or why it would result in the claim no longer being directed to concepts performed in the human mind, i.e., mental processes.

Step two of the *Alice* framework has been described “as a search for an “inventive concept” –i.e., an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more

than a patent upon the [ineligible concept] itself.” *Alice*, 573 U.S. at 217–18 (quoting *Mayo*, 566 U.S. at 72–73).

Appellant argues “that the claims recite specific limitations other than what is well-understood, routine, and conventional in the field.” (Appeal Br. 17.) Appellant seeks to analogize the claims in the present application to the claims in *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016). (Appeal Br. 18; *see also* Reply Br. 9–11.) Specifically, Appellant argues that “the present application . . . recites elements that are [a] ‘non-conventional’ arrangement of components.” (Reply Br. 10.)

As one example, claim 1 recites “identify[ing] ... at least one item from the image based at least in part on data derived from ... reference images that are associated with ... a catalog of items,” which is a non-conventional and non-generic way of using image recognition. As a further example, it is non-conventional and non-generic to improve “an accuracy of a subsequent identification based at least in part on the misidentified image,” as recited claim 1.

(*Id.*)

We do not find Appellant’s argument persuasive. In *BASCOM*, the court determined that “an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces.” *BASCOM*, 827 F.3d at 1350. Specifically, “[t]he inventive concept described and claimed in the ’606 patent is the installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user.” *Id.* at 1350. The Federal Circuit determined that this “particular arrangement of elements is a technical improvement over prior art ways of filtering.” *Id.*

Here, Appellant’s argument depends on the abstract idea providing the inventive concept. But it is well established that [i]f a claim’s only ‘inventive concept’ is the application of an abstract idea using conventional and well-understood techniques, the claim has not been transformed into a patent-eligible application of an abstract idea.” *BSG Tech LLC v. Buyseasons, Inc.*, 899 F.3d 1281, 1290–91 (Fed. Cir. 2018). Moreover, claim 1 does not recite implementation details, i.e., it does not recite “a particular way of programming or designing the software . . . , but instead merely claim[s] the resulting [method].” *Apple, Inc.*, 842 F.3d at 1241.

Nor does Appellant persuasively argue why the recited “non-transitory computer-readable medium” and “computing device” in claim 1 are analogous to a filtering tool, installed at a specific location with customizable features, that provides a technical improvement in filtering.

Appellant also seeks to analogize the present claims to those in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014). (Appeal Br. 18–19.) Appellant argues that “the present claims are directed to a solution of a problem that arises in the realm of computer networks, namely electronic commerce systems.” (*Id.* at 18.)

The claims in *DDR Holdings* “specify how interactions with the Internet are manipulated to yield a desired result — a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink.” *Id.* As an initial matter, we note that Appellant’s claim 1 is silent as to how the “computing device” communicates. Claim 1 recites a program that obtains data from an unspecified source, identifies, tracks, associates, obtains catalog data (the location of the catalog data not being specified), and adds data to a catalog of a merchant in an electronic

marketplace. Appellant does not persuasively argue how this is analogous to overriding the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink.

Appellant also seeks to analogize the present claims to those in *Amdocs (Israel) Limited v. Openet Telecom, Inc.*, 841 F.3d 1288 (Fed. Cir. 2016). (Appeal Br. 19–20.) Appellant argues that, similar to *Amdocs*, “the claims here relate to programmatically identifying an item in an image using reference images, receiving whether the recognition was correct, improving future recognitions based on whether the recognition was correct, and adding catalog data to a catalog of an electronic marketplace.” (*Id.* at 19.)

In relevant part, claim 1 of *Amdocs* recites “computer code for using the accounting information with which the first network accounting record is correlated to *enhance* the first network accounting record.” *Amdocs*, 841 F.3d at 1299 (emphasis added). In an earlier opinion, *Amdocs (Israel) Limited v. Openet Telecom, Inc.*, 761 F.3d 1329 (Fed. Cir. 2014) (*Amdocs I*), the court had “construed ‘enhance’ as meaning ‘to apply a number of field enhancements in a distributed fashion.’ [*Amdocs I*] at 1340. We took care to note how the district court explained that ‘[i]n this context, “distributed” means that the network usage records are processed close to their sources before being transmitted to a centralized manager.’ [*Amdocs I*] at 1338.” *Amdocs*, 841 F.3d at 1300.

In view of the above claim interpretation of the term “enhance,” we do not find Appellant’s argument persuasive. Specifically, Appellant does not explain what limitations in claim 1 correspond to the claim element “to enhance the first network accounting record,” when the term “enhance” is properly construed.

Taking the claim elements separately, the functions performed by the non-transitory computer-readable medium and the computing device at each step are purely conventional. Obtaining data, identifying data, tracking data, associating data, obtaining additional data, and adding data to a catalog/database are basic computer functions, i.e., they are well-understood, routine, and conventional functions previously known to the industry. *See Elec. Power Grp.*, 830 F.3d at 1356 (The claims “do not include any requirement for performing the claimed functions of gathering, analyzing, and displaying in real time by use of anything but entirely conventional, generic technology. The claims therefore do not state an arguably inventive concept”); *see also In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1316 (Fed. Cir. 2011) (“Absent a possible narrower construction of the terms ‘processing,’ ‘receiving,’ and ‘storing,’ . . . those functions can be achieved by any general purpose computer without special programming.”).

Considered as an ordered combination, the generic non-transitory computer-readable medium and the computing device of claim 1 add nothing that is not already present when the steps are considered separately. For example, claim 1 does not purport to improve the functioning of the non-transitory computer-readable medium or the computing device. Nor does it effect an improvement in any other technology or technical field. Instead, claim 1 amounts to nothing significantly more than an instruction to apply the abstract idea using a generic computing device. That is not enough to transform an abstract idea into a patent-eligible invention. *See Alice*, 573 U.S. at 225–26.

Nonetheless, Appellant argues that “the claims are non-conventional and non-generic for at least the additional reason that they recite novel and non-obvious limitations.” (Reply Br. 11.) We do not find this argument persuasive. Even if the claimed techniques are “[g]roundbreaking, innovative, or even brilliant,” that is not enough for patent eligibility. *Ass’n for Molecular Pathology*, 569 U.S. at 591. “The ‘novelty’ of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter.” *Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981). In sum, “[b]ecause the innovative aspect of the claimed invention is an entrepreneurial rather than a technological one, it is patent ineligible.” *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 722 (Fed. Cir. 2014).

In view of the above, we are not persuaded that the Examiner erred in rejecting claims 1 and 2 under § 101. Claims 3–6, 8–17, and 19–22 are not separately argued and fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

CONCLUSION

The Examiner's rejection of claims 1–6, 8–17, and 19–22 for nonstatutory double patenting is summarily affirmed.

The Examiner's rejection of claims 1–6, 8–17, and 19–22 under 35 U.S.C. § 101 is affirmed.

Specifically:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1–6, 8–17, 19–22		nonstatutory double patenting	1–6, 8–17, 19–22	
1–6, 8–17, 19–22	101	Eligibility	1–6, 8–17, 19–22	
Overall Outcome			1–6, 8–17, 19–22	

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. § 1.136(a)(1)(iv).

AFFIRMED