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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/015,305	08/30/2013	Ruth E. SKOCIC	SK-3249	4108
33055	7590	01/27/2020	EXAMINER	
Law Offices of John D. Gugliotta, P.E. Esq., LPA P.O. Box 506 Richfield, OH 44286			LE, KHOI V	
			ART UNIT	PAPER NUMBER
			2436	
			MAIL DATE	DELIVERY MODE
			01/27/2020	PAPER

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* RUTH E. SKOCIC

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Appeal 2018-006059  
Application 14/015,305  
Technology Center 2400

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Before ST. JOHN COURTENAY III, LARRY J. HUME, and  
LINZY T. MCCARTNEY, *Administrative Patent Judges*.

HUME, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant,<sup>1</sup> MLP Technology Inc., appeals from the Examiner's decision rejecting claims 1–3, 5–11, and 13–22, which are all claims pending in the application. Appellant has canceled claims 4 and 12.<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as MLP Technology, Inc. Appeal Br. 2.

<sup>2</sup> The Examiner appears to have mischaracterized claim 4 as having been withdrawn from consideration by Appellant. *Compare* Final Act. 1 (Office Action Summary), *with* Amendment filed May 9, 2014 (canceling claim 4). In addition, claim 12 was canceled by an Amendment filed January 29, 2015, and is not before us on appeal.

### STATEMENT OF THE CASE<sup>3</sup>

The claims are directed to animal data management. *See* Spec. (Title). In particular, Appellant’s disclosed embodiments and claimed invention “relate[] to a data management system, and more specifically, to a data management system allowing for storing, managing and transmitting information for animals as well as a method for such storage, management and transmission.”. Spec. ¶ 1.

Claim 1, reproduced below, is representative of the subject matter on appeal (*emphases* added to contested prior-art limitations):

#### *Exemplary Claims*

1. An animal data management system comprising:  
a server for registering an animal *by receiving animal data including a first biometric identifier*;  
a memory configured to store the animal data including the first biometric identifier; and  
a user system for accessing the animal data from the memory, wherein the animal data includes a health certificate with the signature of a veterinarian confirming the animal is free of an infectious disease.
2. The animal data management system of claim 1, further comprising: *a video remote interpreting device connected to the user system.*

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<sup>3</sup> Our decision relies upon Appellant’s Appeal Brief (“Br.,” filed Dec. 1, 2015); Examiner’s Answer (“Ans.,” mailed May 2, 2017); Final Office Action (“Final Act.,” mailed May 20, 2015); and the original Specification (“Spec.,” filed Aug. 39, 2013) (ultimately claiming benefit of US 61/412,662, filed Nov. 11, 2010). Appellant did not file a Reply Brief in response to the factual findings and legal conclusions in the Examiner’s Answer.

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19. The animal server exchange of claim 18, *wherein at least one of the cause of the sickness and/or the cause of the death is a contagious disease.*

*Related Application*

Appellant incorrectly identifies Application Serial No 13/351,888 as being copending and related to the present application and subject of an appeal. Br. 2.

However, we determine the correct Serial No. is 13/531,888, with Appeal No. 2018-008630, for which a Decision affirming the Examiner's rejections was mailed on December 31, 2019.

*Prior Art*

The Examiner relies upon the following prior art as evidence in rejecting the claims on appeal:

Lewis et al. ("Lewis")	US 2003/0229452 A1	Dec. 11, 2003
Yarnall Jr ("Yarnall")	US 2007/0226257 A1	Sept. 27, 2007
Wood et al. ("Wood")	US 2007/0288759 A1	Dec. 13, 2007

*Rejections on Appeal*<sup>4</sup>

R1. Claims 1, 5–11, 13, 15, 17, 18, 20, and 21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lewis. Final Act. 7.<sup>5</sup>

R2. Claims 2, 3, 14, 16, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Lewis and Wood. Final Act. 17.<sup>6</sup>

R3. Claim 19 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Lewis and Yarnall. Final Act. 25.

CLAIM GROUPING

Based on Appellant’s arguments (Appeal Br. 3–10) and our discretion under 37 C.F.R. § 41.37(c)(1)(iv), we decide the appeal of anticipation Rejection R1 of claims 1, 5–11, 13, 15, 17, 18, 20, and 21 on the basis of representative claim 1; and we decide the appeal of obviousness Rejection

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<sup>4</sup> In the event of further prosecution, we leave it to the Examiner to determine whether claims 1–3 and 5–11 meet the subject matter eligibility requirements under 35 U.S.C. § 101 in light of the most recent Director Guidance. *See 2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (January 7, 2019) (<https://www.govinfo.gov/content/pkg/FR-2019-01-07/pdf/2018-28282.pdf>); *and see* “October 2019 Update: Subject Matter Eligibility,” [https://www.uspto.gov/sites/default/files/documents/peg\\_oct\\_2019\\_update.pdf](https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf). 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.*

<sup>5</sup> The Examiner includes claim 12 under Rejection R1, however claim 12 has been canceled. *See n.2, supra.*

<sup>6</sup> The Examiner omits claim 22 in the explicit statement of Rejection R2, but includes analysis of claim 22 in the detailed rejection. *Compare* Final Act. 17 *with* Final Act. 21. We view this omission as harmless error.

R2 of claims 2, 3, 14, and 16 on the basis of representative claim 2. We decide the appeal of obviousness Rejection R3 of claim 19, separately argued, *infra*. We address obviousness Rejection R2 of independent claim 22, not argued separately, *infra*.<sup>7</sup>

### ISSUES AND ANALYSIS

In reaching this decision, we consider all evidence presented and all arguments actually made by Appellant. To the extent Appellant has not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. 37 C.F.R. § 41.37(c)(1)(iv).

We disagree with Appellant's arguments with respect to claims 1–3, 5–11, and 13–22 and, unless otherwise noted, we incorporate by reference herein and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken, and (2) the reasons and rebuttals set forth in the Examiner's Answer in response to Appellant's arguments. We highlight and address specific findings and arguments regarding claims 1, 2, and 19 for emphasis as follows.

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<sup>7</sup> “Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.” 37 C.F.R. § 41.37(c)(1)(iv). Further, “[u]nder each heading identifying the ground of rejection being contested, *any claim(s) argued separately or as a subgroup shall be argued under a separate subheading that identifies the claim(s) by number*. A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.” *Id.* (emphasis added). In addition, when Appellant does not separately argue the patentability of dependent claims, the claims stand or fall with the claims from which they depend. *In re King*, 801 F.2d 1324, 1325 (Fed. Cir. 1986).

1. § 102(b) Rejection R1 of Claims 1, 5–11, 13, 15, 17, 18, 20, and 21

Issue 1

Appellant argues (Br. 3–5) the Examiner’s rejection of claim 1 under 35 U.S.C. § 102(b) as being anticipated by Lewis is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art discloses “[a]n animal data management system” that includes, *inter alia*, “a server for registering an animal” that receives “animal data including *a first biometric identifier*,” as recited in claim 1? (emphasis added).

Principles of Law

A determination that a claim is anticipated under 35 U.S.C. § 102(b) involves two analytical steps. First, the Board must interpret the claim language, where necessary. As our reviewing court has held, and because the PTO is entitled to give claims their broadest reasonable interpretation, review of our claim construction is limited to determining whether it was reasonable. *In re Morris*, 127 F.3d 1048, 1055 (Fed.Cir.1997). Secondly, the Board must compare the construed claim to a prior art reference and make factual findings that “each and every limitation is found either expressly or inherently in [that] single prior art reference.” *In re Crush*, 393 F.3d 1253, 1256 (Fed. Cir. 2004).

Further, “[i]n the patentability context, [although] claims are to be given their broadest reasonable interpretations . . . limitations are not to be read into the claims from the specification.” *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citations omitted). Any special meaning assigned to a term “must be sufficiently clear in the specification that any

departure from common usage would be so understood by a person of experience in the field of the invention.” *Multiform Desiccants, Inc. v. Medzam, Ltd.*, 133 F.3d 1473, 1477 (Fed. Cir. 1998); *see also Helmsderfer v. Bobrick Washroom Equip., Inc.*, 527 F.3d 1379, 1381 (Fed. Cir. 2008) (“A patentee may act as its own lexicographer and assign to a term a unique definition that is different from its ordinary and customary meaning; however, a patentee must clearly express that intent in the written description.”). Absent an express intent to impart a novel meaning to a claim term, the words take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art. *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 (Fed. Cir. 2003) (citation omitted).

#### Analysis

Appellant contends “[t]he present invention includes a number of features that are unanticipated in the above mentioned reference, in particular, said ‘animal data including a first biometric identifier’ as provided in independent claim 1.” Br. 4.

The Examiner initially finds that Lewis, in paragraph 158, discloses “data including a first biometric marker” by describing “the user enters information about animal in the database such as pet characteristic information, owner information, veterinarian clinic information, health-related information.” Final Act. 7. The Examiner elaborates on this finding in the Answer.

The Examiner respectfully submits that Lewis does teach or suggest animal data including a first biometric identifier as provided in claim 1. As described in pars. [0105] & [0158] and

illustrated in Figs 3 & 11 in Lewis's systems and methods, the vaccination record/history, *pet characteristic information*, lost pet information or pet owner information which is stored in the database for administrating to the pet/animal is the pet/animal data. Therefore, examiner believes that Lewis does disclose limitation argued above.

Ans. 3–4 (emphasis added).

We note Lewis discloses “[a]nimal [pet] characteristic data generally includes information that helps to identify a particular animal. Such information may include the name, breed, gender, weight, height, eye color, distinctive markings, reproductive status, birth date, photograph, and the like for an animal.” Lewis ¶ 97.

Thus, under the broadest reasonable interpretation standard, the Examiner concludes, and we agree, the claimed “biometric identifier” reads on Lewis’ disclosed “pet characteristic information.”

We agree with the Examiner because a broad, but reasonable definition of “biometric(s)” is “the measurement and analysis of unique physical or behavioral characteristics (such as fingerprint or voice patterns) especially as a means of verifying personal identity.” *See The Merriam-Webster.com Dictionary*, <https://www.merriam-webster.com/dictionary/biometrics> (accessed 1/18/2020).

Therefore, we agree with the Examiner’s finding that Lewis’s pet or animal characteristic data, as described by Lewis (¶ 97), discloses the disputed limitation of claim 1.

In further support of the Examiner’s finding of anticipation, and as additional matter of claim construction, we note the “animal data including a first biometric identifier” recited in claim 1, represents data that is not

recited as imparting functionality to a machine or computer within the broad scope of claim 1. Therefore, we conclude system claim 1 merely recites a server that receives data (i.e., “receiving animal data including a first biometric identifier”) that is merely descriptive, and is not actually used to perform any function, within the scope of claim 1.

We need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See Ex parte Nehls*, 88 USPQ2d 1883, 1887–90 (BPAI 2008) (precedential); *see also In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004); *In re Lowry*, 32 F.3d 1579, 1583–84 (Fed. Cir. 1994); *see also Ex parte Mathias*, 84 USPQ2d 1276, 1279 (BPAI 2005) (informative) (“[N]onfunctional descriptive material cannot lend patentability to an invention that would have otherwise been anticipated by the prior art.”), *aff’d*, 191 Fed. Appx. 959 (Fed. Cir. 2006) (Rule 36); *Ex parte Curry*, 84 USPQ2d 1272, 1274 (BPAI 2005) (informative) (“Nonfunctional descriptive material cannot render nonobvious an invention that would have otherwise been obvious.”), *aff’d*, No. 06-1003 (Fed. Cir. 2006) (Rule 36). Thus, non-functional descriptive material does not confer patentability to inventions that are otherwise either anticipated or obvious over the prior art.

Appellant further alleges, “[t]he present invention includes a number of features that are unanticipated in . . . [Lewis], in particular . . . said information including ‘at lease [sic] one of the owner’s health directive for the animal’ or ‘statement of treatment of the animal’ of independent claim 5.” Br. 4. Appellant makes similar assertions regarding dependent claims 8, 9, 13, 16, 19, and 20. *Id.*

Mere attorney arguments and conclusory statements unsupported by factual evidence are entitled to little probative value. *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *see 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.”).

Therefore, on the record before us, based upon the Examiner’s findings above, and buttressed by our findings of Appellant’s reliance upon non-functional descriptive material, we are not persuaded of error in the Examiner’s reliance on the cited prior art to disclose the disputed limitation of claim 1, nor do we find error in the Examiner’s resulting legal finding of anticipation. Therefore, we sustain the Examiner’s anticipation rejection of independent claim 1, and grouped claims 5–11, 13, 15, 17, 18, 20, and 21 which fall therewith. *See Claim Grouping, supra.*

2. § 103(a) Rejection R2 of Claims 2, 3, 14, and 16

Issue 2

Appellant argues (Br. 5–6) the Examiner’s rejection of claim 2 under 35 U.S.C. § 103(a) as being obvious over the combination of Lewis and Wood is in error. These contentions present us with the following issues:

(a) Did the Examiner err in finding the cited prior art combination teaches or suggests “[t]he animal data management system of claim 1” that

further includes, “a video remote interpreting device connected to the user system” as recited in claim 2?

(b) Did the Examiner err in combining Lewis and Wood in the manner suggested because, allegedly, Wood is non-analogous art?

Principles of Law

“[O]ne cannot show non-obviousness by attacking references individually where . . . the rejections are based on combinations of references.” *In re Keller*, 642 F.2d 413, 426 (CCPA 1981). “The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference . . . . Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art.” *Id.* at 425.

A rejection under 35 U.S.C. § 103 cannot be based on non-analogous art. *Innovention Toys, LLC, v. MGA Entertainment, Inc.*, 637 F.3d 1314, 1321 (Fed. Cir. 2011); *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004); *In re Clay*, 966 F.2d 656, 658 (Fed. Cir. 1992). Art is analogous when it is:  
(1) from the same field of endeavor as the claimed invention; or  
(2) reasonably pertinent to the particular problem faced by the inventor, if the art is not from the same field of endeavor. *Bigio*, 381 F.3d at 1325–26.

Analysis

*(a) – All Limitations are Taught or Suggested*

Appellant contends “Lewis fails to disclose . . . a video remote interpreting device . . . . Additionally, Wood fails to provide th[is] element[] as well. While the examiner indicates that Wood teaches the use of a

*biometric device 70 can be a digital video camera, this is not the same as video remote interpreting device.” Br. 5.*

Appellant’s Specification describes “[e]xamples of communication devices used are Video Remote Interpreting (VRI) devices . . . [which are] devices [that] aid people who are deaf and *are videoconferencing equipment* to connect the person with the disability to an interpreter (of sign language) in a remote location over the internet.” Spec. ¶ 109 (emphasis added).

The Examiner cites Wood as teaching or suggesting that Wood’s biometric device 70 can be, among other things, a digital video camera. Wood ¶ 75. Under the broadest reasonable interpretation, and in light of Appellant’s Specification quoted above, we conclude the recited “video remote interpreting device” reasonably reads on the disclosed videoconferencing equipment.

*(b) – Wood is Reasonably Pertinent to the Problem Solved*

Appellant contends:

The Wood reference fails to sufficiently address the full scope of the problem pertinent to the present invention. As noted in *In re Klein*, 647 F.3d 1343 (Fed. Cir. 2011), a prior art reference in a separate field of endeavor will not be analogous art unless it is pertinent to the **entire problem** being solved by the challenged patent. *Id.* at 21 (emphasis in Board’s decision). Thus, because this primary prior art reference is only pertinent to some aspects of the present problems, rather than the entire problem, the Wood reference is non-analogous art.

Br. 6.

Appellant’s argument focuses on whether the prior art references are analogous. As mentioned above, “[t]wo separate tests define the scope of

analogous prior art: (1) whether the art is from the same field of endeavor, regardless of the problem addressed and, (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." *In re Klein*, 647 F.3d 1343, 1348 (Fed. Cir. 2011).

"Whether a reference in the prior art is 'analogous' is a fact question." *In re Clay*, 966 F.2d 656, 658 (Fed. Cir. 1992) (citing *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1568 n.9 (Fed. Cir. 1987)). "A reference is reasonably pertinent if . . . it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem." *Id.* at 659.

However, "The Supreme Court's decision in *KSR* . . . directs us to construe the scope of analogous art broadly." *Wyers v. Master Lock Co.*, 616 F.3d 1231, 1238 (Fed. Cir. 2010). "The field of endeavor of a patent is not limited to the specific point of novelty, the narrowest possible conception of the field, or the particular focus within a given field." *Unwired Planet, LLC v. Google Inc.*, 841 F.3d 995, 1001 (Fed. Cir. 2016).

The Examiner responds to Appellant's non-analogous art argument by stating, "it would have been obvious to one of ordinary skill in the art to combine the teaching of Wood into the systems and methods of Lewis *to enhance security and privacy protection and substantially reduce the magnitude of costs for corrections associated with the fraudulent access and use of the programs.*" Ans. 14 (emphasis added).

We agree with the Examiner's analysis because, when security and privacy are considered as being desirable when implementing the claimed

invention, the teachings of Wood may be construed as “reasonably pertinent” to the particular security and privacy problems to which the inventor is involved.

Based upon the findings above, on this record, we are not persuaded of error in the Examiner’s reliance on the cited prior art combination to teach or suggest disclose the disputed limitation of claim 2, nor do we find error in the Examiner’s resulting legal conclusion of obviousness. Therefore, we sustain the Examiner’s obviousness rejection of independent claim 2, and grouped claims 3, 14, and 16, which fall therewith. *See Claim Grouping, supra.*

3. § 103(a) Rejection R3 of Claim 19

Issue 3

Appellant argues (Br. 6–10) the Examiner’s rejection of claim 19 under 35 U.S.C. § 103(a) as being obvious over the combination of Lewis and Yarnall is in error. These contentions present us with the following issues:

Did the Examiner err by providing improper motivation to combine the references in the manner suggested to render claim 19 obvious?

Analysis

Appellant confusingly states “[h]erein the Wood reference is not a primary prior art reference qualified as analogous art under the second prong of the *Bigio* test. The Yarnall reference fails to sufficiently address the full scope of the problem pertinent to the present invention.” Br. 7. “Thus, because this primary prior art reference is only pertinent to some aspects of the present problems, rather than the entire problem, the Wood reference is

non-analogous art.” *Id.* We note the rejection is for obviousness over the combination of Lewis and Yarnall, and Wood is not involved.

As best as can be determined, and similar to *Issue 2(b), supra*, Appellant appears to argue the Yarnall reference does not sufficiently address the full scope of the problem pertinent to the present invention, and asserts “a prior art reference in a separate field of endeavor will not be analogous art unless it is pertinent to the **entire problem** being solved by the challenged patent.” Br. 7 (citation omitted).

Appellant additionally argues, “[t]here is no suggestion as to the desirability of any modification of the references to describe the present invention.” Br. 8.

“There is nothing in the prior art or the examiner<sup>1</sup>’s arguments that would suggest the desirability or obviousness of maintaining animal identifier information as well as animal health care information and owner information, in addition to information for a second animal identifier and a comparison [sic] of location information relating to health or death information between the two as well and relationship of contagious diseases therebetween.

Br. 9. “To summarize, only in hindsight does it appear obvious to one of ordinary skill in the pertinent art to combine the present claimed and disclosed combination of elements.” Br. 10.

In response, the Examiner finds it would have been obvious to a person with skill in the art “to combine the teaching of Yarnall into the systems and methods of Lewis to provide for breeders, owners, veterinarians and government agencies know and understand a great deal of information about animals in their possession, custody, control and ownership.” Ans. 14 (citing Yarnall ¶ 4).

We note Lewis is directed to “[s]ystems and methods for integrating, managing and using electronic and tangible data relating to animals, especially data corresponding to official documentation.” Lewis (Abstract). Yarnall is directed to an Internet based animal registration system for registering information relating to an animal. *See* Yarnall (Title) and Abstract. Thus, we find Yarnall to be analogous art to Lewis and the claimed invention.

Appellants contend that the combination of Lewis and Yarnall is based upon hindsight reasoning and there is no evidence supporting the conclusion of obviousness. Br. 9–10. We disagree and add the following for emphasis.

First, as explained in *In re McLaughlin*:

Any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made and does not include knowledge gleaned only from applicant’s disclosure, such a reconstruction is proper.

*In re McLaughlin*, 443 F.2d 1392, 1395 (CCPA 1971).

Our review of the record establishes that the Examiner’s case for obviousness is only based on knowledge which was within the level of ordinary skill at the time of Appellant’s invention and does not include knowledge gleaned only from the Appellant’s disclosure.

Second, the Examiner identifies the relevant portions of each of the references relied on throughout the Final Action and Examiner’s Answer. *See* Final Act. 25–26; Ans. 13-15. To the extent that the Examiner relies on the knowledge of one of ordinary skill in the art to combine the teachings of

the references, this practice is consistent with current case law. For example, the Supreme Court explains:

Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. *See In re Kahn*, 441 F.3d 977, 988 (C.A.Fed.2006) (“[R]jections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”). As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

*KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007).

In this case, the Examiner’s conclusions of obviousness are clearly articulated and are based on detailed factual findings that are supported by the references of record. See Ans. 13–14. Thus, we agree with the Examiner’s findings and legal conclusions regarding Rejection R3 of claim 19.

4. Rejection R2 of Independent Claim 22

In view of the lack of *any* substantive or separate arguments directed to obviousness Rejection R2 of independent claim 22 under § 103, we sustain the Examiner’s rejection of these claims. Arguments not made are waived.

### CONCLUSIONS

(1) The Examiner did not err with respect to anticipation Rejection R1 of claims 1, 5–11, 13, 15, 17, 18, 20, and 21 under 35 U.S.C. § 102(b), and we sustain the rejection.

(2) The Examiner did not err with respect to obviousness Rejections R2 and R3 of claims 2, 3, 14, 16, 19, and 22 under 35 U.S.C. § 103(a) over the cited prior art combinations of record, and we sustain the rejections.

### DECISION SUMMARY

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Basis / References</b>	<b>Affirmed</b>	<b>Reversed</b>
1, 5–11, 13, 15, 17, 18, 20, 21	102(b)	Lewis	1, 5–11, 13, 15, 17, 18, 20, 21	
2, 3, 14, 16, 22	103(a)	Lewis, Wood	2, 3, 14, 16, 22	
19	103(a)	Lewis, Yarnall	19	
<b>Overall Outcome</b>			1–3, 5–11, 13–22	

### FINALITY AND RESPONSE

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**