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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 PRATEEK SRIVASTAVA and KEIN PATEL
_____

Appeal 2018-006622
Application 13/174,992
Technology Center 3600
_____

Before CAROLYN D. THOMAS, MICHAEL J. STRAUSS, and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the
Examiner's decision to reject claims 1–20. We have jurisdiction over the
appeal under 35 U.S.C. § 6(b).

We AFFIRM.

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[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 Excalibur IP,
LLC. Appeal Br. 2.

The present invention relates generally to giving a user options for including advertising as part of their content. *See* Abstr.

Independent claim 1, reproduced below, is representative of the appealed claims:

> 1. A computerized method for providing an advertisement ("ad") in user generated content, the method comprising:
>> providing a web interface through which a user can have the ad included with the user generated content in an ad slot;
>> previewing a display of the user generated content along with the ad slot on the web interface, wherein the ad slot is previewed as part of the user generated content;
>> allowing, through the web interface, for the user to adjust and move the ad slot relative to the user generated content;
>> receiving, from the user through the web interface, attributes for the ad slot;
>> analyzing, with at least one processor, the attributes and the user generated content in order to integrate the ad slot into the user generated content based on the analysis; and
>> selecting, with the at least one processor, an advertisement based on the analysis of the attributes and based on an analysis of the user generated content, wherein the selected advertisement is included in the ad slot that is part of the user generated content.

Appellant appeals the following rejections:

R1. Claims 1–20 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter. Final Act. 2–7.;

R2. Claims 1–10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Stanbach, Jr. (US 6,449,657 B2, Sept. 10, 2002) and Lucovsky (US 2007/0198340 A1, Aug. 23, 2007) in combination with various other prior art. Final Act. 7–17.; and

R3. Claims 11–20 are rejected under 35 U.S.C. § 103(a) as being

unpatentable over Collison (US 2009/0192900 A1, July 30, 2009) and
Muthukrishnan (US 2010/0198694 A1, Aug. 5, 2010) in combination with
various other prior art. Final Act. 17–26.

We review the appealed rejections for error based upon the issues
identified by Appellant, and in light of the arguments and evidence produced
thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).

ANALYSIS

Rejection under § 101

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 the 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."). For example, 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)).

Recently, the USPTO published revised guidance on the application of 35 U.S.C. § 101. USPTO's 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) ("Revised Guidance"). Under the Revised Guidance "Step 2A," the office first looks to whether the claim recites:

(1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity 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)). 84 Fed. Reg. at 51–52, 55.

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, does the Office then (pursuant to the Revised Guidance "Step 2B") 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. 84 Fed. Reg. at 56.

Step 2A, Prong 1 (Does the Claim Recite a Judicial Exception?)

With respect to independent method claim 1, and similarly, system claim 17 and non-transitory computer readable medium claim 11, the Examiner determines that the claims are directed to "collecting user generated content and advertisement attributes . . . and selecting an advertisement for display" (Final Act. 3), which we conclude are commercial interactions, which is a type of abstract idea under *certain methods of organizing human activity*.

For instance, claim 1 recites at least the following limitations: (1) "providing a web interface through which a user can have the ad included," (2) "previewing a display of the user generated content along with the ad slot," (3) "allowing . . . the user to adjust and move the ad slot," (4) "receiving . . . attributes for the ad slot," (5) "analyzing . . . the attributes and the user generated content," and (6) "selecting . . . an advertisement based on the analysis."

Because the claims at least recite advertising activities, they recite commercial transactions that, under the Guidance, fall under the category of "certain methods of organizing human activity." Thus, the claims recite an abstract idea. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed Cir. 2014) (holding that claim "describ[ing] only the abstract idea of showing an advertisement before delivering free content" is patent ineligible); *In re Ferguson*, 558 F.3d 1359, 1364 (Fed Cir. 2009) (holding methods "directed to organizing business or legal relationships in the structuring of a sales force (or marketing company)" to be ineligible).

Upon reviewing the Specification and the claim as a whole, it is further clear that these limitations, under their broadest reasonable interpretation, recite commercial interactions.

For example, the Specification discloses:

Online advertising may be an important source of revenue for enterprises engaged in electronic commerce. Processes associated with technologies such as Hypertext Markup Language (HTML) and Hypertext Transfer Protocol (HTTP) enable a web page to be configured to display advertisements. Advertisements may commonly be found on many web sites. Web site publishers, such as news and sports web sites, may provide space for advertisements. The publishers of these web sites may sell advertising space to advertisers to defray the costs associated with operating the web sites as well as to obtain additional revenue. However, web site publishers are only a part of the information provided on the Internet. As the Internet has grown, the number of web sites has dramatically increased. Internet users now supply a significant amount of content displayed and transferred over the web including emails, images, and videos. Improved advertising may provide a way for users to monetize their content.

Spec. ¶ 1.

By way of introduction, a system and method may monetize user generated content. A user can have options for including advertising as part of their content. For example, the user may select a location, size, and shape of an advertisement for display as part of an image. An advertisement matching those attributes may be included as part of the image. The user may receive payment for displaying ads with their user generated content.

Id. ¶ 15. In other words, the Appellant's Specification describes how users can have the option for including advertising as part of their content, and perhaps even receiving payment for displaying such ads.

Here, Appellant does not directly challenge whether the claims recite an abstract idea, but instead make arguments more directly related to

integrating the judicial exception into a practical application and whether

specific limitations are not well-understood, routine, conventional activity in

the field. Such arguments are addressed below.

Therefore, for at least the aforementioned reasons, we agree with the

Examiner that claim 1 recites an abstract idea, which we conclude are

"commercial interactions" which fall under *certain methods of organizing*

human activity.

Step 2A—Prong 2 (integration into Practical Application) [2]

Under the Revised Guidance, we now must determine if additional

elements in the claims integrate the judicial exception into **a practical**

application (*see* MPEP § 2106.05(a)–(c), (e)–(h)).

We discern no additional element (or combination of elements)

recited in Appellant's representative claim 1 that integrates the judicial

exception into a practical application. *See* Revised Guidance, 84 Fed. Reg.

at 54–55 ("Prong 2"). For example, Appellant's claimed additional elements

(**e.g.,** "advertisement provider," "web server," "interface," "receiver,"

"selector," "embedder," and "monitor") (Claim 17) do not: (1) improve the

functioning of a computer or other technology; (2) are not applied with any

particular machine (except for a generic computer); (3) do not effect a

transformation of a particular article to a different state; and (4) are not

applied in any meaningful way beyond generally linking the use of the

judicial exception to a particular technological environment, such that the

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[2] We acknowledge that some of the considerations at Step 2A, Prong 2,
properly may be evaluated under Step 2 of *Alice* (Step 2B of the Office
revised guidance). For purposes of maintaining consistent treatment within
the Office, we evaluate them under Step 1 of *Alice* (Step 2A of the Office
revised guidance). *See* Revised Guidance, 84 Fed. Reg. at 55 n.25, 27–32.

claim as a whole is more than a drafting effort designed to monopolize the exception. *See* MPEP §§ 2106.05(a)–(c), (e)–(h).

Appellant contends that in the present claims "[t]he transmission of data and functioning of the graphical user interface is a technological improvement of computer functions," as the claims in *McRO*. Appeal Br. 6. Appellant further contends that "[j]ust as in *Enfish*, the instant claims are directed to an improvement in the functioning of a computer. . . . The technical solution includes a graphical user interface rendering visual elements for a web page." *Id.* 7–8. We disagree with Appellant.

For example, the claims at issue in *Enfish* were directed to a specific type of data structure, i.e., a self-referential table for a computer database, designed to improve the way a computer carries out its basic functions of storing and retrieving data. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016). In rejecting a § 101 challenge, the court in *Enfish* held that "the plain focus of the claims is on an improvement to computer functionality itself, not on economic or other tasks for which a computer is used in its ordinary capacity." *Id.* at 1336.

Here, Appellant does not point to anything in the claim that resembles the inventive self-referential data structure at issue in *Enfish*. Appellant also does not direct our attention to anything in the Specification to indicate that the invention provides an improvement in the computer's technical functionality.

Instead, the claimed web interface improves economic tasks, i.e., providing a way for users to monetize their content. *See* Spec. ¶ 1. That is, here the arguably innovative technique of the appealed claims is inextricably a part of the abstract idea of "collecting user generated content and

advertisement attributes . . . and selecting an advertisement for display," i.e., commercial interactions. Moreover, nothing in the claims, understood in light of the Specification, requires anything other than an off-the-shelf, conventional computer used for collecting and processing/analyzing various information/data. *See* Spec. ¶ 22. Therefore, unlike *Enfish*, the claims are directed not to improvement in computer capabilities, but to the results of applying an abstract idea.

Additionally, in *McRO*, the Federal Circuit concluded that the claim, when considered as a whole, was directed to a "technological improvement over the existing, manual 3-D animation techniques" through the "use of limited rules specifically designed to achieve an improved technological result in conventional industry practice." *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1316 (Fed. Cir. 2016). Specifically, the Federal Circuit found that the claimed rules allow computers to produce accurate and realistic lip synchronization and facial expressions in animated characters that previously could only be produced by human animators; and the rules are limiting because they define morph weight sets as a function of phoneme sub-sequences. *Id.* at 1313 (citations omitted).

In contrast, here, Appellant has not identified any analogous improvement attributable to the claimed invention. Although providing a means for monetizing user generated content may improve a business and/or economic process, it does not achieve an improved technological result. Thus, we see no parallel between the limiting rules described in *McRO* and the results-based rules recited in Appellant's claims.

Appellant also contend that "[t]he claims at issue thus provide a technical solution to a problem that is unique to the Internet . . . [and] are

akin to the patent eligible claims in *DDR Holdings*." Appeal Br. 9. We disagree with Appellant.

In *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1259 (Fed. Cir. 2014), the subject claim was held patent-eligible because it encompassed "an inventive concept" for resolving a "particular Internet-centric problem." Specifically, the invention in *DDR Holdings* allowed a host merchant website to maintain the look and feel of the host website when hyperlinking to outside merchants' product pages, i.e., "specify how interactions with the Internet are manipulated to yield a desired result." *DDR Holdings*, 773 F.3d at 1257–58.

In contrast, we find Appellant's computerized method (claim 1) does not provide a solution "necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks." *DDR*, 773 F.3d at 1257. Because we find all claims on appeal merely use a generic computer or processor as a tool which is used in the way a computer normally functions, we conclude that the claims fail to impart any discernible improvement upon the computer or processor; nor do Appellant's claims solve "a challenge particular to the Internet" as considered by the court in *DDR*, 773 F.3d at 1256–57. Here, Appellant's invention merely allows users to monetize their online content by attaching advertisements thereto, just like web site publishers. However, coupling of advertisements with content was conventionally done with paper publications, such as newspapers and magazines. *See* Ans. 4–5.

Appellant is reminded that "relying on a computer to perform routine tasks more quickly or more accurately is insufficient to render a claim patent eligible." *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed.

Cir. 2015) (citing *Alice*, 134 S. Ct. at 2359 ("use of a computer to create electronic records, track multiple transactions, and issue simultaneous instructions" is not an inventive concept)). As recognized by the Supreme Court, "the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention." *Alice*, 134 S. Ct. at 2358–59 (concluding claims "simply instruct[ing] the practitioner to implement the abstract idea of intermediated settlement on a generic computer" not patent eligible). Furthermore, data management has been a function of computers for as long as computers have existed and will not transform an abstract concept into a patentable invention. *See, e.g., Alice*, 134 S. Ct. at 2359.

For at least the reason noted *supra*, we determine that claim 1 (1) recites a judicial exception and (2) does not integrate that exception into a practical application. Thus, representative claim 1 is directed to the aforementioned abstract idea.

Alice/Mayo—Step 2 (Inventive Concept)
Step 2B identified in the Revised Guidance

Turning to the second step of the *Alice* inquiry, we now look to whether claim 1 contains any "inventive concept" or adds anything "significantly more" to transform the abstract concept into a patent-eligible application. *Alice*, 573 U.S. at 216. As recognized by the Revised Guidance, an "inventive concept" under *Alice* step 2 can be evaluated based on whether an additional element or combination of elements:

> (1) adds a specific limitation or combination of limitations that are not well-understood, routine, conventional activity in the field, which is indicative that an inventive concept may be present; or
> (2) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high

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> level of generality, to the judicial exception, which is indicative that an inventive concept may not be present.

See Revised Guidance, 84 Fed. Reg. at 56; *see* MPEP § 2106.05(d). We analyze the claim elements, that are well-understood, routine, conventional, "as an ordered combination," in addition to any analysis of those claim elements individually. *See Alice*, 573 U.S. at 217-18, 221-22 ("we consider the elements of each claim both individually and 'as an ordered combination'" to determine whether the claim includes "significantly more" than the ineligible concept) (quoting *Mayo*, 566 U.S. at 78-79).

We find no element or combination of elements recited in Appellant's claim 1 that contains any "inventive concept" or adds anything "significantly more" to transform the abstract concept into a patent-eligible application. Furthermore, Appellant has not adequately explained how claim 1 is performed such that it is not a routine and conventional function of a generic computer. The claims at issue do not require any nonconventional computer or display components, or even a "non-conventional and non-generic arrangement of known, conventional pieces," but merely call for performance of the claimed providing a web interface and previewing a display of content with the ad slot "on a set of generic computer components." *Bascom Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349–52 (Fed. Cir. 2016). Thus, considering the features of the claims, individually and as an ordered combination, we find there are no additional elements that transform the nature of the claim into a patent-eligible application. *Alice*, 134 S. Ct. at 2355.

The Examiner determines, and we agree, that "it is clear from [Appellant's] [S]pecification that the elements and modules in the claims

require no more than a generic computer (e.g., a general-purpose computer device) to perform generic computer functions . . . that are well-understood, routine and conventional activities." Final Act. 5. The Examiner further notes that "the claims and written description provide no evidence that the instant invention includes a non-conventional and non-generic arrangement of conventional pieces. Instead, generic and conventional computing systems are disclosed." Ans. 6.; *see also* Spec ¶ 24. Such an analysis is a factual determination. *See Berkheimer v. HP Inc.*, 881 F.3d 1360, 1369 (Fed. Cir. 2018) ("Whether something is well-understood, routine, and conventional to a skilled artisan at the time of the patent is a factual determination.").

We find the Examiner's noting the generic nature of the components parts recited in the claims provides sufficient evidence of a generic computer system used to implement the abstraction. *See Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017) (explaining that "[o]ur law demands more" than claim language that "provides only a result-oriented solution, with insufficient detail for how a computer accomplishes it").

Because Appellant's independent claim 1 is directed to a patent-ineligible abstract concept, does not include additional elements that integrate the judicial exception into a practical application, and does not add a specific limitation beyond the judicial exception that is not "well-understood, routine, and conventional," we sustain the Examiner's rejection of the claims 1–20 under 35 U.S.C. § 101 as being directed to non-statutory subject matter in light of *Alice*, its' progeny, and the Revised Guidance.

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Rejection under § 103(a)

We refer to, rely on, and adopt the Examiner's findings and conclusions set forth in the Answer. Our discussions here will be limited to the following points of emphasis.

Claims 1–10 over at least Stanbach and Lucovsky

Appellant contends that "Stanbach provides no ability for a preview of the ad slot with user generated content that can be adjusted/moved." Appeal Br. 12. Appellant further contends that "[t]he search results in Lucovsky are not ad slots" (*id.*), and "it is not possible to move the search results in Lucovsky relative to that email text because they are always separated. . . . because Lucovsky illustrates a 'user selected links' section for the search results and they are not placed along with the user generated content." *Id.* at 13.

In response, the Examiner finds, and we agree, both Stanbach and Lucovsky teach ad slots (*see* Final Act. 7–11 and Ans. 7), specifically "Lucovsky discloses locations or positions within user created content within which a user is able to insert an advertisement. . . . commonly understood as an ad slot." Ans. 7 (citing Lucovsky ¶ 46).

For example, Lucovsky discloses:

> The user may decide to include one or more of the search results in the email (act **405**). The user may do so by simply selecting the appropriate save link **550**, which causes content creation component **235** to copy the corresponding search result into the email. . . . In other implementations, content creation component **235** may allow the user to control the placement of the results in the email, such as by graphically dragging different results to different positions in the email.

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¶ 46.

> In some implementations, content creators that place advertisement
> links in their content may be given some form of credit if the reader of
> the advertisement selects the advertisement link.

¶ 50. In other words, the claimed "allowing . . . for the user to adjust and move the ad slot relative to the user generated content" *reads on* Lucovsky's adjusting and moving advertisement relative to the email text. We also find appropriate the Examiner's interpretation that the placement of Lucovsky's advertisement itself denotes an ad slot. In any case, the Examiner also finds that Stanbach teaches a template with slots for advertisement (*see* Final Act. 8, citing Stanbach col. 23, ll. 23–26), which Appellant fails to dispute.

As such, Appellant's arguments against Lucovsky separately from Stanbach does not persuasively rebut the combination made by the Examiner. One cannot show non-obviousness by attacking references individually, where the rejections are based on combinations of references. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986); *In re Keller*, 642 F.2d 413, 425–26 (CCPA 1981).

For at least the reasons noted supra, we find unavailing Appellant's contention that at least the combined teachings of Lucovsky and Stanbach fails to teaches and/or suggests the aforementioned argued limitations.

Accordingly, we sustain the 103 rejections of claims 1–10.

Claims 11–16 over at least Collison and Muthukrishnan

Appellant contends that "Collison does not include 'a preview where the ad slot is part of the image or covering a part of the image' as claimed. . . . The user generated content in Collison is not an image as claimed, but is an email as shown in 506 of Figure 5B." Appeal Br. 14.

In response, the Examiner finds, and we agree, that Collison teaches "user generated content comprised of an image" (Ans. 8), and "a user engages in the editing of user generated content." *Id.*

For example, Collison discloses that "[t]he second document **140** might be an email message, . . . a multimedia document (e.g., image, audio, video, animation, graphical, etc.)." Collison ¶ 40. In other words, contrary to Appellant's contention, Collison is not limited to emails, but also includes image content. In addition, Collison discloses "user 1 may be enabled to control the placement of the results in the email, such as by graphically dragging different results to different positions in the email. . . . user 1 may be enabled to implement other editorial controls." Collison ¶ 108.

In other words, Collison discloses various types of user-generated content, including an image, and controlling the placement of advertisements relative to such content, e.g., image.

Appellant also contends that "Collison does not provide for an ability to select the 'shape and size' of an ad slot as claimed. . . . [only] allows for the selection of the ads and the position, but not the shape and size." Appeal Br. 14.

In response, the Examiner finds, and we agree, that Collison teaches allowing users to select advertisements of different sizes and shapes. Ans. 8–9 (citing Collison ¶ 24). We find that claim 11's "providing . . . an ability for the user to select a shape and size for an ad slot" *reads on* and is taught by Collison's selection of ads of different sizes and shapes.

Finally, Appellant contends that "Collison does not position the ad slot relative to the image . . . [instead] Collison illustrate a section for which the user selected ads are inserted." Appeal Br. 14.

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In response, the Examiner finds, and we agree, "Collison discloses the positioning of ad slots over a wide range of possibilities, including positions relative to a user generated content which may be an image." Ans. 9. Appellant fails to persuasively distinguish how Collison's positioning of the selected ads, even if in a particular section, is not *relative to the image*, given the broadest reasonable interpretation of the term.

For at least the reasons noted supra, we find unavailing Appellant's contention that at least the combined teachings of Collison and Muthukrishnan fails to teaches and/or suggests the aforementioned argued limitations.

Accordingly, we sustain the 103 rejections of claims 11–16.

Claims 17–20 over at least Sharma, Collison, and Muthukrishnan

Appellant contends that "the claim recites an advertisement in an ad slot embedded with a user generated image, whereas the user generated content in Sharma is an email." Appeal Br. 15. Appellant further contends that "while Collison describes ads, those ads are never embedded with a user generated image." *Id.* Appellant also contends that "[w]hile Muthukrishnan describes that a publisher defines an advertisement slot configuration, there is no disclosure that the configuration is selected by a user and based on slot location and size attributes as claimed." *Id.*

In other words, Appellant contends that (1) Sharma's content is email, not an image, (2) Collison never embed ads with an image, and (3) Muthukrishnan does not disclose user selected slot configurations based on location and size.

We find that such Appellant's arguments do not address the Examiner's findings and, instead, are arguing the references individually because: (1) the Examiner relies upon Collison, not Sharma for image content (*see* Final Act. 23); (2) the Examiner relies upon Sharma, not Collison, for embedding the advertisement (*see* Final Act. 22; and (3) the Examiner relies on Collison, not only Muthukrishnan, for selecting location and size of advertisements (*see* Final Act. 17).

As such, Appellant's arguments do not take into account what the collective teachings of the prior art would have suggested to one of ordinary skill in the art and is therefore ineffective to rebut the Examiner's prima facie case of obviousness. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981)("The test for obviousness is not whether . . . the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.") (citations omitted). This reasoning is applicable here.

For at least the reasons noted supra, we find unavailing Appellant's contention that at least the combined teachings of Sharma, Collison, and Muthukrishnan fails to teaches and/or suggests the aforementioned argued limitations.

Accordingly, we sustain the § 103 rejections of claims 17–20.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–20	101	Eligibility	1–20	
1–10	103	at least Stanbach, Lucovsky	1–10	
11–16	103	at least Collison, Muthukrishnan	11–16	
17–20	103	at least Sharma, Collison, Muthukrishnan	17–20	
Overall Outcome			1–20	

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

AFFIRMED