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Shutts & Bowen LLP Steven M. Greenberg, Esq. 525 Okeechobee Blvd # 1100 West Palm Beach, FL 33401			HUYNH, LINDA TANG	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MAJED ITANI and DMITRIY KOLEGAYEV

Appeal 2018-008074
Application 14/060,704
Technology Center 2100

Before JENNIFER S. BISK, LARRY J. HUME, and
JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

BISK, *Administrative Patent Judge*.

DECISION ON APPEAL¹

Pursuant to 35 U.S.C. § 134(a), Appellant² appeals from the Examiner's decision to reject claims 1, 2, 6, 7, 11, and 12. We have jurisdiction under 35 U.S.C. § 6(b).

¹ Throughout this Decision we have considered the Specification filed October 23, 2013 ("Spec."), the Final Rejection mailed June 29, 2017 ("Final Act."), the Appeal Brief filed February 26, 2018 ("Appeal Br."), the Examiner's Answer mailed June 8, 2018 ("Ans."), and the Reply Brief filed August 8, 2018 ("Reply Br.").

² 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 SugarCRM, Inc. Appeal Br. 2.

We affirm.

BACKGROUND

Appellant's disclosed embodiments and claimed invention relate to an overloaded schedule detection and notification in a calendaring and scheduling system. Spec. ¶¶ 2, 6. Claim 1, reproduced below, is illustrative of the subject matter on appeal (*emphasis* added to contested prior-art limitation):

1. A method for overloaded schedule detection and notification in a calendaring and scheduling (C&S) system, the method comprising:
 - loading a task list for an end user into memory of the C&S system, the task list comprising a set of tasks scheduled for completion by the end user in a single day;
 - displaying the task list in a user interface of the C&S system;
 - comparing a known capacity of the end user to complete tasks in one day to the tasks that are present in the set by summing a total amount of time required for each of the tasks in the one day of tasks and comparing the summed value to a predetermined available amount of time for the one day available to perform tasks, and determining whether or not the end user is able to complete all of the tasks in the set in the single day based upon the known capacity; and,
 - responsive to a determination that the capacity of the end user is such that the end user is unable to complete, in the single day, all of the tasks in the set, selecting a lowest priority set of tasks already scheduled for the single day and then selecting from amongst the lowest priority set of tasks already scheduled for the single day, a task with a highest load and *testing a rescheduling of the selected task for a different day and on condition that the rescheduling of the selected task does not create an*

overload condition in the different day, displaying a prompt in the user interface of the C&S system indicating an overloaded condition and requesting rescheduling of the selected task to the different day so as to alleviate the overloaded condition in the single day.

Appeal Br. 11–12 (Claims App.).

REJECTIONS

Claims 1, 6, and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over the combination of US 2009/0288031 A1, published Nov. 19, 2009 (“Solaro”), US 2012/0060166 A1, published March 8, 2012 (“Jardine”), and US 6,578,005 B1, issued June 10, 2003 (“Lesaint”). Final Act. 5–12.

Claims 2, 7, and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over the combination of Solaro, Jardine, Lesaint, and US 2009/0094545 A1, published April 9, 2009 (“Kneisel”). Final Act. 12–14.

ANALYSIS

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). 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 have considered all of Appellant’s arguments and any evidence presented. We highlight and address specific findings and arguments for emphasis in our analysis below.

Rejection of Claims 1, 6, and 11 under 35 U.S.C. § 103

The Examiner finds that claims 1, 6, and 11 would have been obvious over the combination of Solaro, Jardine, and Lesaint. Final Act. 5–12. Specifically, the Examiner cites to Solaro as teaching the bulk of the limitations, but relies on Jardine as disclosing “summing a total amount of time required for each of the tasks in the one day of tasks and comparing the summed value to a pre-determined available amount of time,” and on Lesaint for “selecting from amongst the lowest priority set of the tasks, a task with a highest load.” *Id.* at 6 (citing Jardine ¶ 34; Lesaint, 12:52–13:10).

Appellant argues that Solaro does not disclose “testing a rescheduling of the selected task for a different day and on condition that the rescheduling of the selected task does not create an overload condition in the different day” (the “testing overload condition” limitation). Appeal Br. 7–9. First, Appellant argues that, although the Examiner explains that the claim term “testing” encompasses evaluation (Ans. 4), the cited portion of Solaro does not use the term “evaluation.” Reply Br. 4–5 (citing Solaro ¶ 29). Second, Appellant argues that Solaro does not disclose the recited testing overload condition limitation because the determination made by Solaro is whether a task fits in a particular time slot, not whether more tasks than can be accommodated are scheduled for completion during that day. *Id.* at 6.

Appellant’s arguments do not persuade us of reversible error in the Examiner’s rejection. First, although the cited portions of Solaro do not explicitly use the words “testing” or “evaluating,” it is clear that Solaro discloses testing/evaluating whether a task can be rescheduled for a different day. Solaro ¶¶ 25 (“In this example, the schedule 300 depicts the chemistry

paper 330 does not fit within the schedule with the Does Not Fit! 340 warning message.”), 29 (“Alternatively, if priority 186 has a high value and start time 182 is flexible, the routine may place the task to accommodate a user’s preferred workload at block 550.”). In fact, Appellant concedes that “Solaro does discuss a determination of whether a task fits in a particular time slot.” Reply Br. 6. We, therefore, agree with the Examiner that Solaro at least suggests “testing a rescheduling of the selected task for a different day.”

Second, although we agree with Appellant that Solaro does not disclose checking for an overload condition, the Examiner relies on Jardine for this portion of the limitation. Final Act. 6 (citing Jardine ¶ 34). Jardine describes fetching “the time allocated for the events during the day” and determining “the remaining free time available with the user for performing the tasks from the task list” and “a check is made (306) if the task can be completed in the determined free time of the user.” Jardine ¶ 34. Moreover, Jardine discloses that if “the task cannot be completed during the day as the time required for the task may be more than the free time for the day the task may be rescheduled (311) for the next day depending on the availability of the user.” *Id.*

We, therefore, are not persuaded by Appellant’s arguments that the Examiner’s rejection is in error with respect to the testing overload condition limitation.

Accordingly, we sustain the Examiner’s rejection of claim 1 as obvious over the combination of Solaro, Jardine, and Lesaint. We also sustain the rejection of claims 6 and 11, which are not argued separately (*see*

Appeal Br. 6–10), as obvious over the combination of Solaro, Jardine, and Lesaint.

Rejection of Claims 2, 7, and 12 under 35 U.S.C. § 103

The Examiner finds that claims 2, 7, and 12 would have been obvious over the combination of Solaro, Jardine, Lesaint, and Kneisel. Final Act. 12–14. Appellant does not separately address these claims. *See* Appeal Br. 6–10. Accordingly, we sustain the Examiner’s rejection of claims 1, 7, and 12 as obvious over the combination of Solaro, Jardine, Lesaint, and Kneisel.

CONCLUSION

We affirm the Examiner’s rejection of claims 1, 2, 6, 7, 11, and 12 under 35 U.S.C. § 103.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	References/Basis	Affirmed	Reversed
1, 6, 11	103	Solaro, Jardine, Lesaint	1, 6, 11	
2, 7, 12	103	Solaro, Jardine, Lesaint, Kneisel	2, 7, 12	
Overall Outcome			1, 2, 6, 7, 11, 12	

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