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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARC DIANA AND PER PETTERSEN

Appeal 2018-008981
Application 13/111,813
Technology Center 3600

Before CARL W. WHITEHEAD JR., JON M. JURGOVAN,
and KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

WHITEHEAD JR., *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ is appealing the final rejection of claims 1–4, 7–10, 13, 16 and 18–34 under 35 U.S.C. § 134(a). Appeal Brief 8. 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(a). Appellant identifies Leadpoint, Inc., as the real party in interest. Appeal Brief 2.

Introduction

The invention is directed to “automated open-market pricing systems and more specifically to structures and methods for auctioning or bidding off leads when such leads are sourced from sellers to competing buyers of such leads.” Specification ¶ 2.

Representative Claim²

1. A computer-implemented method, comprising:
electronically receiving, over the Internet, a plurality of bid profiles,
wherein each bid profile:
is associated with a lead buyer;
comprises a specification defining leads desired by the associated lead
buyer;
and
comprises a bid;
electronically storing the specifications and the bids of the plurality of
bid profiles in an electronic data structure;
electronically receiving, over the Internet, a first lead from a lead
seller, the lead comprising lead data and the lead seller being associated with
a first quality indicator;
automatically determining, based on an analysis of the lead data, that
the first lead is valid;
electronically receiving, over the Internet, performance information
associated with the lead seller;

² See Appeal Brief 8–9.

electronically storing the performance information associated with the lead seller;

automatically selecting, using a processor, a first bid profile from the plurality of bid profiles based at least on comparing:

the lead data with the bid specification of the first bid profile;

and

the bid of the first bid profile with a bid of a second bid profile of the plurality of bid profiles;

automatically providing a first lead buyer associated with the first bid profile electronic access over the Internet to at least a portion of the lead data;

electronically analyzing the performance information associated with the lead seller;

in response to analyzing the performance information, automatically determining a second quality indicator;

after determining the second quality indicator automatically associating the lead seller with the second quality indicator;

automatically determining a compensation amount based on the second quality indicator, wherein the compensation amount:

is based on the bid of the first bid profile and the second quality indicator; and

is not the same as the bid of the first bid profile.

References

Name	Reference	Date
Say	US 2002/0147655 A1	October 10, 2002
Dutta et al.	US 2003/0004855 A1	January 2, 2003
Ojha et al.	US 6,598,026 B1	July 22, 2003
Desenberg	US 7,139,732 B1	November 21, 2006

Rejections on Appeal

Claims 1–4, 7–10, 13, 16 and 18–34 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter. Final Action 2–4.

Claims 1, 4, 7, 10, 13, 16, 18–26 and 29–34 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Say, Dutta, and Ojha. Final Action 5–10.

Claims 2, 3, 8, 9, 27 and 28 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Say, Dutta, Ojha and Desenberg. Final Action 10–11.

ANALYSIS

Rather than reiterate the arguments of Appellant and the Examiner, we refer to the Appeal Brief (filed June 4, 2018), the Reply Brief (filed September 21, 2018), the Final Action (mailed December 4, 2017) and the Answer (mailed August 2, 2018), for the respective details.

35 U.S.C. § 101 Rejection

The Examiner determines the claims are patent ineligible under 35 U.S.C. § 101. *See* Final Action 2. We agree with the Examiner’s

determination because the claims are directed to an abstract idea comprising commercial or legal interactions (sales activities), a certain method of organizing human activity, and do not include additional elements that are sufficient to amount to significantly more than the abstract idea. *See Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208, 217 (2014) (describing the two-step framework “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts”).

After the mailing of the Answer and the filing of the Brief in this case, the USPTO published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (hereinafter “Memorandum”).³ Under the Memorandum, 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) (9th ed. 2018)).

³ In January 2019, the United States Patent and Trademark Office (“USPTO”) published revised guidance on the application of 35 U.S.C. § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (January 7, 2019) (“2019 Guidance”), *updated by* USPTO, *October 2019 Update: Subject Matter Eligibility* (available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf) (jointly referred to as “the 2019 Guidance”); *see also* October 2019 Patent Eligibility Guidance Update, 84 Fed. Reg. 55942 (October 18, 2019) (notifying the public of the availability of the October update).

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, does the Office then 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.

See Memorandum.

We are not persuaded the Examiner’s rejection is in error. Unless otherwise indicated, we adopt the Examiner’s findings and conclusions as our own. We add the following primarily for emphasis and clarification with respect to the Memorandum.

Alice/Mayo—Step 1 (Abstract Idea)

Step 2A—Prongs 1 and 2 identified in the Revised Guidance

Step 2A, Prong One

Appellant contends the claims are not directed to an abstract idea. *See* Appeal Brief 8–9.

The Specification discloses that, “buyer requisition profiles are created or specified by potential buyers of leads and stored in an automated leads-and-bids exchange system. Such profiles specify the types of leads the buyers are interested in.” Specification ¶ 10. The Specification also discloses, “the opening bid amount [for the leads] is accompanied by one or more escalating bid amounts which the buyer may wish to commit to if the profile loses in a first or subsequent round of biddings for matching leads” and “The escalating bid amounts reduce the probability that the bidder will

win no leads while the initial bid amount may represent a bargain or discount price for a lead if no one else bids on it.” Specification ¶ 10.

Claim 1 recites a method for electronically receiving bids over the Internet wherein each bid profile is associated with a lead buyer and:

1. comprises a specification defining leads desired by the associated lead buyer;
2. comprises a bid;
3. electronically storing the specifications and the bids of the plurality of bid profiles in an electronic data structure;
4. electronically receiving, over the Internet, a first lead from a lead seller, the lead comprising lead data and the lead seller being associated with a first quality indicator;
5. automatically determining, based on an analysis of the lead data, that the first lead is valid;
6. electronically receiving, over the Internet, performance information associated with the lead seller;
7. electronically storing the performance information associated with the lead seller;
8. automatically selecting, using a processor, a first bid profile from the plurality of bid profiles based at least on comparing: the lead data with the bid specification of the first bid profile; and the bid of the first bid profile with a bid of a second bid profile of the plurality of bid profiles;
9. automatically providing a first lead buyer associated with the first bid profile electronic access over the Internet to at least a portion of the lead data;

10. electronically analyzing the performance information associated with the lead seller; in response to analyzing the performance information, automatically determining a second quality indicator; after determining the second quality indicator, automatically associating the lead seller with the second quality indicator;

11. automatically determining a compensation amount based on the second quality indicator, wherein the compensation amount: is based on the bid of the first bid profile and the second quality indicator; and is not the same as the bid of the first bid profile.

These steps comprise commercial or legal interactions (sales activities); thus, the claim recites the abstract idea of “certain methods of organizing human activity.” Memorandum, Section I (Groupings of Abstract Ideas); *see* Specification ¶¶ 9–12. Our reviewing court has found claims to be directed to abstract ideas when they recited similar subject matter. *See Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Can Canada (U.S.)*, 687 F.3d 1266, 1280 (Fed. Cir. 2012) (concluding that “managing a stable value protected life insurance policy by performing calculations and manipulating the results” is an abstract idea); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (holding that concept of “creating a contractual relationship—a ‘transaction performance guaranty’” is an abstract idea); *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378–79 (Fed. Cir. 2017) (holding that concept of “local processing of payments for remotely purchased goods” is a “fundamental economic practice, which Alice made clear is, without more, outside the patent system.”); *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (concluding that claimed concept of “offer-based price

optimization” is an abstract idea “similar to other ‘fundamental economic concepts’ found to be abstract ideas by the Supreme Court and this court”). Therefore, we conclude the claims recite an abstract idea pursuant to Step 2A, Prong One of the guidance. *See* Memorandum, Section III(A)(1) (Prong One: Evaluate Whether the Claim Recites a Judicial Exception).

Step 2A, Prong Two (Integration into a Practical Application)

Step 2A, Prong Two

Under Prong Two of the Revised Guidance, we must determine “whether the claim as a whole integrates the recited judicial exception into a practical application of the exception” it is noted that a “claim that integrates a judicial exception into a practical application will apply, rely on, or use 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.” Memorandum, Section III(A)(2).

Appellant argues, “The pending claims are patent-eligible because they recite a specific technologic modification that solves a problem arising in computer technology. Namely, the pending claims recite an unconventional system and method of minimizing or preventing fraud in automated open-market systems.” Appeal Brief 9; *see* Specification ¶¶ 9, 100. Appellant also argues the claims provide an improvement or technology or a technical field, similar to the claims in *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016) and *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016). Appeal Brief 10–11.

We note, as the Federal Circuit has explained, a “claim for a *new* abstract idea is still an abstract idea.” *Synopsis, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1151 (Fed. Cir. 2016). Even assuming the technique claimed was “[g]roundbreaking, innovative, or even brilliant,” that would not be enough for the claimed abstract idea to be patent eligible. *See Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 591 (2013).

Further, we find Appellant’s claims are distinguished from those claims that our reviewing court has found to be patent eligible by virtue of reciting technological improvements to a computer system. *See, e.g., DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1249, 1257 (Fed. Cir. 2014) (holding that claims reciting computer processor for serving “composite web page” were patent eligible because “the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks”); *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1259 (Fed. Cir. 2017) (holding that claims directed to “an improved computer memory system” having many benefits were patent eligible); *see also* Appeal Brief 9.

In *McRO*⁴, 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*, 837 F.3d at 1316.

Specifically, the Federal Circuit found that the claimed rules allow computers to produce accurate and realistic lip synchronization and facial

⁴ *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1303 (Fed. Cir. 2016).

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. *McRO*, 837 F.3d at 1313 (internal citations omitted).

We find no evidence of record here that the present situation is like the one in *McRO* where computers were unable to make certain subjective determinations, i.e., regarding morph weight and phoneme timings, which could only be made prior to the claimed invention by human animators. *See* Appeal Brief 9–10. The Background section of the *McRO* ‘576 patent includes a description of the admitted prior art method and the shortcomings associated with that prior method. *See McRO*, 837 F.3d at 1303–06. There is no comparable discussion in Appellant’s Specification or elsewhere of record.

Subsequently, we do not find Appellants’ arguments persuasive because the claims utilize a processor without any improvement to the functioning of the device itself. *See generally* Specification; Appeal Brief 10–11; *see also Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335–36 (Fed. Cir. 2016) (“[W]e find it relevant to ask whether the claims are directed to an improvement to computer functionality versus being directed to an abstract idea . . . the focus of the claims is on the specific asserted improvement in computer capabilities (i.e., the self-referential table for a computer database) or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.”). The claims do not recite an additional element or elements that reflect an improvement in the functioning of a computer, or an improvement to other technology or technical field. *See Alice*, 573 U.S. at 222 (“In holding that the process was

patent ineligible, we rejected the argument that ‘implement[ing] a principle in some specific fashion’ will ‘automatically fal[l] within the patentable subject matter of § 101.’” (Alterations in original) (quoting *Parker v. Flook*, 437 U.S. 584, 593 (1978))).

Subsequently, we detect no additional element (or combination of elements) recited in Appellant’s representative claim 1 that integrates the judicial exception into a practical application. *See* Memorandum, Section III(A)(2). For example, Appellant’s claimed additional element (e.g., “processor”) 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 claim as a whole is more than a drafting effort designed to monopolize the exception. *See* MPEP §§ 2106.05(a)-(c), (e)-(h).

Accordingly, we determine the claim does not integrate the recited judicial exception into a practical application. *See* Memorandum, Section III(A)(2) (Prong Two: If the Claim Recites a Judicial Exception, Evaluate Whether the Judicial Exception Is Integrated Into a Practical Application).

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

Step 2B

Next, we determine whether the claim includes additional elements that provide significantly more than the recited judicial exception, thereby

providing an inventive concept. *Alice*, 573 U.S. at 217–18 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72–73 (2012)).

Appellant argues, “The Examiner’s § 101 rejection of Claims 1-4, 7-10, 13, 16, and 18-34 cannot stand in view of the USPTO’s current guidance as laid out in the Patent Office’s guidance regarding the *Berkheimer* case.” Reply Brief 5 (citing *Berkheimer* Memorandum⁵).

Memorandum, Section III (B) (footnote 36) states (emphasis added):

In accordance with existing guidance, an examiner’s conclusion that an additional element (or combination of elements) is well understood, routine, conventional activity must be supported with a factual determination. For more information concerning evaluation of well-understood, routine, conventional activity, see MPEP 2106.05(d), as modified by the USPTO *Berkheimer* Memorandum.

The *Berkheimer* Memorandum Section III (A) states when formulating rejections, “[i]n a step 2B analysis, an additional element (or combination of elements) is not well-understood, routine or conventional unless the examiner finds, and expressly supports a rejection in writing.” The *Berkheimer* Memorandum⁶ provides four criteria for the Examiner to

⁵ “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*),” April 19, 2018.

⁶ *Berkheimer* Memorandum Section III (A) (1. A citation to an express statement in the specification or to a statement made by an applicant during prosecution that demonstrates the well-understood, routine, conventional nature of the additional element(s); 2. A citation to one or more of the court decisions discussed in MPEP § 2106.05(d)(II) as noting the well-understood,

utilize to provide support for the additional elements to be considered to be well-understood, routine or conventional.

Appellant argues that the Examiner does not provide support for the position that the additional elements are well-understood, routine or conventional in accordance to the Berkheimer Memorandum. Appeal Brief 5–6. The Examiner determines:

The claim 1 also recites the computer processor limitations, the electronic and automatically features of the claim may certainly involve the use of a computer processor which do not add significantly more as the computer is recited at a high level of generality and its broadest reasonable interpretation comprises a microprocessor which is performing its routine, well-understood and conventional function similar to what has been found by the courts not to be adding significantly more to the underlying abstract idea (as in *Alice*).

Final Action 4 (*emphasis added*).

Consequently, we do not find Appellant’s argument persuasive because in determining if the additional element (or combination of additional elements) represents well-understood, routine, conventional activity, the Examiner supported the determination based upon a factual determination as specified in the *Berkheimer* Memorandum. *See Berkheimer* Memorandum Section III (A)(2); Final Action 4.

Appellant further argues that, “even if the Examiner’s conclusory analysis were accepted, the rejection does not even attempt to address

routine, conventional nature of the additional element(s); 3. A citation to a publication that demonstrates the well-understood, routine, conventional nature of the additional element(s) and 4. A statement that the examiner is taking official notice of the well-understood, routine, conventional nature of the additional element(s).).

whether the ordered combination of elements constitutes well-understood, routine, or conventional activity.” Reply Brief 6. In *Bascom*, our reviewing court found that while the claims of the patent were directed to an abstract idea, the patentee alleged an “inventive concept can be found in the ordered combination of the claim limitations that transform the abstract idea of filtering content into a particular, practical application of that abstract idea.” *Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1314, 1352 (Fed. Cir. 2016). In particular, the patent claimed “a technology-based solution (not an abstract-idea-based solution implemented with generic technical components in a conventional way) to filter content on the Internet that overcomes existing problems with other Internet filtering systems.” *Bascom*, 827 F.3d at 1351. Claim 1 is immediately distinguishable, as it recites an abstract-idea-based solution, that is, a leads-and-bids exchange system, implemented with a generic technical component (processor), in a conventional way. (*See generally* Specification). Therefore, we are not persuaded that ordered combinations of steps in claim 1 provide an inventive concept. *See* Memorandum at 56.

Accordingly, we conclude claims 1–4, 7–10, 13, 16, and 18–34 are directed to commercial or legal interactions (sales activities), which are considered methods of organizing human activity identified in the Memorandum and thus an abstract idea wherein the claims do not recite limitations that amount to significantly more than the abstract idea itself. We sustain the Examiner’s § 101 rejection of claims 1–4, 7–10, 13, 16, and 18–34.

35 U.S.C. § 103 Rejection

Appellant contends that the proposed Say-Dutta-Ojha combination fails to teach or disclose the following limitation in claim 1:

automatically determining a compensation amount based on the second quality indicator, wherein the compensation amount: is based on the bid of the first bid profile and the second quality indicator; and is less than the bid of the first bid profile.

Appeal Brief 12 (*emphasis added*).

The Examiner finds Appellant is not arguing the proper version of the limitation because amendments to claim 1 were submitted on January 24, 2018 for consideration after the mailing of the Final Action on December 4, 2017 and were not entered. Answer 4 (*citing* Advisory mailed February 1, 2018). The Examiner concludes that, “the arguments regarding [the] ‘less than the bid of the first bid profile’ [limitation] are moot.” Answer 5. Appellant acknowledges the limitation was “inadvertently recited” and addresses the limitation “*not the same* as the bid of the first bid profile” instead. *See* Reply Brief 6, note 1; *see also* Claim Appendix filed with the Appeal Brief on June 4, 2018.

Appellant argues the recited portions⁷ of Ojha fails to “disclose, teach, or suggest that a *compensation amount* is determined *based on a quality indicator* as recited in Claim 1” because at most, Ojha “teaches ***imposing a penalty against a buyer*** for abandoning a negotiation. This is not analogous to that which is required by the claims - ***adjusting the compensation amount of a lead seller*** based on a quality indicator. Appeal Brief 13. Appellant further argues, “Ojha at 3:22-58 may teach determining an amount

⁷ Ojha, (column 2, lines 25–40; column 3, lines 22–58). Final Action 8.

based on a reputation, such determination is performed by a person (i.e., a buyer) and not a component (e.g., a processor^[8]) of the claimed system as required by Claim 1.” Appeal Brief 14. The Examiner determines that:

Ojha also discloses electronic commerce via the Internet and the use of a computer to automate the step of determining an amount (i.e. compensation amount) based on a reputation (quality indicator). Ojha also discloses a seller could choose to response unfavorable to such buyers, thus giving the buyer immediate feedback and incentive to adjust her bid accordingly. In addition, a seller could give preferential treatment, e.g., discounts, to buyers with very good reputations. Thus, the resulting bid may not be the same as the bid of the first bid profile.

Answer 5.

We do not find Appellant’s arguments persuasive because Ojha discloses altering monetary commercial interactions based upon reputation of the participants. *See Ojha*, column 3, lines 44–45 (“Each buyer’s reputation is made available to sellers on the site for use as they see fit.”). We agree with the Examiner that Ojha teaches or suggests the disputed limitation. *See KSR Int’l v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). (“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.”) Accordingly, we agree with the Examiner’s findings that Ojha discloses determining a compensation amount based upon a quality indicator as claimed and sustain the obviousness

⁸ Appellant contend, that support for the claimed processor is located in paragraphs 12, 77, 89–90, 104–107, and 119. Appeal Brief 5–6. We note there is no mention of a processor within the cited paragraphs. Also, there is no mention of a processor in the claims originally filed with the Specification on May 19, 2011.

rejection of claims “1, 7, 26 and their respective dependent claims.” *See* Appeal Brief 14.

Appellant further argues, “Claim 19 is allowable for an additional reason. In pertinent part, Claim 19 recites “filtering feedback from the lead buyer associated with the first bid profile from the performance information.”” Appeal Brief 15. Appellant contends:

As explained in Appellant’s Specification, excluding the feedback of a lead buyer from the performance information associated with the lead seller may prevent buyers from taking advantage of good lead sellers by providing negative feedback about the good lead sellers - in other words, filtering a lead buyer’s feedback prevents and/or minimizes that buyer from gaming the system.

Appeal Brief 15.

The Examiner finds:

With regard to Appellant’s arguments regarding the rejection of claims 19, 22, and 31 under 35 U.S.C. [§] 103(a), Examiner notes that Dutta discloses if the user wishes to update the user’s rating (step 1216) (i.e. performance information), a new rating based on the amount purchased or sold and any positive or negative feedback from other users is calculated for the user (step 1212) (i.e. filtering feedback).

Answer 5.

We do not sustain the Examiner’s obviousness rejection of claim 19 because it is not evident that Dutta discloses filtering feedback. *See* Final Action 9 (citing Dutta ¶¶ 48, 50, 53, 64); Answer 5. Dutta discloses, “If the user wishes to update the user’s rating (step **1216**), a new rating based on the amount purchased or sold and any positive or negative feedback from other users is calculated for the user (step **1212**)” and “If the user does not opt to receive the next rating, it is determined whether the user has positive information or trading history that would warrant an increase in rating (step

1218). Dutta ¶¶ 64–65. Subsequently, we reverse the Examiner obviousness rejection of claims 19, 23, and 31.⁹ *See* Appeal Brief 15.

CONCLUSION

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–4, 7–10, 13, 16, 18–34	101	Eligibility	1–4, 7–10, 13, 16, 18–34	
1, 4, 7, 10, 13, 16, 18, 20–22, 24–26, 29–34	103	Say, Dutta, Ojha	1, 4, 7, 10, 13, 16, 18, 20–22, 24–26, 29, 30, 32–34	19, 23, 31
2, 3, 8, 9, 27, 28	103	Say, Dutta, Ojha, Desenberg	2, 3, 8, 9, 27, 28	
Overall Outcome			1–4, 7–10, 13, 16, 18–34	

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). *See* 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

⁹ Claim 22 does not recite filtering as claims 19 and 31, however claim 23 does recite filtering. We view Appellant’s indication that claim 22 instead of claim 23 requiring filtering as merely a typographical error. *See* Appeal Brief 15; Reply Brief 8–9.