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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LAWRENCE R. DUTHLER and THOMAS W. CRONKRIGHT II

Appeal 2019-000168
Application 11/687,464
Technology Center 3600

BEFORE KALYAN K. DESHPANDE, JASON J. CHUNG, and
JOYCE CRAIG, *Administrative Patent Judges*.

CRAIG, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–23, 25–40, and 42–45. *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as MOBILE TITLE LLC. Appeal Br. 3.

CLAIMED SUBJECT MATTER

The claims are directed to a mobile system and method for processing real estate transactions. Spec. ¶ 3. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for processing real estate transactions, comprising the steps of:

preparing transaction documents for a first transaction and a second transaction at an office location having an office network;

storing electronically on the office network the prepared transaction documents for the first transaction and the second transaction from said step of preparing transaction documents;

providing power to a mobile closing unit included in a housing, the mobile closing unit including a printer connected to a router having a wireless card for connecting to the office network through a wide area network, and a power switch for controlling power to the mobile closing unit;

automatically connecting the mobile closing unit to the office network through the wide area network to establish a wireless and secure encrypted connection while remote from the office network upon completing said step of providing power to the mobile closing unit;

automatically receiving with the mobile closing unit the electronically stored transaction documents relating to the first transaction from the office network over the secure encrypted connection with the wide area network and at a location remote from the office location after completing said step of automatically connecting the mobile closing unit to the office network;

automatically printing the received transaction documents relating to the first transaction on the printer disposed in the mobile closing unit and at a location remote from the office location;

executing the printed transaction documents related to the first transaction at a first location;

scanning the executed transaction documents relating to the first transaction using a scanner disposed in the mobile

closing unit and at a location remote from the office location and sending the scanned transaction documents over the wide area network to the office network;

moving the housing from the first location to a second location and the mobile closing unit electronically receiving at a location remote from the office location the electronically stored transaction documents relating to the second transaction;

automatically printing on the printer located in the mobile closing unit and at a location remote from the office location the transaction documents relating to said second transaction while performing said step of moving the housing from the first location to the second location;

executing the printed transaction documents relating to the transaction at the second location; and

scanning the executed transaction documents relating to the second transaction on the scanner located in the mobile closing unit and at a location remote from the office location and sending the executed transaction documents relating to the second transaction over the wide area network to the office network.

REJECTION

Claims 1–23, 25–40 and 42–45 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter. Final Act. 3–6.

Claims 1–22, 25–39, and 42–45 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Schaffer et al. (US 2006/0259420 A1; published Nov. 16, 2006) (“Schaffer”), in view of Peterson (Samantha Peterson, *Home Loan Deals on Wheels*, Inman Real Estate News July 21, 2004), and George et al. (US 6,644,546 B2; issued Nov. 11, 2003) (“George”). Final Act. 7–31.

Claims 23 and 40 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Schaffer, Peterson, George, and Official Notice. Final Act. 31–35.

ANALYSIS

Rejection of Claims 1–23, 25–40 and 42–45 under 35 U.S.C. § 101

Appellant argues that the Examiner’s rejection of claim 1 under 35 U.S.C. § 101 as directed to patent-ineligible subject matter is in error. Appeal Br. 24. Appellant argues claims 1–20 as a group. Appeal Br. 33. Given our discretion under 37 C.F.R. § 41.37(c)(1)(iv), we decide the § 101 rejection of claims 1–20 based on representative claim 1. Appellant argues claims 21–30 and 38 as a group. Appeal Br. 34 –36. We decide the § 101 rejection of claims 21–30 and 38 based on representative claim 21. Appellant argues claims 31–37, 39, 40, and 42–45 as a group. Appeal Br. 33–34. We decide the § 101 rejection of claims 31–37, 39, 40, and 42–45 based on representative claim 31.

Legal Standard

“Whether a claim is drawn to patent-eligible subject matter is an issue of law that we review de novo.” *SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319, 1331 (Fed. Cir. 2010).

The Supreme Court’s two-step framework guides our analysis of patent eligibility under 35 U.S.C. § 101. *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 217 (2014). In addition, the Office published revised guidance for evaluating subject matter eligibility under 35 U.S.C. § 101, specifically with respect to applying the *Alice* framework. USPTO, 2019 Revised Patent

Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Office Guidance”). If a claim falls within one of the statutory categories of patent eligibility (i.e., a process, machine, manufacture, or composition of matter) then the first inquiry is whether the claim is directed to one of the judicially recognized exceptions (i.e., a law of nature, a natural phenomenon, or an abstract idea). *Alice*, 573 U.S. at 217. As part of this inquiry, we must “look at the ‘focus of the claimed advance over the prior art’ to determine if the claim’s ‘character as a whole’ is directed to excluded subject matter.” *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016) (citation omitted).

Per Office Guidance, this first inquiry has two prongs of analysis: (i) does the claim recite a judicial exception (e.g., an abstract idea), and (ii) if so, is the judicial exception integrated into a practical application. Office Guidance 84 Fed. Reg. at 54. Under the Office Guidance, if the judicial exception is integrated into a practical application, see *infra*, the claim is patent eligible under § 101. Office Guidance 84 Fed. Reg. at 54–55. If the claim is directed to a judicial exception (i.e., recites a judicial exception and does not integrate the exception into a practical application), the next step is to determine whether any element, or combination of elements, amounts to significantly more than the judicial exception. *Alice*, 573 U.S. at 217; Office Guidance 84 Fed. Reg. at 56. If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (citation omitted).

To summarize, under the current Office Guidance, we first look 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* Manual for Patent Examining Procedure (“MPEP”) §§ 2106.05(a)–(c), (e)–(h)).

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

Step 1

Claims 1 and 21 are method (process) claims. Claim 31 is a system (machine) claim. Thus, the claims fall within one of the statutory categories of § 101. *See* Office Guidance, 84 Fed. Reg. at 53–54 (citing MPEP §§ 2106.03, 2106.06).

Step 2A(i): Does the Claim Recite a Judicial Exception?

The Examiner concluded that claims 1, 21, and 31 are directed to “the fundamental economic practices of creating a contractual relationship

through the purchase of real estate,” which is a certain method of organizing human activity, and thus an abstract idea. Final Act. 3–4.

Consistent with Appellant’s description of the claims, we that the claims recite processing real estate transactions, which are fairly characterized as a fundamental economic practice, and which fall into the certain methods of organizing human activity category of abstract ideas. *See* Office Guidance, 84 Fed. Reg. at 52. The claims recite commercial interactions such as agreements in the form of contracts, sales activities or behaviors, and business relations. In particular the claims are directed to a transaction processing method/system for facilitating transactions between the buyer and the seller. The claims relate to financial or fundamental economic practices, wherein the language of automating transactions between buyers and sellers and maintaining and processing terms and conditions relating the buyer seller issuer and acquirer, relates to creating a contract (or binding agreement) between people. Courts have identified similar concepts relating to economy and commerce such as agreements between people in the form or contracts, legal obligations and business relations as abstract ideas. *See* Ans. 4 (citing *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014)).

Appellant does not challenge the Examiner’s determination that the claims recite an abstract idea. *See* Appeal Br. 28. Rather, Appellant argues that the claims contain additional elements that amount to “significantly more” than the abstract idea. *See* Reply Br. 2.

Because we agree with the Examiner that representative claims 1, 21, and 31 recite an abstract idea, we proceed to Prong Two of Step 2A to determine for each claim whether the idea is integrated into a practical

application. If so, the claim as a whole would not be “directed to” merely an abstract idea.

Step 2A(ii): Judicial Exception Integrated into a Practical Application?

Because we determined that claims 1, 21, and 31 recite a patent-ineligible concept, we next determine whether the recited judicial exception is integrated into a practical application of that exception by (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception(s); and (b) evaluating those additional elements individually and in combination to determine whether they integrate the exception into a practical application.

We use the term “additional elements” for claim features, limitations, or steps that the claim recites beyond the identified judicial exception. *See* Revised Guidance at 55 n.24. The Examiner determined that the additional elements include the limitations “office network,” “mobile closing unit,” “printer,” “router,” “wireless card,” “power switch,” “wide area network,” and using “encryption.” Final Act. 5; Ans. 5.

The Examiner determined that none of the additional limitations is sufficient to amount to significantly more than the judicial exception because each is a generic computer element that does not meaningfully limit the abstract idea. *Id.* We agree with the Examiner. According to the Specification, the “mobile closing unit 24 when used with real estate transactions generally includes a printer 28, a router 40 having a wireless Internet card, an antenna 48, an optional stand-alone magnetic check scanner 80, and an optional computer 32.” Spec. ¶ 25 (bolding omitted). The

Specification further describes that the “computer 32 may be any laptop or desktop computing device.” Spec. ¶ 32 (bolding omitted).

In addition, “printing” is an example of insignificant post-solution activity, which is not sufficient to transform the abstract idea into patent-eligible subject matter. MPEP § 2106.05(g). Also, the “receiving” step in claim 1 amounts to merely insignificant extra-solution activity that does not add significantly more to the abstract idea. Office Guidance 55, n.31.

Appellant argues that “key distinguishing features of at least *automatically* sending and printing of documents to the mobile unit over a *secure* connection *while the mobile closing unit is traveling* is novel over the prior art” and is “sufficient to ensure that the [[claim]] amounts to significantly more than a patent upon the abstract idea.” Appeal Br. 26 (citing *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 217 (2014)); *see also* Appeal Br. 29, Reply Br. 2–3.

Appellant’s argument is not persuasive.² The novelty of any element or steps in a process, or even of the process itself, is of no relevance in

² We agree with the Examiner that the plain language of at least claims 1 and 21 does not recite or require “automatically sending and printing of documents to the mobile unit over a secure connection while the mobile closing unit is traveling.” *See* Ans. 7. Claim 1 recites “automatically printing the received transaction documents relating to the first transaction on the printer disposed in the mobile closing unit and at a location remote from the office location.” Appeal Br. 50. Claim 1 also recites “automatically printing on the printer located in the mobile closing unit and at a location remote from the office location the transaction documents relating to said second transaction while performing said step of moving the housing from the first location to the second location.” *Id.* at 51. Neither limitation on its face requires a secure connection while printing, and Appellant has not persuaded us that they do. Claim 21 recites similar limitations. *Id.* at 54–55.

determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter. *Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981). Our reviewing court guides that “[e]ligibility and novelty are separate inquiries.” *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1340 (Fed. Cir. 2017); *see also Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1263 (Fed. Cir. 2016) (holding that “[e]ven assuming” that a particular claimed feature was novel does not “avoid the problem of abstractness”). Moreover, the features that Appellant identifies (sending and printing information) are insignificant extra-solution activity and cannot integrate the abstract idea into a practical application. *See* Office Guidance at 55 n.31; MPEP § 2106.05(g).

Appellant also argues that the recited feature of automatically printing over a secure connection while the mobile closing unit is traveling “can save time for the mobile operator and improves the security, quality control, and efficiency for mobile closings using a mobile closing unit.” Appeal Br. 29; *see also id.* at 26. Appellant further argues that the feature “improves the efficiency as well as the likelihood that a real estate closing will proceed as scheduled.” *Id.* at 31.

We are not persuaded by Appellant’s arguments that the claims are directed to an improvement in the functioning of computers or other technology or technical field. The improvements cited by Appellant are improvements to the abstract idea itself, which merely uses the computer elements as a tool to carry out the abstract idea. In other words, improving real estate closing transactions solves a business problem rather than a technical one. *See, e.g.*, MPEP § 2106.06(b) (summarizing cases that were

eligible as improvements to technology or computer functionality instead of abstract ideas).

Appellant also alleges the claims are patent-eligible because their practice does not preempt practice by others. Appeal Br. 30. Although preemption may signal patent ineligible subject matter, the absence of complete preemption “does not demonstrate patent eligibility . . . [w]here a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) (“that the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract”).

Considering claims 1, 21, and 31 as a whole, then, Appellant’s invention lacks a technical solution to a technical problem. The claims as a whole merely use instructions to implement the abstract idea on a computer or, alternatively, merely uses a computer as a tool to perform the abstract idea. Here, the additional limitation(s) do not integrate the judicial exception into a practical application. More particularly, the claims do not recite (i) an improvement to the functionality of a computer or other technology or technical field (*see* MPEP § 2106.05(a)); (ii) a “particular machine” to apply or use the judicial exception (*see* MPEP § 2106.05(b)); (iii) a particular transformation of an article to a different thing or state (*see* MPEP § 2106.05(c)); or (iv) any other meaningful limitation (*see* MPEP § 2106.05(e)). *See* Office Guidance 84 Fed. Reg. at 55. Rather, claims 1, 21,

and 31 recite an abstract ideas as identified in Step 2A(i), *supra*, and none of the limitations integrates the judicial exception into a practical application.

Therefore, because the abstract idea is not integrated into a practical application, we conclude that the claims are directed to the judicial exception.

Step 2B — “Inventive Concept” or “Significantly More”

If the claims are directed to a patent-ineligible concept, as we conclude above, we proceed to the “inventive concept” step. For Step 2B we must “look with more specificity at what the claim elements add, in order to determine ‘whether they identify an “inventive concept” in the application of the ineligible subject matter’ to which the claim is directed.” *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1258 (Fed. Cir. 2016) (quoting *claims of Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016)). We look to see whether there are any “additional features” in the claims that constitute an “inventive concept,” thereby rendering the claims eligible for patenting even if they are directed to an abstract idea. *Alice*, 573 U.S. at 221. Those “additional features” must be more than “well-understood, routine, conventional activity.” *Mayo*, 566 U.S. at 79.

The Examiner determined that the recited office network and wide area network are used simply for the sending and receiving of documents. Ans. 5. Courts have recognized that receiving or transmitting data over a network, in a manner similar to that recited in the claims, is well-understood, routine and conventional. *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015) (sending messages over a network); *buySAFE*, 765 F.3d at 1355 (computer receives and sends information over a network).

The Examiner also found that Appellant’s Specification describes the mobile closing unit as a computing device including a conventional printer and a conventional router, and as capable of printing and downloading documents. Ans. 5 (citing Spec. Fig. 3, ¶¶ 13, 23).

Appellant argues that “an analysis of the additional limitations of Claim 1 as an ordered combination results in an invention as a whole which amounts to significantly more than just ‘well-understood, routine and conventional activities previously known to the industry.’” Appeal Br. 27. Appellant again relies on “automatically printing and scanning documents ***while the mobile closing unit is traveling***” as the inventive concept in the claims, relying on the teaching of the prior art cited by the Examiner in the rejections of the claims under 35 U.S.C. § 103(a). *Id.* at 27–29.

Having analyzed the claim elements “as an ordered combination,” in addition to individually, we are not persuaded by Appellant’s argument that the Examiner erred. Appellant does not direct our attention to anything in the Specification that indicates the computer components perform anything other than well-understood, routine, and conventional functions. *See buySAFE*, 765 F.3d at 1355 (“That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive”); *In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 614 (Fed. Cir. 2016) (server that receives data, extracts classification information from the received data, and stores the digital images insufficient to add an inventive concept); *Alice*, 573 U.S. at 225–26 (receiving, storing, sending information over networks insufficient to add an inventive concept).

Because the Specification describes the additional elements in general terms, without describing the particulars, we conclude the claim limitations

may be broadly but reasonably construed as reciting conventional computer components and techniques, particularly in light of Appellant's Specification, as cited above. *See Berkheimer Memo*³ § III.A.1; Spec. ¶¶ 20–33. We conclude claims 1, 21, and 31 do not have an inventive concept because the claims, in essence, merely recite various computer-based elements along with no more than mere instructions to implement the identified abstract idea using the computer-based elements.

Because the claims fail under both the Step 2A and Step 2B analyses, we sustain the Examiner's § 101 rejection of representative independent claims 1, 21, and 31 and grouped claims 2–20, 22–30, 32–40, and 42–45, not argued separately with particularity.

Rejection of Claims under 35 U.S.C. § 103(a)

We have reviewed the rejections of claims 1–23, 25–40, and 42–45 in light of Appellant's arguments that the Examiner erred. We have considered in this decision only those arguments Appellant actually raised in the Briefs. Any other arguments Appellant could have made, but chose not to make, in the Briefs are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellant argues claims 1–20, 32–37, 39, 40, and 42–45 as a group. Appeal Br. 41. We decide the appeal of the § 103(a) rejections of claims 2–

³ “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*)” at 3 (Apr. 19, 2018) (emphasis omitted) (explaining that a specification that describes additional elements “in a manner that indicates that the additional elements are sufficiently well-known that the specification does not need to describe the particulars of such additional elements to satisfy 35 U.S.C. § 112(a)” can show that the elements are well understood, routine, and conventional).

20, 32–37, 39, 40, and 42–45 based on independent claim 1. Appellant argues claims 21–23, 25–30, and 38 as a separate group. *Id.* at 47. We decide the appeal of the § 103(a) rejections of claims 22, 23, 25–30, and 38 based on independent claim 21.

Appellant’s arguments are not persuasive of error. We agree with and adopt as our own the Examiner’s findings of facts and conclusions as set forth in the Answer and in the Action from which this appeal was taken. We provide the following explanation for emphasis.

Claims 1–20, 32–37, 39, 40, and 42–45

With respect to representative independent claim 1, Appellant contends that the Examiner erred because the cited prior art does not teach or suggest the limitations “the limitations of ‘*automatically establishing a secure connection*’ between the home office network and the mobile unit’ and ‘*automatically receiving* the stored set of prepared documents at the mobile unit *over the established secure connection,*” as recited in claim 1. Appeal Br. 37. Appellant argues that Peterson does not teach or suggest a secure connection. *Id.*

We are not persuaded that the Examiner erred. Appellant attacks Peterson individually, even though the Examiner relied on the combination of Schaffer, Peterson, and George when rejecting claim 1. Non-obviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *See In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). The test for obviousness is not whether the claimed invention is expressly suggested in any one or all of the references, but whether the claimed subject matter

would have been obvious to those of ordinary skill in the art in light of the combined teachings of those references. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

Here, the Examiner relied on Schaffer as teaching the secured connection. Ans. 11 (citing Schaffer ¶¶ 39–43). The Examiner also relied on Schaffer for creating, modifying and securely sending loan execution documents. *Id.* The Examiner relied on Peterson for a mobile closing unit that is able to connect wirelessly to modify and update documents. *Id.* Because Appellant has not addressed the rejection actually made by the Examiner, we are not persuaded that the Examiner erred.

Appellant further argues that the cited portions of George do not teach or suggest automatically printing received documents while the mobile unit is traveling or in route, as claim 1 requires. Appeal Br. 39. In particular, Appellant argues that George’s teaching of storing information in memory is insufficient to teach or suggest printing while the recited mobile closing unit is traveling. *See id.* Appellant further argues that the POS terminals in George are stationary units, and the Examiner did not conclude it would have been obvious to modify Peterson’s mobile closing unit to print documents automatically while the mobile closing unit is traveling. *Id.* at 39–40.

Appellant has not persuaded us that the Examiner erred. The Examiner first emphasized that the disputed limitations read as follows:

automatically receiving with the mobile closing unit the electronically stored transaction documents relating to the first transaction from the office network over the secure encrypted connection...[sic] at a location remote from the office location....[sic]

automatically printing on the printer located in the mobile closing unit and at a location remote from the office location the transaction documents relating to said second transaction while performing said step of moving the housing from the first location to the second location.

Ans. 10. The Examiner interpreted these limitations as requiring that the mobile closing unit receives the sent documents for the transaction(s) when the device is located anywhere but the office location. *Id.* The Examiner concluded that, according to claim 1, the documents are received at the mobile unit prior to the movement of the unit from one location to a next, but the documents are printed from the local storage on the mobile unit during the transport. *Id.* The Examiner further concluded that the printing step does not require nor allude to any connectivity to the network. *Id.* The Examiner also concluded that the term “secure encrypted connection” means any form of network with security measures. *Id.*

Appellant has not persuaded us that the Examiner’s claim interpretation is overly broad, unreasonable, or inconsistent with the Specification. We agree with the Examiner that the “receiving” step requires the secure encrypted connection, but the disputed “printing” step does not. We also agree with the Examiner that claim 1 does not require that the documents must be sent or received while the mobile unit is moving, just that the printing occurs en route.

The Examiner found that Schaffer teaches or suggests sending documents pertaining to real estate transactions via a secured network. Ans. 12–13 (citing Schaffer ¶¶ 39–43). The Examiner further found that Peterson teaches a as Peterson teaches a mobile mortgage bus that has a wireless network connection. *Id.* at 13 (citing Peterson at 2). The Examiner

also found that George teaches printing remotely, as well as storing data at a printer for later use. *Id.* The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time of the invention to include a mobile unit with wireless capability, as taught by Peterson, in the mortgage document execution of Schaffer, which uses a secure connection, and further obvious that the mobile mortgage execution of Schaffer/Peterson would include remote printing capability as taught by George. *See id.* at 14.

Appellant's argument that Peterson does not disclose explicitly printing received documents while the mobile unit is traveling or in route is not persuasive. Reply Br. 6. As we explained above, the test for obviousness is not whether the claimed invention is suggested expressly in any one or all of the references, but whether the claimed subject matter would have been obvious to those of ordinary skill in the art in light of the combined teachings of those references. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981). Appellant further argues that the printing in George occurs on a stationary point-of-sale unit. Reply Br. 6. Non-obviousness, however, cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *See In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Here, Appellant has not rebutted the Examiner's conclusion that it would have been obvious to an artisan of ordinary skill that the printing of George, which occurs remotely from the initiation of the transaction, would occur on the mobile mortgage unit of Peterson during travel to the site of document execution. Ans. 13.

For these reasons, we are not persuaded that the Examiner erred in finding that the combination of Schaffer, Peterson, and George teaches or suggests the disputed limitations of representative claim 1.

Accordingly, we sustain the Examiner's § 103(a) rejection of independent claim 1, as well as the Examiner's § 103(a) rejection of independent claims 35, 39, 40, 42, and 44, grouped with claim 1. Appeal Br. 41. We also sustain the Examiner's § 103(a) rejection of dependent claims 2–20, 32–34, 36, 37, 43, and 45, also argued as a group with claim 1. *Id.*

Claims 21–23, 25–30, and 38

With regard to independent claim 21, Appellant contends the Examiner erred because “communication with the mobile unit in Peterson does not occur over a secure encrypted connection” or a wide area network. Appeal Br. 41–42. Appellant argues:

Peterson does not expressly teach establishing a secure encrypted wireless connection between a home office and the mobile location unit, particularly because Peterson fails to even disclose a home office in the first place. Thus, it necessarily follows that Peterson fails to disclose any communications from a home office to a mobile location unit, whether over a secured encrypted connection or otherwise.

Reply Br. 8.

We are not persuaded that the Examiner erred. Again, Appellant attacks Peterson individually, although the Examiner relied on the combined teachings of Schaffer, Peterson, and George when rejecting claim 21. The Examiner found that Schaffer teaches that documents are sent via a secured communication network between one or more parties. Ans. 14. The Examiner also found that Peterson teaches that the mobile unit has wireless capability. *Id.* The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time of the invention that the wireless connection in Peterson would be secured to the level of at least standard

Wi-Fi protocol at the time (i.e., the 802.11 standard, described in Appellant's Specification at ¶ 32), which includes WAP protection/encryption measures. Ans. 14. The Examiner further concluded it would have been obvious that the communication network in Peterson would be secured to the same extent of that in Schaffer. *Id.*

Appellant has not rebutted persuasively the Examiner's factual findings and legal conclusions. We find that it would have been within the level of skill of one skilled in the art to combine the known techniques in Schaffer and Peterson to use the secured network of Schaffer, used to send documents between one or more parties, with the wireless connection of Peterson. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007) (“[I]f a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.” (citations omitted)). We are not persuaded that combining the respective familiar elements of the cited references in the manner proffered by the Examiner would have been “uniquely challenging or difficult for one of ordinary skill in the art” at the time of Appellant's invention. *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418).

Next, Appellant argues that the Examiner has not explained sufficiently how or why George teaches the “automatic” receiving and printing of documents as required by Claims 21 and 38. Appeal Br. 44.

We are not persuaded of Examiner error. Appellant has not persuasively rebutted the Examiner's finding or explained why the cited portions of the prior art do not teach or suggest the disputed limitations. As

stated by the Federal Circuit, Rule 41.37 “require[s] 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.” *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011). Moreover, the Examiner found that Schaffer teaches “automatically receiving” documents. Final Act. 16 (citing Schaffer Fig. 4, ¶¶ 27, 39–40). The Examiner found that George teaches or suggests “automatically printing.” *Id.* (citing George Fig. 2A and related text). The Specification describes receiving and printing “automatically,” as recited in the disputed limitations of claim 21, as follows:

Once connected to the office network 36, the printer 28 will automatically receive and print pending and new print jobs sent from the office network 36. *An employee working at the office network 36 can send a job to the printer 28 located in the mobile closing unit 24 in the same way that print jobs are sent to printers physically residing in the employee’s office.*

Spec. ¶ 30 (emphasis added) (bolding omitted). Thus, the broadest, reasonable interpretation of “automatically” in claim 21 is sufficiently broad to cover receiving and printing on a networked printer, where print jobs are initiated from an employee (i.e., a person) elsewhere on the network. In light of Appellant’s description of automatically receiving and printing in the Specification, Appellant has not presented persuasive arguments sufficient to rebut the Examiner’s findings that the printer taught in George automatically receives and prints, as claim 21 requires. *See* Ans. 12.

Appellant further argues that the Examiner did not sufficiently explain why one of ordinary skill in the art would modify Schaffer and Peterson to incorporate the “automatic” receiving and printing of documents taught by George. Appeal Br. 44.

We disagree. The Examiner explained that it would have been obvious to one of ordinary skill in the art to modify Schaffer in view of Peterson by adopting teachings of George “to improve means for supporting service providers on the road by enabling service providers to render services at customer locations; increase revenue by rendering professional services to customers who are not able to commute.” Final Act. 15. Thus, the Examiner provided “articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

Appellant next argues that the Examiner engaged in impermissible hindsight in finding that the “wireless technology” taught in Peterson “includes the mobile unit having a router and wireless card for automatically and securely connecting a printer to an office network via a wide area network and a *secure encrypted connection*.” Appeal Br. 43.

We are not persuaded by Appellant’s hindsight argument. Appellant has not identified any knowledge relied upon by the Examiner that was gleaned only from Appellant’s disclosure and that was not otherwise within the level of ordinary skill in the art at the time of invention. *See In re McLaughlin*, 443 F.2d 1392, 1395 (CCPA 1971). Nor has Appellant provided objective evidence of secondary considerations, which “operates as a beneficial check on hindsight.” *Cheese Sys., Inc. v. Tetra Pak Cheese and Powder Sys., Inc.*, 725 F.3d 1341, 1352 (Fed. Cir. 2013).

For these reasons, we are not persuaded that the Examiner erred in finding that the combination of Schaffer, Peterson, and George teaches or suggests the disputed limitations of claim 21.

Appellant next contends that George is not analogous art. Appeal Br. 45. We disagree.

“A reference qualifies as prior art for an obviousness determination under § 103 only when it is analogous to the claimed invention.” *In re Klein*, 647 F.3d 1343, 1348 (Fed. Cir. 2011) (citing *Innovation Toys, LLC v. MGA Entm’t, Inc.*, 637 F.3d 1314, 1321 (Fed. Cir. 2011), and *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004) (citation omitted)). “Two separate tests define the scope of analogous 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.” *Id.* (quoting *In re Bigio*, 381 F.3d at 1325). A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor’s endeavor, 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.” *In re Clay*, 966 F. 2d 656, 659 (Fed. Cir. 1992).

Appellant describes George’s field of endeavor as “mobile systems and methods for remotely processing *real estate transactions*.” Appeal Br. 46. The Examiner explained that both the claimed invention and the invention in George are directed to “the execution of a purchase, specifically, the paper trail required to document, execute, and record its occurrence.” Ans. 15. Considering the similarities and differences in structure and function of the inventions disclosed in George and the current application, we agree with the Examiner that Appellant’s view of George’s field of endeavor is unnecessarily narrow. *See* Ans. 15. It is not required that the prior art be specifically applied to a specific type of transaction. *See In re*

Ellis, 476 F.2d 1370, 1372 (CCPA 1973); *In re Chaganti*, 554 F. App'x 917 (Fed. Cir. 2014) (a reference need not disclose every limitation of the claimed invention to fall within the same field of endeavor as the claimed invention).

We therefore conclude, for example, that an inventor considering a way to remotely print paperwork required for a purchase would naturally look to references that print such documents. Accordingly, we are not persuaded that the Examiner erred in using George as prior art when rejecting claims under § 103(a).

For these reasons, we are not persuaded that the Examiner erred in finding that the combination of Schaffer, Peterson, and George teaches or suggests the disputed limitations of representative claim 21.

Accordingly, we sustain the Examiner's § 103(a) rejection of independent claim 21, as well as the Examiner's § 103(a) rejection of independent claim 38, grouped with claim 21. Appeal Br. 47. We also sustain the Examiner's § 103(a) rejection of dependent claims 22, 23, and 25–30, also argued as a group with claim 21. *Id.*

CONCLUSION

We affirm the decision of the Examiner rejecting claims 1–23, 25–40, and 42–45.

CONCLUSION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-23, 25-40, 42-45	101	Judicial exception	1-23, 25-40, 42-45	
1-22, 25-39, 42-45	103(a)	Schaffer, Peterson, George	1-22, 25-39, 42-45	
23, 40	103(a)	Schaffer, Peterson, George, Official Notice	23, 40	
Overall Outcome:			1-23, 25-40, 42-45	

TIME PERIOD FOR 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). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED