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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL WILSON, OZAN SELCUK,
SHAWN MCCOOL and SCOTT BEARDSLEY

Appeal 2019-002137
Application 14/334,355
Technology Center 3600

Before JEAN R. HOMERE, CARL W. WHITEHEAD JR.
and JEFFREY S. SMITH, *Administrative Patent Judges*.

WHITEHEAD JR., *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ appeals from the final rejection of claims 15–18 under 35 U.S.C. § 134(a). Appeal Brief 7. 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 ITAP MENU LLC., as the real party in interest. Appeal Brief 3.

Introduction

According to Appellant, the claimed subject matter “relates to systems used to present purchase options to purchasers in connection with the sale of vehicles or other products having multiple optional features.” Specification ¶ 4.

Representative Claim

15. A method for displaying and documenting a selection of vehicle F&I^[2] items for a vehicle to be acquired on financed terms, the vehicle having a base cost, comprising:

- designating a first set of periodic payment terms;
- designating a second set of periodic payment terms that is different than the first set of periodic payment terms;
- providing a physical display displaying a visual user interface comprising:

² F&I Menu selling refers to the finance and insurance (F&I) portion of a vehicle acquisition transaction in which, along with the financing terms of the transaction (whether sale or lease), the vehicle dealer provides to the vehicle purchaser / lessee a number of options—a menu—of additional products and services that the purchaser can choose to include into the vehicle purchase transaction. For example, an F&I menu might include optional items such as extended warranty products, paint and exterior protection, anti-theft registration, pre-paid maintenance, identity theft protection, tire and wheel protection, door ding protection, etc. For a sale or lease of a product like a cell phone, a F&I menu, (or optional items) might include, extended warranty plans, data access plans, roaming plans, international calling or roaming plans, loss or theft insurance, cloud or other data storage services, etc.

Specification ¶ 6 (emphasis added).

- F&I icons each representing an F&I item having an associated price,
- an unselected F&I items area displaying unselected F&I icons;
- a selected F&I items area displaying selected F&I icons;
- a base price area displaying the base cost of the vehicle without any selected F&I items;
- a first with-F&I items price area displaying the first set of periodic payment terms and a first periodic payment amount for the vehicle and F&I items displayed in the selected F&I items area, the first periodic payment amount being calculated using the first set of periodic payment terms;
 - a second with- F&I items price area displaying the second set of periodic payment terms and a second periodic payment amount for the vehicle and F&I items displayed in the selected F&I items area, the second periodic payment amount being calculated using the second set of periodic payment terms;
- moving an F&I icon between the unselected F&I items area and the selected F&I items area, and upon such moving, instantly:
 - recalculating and displaying the first periodic payment amount for the vehicle and F&I items displayed in the selected F&I items area using the first set of periodic payment terms; and
 - recalculating and displaying the second periodic payment amount for the vehicle and F&I items displayed in the

selected F&I items area using the second set of periodic payment terms; and

- selecting one or more F&I items to acquire with the vehicle;
- displaying a signature area;
- capturing an electronic signature of a customer; and
- storing an image of the captured signature, and an identification of the F&I items in the selected F&I items area.

References

Name³	References	Date
Baxer	US 2005/0102520 A1	May 12, 2005
Thibodeau	US 2007/0136162 A1	June 14, 2007

Rejections on Appeal

Claims 15 stands provisionally rejected on the ground of nonstatutory double patenting as being unpatentable over claims 28 of co-pending Application 14/171,174. Final Action 3.

Claims 15–18 stand provisionally rejected on the ground of nonstatutory double patenting as being unpatentable over claims 10 and 28 of co-pending Application 14/171,174. Final Action 3.

Claims 15–18 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Final Action 4–9.

Claims 15–18 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Thibodeau and Baxter. Final Action 9–16.

³ All reference citations are to the first named inventor only.

ANALYSIS

Rather than reiterate the arguments of Appellant and the Examiner, we refer to the Appeal Brief (filed September 27, 2018), the Reply Brief (filed January 28, 2018), the Final Action (mailed October 11, 2017) and the Answer (mailed November 2, 2018), for the respective details.

Double Patenting Rejections

“Appellant submits that because the cited application has not issued as a patent, a ‘double patenting’ rejection is premature.” Appeal Brief 7. Appellant contends, that filing a Terminal Disclaimer would be considered should the cited co-pending application issue during the pendency of the instant application. Appeal Brief 7–8.

Appellant may not request that the provisional double patenting rejections of claims 15–18 as set forth above be held in abeyance.⁴ Appellant does not proffer substantive arguments regarding the non-statutory double patenting rejections. We summarily affirm the Examiner’s provisional rejection of claims 15–18. *See* Appeal Brief 7–8; *see also Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential) (“If an appellant fails to present arguments on a particular issue — or, more broadly, on a particular rejection — the Board will not, as a general matter, unilaterally review those uncontested aspects of the rejection. *See, e.g., Hyatt v. Dudas*, 551 F.3d 1307, 1313–14 (Fed. Cir. 2008) (the Board may treat arguments appellant failed to make for a given ground of rejection as waived”).

⁴ Appellants may not reserve arguments for some later time. Arguments not made are considered waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellant contends:

Appellant's *Brief* established that a "double patenting" rejection was improper because there is no issued patent having claims to which the present claims can be compared to determine whether they are "patentably distinct." The *Answer* does not respond to this argument, so the "double patenting" rejection should be reversed on this basis alone. Moreover, Appellant notes that the claims of the present application have a priority date of June 14, 2011, while the claims of copending Application No. 14/171174 were filed later, on February 3, 2014.

Reply Brief 2 (emphasis added).

We will not consider Appellant's arguments in the Reply Brief because they are not timely filed. As noted, "Any argument raised in the reply brief which was not raised in the appeal brief, or is not responsive to an argument raised in the examiner's answer . . . will not be considered by the Board for purposes of the present appeal, unless good cause is shown." 37 C.F.R. § 41.41(b)(2)(2017). *See Optivus Tech., Inc. v. Ion Beam Applications S.A.*, 469 F.3d 978, 989 (Fed. Cir. 2006).

PRINCIPLES OF LAW

A. Section 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 U.S. 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 Court's two-part 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 that 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.”).

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, 67 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1853))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Court held that “a claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, and this

principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (citation omitted) (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

If the claim is “directed to” an abstract idea, we turn to the second part 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 (quotation marks omitted). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (alterations in original) (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

B. USPTO Section 101 Guidance

In January 2019, the U.S. Patent and Trademark Office (USPTO) published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“2019 Revised Guidance”).⁵ “All USPTO personnel are, as a matter of

⁵ In response to received public comments, the Office issued further guidance on October 17, 2019, clarifying the 2019 Revised Guidance. USPTO, *October 2019 Update: Subject Matter Eligibility* (the “October 2019 Update”) (available at https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf).

internal agency management, expected to follow the guidance.” *Id.* at 51; *see also* October 2019 Update at 1.

Under the 2019 Revised Guidance and the October 2019 Update, 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) (“Step 2A, Prong One”); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h) (9th ed. Rev. 08.2017, Jan. 2018)) (“Step 2A, Prong Two”).⁶

2019 Revised Guidance, 84 Fed. Reg. at 52–55.

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look, under Step 2B, 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.

⁶ This evaluation is performed by (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception, and (b) evaluating those additional elements individually and in combination to determine whether the claim as a whole integrates the exception into a practical application. *See* 2019 Revised Guidance –Section III(A)(2), 84 Fed. Reg. 54–55.

2019 Revised Guidance, 84 Fed. Reg. at 52–56.

35 U.S.C. § 101 Rejection

The Examiner determines the claims are directed to patent ineligible subject matter under 35 U.S.C. § 101. *See* Final Action 4–9. We agree with the Examiner’s determination because the claims are directed to an abstract idea comprising commercial or legal interactions such as sales activities, behaviors and/or business relations and do not include additional elements that are sufficient to amount to significantly more than the abstract idea. *See Alice*, 573 U.S. at 217 (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”); *see also* 2019 Revised Guidance, Section I (Groupings of Abstract Ideas).

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 2019 Revised Guidance.

Alice/Mayo—Step 1 (Abstract Idea)

Step 2A—Prongs 1 and 2 identified in the 2019 Revised Guidance

Step 2A, Prong One (Recitation of an Abstract Idea)

Appellants contend that the claims are not directed to an abstract idea because, “The elements of claim 15 describe a method that provide a unique advantage; they allow a customer to *instantly* see how their selection of F&I items will impact *multiple* possible periodic payments.” Appeal Brief 11.

The Specification discloses:

An F&I Menu system is disclosed that it provides interactivity between the finance manager/ salesperson and the purchaser. Directly on a mobile device such as a tablet computer, the finance manager and the purchaser can adjust the options that are presented and the options that are selected for inclusion with the vehicle purchase, how the prices of these options appear (the total price of the option or the option's impact on the financed payment), the financing terms (the number of months, the type of transaction (lease, financing, cash, etc.), and more. Selections and adjustments can be made in real time by the purchaser, and the pricing and financing calculations are adjusted by the system in real time on the screen. When the purchaser makes final selections, the F&I menu system records the transaction, captures the signatures, and facilitates printing of a summary of the selections made. A vehicle purchaser has control over the information that supports his or her purchasing decisions for F&I products and services.

Specification ¶ 10.

Claim 15 recites a method for documenting a selection of vehicle F&I items for a vehicle to be acquired on financed terms, the vehicle having a base cost:

- [1] designating a first set of periodic payment terms;
- [2] designating a second set of periodic payment terms that is different than the first set of periodic payment terms;
- [3] the first periodic payment amount being calculated using the first set of periodic payment terms;

[4] the second periodic payment amount being calculated using the second set of periodic payment terms;

[5] recalculating the first periodic payment amount for the vehicle;

[6] recalculating the second periodic payment amount for the vehicle.

Accordingly, these steps comprise managing commercial or legal interactions (sales activities or behaviors; business relations); thus, the claim recites the abstract idea of “[c]ertain methods of organizing human activity.” *See* 2019 Revised Guidance, Section I (Groupings of Abstract Ideas); *see also* Specification ¶ 52. 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 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 2019 Revised

Guidance. *See* 2019 Revised Guidance, Section III(A)(1) (Prong One: Evaluate Whether the Claim Recites a Judicial Exception).

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

Under Prong Two of the 2019 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.” 2019 Revised Guidance, Section III(A)(2).

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*, 773 F.3d at 1249, 1257 (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 18.

In *McRO*⁷, 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 allowed 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 were limiting because they defined morph weight sets as a function of phoneme sub-sequences. *McRO*, 837 F.3d at 1313 (internal citations omitted).

We find insufficient 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 12–14. 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 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* 2019 Revised Guidance, Section III(A)(2). For example, Appellant’s claimed additional elements

⁷ *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1303 (Fed. Cir. 2016).

(e.g., display) does 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* 2019 Revised Guidance, 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 2019 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)).

In *Bascom*⁸, 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

⁸ *Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1314 (Fed. Cir. 2016).

application of that abstract idea.” *Bascom*, 827 F.3d at 1352. 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. In contrast, Appellant’s claim 15 is immediately distinguishable, as it recites an abstract-idea-based solution, that is, documenting a selection of a vehicle’s F&I items to be acquired on financed terms, implemented with generic technical components (computer with display), in a conventional way. (*See generally* Specification). Therefore, we are not persuaded that ordered combinations of steps in claim 15 provide an inventive concept. *See* 2019 Revised Guidance at 56; *see also* Appeal Brief 17–18.

Accordingly, we conclude claims 15–18 are directed to a fundamental economic practice, which is one of certain methods of organizing human activity identified in the 2019 Revised Guidance and thus an abstract idea. Further, the claims do not recite limitations that amount to significantly more than the abstract idea itself. We sustain the Examiner’s 35 U.S.C. § 101 rejection of claims 15–18.

35 U.S.C. § 103 Rejection

Appellant contends that Thibodeau fails to disclose “F&I icons . . . , “an unselected F&I items area . . . ”; “a selected F&I items area . . . ”; “a base price area . . . ”; “a first with-F&I items price area . . . ” and “a second with-F&I items price area ”. Appeal Brief 20. (Emphasis omitted). Appellant’s Specification indicates that, “an F&I menu might include optional items such as extended warranty products, paint and exterior

protection, anti-theft registration, pre-paid maintenance, identity theft protection, tire and wheel protection, door ding protection, etc.”

Specification ¶6.

Thibodeau discloses:

In one embodiment the purchase package may be generated based on the customer’s profile information (e.g., credit status, driving history, preferences, etc.). The purchase package may include data reflecting one or more vehicle related options, such as options related to a physical and/or operational attribute of the vehicle, such as engine size, transmission type, leather seats, etc. The purchase package may also include data reflecting one or more service options for the vehicle, such as prepaid maintenance plans, etc. The purchase package may also include data reflecting one or more part replacement options for the vehicle, such as a plan for covering the cost of certain vehicle parts or fluids. Additionally, the purchase package may include data reflecting one or more available insurance plans for the selected vehicle and customer. Moreover, the purchase package may include data reflecting one or more prepaid fuel plans for the vehicle. The purchase package may include data reflecting the total cost for the purchase package, each selected options included in the package.

Thibodeau ¶ 22 (emphasis added).

We do not find Appellant’s arguments persuasive because it is evident that Thibodeau teaches F&I menu items as recited in claim 15. *See*

Thibodeau ¶22. Appellant further argues, that:

Thibodeau does not disclose *any* user interface at all. *Thibodeau* states that it a customer may interact with its system via a “computer system” that may include a “web browser[.]” However, *Thibodeau* does not disclose what is actually displayed on that computer system, and it certainly does not disclose the above elements required by claim 15.

Appeal Brief 20 (citing Thibodeau ¶25).

Thibodeau discloses a “customer system **103** may include a processor that executes a Web browser software program to allow customer **105** to browse Web sites including content reflecting vehicles offered for sale by a merchant, such as selling merchant **110**.” Thibodeau ¶ 25. Because the consumer interacts with the software program to select desired items via a user interface and therefore we do not find Appellant’s argument persuasive. Thibodeau further discloses “methods and systems consistent with embodiments of the present invention provide purchase packages for a customer to purchase a product, such as a vehicle. The purchase packages include options that may be purchased along with the product and are affiliated with a financial account provided by financial account provider 140.” Thibodeau ¶ 31 (emphasis added); *see* Final Action 12–13.

Appellant further argues that “the ‘unselected F&I items area’ and the ‘selected F&I items area’ have additional functions - they are sources and destinations for the F&I icons, and moving an icon between these areas results invokes the ‘instantly recalculating and displaying step.’” Appeal Brief 22. Again, we do not find Appellant’s argument persuasive because as the consumer selects options, Thibodeau calculates the final cost of the vehicle factoring in the customer’s selected opinions. *See* Final Action 12 (*citing* Thibodeau ¶¶ 4, 11, 22, 31–35 (“if customer **105** is physically present at a selling merchant **110** site, selling merchant **110** may receive the customer’s selections via a local computer system, such as the same computer system used to provide the options to customer **105** (e.g., merchant representative computer system, kiosk, etc.”), 37 and 39); *see also* Thibodeau ¶ 36 (“Selling merchant **110** may determine whether to accept the customized option provided by customer **105**. If so, selling merchant **110**

includes the customized option as one of the selected options received in Step **330** for inclusion in the purchase package.”). We note, “As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

Accordingly, we do not find Appellant’s arguments persuasive because Thibodeau discloses the claimed invention with the exception of **“displaying a signature area; capturing an electronic signature of a customer; and storing an image of the captured signature.”** Final Action 13. The Examiner finds Baxter addresses Thibodeau’s noted deficiency. Final Action 13. We sustain the Examiner’s obviousness rejection of independent claim 15, as well as, dependent claims 16–18 not argued separately. *See* Appeal Brief 30–31.

CONCLUSION

Claims Rejected	35 U.S.C. §	References/Basis	Affirmed	Reversed
15–18		Double Patenting	15–18	
15–18	101	Eligibility	15–18	
15–18	103	Baxter, Thibodeau	15–18	

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).

Appeal 2019-002137
Application 14/334,355

AFFIRMED