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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JONATHAN SCHLER and ITAY OVITS

Appeal 2019-006399
Application 14/168,779
Technology Center 3600

Before ROBERT E. NAPPI, JAMES R. HUGHES, and BETH Z. SHAW,
Administrative Patent Judges.

SHAW, *Administrative Patent Judge.*

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–25. *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 SIZMEK TECHNOLOGIES LTD. Appeal Br. 3. There is also an ASSIGNMENT FOR SECURITY - PATENTS held by CERBERUS BUSINESS FINANCE, LLC, AS COLLATERAL AGENT which was assigned by SIZMEK TECHNOLOGIES, INC., POINT ROLL, INC., and ROCKET FUEL INC. *Id.*

CLAIMED SUBJECT MATTER

The claims are directed to a system and method for advertising verification based on user demographics. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for performing demographic verification of an online advertising campaign, comprising:
 - serving advertisements of the online advertising campaign to users in response to users visiting webpages;
 - generating a demographic profile for each user in a group of the users wherein the demographic profile for each respective one of the users in the group is developed based on webpages known to have been visited by the respective users in the group;
 - analyzing demographic profiles of viewers of the advertisements of the online advertising campaign to determine at least a campaign reach of the online advertising campaign, wherein the viewers of the advertisements of the online advertising campaign are a subset of the users in the group of users;
 - comparing the determined demographic campaign reach to at least one target audience attribute defined in a media plan of the online advertising campaign; and
 - verifying at least a demographic campaign reach based on the comparison.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Rao	US 8,973,023 B1	Mar. 3, 2015
Ketchum	US 8,117,067 B2	Feb. 14, 2012
Hickman	US 8,386,398 B1	Feb. 26, 2013
Sambrani	US 8,612,435 B2	Dec. 17, 2013

REJECTIONS

Claims 1–25 are rejected under 35 U.S.C. § 101. Final Act. 2–8.

Claims 1–9, 12–22, and 25 are rejected under 35 U.S.C. § 103 as obvious over Rao, Ketchum, and Hickman. Final Act. 8.

Claims 10, 11, 23, and 24 are rejected under 35 U.S.C. § 103 as obvious over Rao, Ketchum, Hickman, and Sambrani. Final Act. 16.

OPINION

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

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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 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 (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”).² “All USPTO personnel are, as a matter of 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

² 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).

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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”).³

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.

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

Abstract Idea

For the following reasons, we conclude the claims recite a fundamental economic practice, which is one of certain methods of organizing human activity identified in the Revised Guidance, and thus, an abstract idea. *See* Revised Guidance, 84 Fed. Reg. at 52, 53 (listing

³ 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.

“[c]ertain methods of organizing human activity—fundamental economic principles or practices” as one of the “enumerated groupings of abstract ideas”).

Appellant addresses the claims as a group, and we treat claim 1 as representative. The claim is directed to an abstract idea because it is directed to a fundamental economic practice, which is one of certain methods of organizing human activity, as discussed below. The steps of claim 1, include, with italics:

serving advertisements of the online advertising campaign to users in response to users visiting webpages;

generating a demographic profile for each user in a group of the users wherein the demographic profile for each respective one of the users in the group is developed based on webpages known to have been visited by the respective users in the group;

analyzing demographic profiles of viewers of the advertisements of the online advertising campaign to determine at least a campaign reach of the online advertising campaign, wherein the viewers of the advertisements of the online advertising campaign are a subset of the users in the group of users;

comparing the determined demographic campaign reach to at least one target audience attribute defined in a media plan of the online advertising campaign; and

verifying at least a demographic campaign reach based on the comparison.

Appellant’s claimed invention is directed to verifying a campaign reach of an advertising campaign.

Under Supreme Court precedent, claims directed purely to an abstract idea are patent ineligible. As set forth in the Revised Guidance, which extracts and synthesizes key concepts identified by the courts, abstract ideas include (1) mathematical concepts, (2) certain methods of organizing human activity, and (3) mental processes. Among those certain methods of

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organizing human activity listed in the Revised Guidance are fundamental economic practices, such as the concept of intermediated settlement in *Alice*, and the concept of hedging in *Bilski*. Like those concepts, claim 1 also recites a fundamental economic practice. Specifically, the italicized steps fall under the umbrella of economic practices, because the steps, including at least “serving advertisements” “generating a demographic profile” and “analyzing demographic profiles,” would ordinarily take place in analyzing advertising, which occurs in our system of commerce. *See* Spec. ¶ 2 (“[E]mbodiments of the invention determine a value for an advertisement based on a volume of impressions for that advertisement and corresponding revenue.”).

In *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1369 (Fed. Cir. 2015), an advertisement taking into account the time of day and tailoring the information presented to the user based on that information was considered another “fundamental . . . practice long prevalent in our system.” In *Credit Acceptance Corporation v. Westlake Services*, 859 F.3d 1044 (Fed. Cir. 2017), patent claims directed to a system and method for providing financing to allow a customer to purchase a product selected from an inventory of products maintained by a dealer were considered patent ineligible as directed to the abstract idea of processing an application for financing a purchase, an economic practice long prevalent in commerce. Like the claims at issue in *Intellectual Ventures I* and *Credit Acceptance*, the verifying a campaign reach of an advertising campaign is “a fundamental economic practice long prevalent in our system of commerce.” *Credit Acceptance*, 859 F.3d at 1054. Thus, we conclude claim 1 recites a fundamental economic practice, which is one of certain methods

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of organizing human activity identified in the Revised Guidance, and thus an abstract idea.

In accordance with the Revised Guidance, and looking to MPEP §§ 2106.05(a)–(c) and (e)–(h), we determine that claim 1 does not integrate a judicial exception, in this case the abstract idea of a fundamental economic practice, into a practical application. As the Examiner points out, no physical hardware or technical component is recited as necessary to perform the “analyzing,” “comparing,” and “verifying” steps of claim 1. Ans. 4.

In addition, the users visiting “webpages” mentioned in claim 1 is insignificant extra-solution activity, because it is merely ancillary to the focus of the claimed invention, namely, verifying a campaign reach of an advertising campaign, given the webpages and advertisements have a high level of generality and context in the claimed invention. Where, as here, the recited webpages are merely ancillary to verifying the campaign reach of the claimed invention, given its high level of generality and context in the claimed invention, the recited webpages are insignificant post-solution activity and, therefore, do not integrate the exception into a practical application for this additional reason. *See* 2019 Revised Guidance, 84 Fed. Reg. at 55 (citing MPEP § 2106.05(g)).

This invention is not analogous to that which the court held eligible in *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299 (Fed. Cir. 2016) despite Appellant’s arguments to the contrary (Appeal Br. 16). There, the claimed process used a combined order of specific rules that rendered information in a specific format that was applied to create a sequence of synchronized, animated characters. *McRO*, 837 F.3d at 1315. Notably, the recited process for automatically animated characters using particular information and techniques—an improvement over manual three-

dimensional animation techniques—was not directed to an abstract idea. *Id.* at 1316.

But unlike the claimed invention in *McRO* that improved how the physical display operated to produce better quality images, the claimed invention here merely verifies a campaign reach of an advertising campaign. This invention is not only directed to a fundamental economic practice, but also does not improve a display mechanism as was the case in *McRO*. See *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1167 (Fed. Cir. 2018) (distinguishing *McRO*).

Accordingly, the claim as a whole does not integrate the abstract idea into a practical application because the claim limitations do not impose any meaningful limits on practicing the abstract idea. Stated differently, the claims do not (1) improve the functioning of a computer or other technology, (2) are not applied with any particular machine (except for generic computer components), (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).

Inventive Concept

Because we determine that claim 1 is “directed to” an abstract idea, we next consider whether claim 1 recites an “inventive concept.” The Examiner determined that claim 1 does not recite an inventive concept because the additional elements in the claim do not amount to “significantly more” than an abstract idea. See Ans. 7.

We agree with the Examiner’s determination in this regard. Ans. 7. Using generic computer components to perform abstract ideas does not provide the necessary inventive concept. *See Alice*, 573 U.S. at 223 (“[T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.”). Thus, the elements of claim 1 do not amount to “significantly more” than the abstract idea itself.

Preemption is a driving concern when determining patent eligibility. *See Alice*, 573 U.S. at 216–17. Patent law cannot inhibit further discovery by improperly tying up the future use of the building blocks of human ingenuity. *See id.* (citing *Mayo*, 566 U.S. at 85–86). Although preemption is characterized as a driving concern for patent eligibility, preemption itself is not the test for patent eligibility. “Where 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). “While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Id.*

To the extent Appellant contends that the recited limitations, including those detailed above in connection with *Alice* step one, add significantly more than the abstract idea to provide an inventive concept under *Alice/Mayo* step two (*see* Appeal Br. 14), these limitations are not *additional* elements *beyond* the abstract idea, but rather are directed to the abstract idea as noted previously. *See* Revised Guidance, 84 Fed. Reg. at 56 (instructing that *additional* recited elements should be evaluated in *Alice/Mayo* step two to determine whether they (1) *add* specific limitations that are not well-understood, routine, and conventional in the field, or (2) simply *append*

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well-understood, routine, and conventional activities previously known to the industry (citing MPEP § 2106.05(d)). These elements form part of the recited abstract ideas and thus are not “additional elements” that “‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 78); *see also* Revised Guidance, 84 Fed. Reg. at 55 n.24 (“USPTO guidance uses the term ‘additional elements’ to refer to claim features, limitations, and/or steps that are recited in the claim *beyond the identified judicial exception.*” (Emphasis added)).

To the extent Appellant contends that the claimed invention is rooted in technology because it is ostensibly directed to a technical solution (*see* Appeal Br. 11), we disagree. Even assuming, without deciding, that the claimed invention can verify a campaign reach of an advertising campaign faster than before, any speed increase comes from the capabilities of the generic computer components—not the recited process itself. *See FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1095 (Fed. Cir. 2016) (citing *Bancorp Servs., L.L.C. v. Sun Life Assurance Co. of Can. (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012) (“[T]he fact that the required calculations could be performed more efficiently via a computer does not materially alter the patent eligibility of the claimed subject matter.”)); *see also Intellectual Ventures I LLC v. Erie Indemnity Co.*, 711 F. App’x 1012, 1017 (Fed. Cir. 2017) (unpublished) (“Though the claims purport to accelerate the process of finding errant files and to reduce error, we have held that speed and accuracy increases stemming from the ordinary capabilities of a general-purpose computer ‘do[] not materially alter the patent eligibility of the claimed subject matter.’”). Like the claims in *FairWarning*, the focus of claim 1 is not on an improvement in computer processors as tools, but on certain independently abstract ideas that use

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generic computing components as tools. *See FairWarning*, 839 F.3d at 1095 (citations and quotation marks omitted).

Accordingly, we sustain the Examiner's rejection of the pending claims under 35 U.S.C. § 101 as directed to patent-ineligible subject matter.

Section 103 Rejections

Appellant argues that Rao fails to teach “generating a demographic profile for each user in a group of the users wherein the demographic profile for each respective one of the users in the group is developed based on webpages known to have been visited by the respective users in the group,” as recited in claim 1. Appeal Br. 17, 18. In particular, Appellant argues the cited portion of Rao only appears to show parameters and does not explain how the information in the parameters is used. Appeal Br. 18.

As the Examiner explains, however, and we agree, Rao teaches generating a demographic profile for each user in a group of users because Rao teaches maintaining an online panel database to store panel member information such as demographics and preferences of users exposed to online media. Ans. 9 (citing Rao, 3:59–4:15). Rao describes that the “online media” includes “web pages.” *Id.* Moreover, Rao describes that “online measurement entity 116 uses Internet usage activity data collected by the PC meters in the Internet access devices 106 [of audience members] to log impressions against different online media to which the on line audience members 110c were exposed.” *Id.* Appellant does not respond to these findings, and consequently, we are not persuaded of error.

Although Appellant argues that Rao's demographic information is obtained prior to any ads being presented, this argument is not supported by

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the record. Moreover, claim 1 does not preclude collecting demographic information prior to ads being presented.

Appellant also argues that Rao fails to teach or suggest “analyzing demographic profiles of viewers of the advertisements of the online advertising campaign to determine at least a campaign reach of the online advertising campaign,” as recited in claim 1. Appeal Br. 19. Appellant argues Rao teaches “to measure tracked ad impressions for known users in order to determine reach.” *Id.* Rao, Appellant argues, “determines the reach based on tracking ad impression for known users, and then tying the determined reach to audience demographic information to measure demographic coverage achieved by an ad campaign.” *Id.* This is the “opposite” of what Appellant’s claim “requires, which is actually determin[ing] the campaign reach based on analysis of the demographic profiles of viewers.” *Id.*

As the Examiner explains, however, the claims do not preclude Rao’s teachings of using audience member demographics. Ans. 10. The Examiner explains that one must know the demographics of the users reached to express the quantity of reach in regard to a particular demographic group. *Id.* Rao teaches “reach” as “a measure indicative of unique audience.” *Id.* (citing Rao 2:56–58). Rao also teaches a method to calculate reach, based on a particular universe, or demographic, of a subset of audience members, such as those in the United States population. *Id.* at 11 (citing Rao (32:55–34:24)).

Appellant also argues that the cited references fail to teach or suggest “comparing the determined demographic campaign reach to at least one target audience attribute defined in a media plan of the online advertising campaign,” as recited in claim 1. Appeal Br. 19, 20. Yet, as the Examiner finds, Ketchum teaches using a “target audience” that can include certain

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demographics. Ans. 12 (citing Ketchum, 3:60–4:25). Hickman teaches measuring and monitoring the progress of a campaign goal and determining if a goal has been achieved. *Id.* (citing Hickman, 11:P10–12:57). We agree with the Examiner that these portions of Ketchum and Hickman therefore teach “comparing the determined demographic campaign reach to at least one target audience attribute defined in a media plan of the online advertising campaign,” as recited in claim 1.

Additionally, Appellant argues the Examiner erred by using impermissible hindsight to combine the references. Appeal Br. 21–23.

Any judgment on obviousness is . . . necessarily a reconstruction based on hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper.

In re McLaughlin, 443 F.2d 1392, 1395 (CCPA 1971). *See also Radix Corp. v. Samuels*, 13 USPQ2d 1689, 1693 (D.D.C. 1989) (“[A]ny obviousness inquiry necessarily involves some hindsight.”). Here, the Examiner’s reasons for combining teachings from Rao, Ketchum, and Hickman, are based on the teachings of Rao, Ketchum, and Hickman. These reasons do not include knowledge gleaned only from Appellant’s disclosure. Accordingly, we are not persuaded that one having ordinary skill in the art would not have been motivated to combine the references.

Appellant also argues the Examiner provides insufficient rationale to combine the references. Appeal Br. 23. Upon reviewing the record before us, we find that the Examiner’s suggestion for the proposed modification in the prior art suffices as an articulated reason with some rational underpinning to establish a *prima facie* case of obviousness. *See KSR Int’l Co. v. Teleflex*

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Inc., 550 U.S. 398, 418 (2007). In summary, we find that an ordinarily skilled artisan at the time of the claimed invention would have combined Rao’s teaching of determining a demographic campaign with the advertising techniques of Hickman and Ketchum, because it allows advertisers to stipulate campaign goals corresponding to Rao’s calculated demographic campaign reach and verify such goals, based on Hickman. Ans. 13.

Moreover, such a combination is an obvious predictable variation of known elements. “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR*, 550 U.S. at 416. “If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.” *Id.* at 417. As the Examiner explains, Rao teaches that advertisers are interested in knowing consumer exposure (i.e. reach) to better market their products and calculates reach based on demographics. Ans. 13. Ketchum explicitly teaches that reach can be a targeted goal. Hickman teaches measuring and monitoring progress of campaign goals, and determining if a qualitative campaign goal has been achieved. *Id.* The ordinarily-skilled artisan, being “a person of ordinary creativity, not an automaton,” would be able to fit the teachings of Rao, Hickman, and Ketchum together like pieces of a puzzle to predictably result in the claimed demographic verification of an online advertising campaign. For these reasons, and because Appellant has not demonstrated that the Examiner’s proffered combination would have been “uniquely challenging or difficult for one of ordinary skill in the art,” we agree with the Examiner that the proposed modification would have been within the purview of the ordinarily skilled artisan. *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418).

Accordingly, we sustain the rejection of claim 1 under §103.

Dependent Claims 3 and 16

Appellant also argues the cited references fail to teach “wherein the campaign data includes at least URLs previously visited by the user,” as recited in dependent claims 3 and 16. Appeal Br. 24. In particular, Appellant argues Rao teaches that the demographic information for the users “must be” obtained “prior to any ads being presented,” so its demographic profile for the user is not based on URLs. *See id.* We are not persuaded by this attorney argument because this argument is not supported by the record. Rather, Rao teaches that “online measurement entity 116 uses Internet usage activity data collected by the PC meters in the Internet access devices 106 [of audience members] to log impressions against different online media to which the on line audience members 110c were exposed.” Rao, 3:59–4:15.

Accordingly, we sustain the rejection of dependent claims 3 and 16 under §103.

We also sustain the Examiner’s obviousness rejections of the remaining pending claims under §103. Despite nominally arguing these claims separately, Appellant reiterates similar arguments made in connection with claim 1, and alleges that the additional cited prior art fails to cure those purported deficiencies. Appeal Br. 23–25. We are not persuaded by these arguments for the reasons previously discussed.

CONCLUSION

The Examiner’s rejections are affirmed.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–25	101		1–25	
1–9, 12–22, 25	103	Rao, Ketchum, and Hickman	1–9, 12–22, 25	
10, 11, 23, 24	103	Rao, Ketchum, Hickman, and Sambrani	10, 11, 23, 24	
Overall Outcome:			1–25	

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