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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HELMUT MONZ-SCHNEIDER and CHRISTOPH EDER

Appeal 2020-000137
Application 14/956,561
Technology Center 3600

Before LARRY J. HUME, CATHERINE SHIANG, and
CARL L. SILVERMAN, *Administrative Patent Judges*.

HUME, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner’s decision rejecting claims 21–40, which are all claims pending in the application. Appellant has canceled claims 1–20. *See generally* Br. 39 *et seq.* 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 the real party in interest as Unify GmbH & Co. KG. Br. 1.

STATEMENT OF THE CASE²

The claims are directed to a method and apparatus for foreign trade and export control. *See* Spec. (Title). In particular, Appellant’s disclosed embodiments and claimed invention “relate[] to methods, devices and systems utilized for ensuring parties are compliant with foreign trade and export control regulations.” Spec. 1, ll. 3–4.

Exemplary Claims

Claim 21, reproduced below, is representative of the subject matter on appeal (*emphases* added to contested prior-art limitations):

21. A method of providing export control comprising:

providing input for an order to a computer device having non-transitory memory and a processor connected to the memory, the order comprising a sale or potential sale of at least one of goods and services;

the computer device identifying all receiver countries associated with the order to account for an entire supply chain associated with the order, the receiver countries comprising intermediate receiving countries and final destination countries for the order;

the computer device determining whether at least one of a customer, location for receipt of goods, and location for receipt of services is associated with an embargo state based on the identified receiver countries;

² Our decision relies upon Appellant’s Appeal Brief (“Br.,” filed Apr. 24, 2019); Examiner’s Answer (“Ans.,” mailed July 1, 2019); Final Office Action (“Final Act.,” mailed September 27, 2018); and the original Specification (“Spec.,” filed December 2, 2015) (claiming benefit of US, 12/893,061 filed Sept. 29, 2010, now abandoned.). Appellant did not file a Reply Brief in response to the factual findings and legal conclusions in the Examiner’s Answer.

the computer device blocking a first portion of the order determined to be associated with an embargo state by removing that first portion of the order associated with the embargo state;

the computer device determining whether the at least one of goods and services requires at least one export license or other permission for exporting the at least one of goods and services;

the computer device automatically assigning permissions or export licenses that are available;

the computer device communicating or identifying any permission or export license that is needed to be requested to initiate a permission or export license request for that export license or permission; and

[a] the computer device blocking a second portion of the order upon a determination that all necessary permissions and necessary export licenses are not assigned to the second portion of the order;

[b] wherein the blocking of the second portion of the order upon the determination that all necessary permissions and necessary export licenses are not assigned to the second portion of the order comprises deleting or voiding the second portion of the order that does not have all necessary permissions and necessary export licenses and

[c] communicating information identifying all necessary permissions and necessary export licenses needed for the blocked second portion of the order based on results from a root cause analysis of the order for communicating the information to a user via at least one of a display device and a printer.

Prior Art

The Examiner relies upon the following prior art as evidence in rejecting the claims on appeal:

Name	Reference	Date
Le et al. (“Le”)	US 2003/0069831 A1	Apr. 10, 2003
Chagoly et al. (“Chagoly”)	US 2005/0251371 A1	Nov. 10, 2005
Ourega	US 2008/0162304 A1	July 3, 2008
Taylor et al. (“Taylor”)	US 2008/0294536 A1	Nov. 27, 2008
Chaisson, K., “ <i>US Transforming Export-Control Policy</i> ,” <i>Journal of Electronic Defense</i> , Gainesville, June 23, 2000, 6, pp. 33–34 (hereinafter “Chaisson”).		

Rejections on Appeal

R1. Claims 21–40 stand rejected under 35 U.S.C. § 101 as being directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or abstract idea) without significantly more. Ans. 3.

R2. Claims 21, 25–27, and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Taylor, Le, Ourega, and Chagoly. Final Act. 23.

R3. Claims 22–24 and 38–40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Taylor, Le, Ourega, Chagoly, and Chaisson. Final Act. 27.

R4. Claims 28–36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Taylor, Le, Chaisson, Ourega, and Chagoly. Final Act. 29.

CLAIM GROUPING

Based on Appellant's arguments (Br. 12–37) and our discretion under 37 C.F.R. § 41.37(c)(1)(iv), we decide the appeal of patent-ineligible subject matter Rejection R1 of claims 21–40 on the basis of representative claim 21; and we decide the appeal of obviousness Rejection R2 of claims 21, 25–27, and 37 on the basis of representative claim 21. Remaining claims 22–24, 28–36, and 38–40 in Rejections R3 and R4, not argued separately or substantively, are addressed *infra*.³

ISSUES AND ANALYSIS

In reaching this decision, we consider all evidence presented and all arguments actually made by Appellant. To the extent Appellant has not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. 37 C.F.R. § 41.37(c)(1)(iv).

We disagree with Appellant's arguments with respect to claims 21–40 and, unless otherwise noted, we incorporate by reference herein and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action

³ Appellant's arguments concerning independent claims 28 and 32 in obviousness Rejection R4 are essentially the same as for independent claim 21 in Rejection R2. We further note Appellant's arguments appear to group claims together without regard to the specific rejections that have been applied. *See* Br. 22 (grouping claims 21–27, Rejections R2 and R3), 36 (grouping claims 37–40, Rejections R2 and R3). “Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.” 37 C.F.R. § 41.37(c)(1)(iv). In addition, when Appellant does not separately argue the patentability of dependent claims, the claims stand or fall with the claims from which they depend. *In re King*, 801 F.2d 1324, 1325 (Fed. Cir. 1986).

from which this appeal is taken, and (2) the reasons and rebuttals set forth in the Examiner's Answer in response to Appellant's arguments. We highlight and address specific findings and arguments regarding claims 21 and 28 for emphasis as follows.

1. § 101 Rejection R1 of Claims 21–40

Issue 1

Appellant argues (Br. 13–22) the Examiner's rejection of claim 21 under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter is in error. These contentions present us with the following issue:

Under the USPTO's Revised Guidance, informed by our governing case law concerning 35 U.S.C. § 101, is claim 1 patent-ineligible under § 101?

Principles of Law

A. 35 U.S.C. § 101

An invention is patent-eligible if it is a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101.⁴ However, the 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. *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 70 (2012) (brackets in original) (citing *Diamond v. Diehr*, 450 U.S. 175, 185 (1981)).

⁴ This threshold analysis of whether a claim is directed to one of the four statutory categories of invention, i.e., a process, machine, manufacture, or composition of matter, is referred to as “*Step 1*” in the USPTO's patent-eligibility analysis under § 101. MPEP § 2106.

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 217–18 (2014) (citing *Mayo*, 566 U.S. at 75–77). 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” (*Diehr*, 450 U.S. at 191); “tanning, dyeing, making water-proof 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 Supreme Court held “[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 Supreme 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.”).

Abstract ideas may include, but are not limited to, fundamental economic practices, methods of organizing human activities, and mathematical formulas or relationships. *Alice*, 573 U.S. at 217–21. Under this guidance, we must therefore ensure at step one that we articulate what the claims are directed to with enough specificity to ensure the step one inquiry is meaningful. *Id.* at 217 (“[W]e tread carefully in construing this exclusionary principle lest it swallow all of patent law.”).

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). “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 Revised Guidance

The PTO published revised guidance in the Federal Register concerning the application of § 101. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (January 7, 2019) (hereinafter “Revised Guidance”) (<https://www.govinfo.gov/content/pkg/FR-2019-01-07/pdf/2018-28282.pdf>). 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 (*October 2019 Update: Subject Matter Eligibility*).

Under the Revised 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);⁵ 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)).⁶

See Revised Guidance 52–53.

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:

⁵ Referred to as “*Revised Step 2A, Prong 1*” in the Revised Guidance (hereinafter “*Step 2A(i)*”).

⁶ Referred to as “*Revised Step 2A, Prong 2*” in the Revised Guidance (hereinafter “*Step 2A(ii)*”).

(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.⁷

See Revised Guidance 56.

Step 2A(i) – Abstract Idea

Informed by our judicial precedent, the Revised Guidance extracts and synthesizes key concepts identified by the courts as abstract ideas to explain that the abstract idea exception includes the following groupings of subject matter, when recited as such in a claim limitation:

(a) Mathematical concepts—mathematical relationships, mathematical formulas or equations, mathematical calculations;

(b) Certain methods of organizing human activity — fundamental economic principles or practices (including hedging, insurance, mitigating risk); commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations); managing personal behavior or relationships or interactions between people (including social activities, teaching, and following rules or instructions); and

(c) Mental processes—concepts performed in the human mind (including an observation, evaluation, judgment, opinion).

Revised Guidance 52 (footnotes omitted).

Under the Revised Guidance, if the claim does not recite a judicial exception (a law of nature, natural phenomenon, or subject matter within the

⁷ Items (3) and (4) continue to be collectively referred to as “*Step 2B*” of the Supreme Court’s two-step framework, described in *Mayo* and *Alice*.

enumerated groupings of abstract ideas above), then the claim is patent-eligible at *Step 2A(i)*. This determination concludes the eligibility analysis, except in situations identified in the Revised Guidance.⁸

However, if the claim recites a judicial exception (i.e., an abstract idea enumerated above, a law of nature, or a natural phenomenon), the claim requires further analysis for a practical application of the judicial exception in *Step 2A(ii)*.

Step 2A(ii) – Practical Application

If a claim recites a judicial exception in *Step 2A(i)*, we determine whether the recited judicial exception is integrated into a practical application of that exception in *Step 2A(ii)* 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.

The seven identified “practical application” sections of the MPEP,⁹ cited in the Revised Guidance under *Step 2A(ii)*, are:

⁸ In the rare circumstance in which an examiner believes a claim limitation that does not fall within the enumerated groupings of abstract ideas should nonetheless be treated as reciting an abstract idea, the procedure described in of the Guidance for analyzing the claim should be followed. *See* Revised Guidance, Section III.C.

⁹ *See* MPEP §§ 2106.05(a)–(c), (e)–(h). Citations to the MPEP herein refer to revision [R-08.2017]. Sections 2106.05(a), (b), (c), and (e) are indicative of integration into a practical application, while §§ 2106.05(f), (g), and (h) relate to limitations that are not indicative of integration into a practical application.

- (1) MPEP § 2106.05(a) Improvements to the Functioning of a Computer or To Any Other Technology or Technical Field
- (2) MPEP § 2106.05(b) Particular Machine
- (3) MPEP § 2106.05(c) Particular Transformation
- (4) MPEP § 2106.05(e) Other Meaningful Limitations
- (5) MPEP § 2106.05(f) Mere Instructions To Apply An Exception
- (6) MPEP § 2106.05(g) Insignificant Extra-Solution Activity
- (7) MPEP § 2106.05(h) Field of Use and Technological Environment

See Revised Guidance 55.

If the recited judicial exception is integrated into a practical application as determined under one or more of the MPEP sections cited above, then the claim is not directed to the judicial exception, and the patent-eligibility inquiry ends. *See Revised Guidance 54.* If not, then analysis proceeds to *Step 2B*.

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

Under our reviewing courts’ precedent, it is possible that a claim that does not “integrate” a recited judicial exception under *Step 2A(ii)* is nonetheless patent eligible. For example, the claim may recite additional elements that render the claim patent eligible even though one or more claim elements may recite a judicial exception.¹⁰ The Federal Circuit has held claims eligible at the second step of the *Alice/Mayo* test (USPTO *Step 2B*) because the additional elements recited in the claims provided “significantly more” than the recited judicial exception (e.g., because the additional

¹⁰ *See, e.g., Diehr*, 450 U.S. at 187.

elements were unconventional in combination).¹¹ Therefore, if a claim has been determined to be directed to a judicial exception under *Revised Step 2A*, we must also evaluate the additional elements individually and in combination under *Step 2B* to determine whether they provide an inventive concept (i.e., whether the additional elements amount to significantly more than the exception itself).¹²

Under the Revised Guidance, we must consider in *Step 2B* whether an additional element or combination of elements: (1) “Adds a specific limitation or combination of limitations that are not well-understood, routine, conventional activity in the field, which is indicative that an inventive concept may be present;” or (2) “simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception, which is indicative that an inventive concept may not be present.” See Revised Guidance, Section III.B.¹³

¹¹ See, e.g., *Amdocs, Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1300, 1304 (Fed. Cir. 2016); *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349–52 (Fed. Cir. 2016); *DDR Holdings v. Hotels.com, L.P.*, 773 F.3d 1245, 1257–59 (Fed. Cir. 2014).

¹² The patent eligibility inquiry may contain underlying issues of fact. *Mortg. Grader, Inc. v. First Choice Loan Servs. Inc.*, 811 F.3d 1314, 1325 (Fed. Cir. 2016). In particular, “[t]he question of whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field is a question of fact.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018).

¹³ In accordance with existing *Step 2B* guidance, an Examiner’s finding that an additional element (or combination of elements) is well understood, routine, conventional activity must be supported with at least one of the four specific types of evidence required by the USPTO *Berkheimer* Memorandum, as shown, *infra*. For more information concerning evaluation

In the *Step 2B* analysis, an additional element (or combination of elements) is not well-understood, routine or conventional unless the examiner finds an evidentiary basis, and expressly supports a rejection in writing with, one or more of the following:

1. A citation to an express statement in the specification or to a statement made by an applicant during prosecution that demonstrates the well-understood, routine, conventional nature of the additional element(s). . . .
2. A citation to one or more of the court decisions discussed in MPEP § 2106.05(d)(II) as noting the well-understood, routine, conventional nature of the additional element(s).
3. A citation to a publication that demonstrates the well-understood, routine, conventional nature of the additional element(s). . . .
4. A statement that the examiner is taking official notice of the well-understood, routine, conventional nature of the additional element(s). . . .

See Berkheimer Memo 3–4.

If the Examiner or the Board determines under *Step 2B* that the element (or combination of elements) amounts to significantly more than the exception itself, the claim is eligible, thereby concluding the eligibility analysis.

of well-understood, routine, conventional activity, *see* MPEP § 2106.05(d), as modified by the USPTO *Berkheimer* Memorandum (USPTO Commissioner for Patents Memorandum dated Apr. 19, 2018, “Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*)” (hereinafter “*Berkheimer Memo*”).

However, if a determination is made that the element and combination of elements do not amount to significantly more than the exception itself, the claim is ineligible under *Step 2B*, and the claim should be rejected for lack of subject matter eligibility.

Analysis

Step 1 – Statutory Category

Claim 1, as a method (process) claim, recites one of the enumerated categories of eligible subject matter in 35 U.S.C. § 101. Therefore, the issue before us is whether it is directed to a judicial exception without significantly more.

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

The Examiner determined that claim 21 is directed to “the abstract-idea category of ‘Certain methods of organizing human activity’ . . . [including] commercial or legal interactions . . . [and/or] managing personal behavior or relationships or interactions between people.” Ans. 4.

We conclude claim 21 does not recite the judicial exceptions of either natural phenomena or laws of nature. We evaluate, *de novo*, whether claim 1 recites an abstract idea based upon the Revised Guidance.

First, we look to the Specification to provide context as to what the claimed invention is directed to. In this case, the Specification discloses that the invention “relates to methods, devices and systems utilized for ensuring parties are compliant with foreign trade and export control regulations. Such systems and methods may be utilized in applications that are stored in memory and run by one or more processors or microcontrollers of electronic

devices such as desktop computers, workstations, or other computer devices or a networked computer device that has access to databases and other data structures stored or maintained on other devices via at least one network connection and/or at least one direct connection.” Spec. 1, ll. 39 (“Field of the Invention”).

Appellant’s Abstract describes the invention:

A method and apparatus for export control includes providing input for an invoice to a computer device. The invoice is for a sale or potential sale of at least one of goods and services. A computer device determines whether at least one of a customer, location for receipt of goods, and location for receipt of services is associated with an embargo state. The computer device blocks any portion of the invoice determined to be associated with an embargo state. The computer device determines if the at least one of goods and services requires at least one export license or other permission for exporting the at least one of goods and services. The computer device assigns permissions that are available. The computer device also communicates or identifies any permission or export license that is needed to be requested to initiate a permission or export license request for that export license or permission.

Spec. 27 (Abstract).

In TABLE I below, we identify in *italics* the specific claim limitations in claim 1 that we conclude recite an abstract idea. We additionally identify in **bold** the additional (non-abstract) claim limitations that are generic computer components and techniques, and underline limitations representing extra or post-solution activity:

TABLE I

Independent Claim 21	Revised Guidance
A method of providing export control comprising:	A process (method) is a statutory subject matter class. <i>See</i> 35 U.S.C. § 101.
<p>[L1] <u>providing input for an order to</u></p> <p>[L2] a computer device having non-transitory memory and a processor connected to the memory, the order comprising a sale or potential sale of at least one of goods and services;</p>	<p>Receiving information, i.e., data gathering or “providing input for an order,” is merely insignificant extra-solution activity that does not add significantly more to the abstract idea to render the claimed invention patent-eligible. Revised Guidance 55, n.31; <i>see In re Bilski</i>, 545 F.3d 943, 962 (Fed. Cir. 2008) (<i>en banc</i>), <i>aff’d on other grounds</i>, 561 U.S. 593 (2010) (“[T]he involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity”).</p> <p>A memory and processor are generic computer components.</p>
<p>the computer device</p> <p>[L3] <i>identifying all receiver countries associated with the order to account for an entire supply chain associated with the order,</i> the receiver countries comprising intermediate receiving countries and final</p>	<p>“[I]dentifying” information such as “all receiver countries associated with the order” is an abstract idea, i.e., an observation, evaluation, judgment, opinion” which could be performed as a mental process. <i>See</i> Revised Guidance 52.</p>

Independent Claim 21	Revised Guidance
destination countries for the order;	
the computer device [L4] <i>determining whether at least one of a customer, location for receipt of goods, and location for receipt of services is associated with an embargo state based on the identified receiver countries;</i>	“[D]etermining” information, as claimed, is an abstract idea, i.e., an observation, evaluation, judgment, opinion” which could be performed as a mental process. <i>See Revised Guidance 52.</i>
the computer device [L5] <i>blocking a first portion of the order determined to be associated with an embargo state by removing that first portion of the order associated with the embargo state;</i>	“[B]locking a first portion of the order” by “removing” that first portion from the order is an abstract idea, i.e., a certain method of organizing human activity in the form of commercial or legal interactions to carry out a legal obligation. <i>See Revised Guidance 52.</i>
the computer device [L6] <i>determining whether the at least one of goods and services requires at least one export license or other permission for exporting the at least one of goods and services;</i>	“[D]etermining” information such as whether an export license or other permission is required is an abstract idea, i.e., an observation, evaluation, judgment, opinion” which could be performed as a mental process. <i>See Revised Guidance 52.</i>
the computer device automatically [L7] <i>assigning permissions or export licenses that are available;</i>	“[A]ssigning” permissions or export licenses is an abstract idea, i.e., a certain method of organizing human activity in the form of commercial or legal interactions to carry out a legal obligation. <i>See Revised Guidance 52.</i>

Independent Claim 21	Revised Guidance
<p>the computer device</p> <p>[L8] <u>communicating or identifying any permission or export license that is needed to be requested</u> to initiate a permission or export license request for that export license or permission; and</p>	<p>Transmitting or communicating information is insignificant extra-solution activity. Revised Guidance 55, n.31; <i>see buySAFE, Inc. v. Google, Inc.</i>, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (computer receives and sends information over a network).</p>
<p>the computer device</p> <p>[L9] <i>blocking a second portion of the order upon a determination that all necessary permissions and necessary export licenses are not assigned to the second portion of the order;</i></p>	<p>“[B]locking a . . . portion of the order” is an abstract idea, i.e., a certain method of organizing human activity in the form of commercial or legal interactions to carry out a legal obligation. <i>See</i> Revised Guidance 52.</p>
<p>wherein the blocking of the second portion of the order upon the determination that all necessary permissions and necessary export licenses are not assigned to the second portion of the order comprises</p> <p>[L10] <i>deleting or voiding the second portion of the order that does not have all necessary permissions and necessary export licenses and</i></p>	<p>“[D]eleting or voiding the . . . portion of the order” is an abstract idea, i.e., a certain method of organizing human activity in the form of commercial or legal interactions to carry out a legal obligation. <i>See</i> Revised Guidance 52.</p>
<p>[L11] <u>communicating information identifying all necessary permissions and necessary export licenses needed for the blocked second portion of the order based on</u></p>	<p>Transmitting information for display is insignificant extra-solution activity. <i>See</i> Revised Guidance 55, n.31.</p>

Independent Claim 21	Revised Guidance
<u>results from a root cause analysis of the order for communicating the information to a user</u> [L12] via at least one of a display device and a printer.	A display and printer are generic computer components.

Br. 39–40 (Claims App.).

Under the broadest reasonable interpretation standard,¹⁴ we conclude limitations L1 through L12, overall, under their broadest reasonable interpretation, recite steps that would be used to carry out certain methods of organizing human activity, including commercial or legal interactions because the limitations recite operations that would ordinarily take place when monitoring or providing export controls, whether initiated in the mind, person-to-person, on paper, or using a computer.

We determine that claim 1, overall, recites a certain method of organizing human activity in the form of commercial or legal interactions that may also be performed by pen and paper or in the mind. This type of activity, i.e., provision of export control, as recited in limitations L1 through

¹⁴ During prosecution, claims must be given their broadest reasonable interpretation when reading claim language in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Under this standard, we interpret claim terms using “the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant’s specification.” *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

L12, for example, and aside from any computer-related aspects, includes longstanding conduct that existed well before the advent of computers and the Internet, and could be carried out by a human with pen and paper. *See CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1375 (Fed. Cir. 2011) (“That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*.”).¹⁵

Thus, under *Step 2A(i)*, we agree with the Examiner that claim 21’s “method of providing export control” recites a judicial exception. We conclude claim 21, under our Revised Guidance, recites a judicial exception of a certain method of organizing human activity in the form of commercial or legal interactions, i.e., managing or providing export control, and thus recites an abstract idea.

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

If the claims recite a judicial exception, as we conclude above, we proceed to the “practical application” *Step 2A(ii)* in which we determine

¹⁵ Our reviewing court recognizes that “[a]n abstract idea can generally be described at different levels of abstraction.” *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1240 (Fed. Cir. 2016). That need not and, in this case does not, “impact the patentability analysis.” *Id.* at 1241. Further, “[t]he Board’s slight revision of its abstract idea analysis does not impact the patentability analysis.” *Id.* Moreover, merely combining several abstract ideas does not render the combination any less abstract. *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) (“Adding one abstract idea (math) to another abstract idea . . . does not render the claim non-abstract.”); *see also FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016) (determining the pending claims were directed to a combination of abstract ideas).

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.

As to the specific limitations, we find limitation L1 recites insignificant data gathering. *See* MPEP § 2106.05(g). Data gathering, as performed by the step or function in Appellant’s claims, is a classic example of insignificant extra-solution activity. *See, e.g., In re Bilski*, 545 F.3d 943, 963 (Fed. Cir. 2008) (en banc), *aff’d sub nom, Bilski v. Kappos*, 561 U.S. 593 (2010). We also find “communicating” limitations L8 and L11 recite insignificant postsolution activity.¹⁶ The Supreme Court guides that the “prohibition against patenting abstract ideas ‘cannot be circumvented by’ . . . adding ‘insignificant postsolution activity.’” *Bilski*, 561 U.S. at 610–11 (quoting *Diehr*, 450 U.S. at 191–92). On this record, we are of the view that Appellant’s claims do not operate the recited generic computer components (limitations L2 and L12) in an unconventional manner to achieve an improvement in computer functionality. *See* MPEP § 2106.05(a). Furthermore, we conclude limitations L3 through L7, L9, and L10 recite various types of abstract ideas, as identified in *Step 2A(i), supra*.

We find none of the limitations integrate the judicial exception of providing export control into a practical application as determined under one or more of the MPEP sections cited above, and discussed below. The claim

¹⁶ We also note the “determining” steps L4 and L6 can be carried out by a human in the mind or by use of pen and paper. *See CyberSource*, 654 F.3d at 1375.

as a whole merely uses instructions to implement the abstract idea on a computer or, alternatively, merely uses a computer as a tool to perform the abstract idea.

Under analogous circumstances, the Federal Circuit has held that “[t]his is a quintessential ‘do it on a computer’ patent: it acknowledges that [such] data . . . was previously collected, analyzed, manipulated, and displayed manually, and it simply proposes doing so with a computer. We have held such claims are directed to abstract ideas.” *Univ. of Fla. Research Found., Inc. v. Gen. Elec. Co.*, 916 F.3d 1363, 1367 (Fed. Cir. 2019); *see also Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1351 (Fed. Cir. 2016) (“Though lengthy and numerous, the claims do not go beyond requiring the collection, analysis, and display of available information in a particular field, stating those functions in general terms, without limiting them to technical means for performing the functions that are arguably an advance over conventional computer and network technology.”).

Therefore, the claim as a whole merely uses instructions to implement the abstract idea on a computer or, alternatively, merely uses a computer as a tool to perform the abstract idea. Thus, on this record, Appellant has not shown an improvement or practical application under the guidance of MPEP section 2106.05(a) (“Improvements to the Functioning of a Computer or to Any Other Technology or Technical Field”) or section 2106.05(e) (“Other Meaningful Limitations”). Nor does Appellant advance any arguments in the Brief(s) that are directed to the *Bilski* machine-or-transformation test, which would only be applicable to the method (process) claims on appeal. *See* MPEP §§ 2106.05(b) (Particular Machine) and 2106.05(c) (Particular Transformation).

Therefore, we conclude the abstract idea is not integrated into a practical application, and thus the claim is directed to the judicial exception.

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

If the claims are directed to a judicial exception, and not integrated into a practical application, 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*, 838 F.3d at 1258.

In applying step two of the *Alice* analysis, our reviewing court guides we must “determine whether the claims do significantly more than simply describe [the] abstract method” and thus transform the abstract idea into patentable subject matter. *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014). 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.

Limitations referenced in *Alice* that are not enough to qualify as “significantly more” when recited in a claim with an abstract idea include, as non-limiting or non-exclusive examples: adding the words “apply it” (or an equivalent) with an abstract idea¹⁷; mere instructions to implement an

¹⁷ *Alice*, 573 U.S. at 221–23.

abstract idea on a computer¹⁸; or requiring no more than a generic computer to perform generic computer functions that are well-understood, routine and conventional activities previously known to the industry.¹⁹

Evaluating representative claim 21 under step 2 of the *Alice* analysis, we conclude it lacks an inventive concept that transforms the abstract idea of providing export control into a patent-eligible application of that abstract idea.

The patent eligibility inquiry may contain underlying issues of fact. *Mortg. Grader*, 811 F.3d at 1325. In particular, “[t]he question of whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field is a question of fact.” *Berkheimer*, 881 F.3d at 1368.

As evidence of the conventional nature of the recited “computer device having non-transitory memory,” and “display device and a printer” in method claim 21, and similar limitations in system claims 28 and 32, and apparatus claim 37, the Specification discloses:

Referring to Figure 1, a computer device 1 may include a processor 2, memory 3 connected or interconnected to that processor, a display device 4, a printer 5, and one or more input devices. The input devices may be a keyboard 6a, a mouse 6b, a barcode scanner, a RFID tag scanner, a combination of such devices or other input devices. The display device 4 may be a monitor, liquid crystal display or other type of display unit. The processor 2 may be only one processor or microprocessor or

¹⁸ *Alice*, 573 U.S. at 222–23, e.g., simply implementing a mathematical principle on a physical machine, namely a computer.

¹⁹ *Alice*, 573 U.S. at 225 (explaining using a computer to obtain data, adjust account balances, and issue automated instructions involves computer functions that are well-understood, routine, conventional activities).

may include a plurality of interconnected processors. Similarly, the memory 3 may be only one memory unit or may be a plurality of memory units connected to the processor 2. The memory 3 could also be a plurality of interconnected memory units. Preferably, the memory 3 is non-transitory memory.

The computer device 1 may be connected to a database or other service maintained by another computer device such as a dedicated computer or a dedicated server via a network connection. Alternatively, the computer device may have one or more databases stored in the memory 3 of the computer device to eliminate the use of such computer devices or to reduce the use of such dedicated computer devices.

The memory 3 may have a software application stored therein. The software application may be run by the processor 2. The software application may include code that defines a method that the processor may implement or run. For example, a computer device that has the software application may be configured to process a method defined by the code of the software application.

Spec. 5:2–20.²⁰

Thus, 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 Appellants' Specification, as quoted above.

Appellant does not provide a response with respect to this step of the analysis.

We conclude the claims fail the *Step 2B* analysis because claim 21, in essence, merely recites various computer-based elements along with no

²⁰ The Examiner provides evidentiary findings required by the *Berkheimer Memorandum*. See Ans. 6–9.

more than mere instructions to implement the identified abstract idea using the computer-based elements.

Therefore, in light of the foregoing, we conclude, under the Revised Guidance, that each of Appellant's claims 21–40, considered as a whole, is directed to a patent-ineligible abstract idea that is not integrated into a practical application and does not include an inventive concept.

Accordingly, we sustain the Examiner's § 101 rejection of independent claim 21, and grouped claims 22–40, which fall therewith. *See Claim Grouping, supra.*

2. § 103(a) Rejection R2 of Claims 21, 25–27, and 37

Issue 2

Appellant argues (Br. 22–31) the Examiner's rejection of claim 21 under 35 U.S.C. § 103(a) as being obvious over the combination of Taylor, Le, Ourega, and Chagoly is in error. These contentions present us with the following issues:

(1) Did the Examiner err in finding the cited prior art combination teaches or suggests “[a] method of providing export control,” that uses “a computer device” wherein, *inter alia*, (a) “the computer device block[s] a second portion of the order upon a determination that all necessary permissions and necessary export licenses are not assigned to the second portion of the order;” (b) “wherein the blocking of the second portion of the order upon the determination that all necessary permissions and necessary export licenses are not assigned to the second portion of the order comprises deleting or voiding the second portion of the order that does not have all necessary permissions and necessary export licenses;” and

(c) “communicating information identifying all necessary permissions and necessary export licenses needed for the blocked second portion of the order based on results from a root cause analysis of the order for communicating the information to a user via at least one of a display device and a printer,” as recited in claim 21?

(2) Did the Examiner err in rejecting claim 21 because the Examiner did not provide a sufficient rationale to combine the references in the manner suggested, allegedly because Le teaches away from deletion or voiding of any portion of an order?

Principles of Law

“[O]ne cannot show non-obviousness by attacking references individually where . . . the rejections are based on combinations of references.” *In re Keller*, 642 F.2d 413, 426 (CCPA 1981). “The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference. . . . Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art.” *Id.* at 425.

In *KSR*, the Court stated “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007).

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if 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. . . . [A] court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions.

Id. at 417.

Further, the relevant inquiry is whether the Examiner has set forth “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (cited with approval in *KSR*, 550 U.S. at 418).

Analysis

(1) All Limitations are Taught or Suggested

Limitation (a): Blocking a Second Portion of the Order

The Examiner finds Taylor teaches “the computer device blocking a second portion of the order because the second portion of the order may not be shipped” limitation. Final Act. 23 (citing Taylor ¶¶ 2, 95, 106–109). Furthermore, we note Taylor also teaches or suggests:

Once sufficient information has been received regarding the item(s) **35** for which export services are requested, the method may include determining if the item(s) **35** are eligible for export, as in **830**. In some embodiments, this determination may include searching for the item(s) **35** on one or more governmental lists used in regulating exports, such as the Commerce Control List (CCL) and/or the U.S. Munitions List (USML). These and other lists may provide information indicating that one or more items **35** for which the merchant has requested export services may not be exported at all or may not be exported to particular countries, entities, or persons (e.g., those included on a denied persons lists, unverified persons list,

entity list, specially designated nations list, debarred list, or non-proliferation sanctions list).

Taylor ¶ 83; *see also* Final Act. 23 (cited by the Examiner with respect to the limitation “the computer device blocking the first portion of the order determined to be associated with an embargo start.”).

In light of the above-quoted teachings and the Examiner’s findings, we find Appellant’s argument (Br. 25) that “Taylor does not teach or suggest . . . any computer device blocking at least a portion of the order if all necessary permissions and necessary export licenses are not assigned to the at least a portion of the order” is incorrect. Appellant further argues, unresponsive to the Examiner’s specific findings identified above, that *Le* “fails to teach or suggest any blocking of the at least a portion of the order upon the determination that all necessary permissions and necessary export licenses are not assigned to the at least a portion of the order.” *Id.* We disagree with Appellant’s contentions, which we find are not commensurate with the Examiner’s specific findings.

Limitation (b): Deleting or Voiding the Second Portion of the Order

The Examiner finds paragraphs 2, 95, and 106 through 110 of Taylor teaches or suggests “the computing device blocking a second portion of the order because the second portion of the order may not be shipped.” Final Act. 23.

For example:

If it is determined that one or more items **35** of the order are not eligible for export to the specified destination, indicated as the negative exit from **1020**, the method may include providing an indication that the item or items **35** cannot be

exported by the fulfillment services provider to the specified destination, as in **1025**.

Taylor ¶ 109.

The Examiner further finds, “Taylor fails to disclose deleting or voiding or removing a portion of the order that may not be shipped” (Final Act. 24), but then cites Ourega in paragraph 152 as teaching or suggesting “deleting or voiding or removing a portion of the order that may not be shipped.” *Id.* “[T]he packaging manager will automatically remove an unavailable goods from the original order, and then include these items within a new order.” Ourega ¶ 152.

Appellant responds that Ourega teaches splitting an order into two separate parts, but that “[t]here is no voiding or deletion of any order due to certain items not having all necessary permissions and necessary export licenses. . . . [and] there is no voiding or deletion of any such order as the ordered items are still provided to the buyer.” Br. 26.

In response, the Examiner finds “[w]hile Taylor discloses blocking part of an order from shipping, it is not clear that the blocked item in Taylor is deleted, voided, or removed. Therefore, Examiner turns to Ourega to fill this gap.” Ans. 19. “One option in this situation [described in paragraph 152 of Ourega] is for the currently unavailable item(s) to be canceled from the order, with a refund being issued for the canceled item(s) if they have already been paid for. This partial cancellation of the order comprises ‘deleting or voiding or removing a portion of the order that may not be shipped.’” Ans. 20.

Under the broadest reasonable interpretation, and whether or not Ourega teaches that a canceled order may ultimately be fulfilled, we agree

with the Examiner's findings, and further note that Appellant does not rebut the Examiner's specific findings, clarifications, and legal conclusions.

Limitation (c): Communicating Information Identifying Permissions and Licenses Needed Based Upon Root Cause Analysis

The Examiner finds Taylor teaches communicating information to a user via a display device (Final Act. 23 (citing Taylor ¶ 75)), but relies upon Chagoly as teaching or suggesting that the information identifying all necessary permissions and necessary export licenses needed is based on results from a root cause analysis of the order. Final Act. 24 (citing Chagoly ¶¶ 4, 42, 54, 60, and 85). In particular, we find Chagoly teaches that “[t]his mechanism permits any ordering of the child nodes that is deemed to be most helpful in identifying the root cause of errors or problems with transaction processing.” Chagoly ¶ 85.

Appellant contends “[t]here is no disclosure of any root cause analysis being performed that identifies all missing permissions and export licenses in the cited art.” Br. 28. “There is no evaluation of any order nor any communication of elements of an actual order that are determined to be missing from such testing.” Br. 29. With respect to the Examiner's citation (Final Act. 24) to Chagoly at paragraph 85 for this particular disputed aspect of claim 21, Appellant contends “[t]here are no actual orders being evaluated nor is there any root cause error analysis being performed on any item of an order.” Br. 29. “The root cause analysis being mentioned by Chagoly relates to functions of different nodes supporting certain aspects of a web service. There is no disclosure or suggestion of any use of a root cause analysis to identify missing permissions and/or export licenses needed for a

portion of an order. Chagoly is silent with respect to any such root cause analysis being performed.” Br. 30.

We disagree with Appellant’s contentions because Appellant is arguing the references separately, when the rejection is for what the reference *combination would have suggested* to a person with skill in the art. *See Keller*, 642 F.2d at 425. The Examiner relies upon the combination of Taylor, Le, Ourega, and Chagoly in rejecting claim 21²¹ and, particularly, relies upon Chagoly for the “root cause” portion of the disputed limitation.²²

(2) The Examiner Provided Sufficient Rationale to Combine the References

Appellant contends “[t]he Examiner failed to provide any rationale that supports the modification of Taylor [] to be made by the combination of Ourega and Le []. The conclusory rationale provided in the Final Office Action is insufficient. This conclusory rationale merely shows that impermissible hindsight reasoning based only on Applicant's application has been utilized to reject claims 21–27.” Br. 27. Appellant further alleges “[a] person of skill in the art would not modify Taylor[’s] system so that an order could be submitted to deliver a product to an embargo state to then delete that portion of an order. This would be contrary to Taylor et al.’s principle of operation. Further, such a modification would not be suggested by Taylor as a person of skill in the art would merely use the solution disclosed by Taylor and not deviate from such a solution as contended in the Final Office

²¹ Appellant generally discusses each of the Taylor, Le, and Ourega references in connection with this “communicating” limitation. *See* Br. 28–29.

²² The Examiner provides motivation to combine the references in the manner suggested in the rejection, as discussed, *infra*. Final Act. 23–24.

Action.” Br. 30–31. “The Final Office Action therefore relies on impermissibly hindsight reasoning to find a suggestion for such a modification of Taylor et al. from paragraphs 2, 83, and 106–109 of Taylor.” Br. 31.

Here, we see the hindsight question before us as a balance, i.e., whether the Examiner’s proffered combination of references is merely: (1) “the predictable use of prior art elements according to their established functions” (*KSR*, 550 U.S. at 417), consistent with common sense; or, (2) would an artisan reasonably have combined the cited references in the manner proffered by the Examiner but for having the benefit of the claim to use as a guide (i.e., impermissible hindsight)?

We find the Examiner provided articulated reasoning with rational underpinning as to the motivation to combine Taylor with Le (Final Act. 23–24), Taylor with Ourega (Final Act. 24), and Taylor with Chagoly. *Id.* In this case, the Examiner’s conclusions of obviousness are clearly articulated and are based on detailed factual findings that are supported by the references of record, and which Appellant does not rebut by filing a Reply Brief. *See* Ans. 16–31. Thus, we agree with the Examiner’s findings and legal conclusions.

Moreover, Appellant has not demonstrated that the Examiner’s proffered combination of references would have been “uniquely challenging or difficult for one of ordinary skill in the art.” *See Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418). Nor has Appellant provided objective evidence of secondary considerations which our reviewing court guides “operates as a beneficial

check on hindsight.” *Cheese Sys., Inc. v. Tetra Pak Cheese and Powder Sys.*, 725 F.3d 1341, 1352 (Fed. Cir. 2013).

Therefore, based upon the findings above, on this record, we are not persuaded of error in the Examiner’s reliance on the cited prior art combination to teach or suggest the disputed limitations of claim 21, nor do we find error in the Examiner’s resulting legal conclusion of obviousness.

Accordingly, we sustain the Examiner’s obviousness rejection of independent claim 21, and grouped claims 25–27, and 37 which fall therewith. *See Claim Grouping, supra.*²³

3. § 103 Rejections R3 and R4 of Claims 22–24, 28–36, and 38–40

In view of the lack of any substantive or separate arguments directed to obviousness Rejection R3 of claims 22–24 and 38–40 under § 103 (*see generally* Br. 24–31 and 36–37), we sustain the Examiner’s rejection of these claims. Arguments not made are waived.²⁴

In addition, in view of the lack of any substantive or separate arguments directed to obviousness Rejection R4 of claims 28–36 under

²³ While Appellant sets forth what might first appear as a separate argument for patentability of claim 27 (Br. 31), the argument turns on points of contention raised in connection with the rejection of claim 21. “As noted above, the cited art fails to suggest any voiding of a portion of an order. It also fails to disclose any removal of items so that the order has the necessary permissions and export licenses. Thus, claim 27 is independently allowable.” *Id.*

²⁴ With respect to Rejection R3 of claims 22–24 and 38–40, Appellant merely argues the patentability of independent claims 21 and 37 from which these claims depend. Br. 24–31 and 36–37.

§ 103 (*see generally* Br. 24–31 and 36–37), we sustain the Examiner’s rejection of these claims. Arguments not made are waived.²⁵

CONCLUSIONS

(1) Under our Revised Guidance, governed by relevant case law, claims 21–40 are patent-ineligible under 35 U.S.C. § 101, and we sustain the rejection.

(2) The Examiner did not err with respect to obviousness Rejections R2 through R4 of claims 21–40 under 35 U.S.C. § 103(a) over the cited prior art combinations of record, and we sustain the rejections.

²⁵ With respect to Rejection R4 of claims 28–36, Appellant’s arguments are essentially the same as presented for independent claim 21 in Rejection R2. *See* Br. 31–36.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Basis / References	Affirmed	Reversed
21–40	101	Subject Matter Eligibility	21–40	
21, 25–27, 37	103(a)	Obviousness Taylor, Le, Ourega, Chagoly	21, 25–27, 37	
22–24, 38–40	103(a)	Obviousness Taylor, Le, Ourega, Chagoly, Chaisson	22–24, 38–40	
28–36	103(a)	Obviousness Taylor, Le, Chaisson Ourega, Chagoly,	28–36	
Overall Outcome			21–40	

FINALITY AND 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)(1)(iv). *See* 37 C.F.R. § 41.50(f).

AFFIRMED