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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/937,305	09/10/2004	Scott Wills	074584-0311895	2011
909	7590	01/30/2013	EXAMINER	
Pillsbury Winthrop Shaw Pittman, I.L.P (NV)			LASTRA, DANIEL	
PO Box 10500			ART UNIT	PAPER NUMBER
McLean, VA 22102			3621	
			NOTIFICATION DATE	DELIVERY MODE
			01/30/2013	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* SCOTT WILLS

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Appeal 2011-006596  
Application 10/937,305  
Technology Center 3600

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*Before:* MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and  
MICHAEL W. KIM, *Administrative Patent Judges.*

KIM, *Administrative Patent Judge.*

DECISION ON APPEAL

## STATEMENT OF THE CASE

This is an appeal from the final rejection of claims 1-19, 22-25, 28, and 29<sup>1</sup>. We have jurisdiction to review the case under 35 U.S.C. §§ 134 and 6 (2002).

The invention relates to electronic distribution of secure money saving or discount coupons and other marketing incentives, that includes the ability to electronically deliver promotion information, such as a banner ad, to a user based on the user's location, profile information, proximity preference which includes proximity to a particular incentive redemption facility, and other information wherein proximity preference may be defined by the user, a provider, or both (Spec. 1-2).

Claim 1, reproduced below, is further illustrative of the claimed subject matter.

1. A computer-implemented system for generating at least one banner advertisement and associated incentive based on user profile information, location information, and proximity preference information, the system comprising:
  - at least one server, the at least one server configured to:
    - receive user profile information from a user via a user device operatively connected to the at least one server via a communication link;
    - receive location information for a user;
    - receive proximity preference information;
    - generate at least one banner advertisement for a particular product or service for the user based on the user profile information, the location information, and the proximity preference information;
  - and

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<sup>1</sup> Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed September 10, 2010) and Reply Brief ("Reply Br.," filed January 13, 2011), and the Examiner's Answer ("Ans.," mailed November 26, 2010).

transmit the at least one banner advertisement to the user device via the communication link, wherein the at least one banner advertisement comprises a hyperlink to an incentive web page that displays content about an incentive associated with the at least one banner advertisement.

Reichert	US 2002/0042819 A1	Apr.11, 2002
Callegari	US 2003/00044802 A1	Jan. 2, 2003

We AFFIRM.

### ISSUES

Did the Examiner err in asserting that a combination of Callegari and Reichert renders obvious independent claim 1<sup>2</sup>?

Did the Examiner err in asserting that a combination of Callegari and Reichert discloses or suggests “wherein the user location information is specified by the user and includes two or more locations that are prioritized by the user,” as recited in dependent claim 19<sup>3</sup>?

### FINDINGS OF FACT

FF1. Callegari discloses presenting the virtual coupon to a consumer device only if the consumer is within the vicinity of the coupon offer location or the consumer otherwise indicates an interest in goods and/or

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<sup>2</sup> As Appellant argues them together, we choose independent claim 1 as representative of independent claims 1, 9, 29. *See* 37 C.F.R. § 41.37(c)(1)(vii).

<sup>3</sup> As Appellant argues them together, we choose dependent claim 19 as representative of dependent claims 19 and 25. *See* 37 C.F.R. § 41.37(c)(1)(vii).

services in the vicinity of the coupon offer location (Abstract).

FF2. In certain embodiments, the coupon information includes merchant defined profile information defining attributes of the consumer. In these embodiments the act of receiving also includes receiving consumer defined profile information defining the attributes of the consumer. The coupon information is then presented to the consumer device only if the merchant defined profile information overlaps with the consumer defined profile information (para. [0012]).

FF3. The Specification does not set forth a lexicographic definition of “banner advertisement.”

## ANALYSIS

### *Independent Claim 1*

We are not persuaded the Examiner erred in asserting that a combination of Callegari and Reichert renders obvious independent claim 1 (App. Br. 4-13; Reply Br. 1-5). Appellant asserts that paragraph [0035] of Callegari does not disclose processing based on user profile information of “the user profile information, the location information, and the proximity preference information” recited in independent claim 1 (App. Br. 4, 10-11). However, Callegari discloses that a variety of consumer profile information, including but not limited to location and proximity information, is taken into account when considering whether to present the consumer with a virtual coupon (FF1, FF2).

Appellant further asserts that a combination of Callegari and Reichert does not disclose or suggest “wherein the at least one [banner] advertisement comprises a hyperlink to an incentive web page that displays content about

an incentive associated with the at least one advertisement,” as recited in independent claim 1, because neither Callegari nor Reichert disclose either (a) a banner advertisement or (b) a hyperlink to an incentive web page that displays content about an incentive associated with the at least one advertisement (App. Br. 11-12; Reply Br. 4-5). As an initial matter, we note that the Specification does not set forth a lexicographic definition of “banner advertisement” (FF3). Accordingly, both the detail window of Callegari and banner advertisement of Reichert meet a broadest reasonable construction of (a) banner ads. And as detail window 94 of Callegari is a banner ad, paragraph [0044] of Callegari discloses that included in detail window 94 are electronic coupon 102, which provides further information regarding the selected merchant 96 and its offers, the merchant’s URL address, and Web link buttons 106 that permit the customer to link to the merchant’s website. This information in detail window 94 of Callegari at least collectively suggests (b) a hyperlink to an incentive web page that displays content about an incentive associated with the at least one advertisement.

Appellant also asserts that the detail window of Callegari cannot correspond to the recited “banner advertisement” because “Callegari’s detail button is a banner advertisement for the presence of a **merchant**, not a ‘banner advertisement for a **particular product or service**’” (Reply Br. 2-4; emphasis original). However, paragraph [0044] of Callegari discloses that “[u]pon activation of a detail button, a detail window 94 is displayed that includes a name for a selected merchant 96 with a description of the merchant’s goods or services 98.”

*Dependent Claim 19*

We are not persuaded the Examiner erred in asserting that a combination of Callegari and Reichert discloses or suggests “wherein the user location information is specified by the user and includes two or more locations that are prioritized by the user,” as recited in dependent claim 19 (App. Br. 13-14; Reply Br. 5-6). Appellants assert that paragraph [0031] of Callegari only discloses that “a consumer may define an area of interest at one time and the consumer may define a different area of interest at a different time. At best, this passage discloses that a consumer may replace its area of interest. However, nothing in this passage discloses that a user may prioritize multiple areas of interest.” However, no aspect of dependent claim 19 precludes a consumer from *temporally* prioritizing multiple locations, as disclosed in Callegari.

DECISION

The decision of the Examiner to reject claims 1-19, 22-25, 28, and 29 is AFFIRMED.

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).

AFFIRMED

MP