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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* SEAN MICHAEL BRUICH

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Appeal 2018-003791  
Application 13/658,536  
Technology Center 3600

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Before ANTON W. FETTING, BRUCE T. WIEDER, and  
TARA L. HUTCHINGS, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE<sup>1</sup>

Sean Michael Bruich (Appellant<sup>2</sup>) seeks review under 35 U.S.C. § 134 of a non-final rejection of claims 11, 12, 15, 21–24, 26–29, and 31–34, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

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<sup>1</sup> Our decision will make reference to the Appellant’s Appeal Brief (“Appeal Br.,” filed October 10, 2017) and Reply Brief (“Reply Br.,” filed February 20, 2018), and the Examiner’s Answer (“Ans.,” mailed December 21, 2017), and Non-Final Action (“Non-Final Act.,” mailed April 7, 2017).

<sup>2</sup> 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 Facebook, Inc. (Appeal Br. 2).

The Appellant invented a way of determining advertising effectiveness based on a pseudo-control group. Spec. para. 1.

An understanding of the invention can be derived from a reading of exemplary claim 11, which is reproduced below (bracketed matter and some paragraphing added).

11. A computer-implemented method comprising:

[1] receiving a plurality of targeting criteria, each targeting criteria corresponding to an advertising campaign for presenting an advertisement to users of an online social networking system;

[2] determining a pseudo-control group from users of the online social networking system, wherein users in the pseudo-control group do not meet at least one targeting criteria from the plurality of targeting criteria;

[3] for each advertising campaign for presenting an advertisement:

[3.1] identifying a viewing group of the advertising campaign comprising users of the online social networking system, each user in the viewing group meeting the targeting criteria corresponding to the advertising campaign;

[3.2] identifying a holdout subset of the advertising campaign comprising users of the online social networking system;

[3.3] presenting the advertisement of the advertising campaign to the viewing group comprising users of the online social networking system and not presenting the advertisement of the advertising campaign to the holdout subset comprising users of the online social networking system;

[3.4] responsive to presenting the advertisement to the viewing group comprising users of the online social networking system, storing, by the online social networking system, actions performed by users in the

viewing group, users in the holdout subset, and users in the pseudo-control group;

[3.5] determining whether differences between the actions by users in the holdout subset and the actions by users in the pseudo-control group exceeds a defined threshold;

[4] for each advertising campaign where a determined difference between the actions by users in the holdout subset of the advertisement campaign and the actions by users in the pseudo-control group does not exceed the defined threshold, calculating a metric describing effectiveness of the advertisement based in part on the actions by users in the viewing group of the advertisement campaign and the actions by users in the pseudo-control group;

and

[5] for each advertising campaign where a determined difference between the actions by users in the holdout subset of the advertisement campaign and the actions by users in the pseudo-control group exceeds the defined threshold, providing a notification that the measure describing effectiveness of the advertisement is skewed.

The Examiner relies upon the following prior art:

<b>Name</b>	<b>Reference</b>	<b>Date</b>
Briggs	US 2006/0041480 A1	Feb. 23, 2006

Claims 11, 12, 15, 21–24, 26–29, and 31–34 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

Claims 11, 12, 15, 21–24, 26–29, and 31–34 stand rejected under 35 U.S.C. § 102(b) as anticipated by Briggs.<sup>3</sup>

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<sup>3</sup> The Examiner also makes a provisional non-statutory double patenting rejection with respect to Application 13/658,480 (pending). Non-Final Act. 10. This is uncontested, but the rejection is, again, provisional.

## ISSUES

The issues of eligible subject matter turn primarily on whether the claims recite more than abstract conceptual advice of results desired.

The issues of novelty matter turn primarily on whether Briggs describes all of the claim limitations.

## FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

Facts Related to the Prior Art

Briggs

01. Briggs is directed to determining the effectiveness of at least one medium of advertising. Briggs para. 3.

## ANALYSIS

*Claims 11, 12, 15, 21–24, 26–29, and 31–34 rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more*

### STEP 1<sup>4</sup>

Claim 11, as a method claim, nominally recites one of the enumerated categories of eligible subject matter in 35 U.S.C. § 101. The issue before us is whether it is directed to a judicial exception without significantly more.

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<sup>4</sup> For continuity of analysis, we adopt the steps nomenclature from 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Revised Guidance”).

STEP 2

The Supreme Court

set forth a framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts. First, . . . determine whether the claims at issue are directed to one of those patent-ineligible concepts. If so, we then ask, “[w]hat else is there in the claims before us? To answer that question, . . . consider the elements of each claim both individually and “as an ordered combination” to determine whether the additional elements “transform the nature of the claim” into a patent-eligible application. [The Court] described step two of this analysis as a search for an “inventive concept”—*i.e.*, an element or combination of elements that is “sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.”

*Alice Corp. Pty. Ltd. v CLS Bank Int’l*, 573 U.S. 208, 217–18 (2014)

(citations omitted) (*citing Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012)). To perform this test, we must first determine what the claims are directed to. This begins by determining whether the claims recite one of the judicial exceptions (a law of nature, a natural phenomenon, or an abstract idea). Then, if claims recite a judicial exception, determining whether the claims at issue are directed to the recited judicial exception, or whether the recited judicial exception is integrated into a practical application of that exception, *i.e.*, that the claims “apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” Revised Guidance, 84 Fed. Reg. at 54. If the claims are directed to a judicial exception, then finally determining whether the claims provide an inventive concept because the

additional elements recited in the claims provide significantly more than the recited judicial exception.

STEP 2A Prong 1

At a high level, and for our preliminary analysis, we note that method claim 11 recites receiving criteria data, determining control group member data, identifying viewing group and holdout subset data, presenting advertising data, storing and determining differences among actions data, calculating a metric when data criteria are met, and providing notification. Determining data attributes and identifying data are rudimentary data analysis. Calculating a metric is mathematical analysis. Providing notification and presenting advertising data are data transmission. Thus, claim 11 recites receiving, storing, analyzing, and transmitting data. None of the limitations recite technological implementation details for any of these steps, but instead recite only results desired by any and all possible means.

From this we see that claim 11 does not recite the judicial exceptions of either natural phenomena or laws of nature.

Under Supreme Court precedent, claims directed purely to an abstract idea are patent in-eligible. As set forth in the Revised Guidance, which extracts and synthesizes key concepts identified by the courts, abstract ideas include (1) mathematical concepts,<sup>5</sup> (2) certain methods of organizing

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<sup>5</sup> See, e.g., *Gottschalk v. Benson*, 409 U.S. 63, 71–72 (1972); *Bilski v. Kappos*, 561 U.S. 593, 611 (2010); *Mackay Radio & Telegraph Co. v. Radio Corp. of Am.*, 306 U.S. 86, 94 (1939); *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1163 (Fed. Cir. 2018).

human activity,<sup>6</sup> and (3) mental processes.<sup>7</sup> Among those certain methods of organizing human activity listed in the Revised Guidance are commercial or legal interactions. Like those concepts, claim 11 recites the concept of creating advertising. Specifically, claim 11 recites operations that would ordinarily take place in advising one to notify advertisers of some skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data to some group members. The advice to notify advertisers of some skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data to some group members involves advertising, which is an economic act, and measuring advertising response, which is an act ordinarily performed in the stream of commerce. For example, claim 11 recites “presenting the advertisement,” which is an activity that would take place whenever one is advertising. Similarly, claim 11 recites “calculating a metric describing effectiveness of the advertisement” which is also characteristic of creating advertising.

The Examiner determines the claims to be directed to providing a notification when criteria are met. Non-Final Act. 3.

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<sup>6</sup> See, e.g., *Bilski*, 561 U.S. at 628; *Alice*, 573 U.S. at 219–20; *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014); *Smart Sys. Innovations, LLC v. Chicago Transit Auth.*, 873 F.3d 1364, 1383 (Fed. Cir. 2017); *In re Marco Guldenaar Holding B.V.*, 911 F.3d 1157, 1160–61 (Fed. Cir. 2018).

<sup>7</sup> See, e.g., *Benson*, 409 U.S. at 67; *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1371–72 (Fed. Cir. 2011); *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016).

The preamble to claim 11 does not recite what it is to achieve, but the steps in claim 11 result in sending a notification when criteria are met absent any technological mechanism other than a conventional computer for doing so.

As to the specific limitations, limitation 1 recites data retrieval and limitation 5 recites data transmission. Limitations 2–4 recite generic storing and analyzing of data, which advise one to apply generic functions to get to these results. The limitations thus recite advice for notifying advertisers of some skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data to some group members. To advocate notifying advertisers of some skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data to some group members is conceptual advice for results desired and not technological operations.

The Specification at paragraph 1 describes the invention as relating to determining advertising effectiveness based on a pseudo-control group. Thus, all this intrinsic evidence shows that claim 11 is directed to measuring advertising for presentation, i.e., creating advertising. This is consistent with the Examiner's determination.

This in turn is an example of commercial or legal interactions as a certain method of organizing human activity because creating advertising is a generic part of marketing transactions. The concept of creating advertising by notifying advertisers of some skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data to some group members is

one idea for measuring the effectiveness and desirability of an advertisement for presentation. The steps recited in claim 11 are part of how this might conceptually be premised.

Our reviewing court has found claims to be directed to abstract ideas when they recited similar subject matter. *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (using advertising).

Alternately, this is an example of concepts performed in the human mind as mental processes because the steps of receiving, storing, analyzing, and transmitting data mimic human thought processes of observation, evaluation, judgment, and opinion, perhaps with paper and pencil, where the data interpretation is perceptible only in the human mind. *See In re TLI Commc'ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016); *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093–94 (Fed. Cir. 2016). Claim 11, unlike the claims found non-abstract in prior cases, uses generic computer technology to perform data reception, storage, analysis, and transmission and does not recite an improvement to a particular computer technology. *See, e.g., McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314–15 (Fed. Cir. 2016) (finding claims not abstract because they “focused on a specific asserted improvement in computer animation”). As such, claim 11 is directed to receiving, storing, analyzing, and transmitting data, and not a technological implementation or application of that idea.

From this we conclude that at least to this degree, claim 11 is directed to creating advertising by notifying advertisers of some skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data

to some group members, which is a commercial and legal interaction, one of certain methods of organizing human activity identified in the Revised Guidance, and, thus, an abstract idea.

STEP 2A Prong 2

The next issue is whether claim 11 not only recites, but is more precisely directed to this concept itself or whether it is instead directed to some technological implementation or application of, or improvement to, this concept, i.e., integrated into a practical application.<sup>8</sup>

At the same time, we tread carefully in construing this exclusionary principle lest it swallow all of patent law. At some level, “all inventions . . . embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” Thus, an invention is not rendered ineligible for patent simply because it involves an abstract concept. “[A]pplication[s]” of such concepts “ ‘to a new and useful end,’ ” we have said, remain eligible for patent protection. Accordingly, in applying the § 101 exception, we must distinguish between patents that claim the “ ‘buildin[g] block[s]’ ” of human ingenuity and those that integrate the building blocks into something more.

*Alice*, 573 U.S. at 217 (citations omitted).

Taking the claim elements separately, the operation performed by the computer at each step of the process is expressed purely in terms of results, devoid of implementation details. Step 1 is a pure data gathering step. Limitations describing the nature of the data do not alter this. Step 5 is insignificant post solution activity, such as storing, transmitting, or displaying the results. Steps 2–4 recite generic computer processing expressed in terms of results desired by any and all possible means and so

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<sup>8</sup> See, e.g., *Alice*, 573 U.S. at 223, discussing *Diamond v. Diehr*, 450 U.S. 175 (1981).

present no more than conceptual advice. All purported inventive aspects reside in how the data is interpreted and the results desired, and not in how the process physically enforces such a data interpretation or in how the processing technologically achieves those results.

Viewed as a whole, Appellant's claim 11 simply recites the concept of creating advertising by notifying advertisers of some skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data to some group members as performed by a generic computer. This is no more than conceptual advice on the parameters for this concept and the generic computer processes necessary to process those parameters, and do not recite any particular implementation.

Claim 11 does not, for example, purport to improve the functioning of the computer itself. Nor does it effect an improvement in any other technology or technical field. The 31 pages of Specification spell out different generic equipment<sup>9</sup> and parameters that might be applied using this concept and the particular steps such conventional processing would entail based on the concept of creating advertising by notifying advertisers of some skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data to some group members under different scenarios. They do not describe any particular improvement in the manner a computer functions. Instead, claim 11 at issue amounts to nothing significantly more

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<sup>9</sup> The Specification describes desktop computers, laptop computers, tablet computers (pads), smart phones, personal digital assistants (PDAs). Spec. para. 27.

than an instruction to apply creating advertising by notifying advertisers of some skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data to some group members using some unspecified, generic computer. Under our precedents, that is not enough to transform an abstract idea into a patent-eligible invention. *See Alice*, 573 U.S. at 225–26.

None of the limitations reflect an improvement in the functioning of a computer, or an improvement to other technology or technical field, applies or uses a judicial exception to effect a particular treatment or prophylaxis for a disease or medical condition, implements a judicial exception with, or uses a judicial exception in conjunction with, a particular machine or manufacture that is integral to the claim, effects a transformation or reduction of a particular article to a different state or thing, or applies or uses the judicial exception in some other 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.

We conclude that claim 11 is directed to achieving the result of creating advertising by advising one to notify advertisers of some skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data to some group members, as distinguished from a technological improvement for achieving or applying that result. This amounts to commercial or legal interactions, which fall within certain

methods of organizing human activity that constitute abstract ideas. The claim does not integrate the judicial exception into a practical application.

STEP 2B

The next issue is whether claim 11 provides an inventive concept because the additional elements recited in the claim provide significantly more than the recited judicial exception.

The introduction of a computer into the claims does not generally alter the analysis at *Mayo* step two.

[T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. Stating an abstract idea “while adding the words ‘apply it’” is not enough for patent eligibility. Nor is limiting the use of an abstract idea “to a particular technological environment.” Stating an abstract idea while adding the words “apply it with a computer” simply combines those two steps, with the same deficient result. Thus, if a patent’s recitation of a computer amounts to a mere instruction to “implemen[t]” an abstract idea “on . . . a computer,” that addition cannot impart patent eligibility. This conclusion accords with the preemption concern that undergirds our § 101 jurisprudence. Given the ubiquity of computers, wholly generic computer implementation is not generally the sort of “additional featur[e]” that provides any “practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.”

*Alice*, 573 U.S. at 223–24 (citations omitted).

“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea . . . on a generic computer.” *Alice*, 573 U.S. at 225. They do not.

Taking the claim elements separately, the function performed by the computer at each step of the process is purely conventional. Using a computer for receiving, storing, analyzing, and transmitting data amounts to

electronic data query and retrieval—one of the most basic functions of a computer. All of these computer functions are generic, routine, conventional computer activities that are performed only for their conventional uses. *See Elec. Power Grp. v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). Also *see In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1316 (Fed. Cir. 2011) (“Absent a possible narrower construction of the terms ‘processing,’ ‘receiving,’ and ‘storing,’ . . . those functions can be achieved by any general purpose computer without special programming”). None of these activities are used in some unconventional manner nor do any produce some unexpected result. Appellant does not contend they invented any of these activities. In short, each step does no more than require a generic computer to perform generic computer functions. As to the data operated upon, “even if a process of collecting and analyzing information is ‘limited to particular content’ or a particular ‘source,’ that limitation does not make the collection and analysis other than abstract.” *SAP Am., Inc. v. InvestPic LLC*, 898 F.3d 1161, 1168 (Fed. Cir. 2018).

Considered as an ordered combination, the computer components of Appellant’s claim 11 add nothing that is not already present when the steps are considered separately. The sequence of data reception-storage-analysis-transmission is equally generic and conventional. *See Ultramercial*, 772 F.3d at 715 (sequence of receiving, selecting, offering for exchange, display, allowing access, and receiving payment recited an abstraction), *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F.3d 1372, 1378 (Fed. Cir. 2017) (sequence of data retrieval, analysis, modification, generation, display, and transmission), *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017) (sequence of

processing, routing, controlling, and monitoring). The ordering of the steps is therefore ordinary and conventional.

We conclude that claim 11 does not provide an inventive concept because the additional elements recited in the claim do not provide significantly more than the recited judicial exception.

### REMAINING CLAIMS

Claim 11 is representative. The other independent method claim 26 is substantially similar at least as regards this analysis. The remaining method claims merely describe process parameters. We conclude that the method claims at issue are directed to a patent-ineligible concept itself, and not to the practical application of that concept.

As to the structural claims, they are no different from the method claims in substance. The method claims recite the abstract idea implemented on a generic computer; the system claims recite a handful of generic computer components configured to implement the same idea. This Court has long “warn[ed] . . . against” interpreting § 101 “in ways that make patent eligibility ‘depend simply on the draftsman’s art.’” *Alice*, 573 U.S. at 226 (citations omitted). As a corollary, the claims are not directed to any particular machine.

### LEGAL CONCLUSION

From these determinations we further determine that the claims do not recite an improvement to the functioning of the computer itself or to any other technology or technical field, a particular machine, a particular transformation, or other meaningful limitations. From this we conclude the claims are directed to the judicial exception of the abstract idea of certain methods of organizing human activity as exemplified by the commercial and legal interaction of creating advertising by notifying advertisers of some

skew metric where determined appropriate based on differences between the recorded action data of a control group and another group after selectively presenting ad data to some group members, without significantly more.

#### APPELLANT'S ARGUMENTS

As to Appellant's Appeal Brief arguments, we adopt the Examiner's determinations and analysis from Non-Final Action 3–10 and Answer 4–12 and reach similar legal conclusions. We now turn to the Reply Brief.

We are not persuaded by Appellant's argument that "the performance of the steps recited in the claimed invention does yield an improvement to a computer-related technology (e.g., an improvement to an online social networking system for online advertising)." Reply Br. 2. As we determine *supra*, the claims do no more than retrieve, store, analyze, and transmit data. They do not improve the functioning of the computer. As claim 11 does no more than advise one as to whether an ad's effectiveness measure is skewed, at best the claim improves a user's understanding of the effectiveness of an ad, which has all to do with the user and nothing to do with the system. "The claims are focused on providing information to traders in a way that helps them process information more quickly, not on improving computers or technology." *Trading Techs. Int'l, Inc. v. IBG LLC*, 921 F.3d 1378, 1384 (Fed. Cir. 2019) (citation omitted).

Appellant goes on to argue that the Specification at paragraph 14 describes an example of where the claim improves computer technology. Reply Br. 3. This paragraph reads as follows.

Using small holdout subsets and larger pseudo-control groups as described reduces the number of wasted advertising opportunities. Because holdout subsets primarily serve as checks for whether pseudo-control groups can be suitably compared to sample subsets, holdout subsets may be kept relatively small in

size. Reducing the sizes of holdout subsets increases the sizes of the sample subsets, allowing more users to be exposed to advertisements from an advertising campaign.

Spec. para. 14. Instead of demonstrating an improvement to the system, this paragraph demonstrates the benefit is to the sampling methodology for evaluating an advertising campaign. Such a methodology is an example of a mathematical algorithm as an abstract idea.

As to Appellant's argument regarding court decisions, Reply Br. 3, our determinations *supra* cite appropriate decisions.

We are not persuaded by Appellant's argument that the fact that the pseudo-control group includes users that do not meet targeting criteria enables the computer-related improvement (e.g., that the online social networking system can reduce wasted advertising opportunities which results in efficient utilization of the computing resources).

Reply Br. 4. Again, the improvement is in the sampling methodology for evaluating an advertising campaign, not the computer. The improvement is computer related only in the sense a computer is used to implement the abstract idea. But as no technological implementation details are recited, this is not an improvement in computer technology. "The purely functional nature of the claim confirms that it is directed to an abstract idea, not to a concrete embodiment of that idea." *Affinity Labs of Texas, LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1269 (Fed. Cir. 2016).

*Claims 11, 12, 15, 21–24, 26–29, and 31–34 rejected under 35 U.S.C.*

*§ 102(b) as anticipated by Briggs*

We are persuaded by Appellant's argument that as Briggs does not disclose the combination of the pseudo-control group, holdout subset, and viewing group, Briggs does

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not disclose the particular implementation of the three groups for the purposes of calculating a metric of effectiveness or for providing a notification of a skewed metric of effectiveness.

Appeal Br. 34. The Examiner makes no findings as to this in the Non-Final Action and in the Answer only responds as to the viewing group and pseudo-control group. Ans. 13. Anticipation requires all limitations be described.

#### CONCLUSIONS OF LAW

The rejection of claims 11, 12, 15, 21–24, 26–29, and 31–34 under 35 U.S.C. § 101 as directed to a judicial exception without significantly more is proper.

The rejection of claims 11, 12, 15, 21–24, 26–29, and 31–34 under 35 U.S.C. § 102(b) as anticipated by Briggs is improper.

The provisional rejection under non-statutory obviousness type double patenting is uncontested.

CONCLUSION

The rejection of claims 11, 12, 15, 21–24, 26–29, and 31–34 is affirmed.

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
11, 12, 15, 21–24, 26–29, 31–34	101	Eligibility	11, 12, 15, 21–24, 26–29, 31–34	
11, 12, 15, 21–24, 26–29, 31–34	102(b)	Briggs		11, 12, 15, 21–24, 26–29, 31–34
11–12, 15 <sup>10</sup>		Provisional Obviousness Double Patenting <sup>11</sup>		
<b>Overall Outcome</b>			11, 12, 15, 21–24, 26–29, 31–34	

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) (2016).

AFFIRMED

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<sup>10</sup> The Examiner includes claims 13, 16, and 18 to 20 in this provisional rejection, although these claims are cancelled. Final Rej. 10. We treat this as a typographic error.

<sup>11</sup> As explained above, Appellant does not contest this rejection.