# UNITED STATES PATENT AND TRADEMARK OFFICE

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| McKesson Corporation and Alston & Bird LLP | | GILLIGAN, CHRISTOPHER L |
| c/o Alston & Bird LLP | | |
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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* ALAN J. GILBERT, MATTHEW A. SCANTLAND,
DEREK A. BROWN, RYAN E. SANDERS, MICHELLE S. BROWN,
and BOYAN B. ALEXANDROV

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Appeal 2018–005886
Application 14/498,833[1]
Technology Center 3600

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Before ERIC B. CHEN, IRVIN E. BRANCH, and
JOSEPH P. LENTIVECH, *Administrative Patent Judges*.

LENTIVECH, *Administrative Patent Judge*.

DECISION ON APPEAL[2]

Pursuant to 35 U.S.C. § 134(a), Appellants appeal from the Examiner's decision to reject claims 1–16 and 18–20. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] According to Appellants, the real party in interest is CoverMyMeds LLC. Br. 4.

[2] We reference, herein, the Final Office Action mailed March 2, 2017 ("Final Act."); the Appeal Brief filed October 30, 2017 ("Br."); the Examiner's Answer mailed January 29, 2018 ("Ans."); and the Specification filed September 26, 2014 ("Spec.").

STATEMENT OF THE CASE

*Appellants' Invention*

The present invention "provide[s] information security and access controls that allow authentication of prescriber accounts and secure communication of requests for prior authorizations for a prescription medications." Spec. ¶ 2.

According to Appellants' description of the prior art, "a request for prior authorization (PA) to fulfill a prescription for a drug under the coverage of a health insurance plan can be submitted to the health insurance plan." *Id.* ¶ 5. "The request for PA may be a form (paper or electronic) with a number of information fields (e.g., patient and physician information, insurance plan information, drug information, etc.) to be completed by the pharmacy and/or prescribing physician." *Id.* A "pharmacy fulfilling the drug prescription can enter the information pertaining to the patient, drug and health insurance plan into an appropriate form" and provide the "partially-completed PA request form . . . to the [prescribing] physician . . . to be completed [and] submitted to the health insurance provider." *Id.*

The invention automates the above process in several respects. First, the invention "make[s] the PA request form accessible from within a user account associated with the prescribing physician," such that the "physician may access the PA platform via a network [and] graphical user interface (e.g., a web browser)." *Id.* ¶ 23. Second, to avoid providing the PA request form and its confidential patient information to an unauthorized person (e.g., someone that "set up an account . . . using publicly-available information about the physician"), the invention "verif[ies] the identity of the owner of a user account." *Id.* ¶¶ 24, 25. Third, "[i]f . . . there are multiple accounts

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associated with the prescriber," the invention provides the PA request form to all verified accounts that are not identified as inapplicable. *Id.* ¶ 74.

Claim 1 is illustrative of the claimed invention and reproduced, below, with emphasis on additional elements (explained *infra*).

> 1. A system providing access controls for authenticating an account of a prescriber of prescription medication on a prior authorization platform, the system comprising:
>
> **non-transitory computer storage configured to store** an authoritative registry of contact information for prescribers of prescription medications, the contact information comprising a contact channel by which to communicate a message to the associated prescriber;
>
> an access control system *at a first network location in communication with the non-transitory computer storage, the access control system comprising computer hardware having a plurality of modules stored in a memory, the plurality of modules comprising:*
>
>> an account management module configured to establish an account for a prescriber of prescription medication on a prior authorization platform, the account associated with a prescriber identification token associated with the prescriber, the account management module further configured to require entry of prescriber login credentials before access to the account is granted;
>>
>> an access control module configured to:
>>
>>> obtain from the authoritative registry of prescriber contact information, based at least in part on the prescriber identification token, contact information for the prescriber;
>>>
>>> send to *a device associated with* the prescriber at a second network location, using the contact channel associated with the prescriber's contact information obtained from the authoritative

registry, an authentication message comprising a first ***electronic*** authentication token;

receive, from the device associated with the prescriber at the second network location, a communication containing a second ***electronic*** authentication token;

determine whether the second ***electronic*** authentication token received from the prescriber matches the first ***electronic*** authentication token sent to the prescriber; and

authenticate the account of the prescriber on the prior authentication platform in response to the determination that the ***electronic*** second authentication token matches the ***electronic*** first authentication token; and

a prior authorization module configured to make available to the prescriber's authenticated account a request for prior authorization of a prescription medication prescribed by the prescriber, wherein the prescriber is associated with two or more authenticated accounts on the prior authorization platform, and the prior authorization module is further configured to:

identify the two or more authenticated accounts based at least in part on prescriber information included in the request for prior authorization; and

make the request for prior authorization available to each of the two or more identified authenticated accounts of the prescriber.

Br. 33–34 (Claims Appendix).

*Rejection*

Claims 1–16 and 18–20 stand rejected under 35 U.S.C. § 101 because the claimed subject matter is judicially-excepted from patent eligibility under 35 U.S.C. § 101. Final Act. 2–5.

PRINCIPLES OF LAW

An invention is patent-eligible if it claims a "new and useful process, machine, manufacture, or composition of matter." *See* 35 U.S.C. § 101. 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. *E.g.*, *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208, 216 (2014) (quotation marks and citation omitted).

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*, 573 U.S. at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is "directed to." *See Alice*, 573 U.S. at 219 ("On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk."); *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010) ("Claims 1 and 4 in petitioners' application explain the basic concept of hedging, or protecting against risk.").

Concepts determined to be abstract ideas, and, thus, patent-ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)). Concepts

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determined to be patent eligible include physical and chemical processes, such as "molding rubber products" (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); "tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores" (*id.* at 184 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1854))); 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 that "[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula." *Diehr*, 450 U.S. at 176, and 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.* at 191 (citing *Benson* and *Flook*), and 187 ("It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.")

If the claim is "directed to" an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where "we must examine the elements of the claim to determine whether it contains an 'inventive concept' sufficient to 'transform' the claimed abstract idea into a patent-eligible application." *Alice*, 573 U.S. at 221 (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.* (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.*

### USPTO GUIDANCE

The United States Patent and Trademark Office (USPTO) recently published revised guidance on the application of 35 U.S.C. § 101. *See* 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) ("Guidance, 84 Fed. Reg."). Under the 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 interactions such as a fundamental economic practice, or mental processes); and

> (2) additional elements that integrate the judicial exception into a practical application (*see* Manual of Patent Examining Procedure (MPEP) § 2106.05(a)–(c), (e)–(h) (9th Ed., Rev. 08.2017, Jan. 2018)).

*See* Guidance, 84 Fed. Reg. 52, and 54–55. Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, we conclude the claim is directed to a judicial exception (*id.* at 54) and then look to whether the claim:

> (3) adds a specific limitation or combination of limitations beyond the judicial exception that are not "well-understood, routine, conventional" activity 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.

*See* Guidance, 84 Fed. Reg. 56.

CLAIMS 1–5, 7, 11–13, AND 18–20

Claim 1 is representative of claims 2–5, 7, 11–13, and 18–20.

*See* 37 C.F.R. § 41.37(c)(1)(iv).  There is no dispute that claim 1 falls within

a category of patentable subject matter.  *See* 35 U.S.C. § 101 ("[P]rocess,

machine, manufacture, or composition of matter."); *see also* Guidance, 84

Fed. Reg. 53–54 ("Step 1").  We accordingly turn to the issues raised by the

Guidance and Appellants' arguments.

### *Step 2A, Prong One*[3] *Does the Claim Recite Any Judicial Exceptions*

Turning to the first issue set forth by the Guidance (*see supra* 6, bullet

"(1)"), find claim 1, as drafted, recites judicial exceptions.  Specifically, we

agree with the Examiner that claim 1 recites "data transactions regarding

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[3] The Guidance separates the enumerated issues (1) to (4) (*see supra* 6) into
Steps 2A(1), 2A(2), and 2B, as follows:

> [T]he revised procedure . . . focuses on two aspects [of whether
> a claim is "directed to" a judicial exception under the first step
> of the *Alice/Mayo* test (USPTO Step 2A)]: (1) [w]hether the
> claim recites a judicial exception; and (2) whether a recited
> judicial exception is integrated into a practical application.
> [W]hen a claim recites a judicial exception and fails to integrate
> the exception into a practical application, . . . further analysis
> pursuant to the second step of the *Alice/Mayo* test (USPTO
> Step 2B) . . . is needed . . . in accordance with existing USPTO
> guidance as modified in April 2018.[footnote omitted]

84 Fed. Reg. 51 (referencing, via the omitted footnote, "USPTO
Memorandum of April 19, 2018, 'Changes in Examination Procedure
Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility
Decision (*Berkheimer v. HP, Inc.*)' (Apr. 19, 2018), *available at https://
www.uspto.gov/sites/default/files/documents/memo-berkheimer-
20180419.PDF* ['USPTO *Berkheimer* Memorandum'].").

prior authorization" (Ans. 4), "obtaining and comparing token information for the purpose of validating an account" (Final Act. 3), and particularly:

> storing [contact information for prescribers and] a contact channel for communication with a prescriber, [establishing an account for a prescriber,] associating an account with [the] token, obtaining [the contact information based on the token], [using the contact information to send] an authentication message to the prescriber, receiving from the prescriber a second token, determining whether the first and second token match to authenticate the prescriber's account, making a [request for prior authorization] available to the prescriber on the authenticated account, identifying two or more authenticated accounts for the prescriber, and making a request for prior authorization available to each of the authenticated accounts for the prescriber.

Final Act. 2–3, 5–6. As drafted, above-identified claim features plainly fall within two of the Guidance's enumerated categories of judicial exceptions: "[m]ental processes—concepts performed in the human mind (including an observation, evaluation, judgment, opinion)" (Guidance, 84 Fed. Reg. 52); and "[c]ertain methods of organizing human activity—fundamental economic principles or practices (including . . . mitigating risk) [and] commercial . . . interactions (including[] business relations)." *Id.* We find so because the claim features clearly can be, and clearly have been, mentally performed by healthcare administration professionals. *See e.g.*, *supra* 2 (description of the prior art).

Even Appellants' Specification conveys the claim features as being previously implemented by such professionals via pen-and-paper, mail, telephones, faxes, etc. Spec. ¶¶ 5–7. According to the Specification, a PA request form can be "paper or electronic . . . completed by the . . . physician," so long as it contains information fields for the patient,

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physician, insurance plan, and prescribed. *Id.* ¶ 5. This information includes long-known identifications such as "a National Provider Identifier (NPI), a Drug Enforcement Administration (DEA) registration number, or a state medical license number." *Id.* ¶ 7. And, a "contact channel" for passing the invention's forms and information "can comprise a facsimile number, an electronic mail address, a voice telephone number, or a postal mailing address." *Id.*

The claimed tokens are also long-known instruments of commerce. The Specification conveys a "token" as simply a verifying, numerical identification of something. *See e.g.*, *id.* ¶¶ 30 ("[P]rescriber to enter the prescriber identification token (e.g., the prescriber's NPI)."), 62 (Allows the "prescriber to enter an authentication token such as a verification code.").[4] "The prescriber identification token is commonly included in a prescription for the patient's medication." *Id.* ¶ 47. The "authentication token [can be

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[4] The Northern Disctrict Court of Illinois and Eastern District Court of Texas separately held that a same patent (U.S. Patent No. 5,826,245 to Sandberg-diment) claims an abstract idea of verifying information by matching associated first and second tokens. *See Card Verification Sols., LLC v. Citigroup Inc.*, No. 13 C 6339, 2014 WL 4922524, at *4 (N.D. Ill. Sept. 29, 2014) ("[T]he claims are drawn to the concept of verifying transaction information, and like the risk hedging in *Bilski* or verification of similar information in *CyberSource*, the concept of transaction verification is 'a fundamental economic practice long prevalent in our system of commerce.' *See Bilski*, 130 S.Ct. at 3231."); *Ectolink, LLC v. Elavon, Inc.*, No. 6:15-CV-760, 2016 WL 7670060, at *3 (E.D. Tex. Sept. 7, 2016) ("Ectolink asserts that the '245 Patent is not directed to an abstract idea. Rather, the '245 Patent claims are 'directed to generating first and second tokens, each of which represents some but not all of the confidential information, verifying the confidential information at a verifying party based on a comparison of the tokens, and then sending verification information to the verification-seeking party.'").

merely] a multi-digit alphanumeric sequence[] . . . unique to the particular prescriber authentication transaction . . . . (e.g., having 4, 6, 8, 10, 14, 20 or more digits)." *Id.* ¶¶ 50, 62 ("[A]uthentication token that was sent to the prescriber [is, ]in this example, the code '67A4293HI.')".

    We also agree with the Examiner that these claim features are analogous to the abstract ideas recognized in *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366 (Fed. Cir. 2011) and *Dealertrack, Inc. v. Huber*, 674 F.3d 1315 (Fed. Cir. 2012). Ans. 4–6; *see also* Final Act. 3–5. *CyberSource* recognizes the abstract idea of a process that "can be performed in the human mind[,] e.g., using a pen and paper." Guidance, 84 Fed. Reg. 52 n. 14 (quoting *Cybersource*, 654 F.3d at 1375, 1372). *Dealertrack* recognizes the abstract idea of selectively forwarding information, e.g., by a "clearinghouse." *Dealertrack, Inc.,* 674 F.3d at 1333; *see also* CLEARINGHOUSE. *Merriam Webster Dictionary*, https://www.merriam-webster.com/dictionary/clearinghouse (last visited Aug. 13, 2019) (Which states that "2 : a central agency for the collection, classification, and distribution especially of information broadly: an informal channel for distributing information or assistance.").

    We add that, though *Cybersource* was decided before *Alice*, the Federal Circuit still cites *CyberSource* (post-*Alice*) to instruct that "[m]ethods which can be performed entirely in the human mind are unpatentable." *Synopsys, Inc. v. Mentor Graphics Corporation*, 839 F.3d 1138, 1146–47 (Fed. Cir. 2016) (quoting *CyberSource*, 654 F.3d at 1373).

    For the foregoing reasons, we find claim 1 recites a judicial exception (e.g., one or more abstract ideas).

*Step 2A, Prong Two: Are the Recited Judicial Exceptions
Integrated Into a Practical Application?*

Turning to the second issue set forth by the Guidance (*see supra* 6, bullet "(2)"), we agree with the Examiner that claim 1's additional elements (*see supra* 2–3) do not integrate the judicial exceptions into a practical application. *See* Guidance, 84 Fed. Reg. 53 (Describing a "practical application" as a "meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception."). Specifically, we agree "the additional elements amount to no more than generic computer components [including] a non-transitory computer storage, an access control system comprising computer hardware having a plurality of modules, [and] network-based communication to and from a device." Final Act. 4. We also agree "[these] technical aspects . . . are simply used as a tool[, e.g.,] to execute the abstract authentication process, similar to the use of computer components . . . to execute the abstract concept in *Alice*." Ans. 5; *see also* Final Act. 6. We further agree "the claims fail to provide a technical solution" (*id.* at 8) and "merely link the abstract idea[s] to a particular technological environment." *Id.* at 4.

We add that the claimed technology constitutes a system ("access control system") communicating with a storage ("non-transitory computer storage") and comprising a computer ("hardware having a plurality of modules stored in a memory") configured to: (1) establish an account ("for a prescriber") that is executed on a platform ("prior authorization platform"), associated with identifying data ("prescriber identification token"), and requires a login for access ("prescriber login"); (2) obtain information ("prescriber contact information") from the storage (from its "registry") based on the identifying data; (3) send a device ("associated with the

prescriber"), based on the information obtained from the storage, a communication ("authentication message") comprising a first electronic token; (4) receive, from the device, a second electronic token; (5) determine whether the electronic tokens match; (6) authenticate, in response to the match, the account and similar accounts (similar identifying data and authentication); and (7) provide a document ("a request for prior authorization") to all such accounts. None of the above constitutes, for example, a particular technological solution to a problem, particular machine, or particular transformation of an article to a different state. *See* Guidance, 84 Fed. Reg. 55 ("[E]xemplary considerations . . . indicative [of] a practical application."). The above imparts only generic computer components performing their generic functions (i.e., doing only what these components ubiquitously do as a class) to merely apply the recited abstract ideas (i.e., merely achieve the end-results of the abstract ideas). *See* Guidance, 84 Fed. Reg. 55 ("apply it" bullet corresponding to the Guidance's footnote 30); *see also* MPEP § 2106.05(f) (cited by the Guidance's footnote 30 as providing "more information concerning mere instructions to apply a judicial exception").[5]

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[5] MPEP § 2106.05(f)(1) and (2) instruct on this issue: "When determining whether a claim simply recites a judicial exception with the words 'apply it' (or an equivalent), such as mere instructions to implement an abstract idea on a computer, [E]xaminers may consider the following: (1) Whether the claim recites only the idea of a solution or outcome i.e., the claim fails to recite details of how a solution to a problem is accomplished[;] and (2) Whether the claim invokes computers or other machinery merely as a tool to perform an existing process . . . (e.g., to receive, store, or transmit data)." MPEP §§ 2100-64, 66.

For the foregoing reasons, we find claim 1 is directed to the recited abstract ideas—not to a practical application thereof.

*Step 2B: Does the Claim Recite Anything That Is
Beyond the Recited Judicial Exceptions and Not a Well-Understood,
Routine, Conventional Activity?*

Turning to the third and fourth issues set forth by the Guidance (*see supra* 6, bullets "(3)" and "(4)"), we agree with the Examiner that every claim feature constitutes either a judicial exception or "well-understood, routine, conventional" activity. Guidance, 84 Fed. Reg. 56. Specifically, we agree the additional elements merely "perform[] routine and conventional activities that are well-understood in the healthcare industry (i.e. storing a registry of information, establishing user accounts, processing login credentials, obtaining contact information, sending messages, sending and receiving tokens, matching tokens, providing and prohibiting access to information)." Final Act. 4. We also agree the Specification describes the invention's computer technology as conventional inasmuch:

> The [S]pecification identifies conventional hardware for implementing the claimed functions including "computer hardware, such as one or more physical computer servers. The computing devices 120-132 can include general purpose computers, servers, data input devices (e.g., terminals or displays), web interfaces, portable or mobile computers, laptops, or tablets, smart phones, etc." ([*see*] paragraph 0028, emphasis added). Storing a registry of information, establishing user accounts, processing login credentials, obtaining contact information, sending messages, sending and receiving tokens, matching tokens, providing and prohibiting access to information are, individually, routine and conventional activities of general purpose computing devices.

Ans. 7; *see also* Final Act. 4.

We add that claim 1 does not describe any of its recited technology. Claim 1 recites nondescript means of automating ("module[s] configured to"), a nondescript network of those means and storage, and electronic data defined only by informational content directed to judicial exceptions. The claimed technology thus constitutes, alone and in combination with the abstract ideas, only generic computer components performing their generic functions to merely apply judicial exceptions. Such "claims . . . akin to stating the abstract idea . . . and adding the words . . . 'apply it' on a computer [are] not sufficient for patent eligibility." *CLS Bank Int'l v. Alice Corp. Pty.*, 717 F.3d 1269, 1291 (Fed. Cir. 2013), *aff'd* by *Alice*; *see also* Guidance, 84 Fed. Reg. 55 ("apply it" bullet corresponding to the Guidance's footnote 30); and MPEP § 2106.05(f) (cited by the Guidance's footnote 30) (As providing "more information concerning mere instructions to apply a judicial exception.").[6]

For the foregoing reasons, we find claim 1 fails to recite more than the judicial exceptions to which it is directed.

*Appellants' Arguments*

Appellants contend claim 1 recites a specific technical solution and is accordingly patent-eligible under *McRO, Inc. v. Bandai Namco Games*

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[6] MPEP § 2106.05(f)(1) and (2) instruct on this issue: "When determining whether a claim simply recites a judicial exception with the words 'apply it' (or an equivalent), such as mere instructions to implement an abstract idea on a computer, examiners may consider the following: (1) Whether the claim recites only the idea of a solution or outcome i.e., the claim fails to recite details of how a solution to a problem is accomplished; (2) Whether the claim invokes computers or other machinery merely as a tool to perform an existing process . . . (e.g., to receive, store, or transmit data)." MPEP §§ 2100-64, 66.

*Am. Inc.*, 837 F.3d 1311 (Fed. Circ. 2016). Br. 10–12, 24 ("The specificity
. . . transforms claim 1 . . . beyond an abstract recitation . . . . to solve the
problems in the existing electronic prior authorization platform."). We are
unpersuaded. Unlike claim 1, *McRO's* claim specifies the invention's
results *and specific mechanisms* (i.e., how the results are achieved). *McRO,*
837 F.3d. at 1306–08; *see also* Br. 12–15 (addressing claim 1's lack of
specificity). For example, *McRO's* claimed invention generates a "stream of
output morph weight sets" (result) by evaluating "sub-sequences" within a
"timed data file of phonemes" against rules that define a "morph weight set
stream" as a "function of phoneme sequence and time of said phoneme
sequence" (specific mechanism). In light of such restrictions, *McRO* found
the claim sufficiently specific inasmuch as reciting a mechanism of the
invention that prevents preemption of the recited abstract idea. *McRO,*
837 F.3d. at 1314. *McRO* explains:

> The preemption concern arises when the claims are not directed
> to a specific invention and instead improperly monopolize the
> basic tools of scientific and technological work. . . . A patent is
> not good for an effect, or the result of a certain process because
> such patents would prohibit all other persons from making the
> same thing by any means whatsoever. A patent may issue for
> the means or method of producing a certain result, or effect, and
> not for the result or effect produced. We therefore look to
> whether the claims in these patents focus on a specific means or
> method that improves the relevant technology or are instead
> directed to a result or effect that itself is the abstract idea and
> merely invoke generic processes and machinery.

*Id.* (citations and quotation marks omitted).

The argued claim features do not overcome the above concerns, i.e.,
recite a specific mechanism that prevents preemption. For example, the
claimed uses of tokens—obtaining of contact information based on an

identification token and authenticating of an account based on matching authentication tokens—are basic tools for categorizing and verifying confidential data. Moreover, these argued claim features (Br. 10) fall within the Guidance's enumerated categories of judicial exceptions (*see supra* 8–11), such that they cannot alone transform the claimed invention into patent-eligible subject matter. *See SAP Am., Inc. v. Investpic, LLC*, 898 F.3d 1161, 1163 (Fed. Cir. 2018) ("[An] advance [that] lies entirely in the realm of abstract ideas . . . is ineligible for patenting.").

Appellants also contend claim 1 is specific enough to compel a finding of patent-eligibility under *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016) and *DDR Holdings, LLC v. Hotels.com, L.P.*, (Fed. Cir. 2014). App. Br. 24–26. We are unpersuaded. Like the claim of *McRO*, the claims of *Bascom* and *DDR* are patent-eligible because each claim recites a specific mechanism of the invention and thereby prevents preemption of the recited abstract ideas. *Bascom*, 827 F.3d at 1350–52; *see also DDR*, 773 F.3d at 1257–59. As explained above, Appellants' claim 1 is not specific in this regard.

Appellants also contend the Examiner characterizes the claimed invention at a level of abstraction untethered from claim 1. Br. 15–16. Specifically, Appellants contend the Final Action "[o]vergeneraliz[es] claim 1 to merely organizing, categorizing, and transmitting information" and thereby neglects that "claim 1 aims to provide a solution related to information security and access controls in the existing electronic prior authorization platforms." *Id.* at 16, and 23–24.

We are unpersuaded. The Appeal Brief contends the Examiner's characterization of claim 1 in the Final Office Action overgeneralizes the

limitations. Even assuming that is correct, in the Answer, the Examiner further characterizes the claimed invention as "obtaining and comparing intangible data in the context of transaction authentication" and as, more specifically, "obtain[ing] and compar[ing] intangible data in the form of authentication tokens to authenticate transactions in the form of prescription prior authorizations." Ans. 4 (citing generally *Cybersoure*). The Examiner further characterizes the claimed invention as "selectively routing data transactions to the appropriate destination." *Id.* at 5 (citing generally *Dealertrack*). Appellants do not address the Answer's above characterizations (e.g., did not file a Reply Brief), much less show the Examiner's *in toto* findings overgeneralize the claimed invention.

Appellants also contend the Examiner errs by presenting *Cyberfone Sys., LLC v. CNN Interactive Grp., Inc.*, 558 Fed.Appx. 988 (Fed. Cir. 2014). Br. 17–20. We decline to address *Cyberfone* because it is an unreported decision and unnecessary to understand the Examiner's reasoning. Though neither of these considerations render *Cyberfone* immaterial per se, *Cybersource* and the Guidelines are alone sufficient to analyze the *prima facie* case.

Appellants also contend the Examiner errs by presenting *Cybersource* because:

> One key reason that the Federal Circuit found that the claim in *CyberSource* failed under section 101 . . . was because the claim recites a determination of pure business risks and does not even mention a computer. *See id.* at 1370. By ignoring the element of "business risk" while analogizing the abstract idea of *CyberSource* and the alleged abstract idea of claim 1 ("obtaining and comparing token information for the purpose of validating an account"), the Examiner's reasoning represents

> another level of overgeneralization on an already
> overgeneralized abstract idea.

Br. 21–22. We do not understand this argument. To the extent Appellants may contend that only a "business risk" can be analogous to the abstract idea recognized in *Cybersource*, Appellants provide no persuasive reasoning or caselaw for that position. Moreover, if that were correct, the aforementioned *Synopsys* decision would not confirm *Cybersource's* post-*Alice* relevance by holding the "method for converting a hardware independent user description of a logic circuit" (*Synopsys*, 839 F.3d at 1142) directed to the "mental processes subcategory of unpatentable abstract ideas" recognized in *Cybersource. Id.* at 1146.

*Conclusion*

For the foregoing reasons, we sustain the Examiner's rejection of claims 1–5, 7, 11–13, and 18–20.

CLAIM 6

Claim 6 depends from claim 5 and recites "the access control module is configured to: receive a selection of one of the plurality of contact channels; and send the authentication message to the device associated with the prescriber at the second network location using the selected one of the contact channels." Claim 5 depends from claim 1 and recites that "the contact channel [is] associated with the prescriber's contact information comprises a plurality of contact channels."

Appellants contend the Examiner failed to examine claim 6. Br. 27–29. For example, Appellants contend the Examiner "failed to provide any analyses on why the additional elements . . . are directed to [an identified] abstract idea." *Id.* at 28.

We are unpersuaded.  Claim 6 adds nothing more than a user's selection of the authenticated contact channels (and consequent devices) that will receive the authentication message.  This addition plainly and entirely falls within the Guidance's "[m]ental processes— [] judgment, opinion" category of judicial exceptions.  Guidance, 84 Fed. Reg. 52; *see also Affinity Labs of Texas, LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1271 (Fed. Cir. 2016) ("[T]ailoring content to a user . . . is an abstract idea.").  It is also plainly directed to the presented abstract idea of selectively routing transactions.  Ans. 5 (citing *Dealertrack*).

For the foregoing reasons, we sustain the Examiner's rejection of claim 6.

## CLAIMS 8–10

Claim 8 is representative of claims 9 and 10.  *See* 37 C.F.R. § 41.37(c)(1)(iv).  Claim 8 depends from claim 1 and recites "the authentication message comprises a Uniform Resource Locator (URL) to a web resource configured to allow entry of an authentication token."

Appellants contend a "URL is a web address that specifies a location on a computer network" and, therefore, "claim 8 expressly recites network-centric subject matter and would be understood to be directed to a technical challenge specific to computer networks (including the Internet)." Br. 29.

We are unpersuaded.  The Federal Circuit has held that affixing a URL to a communication for purposes of receiving a "request . . . by the recipient over the network using the personalized network address" does not transform a claim to patent-eligible subject matter.  *Secured Mail Sols. LLC v. Universal Wilde, Inc.*, 873 F.3d 905, 911 (Fed. Cir. 2017).

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For the foregoing reasons, we sustain the Examiner's rejection of claims 8–10.

## CLAIMS 14–16

Claim 14 is representative of claims 15 and 16. Claim 14 depends from claim 1 and recites "the prior authorization module is further configured to: identify from the request for prior authorization, prescriber information associated with the prescriber; determine whether the prescriber information in the request for prior authorization matches information associated with an authenticated account of the prescriber; and make the request for prior authorization available to the matched authenticated account of the prescriber."

Though addressing claims 14–16 under separate heading, Appellants do not present meaningful arguments for claim 14. Appellants merely repeat the arguments presented for base claim 1, presenting no indication that claim 14's limitations are not addressed by the Examiner's findings for claim 1.

For the foregoing reasons, we sustain the Examiner's rejection of claims 14–16.

## DECISION

The Examiner's decision rejecting claims 1–16 and 18–20 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