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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* SCOTT FYNN, ROBERT HOWARD and  
BLAISE H. AGUERA Y ARCAS

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Appeal 2020-000469  
Application 14/162,731  
Technology Center 2400

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Before CARL W. WHITEHEAD JR., BRADLEY W. BAUMEISTER and  
JEREMY J. CURCURI, *Administrative Patent Judges*.

WHITEHEAD JR., *Administrative Patent Judge*.

DECISION ON APPEAL STATEMENT OF THE CASE<sup>1</sup>

Appellant<sup>2</sup> is appealing the final rejection of claims 1–20 under  
35 U.S.C. § 134(a). Appeal Brief 1. Claims 1, 8 and 15 are independent.  
We have jurisdiction under 35 U.S.C. § 6(b). We AFFIRM.

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<sup>1</sup> Rather than reiterate Appellant’s arguments and the Examiner’s determinations, we refer to the Appeal Brief (filed March 8, 2019), the Reply Brief (filed October 23, 2019), the Final Action (mailed September 4, 2018) and the Answer (mailed August 23, 2019), for the respective details.

<sup>2</sup> We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies Microsoft Technology Licensing, LLC., which is related to Microsoft Corporation, as the real party in interest. Appeal Brief 2.

*Introduction*

According to Appellant, the invention is directed to customizing a user's experience "by associating activities with a badge, and allowing the activities to be initiated for the user." Specification ¶ 2.

*Representative Claim*<sup>3</sup>

Claim 1 is reproduced below for reference (bracketed step lettering added):

1. A device storage medium that stores executable instructions to initiate activities, the executable instructions, when executed by a device, causing the device to perform acts comprising:
  - [a] identifying a set of information related to the user, the information being obtained from the user, from observing behavioral patterns of the user, or both;
  - [b] based on the set of information, creating a badge associated with the user, the badge describing an attribute or behavioral pattern of the user;
  - [c] identifying a plurality of activities relevant to the attribute or behavioral pattern, the activities comprising obtaining and displaying a type of information that is different from any other type of information obtained by another activity associated with the badge, the information obtained from one or more sources external to the device;
  - [d] associating the plurality of activities with the badge;
  - [e] displaying, on the device, a user interface comprising the badge along with a badge category;
  - [f] detecting a context of a user of said device;

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<sup>3</sup> For the § 101 rejection, Appellant argues claims 1–20 as a group, focusing on subject matter common to independent claims 1, 8 and 16. *See* Appeal Brief 15–17. We select independent claim 1 as the representative claim. *See* 37 C.F.R. § 41.37(c)(1)(iv).

[g] responsive to detecting the context, choosing an activity from the plurality of different activities based on said context;

[h] initiating, on behalf of the user without user intervention, said activity on said device; and

[i] displaying on the user device, information related to the initiated activity in conjunction with the badge.

#### *References*

<b>Name<sup>4</sup></b>	<b>References</b>	<b>Date</b>
Deo	US 2010/0076857 A1	March 25, 2010
Aguera y Arcas	US 8,326,831 B1	December 4, 2012
Antin	US 2013/0086484 A1	April 4, 2013

#### *Rejections on Appeal*

Claims 1–20 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to patent-ineligible subject matter. Final Action 6–11.

Claims 1–20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Aguera y Arcas, Antin and Deo. Final Action 12–19.

### PRINCIPLES OF LAW

#### A. Section 101

An invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. However, the U.S. Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g., Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

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<sup>4</sup> All reference citations are to the first named inventor only.

In determining whether a claim falls within an excluded category, we are guided by the Court’s two-part framework, described in *Mayo* and *Alice*. *Alice* 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, 67 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 191 (1981)); “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1853))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Court held that “a claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”).

Having said that, the Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (citation omitted) (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

If the claim is “directed to” an abstract idea, we turn to the second part of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (quotation marks omitted). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (alterations in original) (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

#### B. USPTO Section 101 Guidance

In January 2019, the U.S. Patent and Trademark Office (USPTO) published revised guidance on the application of § 101. 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (January 7, 2019) (“2019 Revised Guidance”).<sup>5</sup> “All USPTO personnel are, as a matter of

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<sup>5</sup> In response to received public comments, the Office issued further guidance on October 17, 2019, clarifying the 2019 Revised Guidance. USPTO, *October 2019 Update: Subject Matter Eligibility* (the “October

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internal agency management, expected to follow the guidance.” 2019 Revised Guidance at 51; *see also* October 2019 Update at 1.

Under the 2019 Revised Guidance and the October 2019 Update, we first look to whether the claim recites:

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes) (“Step 2A, Prong One”); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h) (9th ed. Rev. 08.2017, Jan. 2018)) (“Step 2A, Prong Two”).<sup>6</sup>

2019 Revised Guidance at 52–55.

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look, under Step 2B, to whether the claim:

- (3) adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or
- (4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

2019 Revised Guidance at 52–56.

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2019 Update”) (available at [https://www.uspto.gov/sites/default/files/documents/peg\\_oct\\_2019\\_update.pdf](https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf)).

<sup>6</sup> This evaluation is performed by (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception, and (b) evaluating those additional elements individually and in combination to determine whether the claim as a whole integrates the exception into a practical application. *See* 2019 Revised Guidance at 54–55.

## ANALYSIS

### 35 U.S.C. § 101 Rejection

The Examiner determines claims 1–20 are directed to a judicial exception to patent-eligible subject matter under 35 U.S.C. § 101. Final Action 6; *see Alice*, 573 U.S. at 217 (describing the two-step framework “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts”).

We are not persuaded the Examiner’s rejection is in error. Unless otherwise indicated, we adopt the Examiner’s findings and conclusions as our own. We add the following primarily for emphasis and clarification with respect to the 2019 Revised Guidance.

#### Step 2A—Prongs 1 and 2 identified in the 2019 Revised Guidance

##### Prong One

The Examiner determines in the Answer, after the publishing of the 2019 Revised Guidance, that the claims are directed to “a judicial exception, an abstract idea, and more specifically a method of organizing human activity.” Answer 4.

The Specification discloses in the Background:

It is possible to predict what sort of personalized experience a user is likely to want, by inferring certain attributes about the user. For example, if a user frequently “checks in” at tapas restaurants, one can infer that the user is a tapas enthusiast. If the user attends a Seattle Mariners game once a week in the summer, it is possible to infer that the user is a Mariners fan. Some systems that have obtained user permission to analyze a user’s behavior may assign a “badge” to the user based on such inferences, where the badge describes some attribute or behavioral pattern of the user. However, systems that draw these



inferences and that personalize an experience based on the inferences run the risk of offending the user. Some users find it intrusive, and are left with a sense that they are secretly being “watched,” when the system customizes the experience for them in a way that appears too accurate — particularly when the users do not understand how the system determined to customize the experience in a particular way.

Specification ¶ 2.

The Specification discloses in the Summary:

A user experience may be customized by associating activities with a badge, and allowing the activities to be initiated for the user. With a user’s permission, a system may gather information about the user and may assign badges to the user based on that behavior. The system may then initiate activities based on the user’s badges. The user may be given the opportunity to choose which activities to associate with the badge, and may also be offered additional activities in exchange for the user’s providing some information about himself or herself. Moreover, different activities may be initiated based on context — e.g., the same badge might cause one activity to be initiated when the user is traveling with his smart phone, and may cause a different activity to be initiated when the user is at home using his tablet.

Specification ¶ 3 (emphasis added).

Claim 1’s preamble recites “executable instructions to initiate activities.” Claim 1 further recites identifying information related to the user wherein the information is either obtained from the user, from observing behavioral patterns of the user, or both, in limitation [a]. Claim 1 further recites creating a badge describing a user’s attribute or behavioral pattern based upon the obtained information in limitation [b]. Claim 1 also recites identifying activities obtained by different types of information and associating the activities with the badge in limitations [c]–[d]. Claim 1

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recites choosing an activity from a plurality of different activities based upon the user’s context in limitations [f]–[g].

These steps recite commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations). Thus, the claim recites the abstract idea of “certain methods of organizing human activity.” *See* 2019 Revised Guidance, Section I (Groupings of Abstract Ideas).

Furthermore, 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) (holding that claim “describ[ing] only the abstract idea of showing an advertisement before delivering free content” is patent ineligible); *see also buySAFE, Inc. v. Google, Inc.*, 765 F.3d. 1350, 1355 (Fed. Cir. 2014) (holding that concept of “creating a contractual relationship—a ‘transaction performance guaranty’” is an abstract idea). Therefore, we conclude the claims recite an abstract idea pursuant to Step 2A, Prong One, of the 2019 Revised Guidance. *See* 2019 Revised Guidance, Section III(A)(1) (Prong One: Evaluate Whether the Claim Recites a Judicial Exception).

### Prong Two

Under Prong Two of the 2019 Revised Guidance, we must determine “whether the claim as a whole integrates the recited judicial exception into a practical application of the exception.” 2019 Revised Guidance, Section III(A)(2). We note that a “claim that integrates a judicial exception into a practical application will apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such

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that the claim is more than a drafting effort designed to monopolize the judicial exception.” 2019 Revised Guidance, Section III(A)(2).

Appellant contends<sup>7</sup> the claimed invention “figures out what should happen, monitors the context, and then automatically performs tasks on behalf of the user when the context indicates that they should be performed” and, therefore, “[t]here cannot be any question that the claims recite improved utility of the device because it allows the device to automatically perform tasks on behalf of the user that were not performed automatically before.” Response 9 (emphasis added). Appellant concludes, “[t]his is the very definition of improving the device or improving the technology of the device. Thus, under *McRO*<sup>[8]</sup> the claims recite an improvement to technology and are not directed to an abstract idea.” Response 9.

We do not find Appellant’s arguments persuasive of Examiner error. Our ruling Court has held that the “mere automation of manual processes using generic computers does not constitute a patentable improvement in computer technology.” *Credit Acceptance Corp. v. Westlake Services*, 859 F.3d 1044, 1055 (Fed. Cir. 2017).

To be sure, in *McRO*, the Federal Circuit concluded the claim, when considered as a whole, was directed to a “technological improvement over the existing, manual 3-D animation techniques” through the “use [of] limited rules . . . specifically designed to achieve an improved technological result in conventional industry practice.” *McRO*, 837 F.3d at 1316. Specifically, the

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<sup>7</sup> “Appellant reasserts the arguments made in the REMARKS section of its Request for Continued Examination, filed on April 9, 2018 [‘Section B (pp. 7–14)’].” Appeal Brief 7.

<sup>8</sup> *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, (Fed. Cir. 2016).

Federal Circuit found the claimed rules allow computers to produce accurate and realistic lip synchronization and facial expressions in animated characters that previously could only be produced by human animators; and the rules are limiting because they define morph weight sets as a function of phoneme sub-sequences. *McRO*, 837 F.3d at 1313 (internal citations omitted).

However, we find no evidence of record here that the present situation is like the one in *McRO* where computers were previously unable to make certain subjective determinations, i.e., regarding morph weight and phoneme timings, which could only be made prior to the claimed invention by human animators. *See* Response 9; Reply Brief 4; Specification ¶¶ 17, 18. The Background section of the *McRO* ‘576 patent includes a description of the admitted prior art method and the shortcomings associated with the prior method. *See McRO*, 837 F.3d at 1303–06. There is no comparable discussion in Appellant’s Specification or elsewhere of record.

In *Core Wireless*<sup>9</sup>, our reviewing court held that claims that recited an interface were patent eligible because the claims recited specific limitations of the interface such as (1) an application summary that can be reached through a menu, (2) the data being in a list and being selectable to launch an application, and (3) additional limitations directed to the actual user interface displayed and how it functions. *Core Wireless*, 880 F.3d at 1363. The court found that the claims were directed to an improved user interface and not the abstract concept of an index, as the claim “limitations disclose a specific manner of displaying a limited set of information to the user, rather than

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<sup>9</sup> *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356 (Fed. Cir. 2018).

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using conventional user interface methods to display a generic index on a computer.” *Core Wireless*, 880 F.3d at 1363; *see also Trading Techs. Int’l, Inc. v. CQG, Inc.*, 675 F. App’x 1001 (Fed. Cir. 2017) (holding that a user interface with a prescribed functionality directly related to the interface’s structure, that is addressed to and resolves a problem in the art, is patent eligible.).

In the present case, though, merely using a device to *receive information related to a user* is unlike patent-eligible claims directed to particular technical ways of displaying data such as the claimed user interface in *Core Wireless*. *See* 2019 Revised Guidance at 55; *see also* Response 9, 10.

Accordingly, we find Appellant’s arguments unpersuasive. Claim 1 does not recite any improvement to the claimed devices. Instead, claim 1 only uses a device to receive and display information *related* to a user. *See* Specification ¶¶ 17, 18. Additionally, we detect no additional element (or combination of elements) recited in Appellant’s representative claim 1 that integrates the judicial exception into a practical application. *See* 2019 Revised Guidance, Section III(A)(2). For example, Appellant’s claimed additional elements (e.g., device storage medium, device, user’s device) do not: (1) improve the functioning of a computer or other technology; (2) is not applied with any particular machine (except for generic devices); (3) does not effect a transformation of a particular article to a different state; and (4) is not applied in any meaningful way beyond generally linking the use of the judicial exception to a particular technological environment, such that the claim as a whole is more than a drafting effort designed to monopolize the exception. *See* MPEP §§ 2106.05(a)–(c), (e)–(h).

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We, therefore, determine claim 1 does not integrate the recited judicial exception into a practical application. *See* 2019 Revised Guidance, Section III(A)(2) (Prong Two: If the Claim Recites a Judicial Exception, Evaluate Whether the Judicial Exception Is Integrated Into a Practical Application).

*Step 2B identified in the 2019 Revised Guidance*

In Step 2B, we need to consider whether an additional or combination of elements, “[a]dds 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 “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.”

2019 Revised Guidance at 56.

Appellant argues the Examiner has not made the proper showing that the elements recited in the claims or the combination of elements recited in the claims are “well-understood, routine and conventional to a skilled artisan.” Response 11 (citing *Berkheimer v. HP Inc.*, 881 F.3d 1360, (Fed. Cir. 2018)).

The 2019 Revised Guidance states, “In accordance with existing guidance, an examiner’s conclusion that an additional element (or combination of elements) is well understood, routine, conventional activity must be supported with a factual determination. For more information concerning evaluation of well-understood, routine, conventional activity, *see* MPEP 2106.05(d), as modified by the USPTO *Berkheimer* Memorandum.” 2019 Revised Guidance, 84 Fed. Reg. 56 n.36 (Section III(B)) (emphasis added).

The *Berkheimer* Memorandum Section III(A) states when formulating rejections, “[i]n a step 2B analysis, an additional element (or combination of elements) is not well-understood, routine or conventional unless the examiner finds, and expressly supports a rejection in writing.” *Berkheimer* Memorandum at 3. The *Berkheimer* Memorandum provides four criteria for the Examiner to utilize to provide support for the additional elements to be considered to be well-understood, routine or conventional.<sup>10</sup>

In the present case, the Examiner determines:

when taken individually[,] creating badges, associating activities with the badges, displaying a user interface comprising the badge and initiating an activity on the device fails to recite an inventive concept in any non-conventional or non-generic arrangement and does not transform the claimed invention into something significantly more than the abstract idea itself.

Final Action 10 (emphasis added); *see* Specification ¶¶ 29–32.

We do not find Appellant’s argument persuasive because, in determining if the additional elements (or combination of additional elements) represent well-understood, routine, conventional activity, the Examiner supported the determination based upon a factual determination,

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<sup>10</sup> *Berkheimer* Memorandum at 3–4 (Section III(A)). (“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).”).

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supported by evidence drawn from the record, as specified in the *Berkheimer* Memorandum. *See Berkheimer* Memorandum at 3–4 (Section III(A)(1)).

In *Bascom*, our reviewing court found that while the claims of the patent were directed to an abstract idea, the patentee alleged an “inventive concept can be found in the ordered combination of the claim limitations that transform the abstract idea of filtering content into a particular, practical application of that abstract idea.” *Bascom Global Internet Services, Inc., v. AT&T Mobility LLC*, 827 F.3d 1341, 1352 (Fed. Cir. 2016). In particular, the patent in *Bascom* claimed “a technology-based solution (not an abstract-idea-based solution implemented with generic technical components in a conventional way) to filter content on the Internet that overcomes existing problems with other Internet filtering systems.” *Bascom* at 1351.

Claim 1 is distinguishable, as it recites an abstract-idea-based solution, that is, a method of providing personalized advertisement (a set of information related to the user) implemented with a generic technical component (e.g., device), in a conventional way. *See generally* Specification. Therefore, we are not persuaded that ordered combination of limitations in representative claim 1 provides an inventive concept, and we determine the claims simply append a well-understood, routine and conventional activity to the judicial exception. *See* 2019 Revised Guidance at 56; *see also* Response 11.

Accordingly, we conclude claims 1–20 are directed to commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations). As such, the claim recites the abstract idea of “certain methods of organizing human activity” identified in the 2019 Revised Guidance; and thus, an abstract idea with the claims failing to recite limitations that amount



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to significantly more than the abstract idea itself. We sustain the Examiner's § 101 rejection of claims 1–20.

35 U.S.C. § 103 Rejection

Appellant argues the cited art fails to disclose or teach the ordered sequence of claim 1's recited method. *See* Appeal Brief 18. Appellant further argues that claim 1's limitations recite a badge that describes “an attribute or behavioral of a user” and also recite “[a]ctivities that are relevant to the attribute or behavioral pattern [ ] associated with a badge.” Appeal Brief 22.

Antin discloses, “[t]he system may automatically track and record users' online activities and apply conditional logic to automatically award badges once the users' behavioral criteria have been met.” Antin ¶ 21 (emphasis added); *see* Final Action 13–14.

Appellant contends:

The [claimed] activities are activities that the system invokes on behalf of the user, rather than activities that a user performs to earn the badge. Thus, the activities/behavioral patterns of Antin associated with the badges of Antin are different than the activities of the claim. The activities/behavioral patterns of Antin must be completed by the user *before* earning the badge. The activities of the claim are invoked by the system on behalf of the user *after* the badge has been created and assigned to the user.

Appeal Brief 22 (footnote omitted).

We find Appellant's argument persuasive because upon review of the Specification and, most importantly, the language of the claim, we agree that claim 1 imposes a specific order for performing the method steps. *See Altiris Inc. v. Symantec Corp.*, 318 F.3d 1363, 1371, 65 USPQ2d 1865, 1869–70 (Fed. Cir. 2003). Accordingly, we reverse the Examiner's obviousness rejection of independent claims 1 and 8, both drawn to a

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method. We, likewise, reverse the obvious rejection of dependent claims 2–7 and 9–14.

Appellant contends, “[a]lthough different, the elements of independent claims 8 and 15 are similar to independent claim 1” and therefore claims 8 and 15 “stand or fall with claim 1.” Appeal Brief 27. Claim 15 is drawn to a device and not a method so there is no imposition of a specific order or sequence for the claim limitations. Appellant proffers no arguments in regard to the Examiner’s obviousness rejection of claim 15 in spite of Appellant’s acknowledgement that claim 15 is different from claim 1. *See* Appeal Brief 27. Appellant attempts to retrofit the arguments for claim 1 to claim 15 in the Reply Brief, however we do not consider the arguments to be specific to the metes and bounds of claim 15. *See* Reply Brief 15. Accordingly, we sustain the Examiner’s obviousness rejection of independent claim 15, as well as, dependent claims 16–20.

#### CONCLUSION

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–20	101	Eligibility	1–20	
1–20	103	Obviousness	15–20	1–14
Overall Conclusion			1–20	

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). *See* 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED