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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/627,646	02/20/2015	Michael A. Schultz	396184-991100	6459
26379	7590	10/01/2020	EXAMINER	
DLA PIPER LLP (US ) 2000 UNIVERSITY AVENUE EAST PALO ALTO, CA 94303-2248			TRAN, HAI	
			ART UNIT	PAPER NUMBER
			3697	
			NOTIFICATION DATE	DELIVERY MODE
			10/01/2020	ELECTRONIC

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* MICHAEL A. SCHULTZ

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Appeal 2020-003654<sup>1</sup>  
Application 14/627,646  
Technology Center 3600

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Before BIBHU R. MOHANTY, MATTHEW S. MEYERS, and  
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

MEYERS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–21 which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> We use the term “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Our decision references Appellant’s Appeal Brief (“Appeal Br.,” filed November 20, 2019) and Reply Brief (“Reply Br.,” filed April 13, 2020), and the Examiner’s Answer (“Ans.,” mailed February 12, 2020) and Final Office Action (“Final Act.,” mailed March 20, 2019). Appellant identifies the real party in interest as “Aclaimant Inc.” (Appeal Br. 1).

## CLAIMED INVENTION

Appellant's claims are

directed to an incident management and tracking system, which is designed to: (1) make it easier to report and communicate incidents in the workplace, (2) capture adequate information quickly and seamlessly to simplify the claims adjudication process, (3) integrate with third parties with built-in logic to assist in the execution, investigation and executing a claim, (4) capture information in a way that makes analysis and investigation of trends simpler and easier.

Spec. ¶ 4.

Independent claims 1 and 2 are the independent claims on appeal.

Claim 1, reproduced below with bracketed notations added, is illustrative of the claimed subject matter:

1. A method for enhancing workers compensation claim administration to optimize claim resolution for an injured employee, the method comprising:

[a] providing, with data processing hardware, a portal for the injured employee to access, the portal in communication with the data processing hardware;

[b] capturing, upon experiencing a claim event and using a GPS device in a device of the injured user, a location of the claim event;

[c] upon experiencing a claim event, accepting, at the data processing hardware, a report from the injured employee on via [sic] the portal to initiate a claim facilitation, the report including the location of the claim event captured using the GPS device in the device of the injured user;

[d] making, with the data processing hardware, the portal accessible by related third party providers to enter information related to the claim;

[e] displaying, at a computer connected to the portal accessible by related third party providers, a map showing the location of the claim event of the injured user based on the GPS data; and

[f] providing, with the data processing hardware, incentives to the injured employee based on a condition of the information entered by the third party providers

## REJECTIONS

1. Claims 1–21 are rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

2. Claims 1–21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shafer (US 2012/0022897 A1, pub. Jan. 26, 2012), Peak (US 2011/0161100 A1, pub. June 30, 2011), and Wirz (US 8,666,786 B1, iss. March 4, 2014).<sup>2</sup>

## ANALYSIS

### *Patent-Ineligible Subject Matter*

Under 35 U.S.C. § 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 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).

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 id.* at 219 (“On their face, the claims before us are drawn to the concept

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<sup>2</sup> The Examiner indicates that claim 1–11 are rejected under this bases. Final Act.8. However, the Examiner addresses claim 12–21 in the Final Action. *See id.* at 14–16.

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*, 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 determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 192 (1981)); “tanning, dyeing, making water-proof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1853))); and manufacturing flour (*Gottschalk*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

If the claim is “directed to” an abstract idea, we turn to the second step of the *Mayo/Alice* 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*, 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.*

The PTO recently published revised guidance on the application of § 101. *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) (“2019 Revised Guidance”).<sup>3</sup> Under that guidance, we first look to whether the claim recites:

(1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes); and

(2) additional elements that integrate the judicial exception into a practical application, i.e., that “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.” *See* 2019 Revised Guidance, 84 Fed. Reg. at 53; *see also* MPEP § 2106.05(a)–(c), (e)–(h).

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

(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

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<sup>3</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 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)).

(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 2019 Revised Guidance.

*Independent claim 1 and dependent claims 2–11, 14–18, and 20*

Appellant argues claims 1–11, 14–18, and 20 as a group (see Appeal Br. 4–5; Reply Br. 1–4). We select independent claim 1 as representative. Claims 2–11, 15–18, and 20 stand or fall with independent claim 1. See 37 C.F.R. § 41.37(c)(1)(iv).

Under the first step of the *Mayo/Alice* framework and Step 2A, Prong 1 of the 2019 Revised Guidelines, 84 Fed. Reg. at 54, the Examiner determines that exemplary independent claim 1 recites broadly the

concept of utilizing a computing device along with a graphical user interface (a web portal) for users (injured employee, third party providers) to access, capture, store, make, display, and provide the incident related information. The claims merely use a computing device along with a web portal (a graphical user interface) for receiving and storing information related to an incident from related personnel to build a database for later use. Thus, the claims are directed to “a mental process” (processes of collecting and organizing information), and thus “an idea of itself.”

Final Act. 5. The Examiner further states that

other than the recitation of a generic computing device with a web portal and a generic GPS, the claims contain limitations that can practically be performed in the human mind (including an observation, evaluation, judgment, and opinion). The claims do not extend far beyond the mere use of a generic computing device, a generic GPS with a generic instruction to implement the abstract idea. The present claims are similar to those in the *Electric Power Group, LLC v. Alstom, S.A.* case “collecting information, analyzing it, and displaying certain results of the

collection and analysis,” where the data analysis steps are recited at a high level of generality such that they could practical be performed in the human mind.

Ans. 5. Thus, when viewed through the lens of the 2019 Revised Guidance, the Examiner’s analysis depicts the claimed subject matter as a “[m]ental process[]—[a] concept[] performed in the human mind (including an observation, evaluation, judgment, opinion).” 2019 Revised Guidance, 84 Fed. Reg. at 52 (footnotes omitted).

In response, Appellant argues that the Examiner erred in determining that independent claim 1 is directed to an abstract idea because “the claims recite a GPS receiver and capturing the location of an event using the GPS receiver that is clearly not something that can be practically performed in the human mind.” Appeal Br. 4; Reply Br. 1. We disagree.

Before determining whether the claim at issue is directed to an abstract idea, we first determine to what the claim is directed. The Federal Circuit has explained that “the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether ‘their character as a whole is directed to excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). It asks whether the focus of the claims is on a specific improvement in relevant technology or on a process that itself qualifies as an “abstract idea” for which computers are invoked merely as a tool. *See id.* at 1335–36. Here, it is clear from the Specification, and the claim language, that the focus of claim 1 is on an abstract idea, and not on any improvement to technology and/or a technical field.



In this regard, we note that the Specification is titled “SYSTEMS AND METHODS FOR PROCESSING WORKERS COMPENSATION CLAIM ADMINISTRATION TO FACILITATE CLAIM RESOLUTION,” and states that the present invention utilizes “mobile devices, mobile and web applications, and people to reduce the time it takes an injured worker to report and resolve or treat an injury, illness or accident at the worksite, and improving safety of workplace conditions through the use of data analysis.” (Spec. ¶ 1). According to the Specification, the present invention

will reduce the time it takes an injured employee to return to health, return to work, meet regulatory, compliance and administrative reporting required in the workers compensation claim execution process and improve the ease with which employers are able to identify and correct dangerous or hazardous areas in the work place.

*Id.* To that end, the Specification identifies that “embodiments of the present application provide a series of tools throughout an organization that organizes and synchronizes information capture, distribution, and subsequent follow-up related to incidents as they occur in the workplace and as they are related to the work comp process.” *Id.* ¶ 4.

Consistent with this description, independent claim 1 recites broadly “[a] method for enhancing workers compensation claim administration to optimize claim resolution for an injured employee” including the steps of “providing . . . a portal for the injured employee to access,” upon experiencing a claim event, “capturing . . . a location of the claim event” using a GPS device, “accepting . . . a report from the injured employee” at “the portal to initiate a claim facilitation” “including the location of the claim event,” “making . . . the portal accessible by related third party providers to enter information related to the claim,” “displaying . . . a map

showing the location of the claim event,” and “providing . . . incentives to the injured employee based on” third party provider information.

Upon reviewing the Specification and the claim as whole, as summarized above, we agree with the Examiner that the focus of independent claim 1 is on a

method of utilizing a generic computing device along with a web portal and a generic GPS for users (injured employee, third party providers) for *receiving information* (providing a portal for injured employee to access, capture, and initiate a claim facilitation), *storing information* (accepting report to initiate a claim facilitation), *making the stored information accessible* (making and displaying the portal accessible to others, i.e., third party), and *providing information* (displaying map and providing incentives).

Ans. 5 (emphases added). And, when considered collectively and under the broadest reasonable interpretation of the claim limitations, the limitations of claim 1 simply recite a method, performed by conventional computing devices (*see, e.g.*, Spec. ¶¶ 30, 33, 40, 43, 60, 62, 64–66), for enhancing and optimizing workers compensation claim administration. We note that limitation [b] recites capturing a location “using a GPS device,” but does not specify whether an injured user is simply utilizing information from the GPS device to input the location information into the “data processing hardware” manually or whether the GPS device itself is reporting the location information in some other way.<sup>4</sup>

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<sup>4</sup> As discussed in greater detail below, the Specification describes using a generic GPS device according to its conventional operation, devoid of any particular technological implementation for doing so. *See, e.g.*, Spec. ¶¶ 31, 52, 53, 64.

The Federal Circuit has held similar concepts to be abstract. For example, the Federal Circuit has held that abstract ideas include the concepts of collecting data, analyzing the data, and reporting the results of the collection and analysis, including when limited to particular content. *See, e.g., Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017) (identifying the abstract idea of collecting, displaying, and manipulating data); *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016) (characterizing collecting information, analyzing information by steps people go through in their minds, or by mathematical algorithms, and presenting the results of collecting and analyzing information, without more, as matters within the realm of abstract ideas); *see also SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1168 (Fed. Cir. 2018) (“As many cases make clear, 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.” (quoting *Elec. Power Grp.*, 830 F.3d at 1353, 1355 (citing cases))). The Federal Circuit also held in *SmartGene*, where the claim did no more than call for a computing device with basic functionality, that comparing new and stored information and using rules to identify options is an abstract idea. *SmartGene, Inc. v. Advanced Biological Labs, S.A.*, 555 F. App’x 950, 955 (Fed. Cir. 2014).

We disagree with Appellant’s argument that independent claim 1 is not directed to an abstract idea because “the claims recite generating and displaying a map with the location (generated by the GPS receiver) that also clearly cannot be practically performed in the human mind.” Appeal Br. 5; Reply Br. 1. A substantially similar argument was expressly rejected by the

Court in *Alice*. See *Alice Corp.*, 134 S. Ct. at 2358 (“the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention”). Although “a method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101,” *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1373 (Fed. Cir. 2011), it does not logically follow that methods that arguably cannot be performed either entirely in the human mind or manually, using pen and paper, are, therefore, not directed to abstract ideas. Here, as the Examiner points out,

other than the recitation of a generic computing device with a web portal and a generic GPS, the claims contain limitations that can practically be performed in the human mind (including an observation, evaluation, judgment, and opinion). The claims do not extend far beyond the mere use of a generic computing device, a generic GPS with a generic instruction to implement the abstract idea.

Ans. 5; see also *id.* at 4–5 (“[T]he word ‘GPS’ appears only once in each of paragraphs 31, 52, 53, and 64 of the Appellant’s [S]pecification and is recited at a high level of generality (i.e., a generic GPS to capture and display location information).”).

Accordingly, we conclude independent claim 1 recites a mental process, i.e., a concept performed in the human mind, including observations, evaluations, judgments, and opinions, which is one of the groupings of abstract ideas identified in the 2019 Revised Guidance, 84 Fed. Reg. at 52.

Having concluded that claim 1 recites a judicial exception, i.e., an abstract idea, we turn to the second prong of step 2A of the 2019 Revised Guidance and determine whether the claims recite a practical application of

the recited judicial exception. Here we look to see if, for example, (i) any additional elements of the claims reflects an improvement in the functioning of a computer or to another technological field, (ii) an application of the judicial exception with, or by use of, a particular machine, (iii) a transformation or reduction of a particular article to a different state or thing (iv) or a use of the judicial exception in some other meaningful way beyond generally linking the use of the judicial exception to a particular technological environment. *See* 2019 Revised Guidance, at 55; *See also* MPEP § 2106.05(a)–(c), (e)–(h).

We find no indication in the Specification, nor does Appellant direct us to any indication (*see, e.g.*, Appeal Br. 5; Reply Br. 3), that the steps recited in independent claim 1 invoke any assertedly inventive programming, require any specialized computer hardware or other inventive computer components, i.e., a particular machine, or effects a transformation or reduction of a particular article to a different state or thing. Nor do we find anything of record, short of attorney argument, that attributes any improvement in computer technology and/or functionality to the claimed invention or that otherwise indicates that the claimed invention “appl[ies], rel[ies] on, or us[es] 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.” *See* 2019 Revised Guidance, at 53.

Appellant argues that independent claim 1 is “integrated into a practical application since the claims recite a method and system that is using other technology (the GPS receiver for a location and the map with the location to third parties) to improve the process.” Appeal Br. 5; Reply Br. 3.

However, Appellant does not direct our attention to anything in the Specification to indicate that the invention provides a technical improvement to the claimed “GPS device,” as recited by limitation [b], or map “display[ed], at a computer connected to the portal accessible by related third party providers,” as recited by limitation [e].

There is a fundamental difference between computer functionality improvements, on the one hand, and uses of existing computers as tools to perform a particular task, on the other — a distinction that the Federal Circuit, in fact, applied in *Enfish*, in rejecting a § 101 challenge at the first stage of the *Mayo/Alice* framework because the claims at issue focused on a specific type of data structure, i.e., a self-referential table, designed to improve the way a computer stores and retrieves data in memory, and not merely on asserted advances in uses to which existing computer capabilities could be put. *See Enfish*, 822 F.3d at 1335–36. The alleged improvement in Appellant’s claimed process for enhancing and optimizing workers compensation claim administration does not concern an improvement to computer capabilities but instead relates to an alleged improvement in a business practice — a process in which a computer is used as a tool in its ordinary capacity. *Id.*

We also note that Appellant’s reliance on *SiRF Technology Inc. v. International Trade Commission*, 601 F.3d 1319 (Fed. Cir. 2010) as establishing that any invention that cannot be fully performed without the use of a machine, i.e., an invention that cannot be performed in the human mind, or by a human using a pen and paper, is necessarily patent-eligible is misplaced. Reply Br. 1–3. In *SiRF*, the Federal Circuit held “that the claims at issue are properly directed to patentable subject matter as they explicitly

require the use of a *particular* machine (a GPS receiver) and could not be performed without the use of such a receiver.” *SiRF Tech.*, 601 F.3d at 1333 (emphasis added). We do not see, and Appellant does not adequately explain, how claim 1 is tied to any particular machine.

Instead, we agree with the Examiner that “Appellant’s [S]pecification merely provides a generic description of the GPS.” Ans. 4. In this regard, the Specification describes utilizing a mobile phone for “basic information capture related to an injury including the date, prepopulated using the phones internal calendar, location of incident, also supplemented by a capture of the phones GPS at time of submission, description of the injury, with optional ability to add photos or video, and witnesses of the injury.” Spec. ¶¶ 5, 52. Here, we find Appellant’s use of a “GPS device” to “includ[e] the location of the claim event” functions solely to provide a generic speed and efficiency improvement related to the claimed for enhancing and optimizing workers compensation claim administration akin to the Specification’s description of providing date information using the “the phones[’] internal calendar.” Spec. ¶ 52.

In order for the addition of a machine to impose a meaningful limit on the scope of a claim, it must play a significant part in permitting the claimed method to be performed, rather than function solely as an obvious mechanism for permitting a solution to be achieved more quickly, i.e., through the utilization of a computer for performing calculations.

*Versata Dev. Grp. v. SAP Am., Inc.*, 793 F.3d 1306, 1335 (Fed. Cir. 2015) (quoting *SiRF Tech.*, 601 F.3d at 1333).

Turning to Step 2B of the of the 2019 Revised Guidance, we determine whether the additional elements (1) add a specific limitation or combination of limitations that is not well-understood, routine, and

conventional activity in the field, which is indicative that an inventive concept may be present or (2) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception, which is indicative that an inventive concept may not be present. *See* 2019 Revised Guidance, at 56.

Under the second step of the *Mayo/Alice* framework and Step 2B of the 2019 Revised Guidelines, 84 Fed. Reg. at 54, the Examiner determines that

[t]he focus of the claims is on utilizing a generic computing device along with a web portal for receiving, capturing, and storing information related to an incident from related personnel to build a database for later displaying and providing data to users. The claims are not directed to a new type of processor, a graphical user interface, or a system memory, nor do they provide a method for processing data that improves existing technological processes. The focus of the claims is not on improving computer-related technology, but on a certain independent abstract idea that uses computers as tools.

Final Act. 7.

Appellant does not specifically address the Examiner's determination. Instead, Appellant argues that although "the GPS receiver and map are generally known, their use for the recited method and system is unconventional, not well known in the worker's compensation industry." Appeal Br. 5; Reply Br. 3. However, other than asserting that the use of a "GPS receiver and map" is "unconventional" and "not well known in the worker's compensation industry," Appellant provides no further argument, such as how the elements are arranged in a non-generic or unconventional manner such that it is a technical improvement over prior art ways of



administering workers' compensation claims. *See BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1351 (Fed. Cir. 2016).

We are not persuaded, on the present record, that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 101. Therefore, we sustain the Examiner's rejection of independent claim 1, and claims 2–11, 14–18, and 20, which fall with independent claim 1.

*Dependent claims 12, 13, 19, and 21*

Appellant argues that

[t]he dependent claims recite further features that show that any abstract idea is integrated into a practical application. For example, claims 12–13 recite the recommending of a doctor to treat an injured user based on the location of the claim event (that is generated by the GPS device) and claims 19 and 21 further recite using an inruty (sic, injury) reporting SMS service to set up an injury file which are further improvements and are not convention or well known in the workers compensation industry.

Appeal Br. 5; Reply Br. 3–4.

However, we find that dependent claims 12, 13, 19, and 21 merely describe further characteristics of the underlying concept and lack additional elements that would render the claim patent-eligible. In this regard, we agree with the Examiner that recommending “a doctor to treat an injured user based on the location is merely a post-solution activity with human action” and “using a SMS service to set up an injury file is also a post-solution activity and is merely using the existing technology to supplement the method.” Ans. 8–9. We also agree with the Examiner that claims 12, 13, 19, and 21 “do no more than provid[e] additional instructions and administrative requirements for the functional steps already recited in the independent claims.” *Id.* at 9.

As such, we are similarly not persuaded by Appellant’s arguments for the same reasons as to independent claim 1, *supra*. Therefore, we sustain the rejection of dependent claims 12, 13, 19, and 21 under 35 U.S.C. § 101.

*Obviousness*

*Independent claims 1 and 2, and dependent claims 3–21*

We are not persuaded of error by Appellant’s argument that the combination of Shafer, Peak, Wirz fails to disclose or suggest limitations [b] and [e], as recited by independent claim 1, and similarly recited by independent claim 2. Appeal Br. 6–7; Reply Br. 4–6. More particularly, Appellant argues that the asserted combination fails to disclose or suggest “the claimed capturing of the location of a claim event or displaying the map showing the location of the claim event.” Appeal Br. 6; Reply Br. 5.

Instead, we agree with, and adopt the Examiner’s findings and rationale, as set forth at pages 7–16 of the Final Action (*see* Final Act. 8–9 (citing Peak ¶¶ 37, 59, 61, 73–75, 81, and Fig. 5; Shafer ¶¶ 83–87) and the Examiner’s response to Appellant’s arguments, as set forth at pages 9–16 of the Answer. We add the following discussion for emphasis only.

Shafer is directed to “an online centralized source to implement, analyze and manage a workers’ compensation management program by a company across multiple company units.” Shafer ¶ 5. Shafer discloses that its system “may be used to input, process, analyze, quantify, store, retrieve and display the compiled workers’ compensation program data 152 for a plurality of company units.” *Id.* ¶ 83. Shafer’s system includes a dashboard that “acts as a way for the management to monitor progress throughout the implementation of the program across multiple units in diverse locations.” *Id.* ¶ 82. Shafer discloses

[t]he input and analyzed data 152 is stored on the remote server 144 for access by an authorized user 104 from any workstation 124 and/or 128 without the requirement of any proprietary software being resident on the workstations 124 and/or 128. The data 152 may be extracted, compiled for various analyses, and the results of the analyses presented on the dashboard 120 in support of a plurality of purposes, including but not limited to assessment of workers' compensation claim management practices across multiple units or the company as a whole, data benchmarking of economics of the workers' compensation program, return to work data, production of program improvement recommendations, implementation of program management quality controls, training of users and managers, identification of user activity, etc.

*Id.* ¶ 85.

Peak is directed to an insurance processing system for “the collection and use of medical information for insurance processing using mobile devices.” Peak ¶ 2. Peak’s system “provide[s] applications and mobile devices to allow the ready, convenient and accurate collection and monitoring of medical and health status information from individuals seeking or having insurance coverage, so that such coverage can be priced, managed and underwritten more accurately.” *Id.* ¶ 16. Peak describes that its mobile devices “receive data and information from one or more sensor(s) 106.” *Id.* ¶ 21. More particularly, Peak discloses that

data collected by sensor(s) 106 may be stored temporarily ( or for longer periods of time, if appropriate) in a memory of the mobile device 104, or it may be forwarded through the mobile device 104 to insurance company 102 for analysis and processing. In general, the mobile device 104, under control of one or more applications configured pursuant to the present invention, operates to identify the user, identify the time of data collection, identify (if appropriate) the location of data collection, and manage the collection and transmission of data

for further use by insurance company 102 or agents of the insurance company 102.

*Id.* ¶ 25; *see also id.* ¶ 74 (“[M]obile device 500 may include circuitry and sensors for supporting a location determining capability, such as that provided by the global positioning system (GPS).”). Peak discloses that “the collected data [are] packaged and transmitted to the insurance company 320 for further analysis” during processing. *Id.* ¶ 61.

Appellant asserts that Peak’s “GPS may be used for limited purpose of identifying the location of a user to identify the user and for data collection by the system,” but argues that Peak’s disclosure “fails to disclose or suggest the claimed capturing of the location of a claim event or displaying the map showing the location of the claim event.” Appeal Br. 6 (citing Peak ¶¶ 61, 74, 75). We cannot agree.

Instead, we agree with the Examiner that Peak discloses the argued limitations. Here, we find that Peak clearly discloses that its mobile devices include a GPS receiver (Peak ¶¶ 25, 61, 74) and location data are collected from the mobile device for use in processing a request for insurance. *Id.* ¶ 59. Peak also discloses that the collected data the collected data are transmitted to the insurance company for further analysis. *Id.* ¶ 61; *see also* Shafer ¶ 85 (“The data 152 may be extracted, compiled for various analyses, and the results of the analyses presented on the dashboard 120 in support of a plurality of purposes.”). Although, we acknowledge, as Appellant points out, that Peak utilizes “mapping services to identify the location of a testing lab, a pharmacy” (Appeal Br. 6–7 (citing Peak ¶ 37)), we find that Peak also discloses that its system can collect or capture the location of a claim event

while processing insurance claims.<sup>5</sup> *See, e.g.*, Peak ¶ 65 (“If a determination is made that no further data collection is required, a final response to the insurance request may be received at 420. For example, the response received at 420 may be a final determination from an underwriting business process performed at the insurance company 320 such as a denial of coverage, issuance of coverage, etc.”).

In view of the foregoing, we sustain the Examiner’s rejection of independent claims 1 and 2. We also sustain the rejection of dependent claims 3–11 because Appellant has not argued the separate patentability of these claims. We also sustain the Examiner’s rejection of claims 12–21, which although addressed separately, do not rise to the level of a separate argument for patentability (*see* Appeal Br. 7; Reply Br. 5–6). *See In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (“more substantive arguments in an appeal brief [are required] than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art”). *Cf.* Ans. 13–16.

## CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–21	101	Eligibility	1–21	
1–21	103	Shafer, Peak, Wirz	1–21	

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<sup>5</sup> We note that Appellant’s Specification indicates that location of incident information is only “supplemented by a capture of the phones GPS at time of submission.” Spec. ¶ 52.

Appeal 2020-003654  
Application 14/627,646

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
<b>Overall Outcome</b>			1-21	

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).

AFFIRMED