

SUBJECT MATTER ELIGIBILITY WORKSHEET:

For use in abstract idea workshop

This worksheet can be used to assist in analyzing a claim for “Subject Matter Eligibility” (SME) under 35 U.S.C. 101 for any judicial exception (law of nature, natural phenomenon, or abstract idea) in accordance with the [2014 Interim Eligibility Guidance](#). As every claim must be examined individually based on the particular elements recited therein, a separate worksheet should be used to analyze each claim.

For purposes of simplicity in this workshop, the questions below only refer to *abstract ideas* and will be used to walk through several of the [abstract ideas examples](#) published on the website. (A blank generic worksheet is available on the training website.) It is suggested that the worksheet be used with the [2014 Interim Eligibility Guidance Quick Reference Sheet](#), which includes an overview of the analysis, along with the flowchart and form paragraphs referenced herein.

Worksheet Summary: Section I is designed to address the first activity in examination, which is to determine what applicant invented and to construe the claim in accordance with its broadest reasonable interpretation (BRI). Next, referring to the eligibility flowchart reproduced in the *Quick Reference Sheet*, Section II addresses *Step 1* regarding the four statutory categories of invention. Section III addresses *Step 2A* by determining whether the claim is directed to an abstract idea. Section IV addresses *Step 2B* by identifying additional elements to determine if the claim amounts to significantly more than an abstract idea.

Application/Example No. and claim: Example 1, claim 2

I. What did applicant invent?

Review the disclosure to identify what applicant considers as the invention. (MPEP 2103(I))

Applicant invented:

An extraction method that isolates and removes malicious code from electronic messages.

This can be a brief description and should not merely reproduce the claim. The take away is that the invention focuses on scanning and cleaning electronic communications.

Establish the broadest reasonable interpretation (BRI) of the claim.

II. Does the claimed invention fall within one of the four statutory categories of invention (process, machine, manufacture or composition of matter) (Step 1)?

Choose A or B:

A. Yes, the claimed invention is a a non-transitory computer-readable medium comprising instructions stored thereon, which is a manufacture.

Although this is a product claim, it is not automatically eligible and needs further analysis to ensure that the claim is not directed to an abstract idea without significantly more.

Continue with the SME analysis.

B. No, the claimed invention is not one of the four statutory categories. Make a rejection of the claim as being drawn to non-statutory subject matter. Use *Form Paragraphs 7.05 and 7.05.01 available in Custom OACs*.

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If the claim could be amended to fall within one of the statutory categories, it is recommended to **continue with the SME analysis** under that assumption. Make the assumption clear in the record if a rejection is ultimately made under *Step 2*, and consider suggesting a potential amendment to applicant that would result in the claim being drawn to a statutory category.

If no amendment is possible, **conclude the SME analysis** and continue with examination under each of the other patentability requirements.

III. Is the claim directed to an abstract idea (Step 2A)?

Courts have found certain concepts to be “abstract ideas”, for example fundamental economic practices, certain methods of organizing human activity, ideas themselves (standing alone), or mathematical relationships/formulae. Assistance in identifying such abstract ideas can be obtained by referring to the [case law chart](#) available on the website and the court case discussions in the 2014 Interim Eligibility Guidance. A claim is “directed” to an abstract idea when the abstract idea is recited (*i.e.*, **set forth** or **described**) in the claim.

Choose A, B, or C:

- A. No, the claim does not recite a concept that is similar to those found by the courts to be abstract. **Conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the broadest reasonable interpretation of the claim is not directed to an abstract idea.)

The claim is eligible.

The claimed invention relates to software technology for isolation and extraction of malicious code contained in an electronic communication. The executable instructions of physically isolating a received communication on a memory sector and extracting malicious code from that communication to create a sanitized communication in a new data file does not describe an abstract concept. This process is not similar to any concepts found by the courts to be abstract. The claim is eligible.

An explanation of why the claim is eligible is not necessary in the Office action unless there would be a question as to the reasoning such that the record would benefit from clarification.

- B. Yes, but the streamlined analysis is appropriate as the eligibility is self-evident, and a full eligibility analysis is not needed. Applicant’s claimed invention, explained in Section I above, is not focused on the abstract idea, and the claim clearly does not attempt to tie up an abstract idea such that others cannot practice it. (Refer to the [February 2015 Training Slides](#) for information and examples of a streamlined analysis.) **Conclude SME analysis** and continue with examination under each of the other patentability requirements.
- C. Yes, identify the limitation(s) in the claim that recite(s) the abstract idea and explain why the recited subject matter is an abstract idea. After identifying the abstract idea, **continue with SME analysis**.

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The limitation(s) in the claim that set(s) forth or describe(s) the abstract idea is (are):

The reason(s) that the limitation(s) are considered an abstract idea is (are):

IV. Does the claim as a whole amount to significantly more than the abstract idea (Step 2B)?

- A. Are there any additional elements (features/limitations/step) recited in the claim beyond the abstract idea identified above?

Choose 1 or 2:

1. No, there are no other elements in the claim in addition to the abstract idea.
Conclude SME analysis by making a § 101 rejection and continue with examination under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

2. Yes, the claim elements (features/limitations/steps) in addition to the abstract idea are:

Continue with the SME analysis.

- B. Evaluate the significance of the additional elements. Identifying additional elements and evaluating their significance involves the search for an “inventive concept” in the claim. It can be helpful to keep in mind what applicant invented (identified in Section I above) and how that relates to the additional elements to evaluate their significance.

Consider all of the identified additional elements individually and in combination to determine whether the claim as a whole amounts to significantly more than the abstract

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idea identified above. Reasons supporting the significance of the additional elements can include one or more of the following:

- improves another technology or technical field
- improves the functioning of a computer itself
- applies the abstract idea with, or by use of, a particular machine
 - *not* a generic computer performing generic computer functions
 - *not* adding the words “apply it” or words equivalent to “apply the abstract idea”
 - *not* mere instructions to implement an abstract idea on a computer
- effects a transformation or reduction of a particular article to a different state or thing
- adds a specific limitation other than what is well-understood, routine and conventional in the field
 - *not* appending well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality
 - *not* a generic computer performing generic computer functions
- adds unconventional steps that confine the claim to a particular useful application
 - *not* adding insignificant extrasolution activity, such as mere data gathering
- adds meaningful limitations that amount to more than generally linking the use of the abstract idea to a particular technological environment

Complete (1) or (2) below:

1. Yes, the additional elements, taken individually or as a combination, result in the claim amounting to significantly more than the abstract idea because

If any elements, individually or as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the claim recites the abstract idea of “x”, but amounts to significantly more than the idea itself with the additional element “y” because “abc”.)

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2. No, the additional elements, taken individually and as a combination, do not result in the claim amounting to significantly more than the abstract idea because

If no elements, taken individually and as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude the SME analysis** by making a § 101 rejection and continue with examination under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

Sample Rejection:

Use Form Paragraphs 7.05 and 7.05.015

Claim __ is rejected under 35 U.S.C. 101 because the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more. Claim __ is directed to

The claim does not include additional elements that are sufficient to amount to significantly more than the judicial exception because

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Worksheet Summary: Section I is designed to address the first activity in examination, which is to determine what applicant invented and to construe the claim in accordance with its broadest reasonable interpretation (BRI). Next, referring to the eligibility flowchart reproduced in the *Quick Reference Sheet*, Section II addresses *Step 1* regarding the four statutory categories of invention. Section III addresses *Step 2A* by determining whether the claim is directed to an abstract idea. Section IV addresses *Step 2B* by identifying additional elements to determine if the claim amounts to significantly more than an abstract idea.

Application/Example No. and claim: Example 2, claim 19

I. What did applicant invent?

Review the disclosure to identify what applicant considers as the invention. (MPEP 2103(I))

Applicant invented:

A system that, in response to activation of a link, automatically generates a composite web page that combines visually perceptible elements from a host web page with product- or service-related information from an advertising merchant's web page.

This can be a brief description and should not merely reproduce the claim. The take away is that invention is focused on creating the composite webpage.

Establish the broadest reasonable interpretation (BRI) of the claim.

II. Does the claimed invention fall within one of the four statutory categories of invention (process, machine, manufacture or composition of matter) (Step 1)?

Choose A or B:

A. Yes, the claimed invention is a system including a computer store (memory) and a server, which is a machine or a manufacture.

Although this is a product claim, it is not automatically eligible and needs further analysis to ensure that the claim is not directed to an abstract idea without significantly more.

Continue with the SME analysis.

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- B. No, the claimed invention is not one of the four statutory categories. Make a rejection of the claim as being drawn to non-statutory subject matter. Use *Form Paragraphs 7.05 and 7.05.01 available in Custom OACs*.

If the claim could be amended to fall within one of the statutory categories, it is recommended to **continue with the SME analysis** under that assumption. Make the assumption clear in the record if a rejection is ultimately made under *Step 2*, and consider suggesting a potential amendment to applicant that would result in the claim being drawn to a statutory category.

If no amendment is possible, **conclude the SME analysis** and continue with examination under each of the other patentability requirements.

III. Is the claim directed to an abstract idea (Step 2A)?

Courts have found certain concepts to be “abstract ideas”, for example fundamental economic practices, certain methods of organizing human activity, ideas themselves (standing alone), or mathematical relationships/formulae. Assistance in identifying such abstract ideas can be obtained by referring to the [case law chart](#) available on the website and the court case discussions in the 2014 Interim Eligibility Guidance. A claim is “directed” to an abstract idea when the abstract idea is recited (*i.e.*, **set forth** or **described**) in the claim.

Choose A, B, or C:

The claim is eligible.

- A. No, the claim does not recite a concept that is similar to those found by the courts to be abstract. **Conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the broadest reasonable interpretation of the claim is not directed to an abstract idea.)

The court in this case went on to discuss limitations that it found to add an inventive concept, as seen below. During examination, however, that would not be necessary since no abstract idea was identified.

In this case, the decision explained that the claim does not recite a mathematical algorithm; nor does it recite a fundamental economic or longstanding commercial practice. The claim addresses a business challenge (retaining website visitors) that is particular to the Internet and does not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet. Because no idea similar to those previously found by the courts to be abstract has been identified in the claim, the claim should be deemed to be not directed to a judicial exception (Step 2A: NO) and found eligible.

B. Yes, but the streamlined analysis is appropriate as the eligibility is self-evident, and a full eligibility analysis is not needed. Applicant’s claimed invention, explained in Section I above, is not focused on the abstract idea, and the claim clearly does not attempt to tie up an abstract idea such that others cannot practice it. (Refer to the [February 2015 Training](#)

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[Slides](#) for information and examples of a streamlined analysis.) **Conclude SME analysis** and continue with examination under each of the other patentability requirements.

- C. Yes, identify the limitation(s) in the claim that recite(s) the abstract idea and explain why the recited subject matter is an abstract idea. After identifying the abstract idea, **continue with SME analysis.**

The limitation(s) in the claim that set(s) forth or describe(s) the abstract idea is (are):

The reason(s) that the limitation(s) are considered an abstract idea is (are):

IV. Does the claim as a whole amount to significantly more than the abstract idea (Step 2B)?

- A. Are there any additional elements (features/limitations/step) recited in the claim beyond the abstract idea identified above?

Choose 1 or 2:

1. No, there are no other elements in the claim in addition to the abstract idea. **Conclude SME analysis** by making a § 101 rejection and continue with examination under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

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2. Yes, the claim elements (features/limitations/steps) in addition to the abstract idea are:

As noted above, it would not be necessary for an examiner to proceed to Step 2B, in this case. However, the court offered a discussion on this point, which is reflected below, pointing out certain features of the claim that amount to an inventive concept for resolving this particular Internet-centric problem.

A computer store (memory) that stores visually perceptible elements corresponding to numerous host web pages, with each of the host web pages displaying at least one link associated with a commerce object (a product or service) offered for sale by a third-party merchant.

A computer server at an outsource provider that is programmed to receive a signal indicating activation of a link by a website visitor, automatically identify the host web page, and generate and serve to the visitor a composite web page that combines visually perceptible elements from the identified host web page with product- or service-related information about the associated commerce object from the merchant's web page.

Continue with the SME analysis.

- B. Evaluate the significance of the additional elements. Identifying additional elements and evaluating their significance involves the search for an “inventive concept” in the claim. It can be helpful to keep in mind what applicant invented (identified in Section I above) and how that relates to the additional elements to evaluate their significance.

Consider all of the identified additional elements individually and in combination to determine whether the claim as a whole amounts to significantly more than the abstract idea identified above. Reasons supporting the significance of the additional elements can include one or more of the following:

The additional elements must show an “inventive concept”. Many of these considerations overlap, and more than one can often be applied to describe an element. It is not important how the elements are characterized or how many considerations apply from this list. It is important to evaluate the significance of the additional elements relative to applicant's invention.

- improves another technology or technical field
- improves the functioning of a computer itself
- applies the abstract idea with, or by use of, a particular machine
 - *not* a generic computer performing generic computer functions
 - *not* adding the words “apply it” or words equivalent to “apply the abstract idea”
 - *not* mere instructions to implement an abstract idea on a computer
- effects a transformation or reduction of a particular article to a different state or thing

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Automatic generation and transmission of the second (composite) web page is not a routine sequence of events after clicking on a link. The claim is more than "apply the abstract idea on the Internet".

- adds a specific limitation other than what is well-understood, routine and conventional in the field
 - *not* appending well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality
 - *not* a generic computer performing generic computer functions
- adds unconventional steps that confine the claim to a particular useful application
 - *not* adding insignificant extrasolution activity, such as mere data gathering
- adds meaningful limitations that amount to more than generally linking the use of the abstract idea to a particular technological environment

Complete (1) or (2) below:

1. Yes, the additional elements, taken individually or as a combination, result in the claim amounting to significantly more than the abstract idea because

The claimed combination of the computer store and server meaningfully limits the application of the abstract idea, and show that the claim is directed to a specific way to automate the creation of a composite web page by an outsource provider that incorporates elements from multiple sources in order to solve a problem faced by websites on the Internet.

An explanation of why the claim is eligible is not necessary in the Office action unless there would be a question as to the reasoning such that the record would benefit from clarification.

In particular, the claim describes a solution to an Internet-centric problem, i.e., the problem of retaining website visitors on a host web page that displays advertisement hyperlinks. On the Internet, the routine and conventional functioning of hyperlink protocol would be to instantly transport a visitor who "clicks" on an advertisement hyperlink away from the host's web page and to the merchant web page that is associated with the clicked advertisement.

The claimed combination of components overrides this routine and conventional sequence of events, by instead directing the visitor to an automatically-generated composite web page that combines visual "look and feel" elements from the host web page and product or service information from the merchant web page associated with the clicked advertisement. In this way, rather than instantly losing visitors to the

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merchant web page, the host can instead send its visitors to a web page on the outsource provider's server that 1) incorporates "look and feel" elements from the host web page, and 2) provides visitors with the opportunity to purchase products from the third-party merchant without actually entering that merchant's web page. In this case, these additional limitations amount to more than simply stating "apply the abstract idea on the Internet."

If any elements, individually or as a combination, amount to the claim reciting significantly more than the abstract idea **conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the claim recites the abstract idea of "x", but amounts to significantly more than the idea itself with the additional element "y" because "abc".)

2. No, the additional elements, taken individually and as a combination, do not result in the claim amounting to significantly more than the abstract idea because

If no elements, taken individually and as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude the SME analysis** by making a § 101 rejection and continue with examination under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

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Sample Rejection:

Use Form Paragraphs 7.05 and 7.05.015

Claim __ is rejected under 35 U.S.C. 101 because the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more. Claim __ is directed to

The claim does not include additional elements that are sufficient to amount to significantly more than the judicial exception because

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Worksheet Summary: Section I is designed to address the first activity in examination, which is to determine what applicant invented and to construe the claim in accordance with its broadest reasonable interpretation (BRI). Next, referring to the eligibility flowchart reproduced in the *Quick Reference Sheet*, Section II addresses *Step 1* regarding the four statutory categories of invention. Section III addresses *Step 2A* by determining whether the claim is directed to an abstract idea. Section IV addresses *Step 2B* by identifying additional elements to determine if the claim amounts to significantly more than an abstract idea.

Application/Example No. and claim: Example 3, claim 1

I. What did applicant invent?

Review the disclosure to identify what applicant considers as the invention. (MPEP 2103(I))

Halftoning is an image processing technique used to enable certain binary printing or display devices (e.g., fax machines, newspaper printers) to reproduce color or gray scale images.

Applicant invented: An improved halftoning mask called a “blue noise mask” for converting a gray scale image into a binary image.

This can be a brief description and should not merely reproduce the claim. The take away here is that the inventor's masking technique seeks to improve the ability of certain printing or display devices to represent the original color or gray scale image.

Establish the broadest reasonable interpretation (BRI) of the claim.

II. Does the claimed invention fall within one of the four statutory categories of invention (process, machine, manufacture or composition of matter) (Step 1)?

Choose A or B:

A. Yes, the claimed invention is a series of steps, which is a process.

Continue with the SME analysis.

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- B. No, the claimed invention is not one of the four statutory categories. Make a rejection of the claim as being drawn to non-statutory subject matter. *Use Form Paragraphs 7.05 and 7.05.01 available in Custom OACs.*

If the claim could be amended to fall within one of the statutory categories, it is recommended to **continue with the SME analysis** under that assumption. Make the assumption clear in the record if a rejection is ultimately made under *Step 2*, and consider suggesting a potential amendment to applicant that would result in the claim being drawn to a statutory category.

If no amendment is possible, **conclude the SME analysis** and continue with examination under each of the other patentability requirements.

III. Is the claim directed to an abstract idea (Step 2A)?

Courts have found certain concepts to be “abstract ideas”, for example fundamental economic practices, certain methods of organizing human activity, ideas themselves (standing alone), or mathematical relationships/formulae. Assistance in identifying such abstract ideas can be obtained by referring to the [case law chart](#) available on the website and the court case discussions in the 2014 Interim Eligibility Guidance. A claim is “directed” to an abstract idea when the abstract idea is recited (*i.e.*, **set forth** or **described**) in the claim.

Choose A, B, or C:

- A. No, the claim does not recite a concept that is similar to those found by the courts to be abstract. **Conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the broadest reasonable interpretation of the claim is not directed to an abstract idea.)
- B. Yes, but the streamlined analysis is appropriate as the eligibility is self-evident, and a full eligibility analysis is not needed. Applicant’s claimed invention, explained in Section I above, is not focused on the abstract idea, and the claim clearly does not attempt to tie up an abstract idea such that others cannot practice it. (Refer to the [February 2015 Training Slides](#) for information and examples of a streamlined analysis.) **Conclude SME analysis** and continue with examination under each of the other patentability requirements.

- C.** Yes, identify the limitation(s) in the claim that recite(s) the abstract idea and explain why the recited subject matter is an abstract idea. After identifying the abstract idea, **continue with SME analysis**.

The limitation(s) in the claim that set(s) forth or describe(s) the abstract idea is (are):

The claim recites the step of “generating...a blue noise mask by encoding changes in pixel values across a plurality of blue noise filtered dot profiles at varying gray levels.”

The reason(s) that the limitation(s) are considered an abstract idea is (are):

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As explained in the background, the blue noise mask is generated through an iterative mathematical operation of blue noise filtering various dot profiles and encoding them in an array. The courts have found that mathematical relationships are abstract ideas (See, e.g. Benson and Mackay Radio).

IV. Does the claim as a whole amount to significantly more than the abstract idea (Step 2B)?

- A. Are there any additional elements (features/limitations/step) recited in the claim beyond the abstract idea identified above?

Choose 1 or 2:

1. No, there are no other elements in the claim in addition to the abstract idea.
Conclude SME analysis by making a § 101 rejection and continue with examination under each of the other patentability requirements. Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

2. Yes, the claim elements (features/limitations/steps) in addition to the abstract idea are:

The claim additionally recites using a processor to generate the blue noise mask and compare the pixels of a received gray scale image to produce a binary image array. The binary image array is converted to a halftoned image. A first memory location stores the blue noise mask, and a second memory location stores the gray scale image.

Continue with the SME analysis.

- B. Evaluate the significance of the additional elements. Identifying additional elements and evaluating their significance involves the search for an “inventive concept” in the claim. It can be helpful to keep in mind what applicant invented (identified in Section I above) and how that relates to the additional elements to evaluate their significance.

Consider all of the identified additional elements individually and in combination to determine whether the claim as a whole amounts to significantly more than the abstract idea identified above. Reasons supporting the significance of the additional elements can include one or more of the following:

- improves another technology or technical field
- improves the functioning of a computer itself
- applies the abstract idea with, or by use of, a particular machine

Many of these considerations overlap, and more than one can often be applied to describe an element.

SUBJECT MATTER ELIGIBILITY WORKSHEET:

The additional elements must show an "inventive concept". It is not important how the elements are characterized or how many considerations apply from this list. It is important to evaluate the significance of the additional elements relative to applicant's invention.

- *not* a generic computer performing generic computer functions
- *not* adding the words "apply it" or words equivalent to "apply the abstract idea"
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- adds unconventional steps that confine the claim to a particular useful application
 - *not* adding insignificant extrasolution activity, such as mere data gathering
- adds meaningful limitations that amount to more than generally linking the use of the abstract idea to a particular technological environment

Complete (1) or (2) below:

1. Yes, the additional elements, taken individually or as a combination, result in the claim amounting to significantly more than the abstract idea because

The steps of comparing the image to the blue noise mask and converting the resulting binary image array to a halftoned image are combined in the claim with the step of generating the blue noise mask to go beyond the mere concept of simply retrieving and combining data using a computer. In particular, using a processor to compare the blue noise mask to a gray scale image to transform the gray scale image to a binary image array and converting the array to a halftoned image ties the mathematical operation to the processor's ability to process digital images so as to meaningfully limit the blue noise mask operations to digital image processing techniques.

Further, the additional limitations integrate the abstract idea into a practical application that allows the computer to use less memory than required for prior masks, resulting in faster computation time without sacrificing the quality of the

Note that the generic computer components in the claim (i.e. "processor," "first memory," and "second memory") do not alone confer or preclude eligibility.

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Note the improvement does not need to be explicitly recited in the claim.

resulting image as occurred in prior processes, and produces an improved digital image. These are not only improvements to the functioning of the claimed computer itself, but also improvements in the technology of digital image processing.

An explanation of why the claim is eligible is not necessary in the Office action unless there would be a question as to the reasoning such that the record would benefit from clarification.

The claim is eligible.

If any elements, individually or as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the claim recites the abstract idea of “x”, but amounts to significantly more than the idea itself with the additional element “y” because “abc”.)

2. No, the additional elements, taken individually and as a combination, do not result in the claim amounting to significantly more than the abstract idea because

If no elements, taken individually and as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude the SME analysis** by making a § 101 rejection and continue with examination under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

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SUBJECT MATTER ELIGIBILITY WORKSHEET:

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For purposes of simplicity in this workshop, the questions below only refer to *abstract ideas* and will be used to walk through several of the [abstract ideas examples](#) published on the website. (A blank generic worksheet is available on the training website.) It is suggested that the worksheet be used with the [2014 Interim Eligibility Guidance Quick Reference Sheet](#), which includes an overview of the analysis, along with the flowchart and form paragraphs referenced herein.

Worksheet Summary: Section I is designed to address the first activity in examination, which is to determine what applicant invented and to construe the claim in accordance with its broadest reasonable interpretation (BRI). Next, referring to the eligibility flowchart reproduced in the *Quick Reference Sheet*, Section II addresses *Step 1* regarding the four statutory categories of invention. Section III addresses *Step 2A* by determining whether the claim is directed to an abstract idea. Section IV addresses *Step 2B* by identifying additional elements to determine if the claim amounts to significantly more than an abstract idea.

Application/Example No. and claim: Example 4, claim 1

I. What did applicant invent?

Review the disclosure to identify what applicant considers as the invention. (MPEP 2103(I))

Applicant invented:

A mobile GPS receiver coupled to a server in which a mathematical model calculates the position of the mobile GPS receiver without receiving satellite positioning data or absolute time information from a satellite.

This can be a brief description and should not merely reproduce the claim. The take away is that the invention is focused on a way to improve the functioning of the GPS system.

Establish the broadest reasonable interpretation (BRI) of the claim.

II. Does the claimed invention fall within one of the four statutory categories of invention (process, machine, manufacture or composition of matter) (Step 1)?

Choose A or B:

A. Yes, the claimed invention is a system including a mobile device and a server, which is a machine or a manufacture.

Although this is a product claim, it is not automatically eligible and needs further analysis to ensure that the claim is not directed to an abstract idea without significantly more.

Continue with the SME analysis.

B. No, the claimed invention is not one of the four statutory categories. Make a rejection of the claim as being drawn to non-statutory subject matter. Use *Form Paragraphs 7.05 and 7.05.01* available in *Custom OACs*.

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If the claim could be amended to fall within one of the statutory categories, it is recommended to **continue with the SME analysis** under that assumption. Make the assumption clear in the record if a rejection is ultimately made under *Step 2*, and consider suggesting a potential amendment to applicant that would result in the claim being drawn to a statutory category.

If no amendment is possible, **conclude the SME analysis** and continue with examination under each of the other patentability requirements.

III. Is the claim directed to an abstract idea (Step 2A)?

Courts have found certain concepts to be “abstract ideas”, for example fundamental economic practices, certain methods of organizing human activity, ideas themselves (standing alone), or mathematical relationships/formulae. Assistance in identifying such abstract ideas can be obtained by referring to the [case law chart](#) available on the website and the court case discussions in the 2014 Interim Eligibility Guidance. A claim is “directed” to an abstract idea when the abstract idea is recited (*i.e.*, **set forth** or **described**) in the claim.

Choose A, B, or C:

- A. No, the claim does not recite a concept that is similar to those found by the courts to be abstract. **Conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the broadest reasonable interpretation of the claim is not directed to an abstract idea.)
- B. Yes, but the streamlined analysis is appropriate as the eligibility is self-evident, and a full eligibility analysis is not needed. Applicant’s claimed invention, explained in Section I above, is not focused on the abstract idea, and the claim clearly does not attempt to tie up an abstract idea such that others cannot practice it. (Refer to the [February 2015 Training Slides](#) for information and examples of a streamlined analysis.) **Conclude SME analysis** and continue with examination under each of the other patentability requirements.
- C. Yes, identify the limitation(s) in the claim that recite(s) the abstract idea and explain why the recited subject matter is an abstract idea. After identifying the abstract idea, **continue with SME analysis**.

The limitation(s) in the claim that set(s) forth or describe(s) the abstract idea is (are):

The “estimate,” “calculate,” and “create” limitations recite several mathematical operations including calculating pseudo-ranges and absolute times, and a mathematical model that is used to calculate absolute position of the GPS receiver.

The abstract idea is the totality of the mathematical operations recited in the claim to calculate the position of the GPS receiver.

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The reason(s) that the limitation(s) are considered an abstract idea is (are):

Mathematical operations such as the claimed operations have been considered to be judicial exceptions (abstract ideas) by the courts, for example in the *Diehr* and *Benson* cases discussed in the 2014 Interim Eligibility Guidance.

IV. Does the claim as a whole amount to significantly more than the abstract idea (Step 2B)?

- A. Are there any additional elements (features/limitations/step) recited in the claim beyond the abstract idea identified above?

Choose 1 or 2:

1. No, there are no other elements in the claim in addition to the abstract idea.
Conclude SME analysis by making a § 101 rejection and continue with examination under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

2. Yes, the claim elements (features/limitations/steps) in addition to the abstract idea are:

A server including: a central processing unit (CPU) for performing the mathematical operations of estimating position, calculating absolute time, and calculating absolute position using a mathematical model; a memory storing location data; a clock generating time data; and a communication transceiver that communicates with the mobile device.

A mobile device comprising a GPS receiver, microprocessor, wireless transceiver and a display. The mobile device receives satellite data, calculates pseudo-ranges, wirelessly transmits the calculated pseudo-ranges to the server, receives a calculated absolute position from the server, and displays a visual representation of the calculated absolute position.

Continue with the SME analysis.

- B. Evaluate the significance of the additional elements. Identifying additional elements and evaluating their significance involves the search for an “inventive concept” in the claim.

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It can be helpful to keep in mind what applicant invented (identified in Section I above) and how that relates to the additional elements to evaluate their significance.

Consider all of the identified additional elements individually and in combination to determine whether the claim as a whole amounts to significantly more than the abstract idea identified above. Reasons supporting the significance of the additional elements can include one or more of the following:

The additional elements must show an "inventive concept". Many of these considerations overlap, and more than one can often be applied to describe an element. It is not important how the elements are characterized or how many considerations apply from this list. It is important to evaluate the significance of the additional elements relative to applicant's invention.

While the claim includes hardware components recited generically, this claim does not represent a case of merely reciting an abstract idea "on a computer". See the "meaningful limitations" below.

- improves another technology or technical field
- improves the functioning of a computer itself
- applies the abstract idea with, or by use of, a particular machine
 - *not* a generic computer performing generic computer functions
 - *not* adding the words "apply it" or words equivalent to "apply the abstract idea"
 - *not* mere instructions to implement an abstract idea on a computer
- effects a transformation or reduction of a particular article to a different state or thing
- adds a specific limitation other than what is well-understood, routine and conventional in the field
 - *not* appending well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality
 - *not* a generic computer performing generic computer functions
- adds unconventional steps that confine the claim to a particular useful application
 - *not* adding insignificant extrasolution activity, such as mere data gathering
- adds meaningful limitations that amount to more than generally linking the use of the abstract idea to a particular technological environment

Although the claim recites some generic computer components (a CPU, memory and clock), the claim as a whole indicates that the programmed CPU acts in concert with the mobile device to apply the mathematical operations. Thus, the additional elements in combination are meaningful limitations.

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Complete (1) or (2) below:

1. Yes, the additional elements, taken individually or as a combination, result in the claim amounting to significantly more than the abstract idea because

Although the claimed server components (CPU, memory and clock) are generic, when they are considered in combination with the mobile device, the claimed combination of components meaningfully limits the application of the claimed mathematical operations and shows that the claim is not directed to performing mathematical operations on a computer alone. Instead, the programmed CPU acts in concert with the recited features of the mobile device to enable the mobile device to determine and display its absolute position through interaction with the server and multiple remote satellites. This concerted action is evident from the claim as a whole, e.g., the mobile device receives satellite data and uses the data to calculate pseudo-ranges, the mobile device wirelessly transmits the calculated pseudo-ranges to the server, the server uses the transmitted pseudo-ranges to calculate the absolute position (location) of the mobile device and wirelessly transmits the calculated absolute position to the mobile device, and the mobile device displays a visual representation of the received calculated absolute position.

An explanation of why the claim is eligible is not necessary in the Office action unless there would be a question as to the reasoning such that the record would benefit from clarification.

This combination of elements imposes meaningful limits because the mathematical operations are applied to improve an existing technology (global positioning) by improving the signal-acquisition sensitivity of the receiver to extend the usefulness of the technology into weak-signal environments and providing the location information for display on the mobile device. All of these features, especially when viewed in combination, amount to significantly more than the judicial exception.

The claim is eligible.

If any elements, individually or as a combination, amount to the claim reciting significantly more than the abstract idea **conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the claim recites the abstract idea of “x”, but amounts to significantly more than the idea itself with the additional element “y” because “abc”).

2. No, the additional elements, taken individually and as a combination, do not result in the claim amounting to significantly more than the abstract idea because

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If no elements, taken individually and as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude the SME analysis** by making a § 101 rejection and continue with examination under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

Sample Rejection:

Use Form Paragraphs 7.05 and 7.05.015

Claim __ is rejected under 35 U.S.C. 101 because the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more. Claim __ is directed to

The claim does not include additional elements that are sufficient to amount to significantly more than the judicial exception because

SUBJECT MATTER ELIGIBILITY WORKSHEET:

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For purposes of simplicity in this workshop, the questions below only refer to *abstract ideas* and will be used to walk through several of the [abstract ideas examples](#) published on the website. (A blank generic worksheet is available on the training website.) It is suggested that the worksheet be used with the [2014 Interim Eligibility Guidance Quick Reference Sheet](#), which includes an overview of the analysis, along with the flowchart and form paragraphs referenced herein.

Worksheet Summary: Section I is designed to address the first activity in examination, which is to determine what applicant invented and to construe the claim in accordance with its broadest reasonable interpretation (BRI). Next, referring to the eligibility flowchart reproduced in the *Quick Reference Sheet*, Section II addresses *Step 1* regarding the four statutory categories of invention. Section III addresses *Step 2A* by determining whether the claim is directed to an abstract idea. Section IV addresses *Step 2B* by identifying additional elements to determine if the claim amounts to significantly more than an abstract idea.

Application/Example No. and claim: Example 5, claim 10

I. What did applicant invent?

Review the disclosure to identify what applicant considers as the invention. (MPEP 2103(I))

Applicant invented:

An improved device profile which describes both the color and spatial properties of an image source device and destination device for improved image translation across the source and destination devices.

This can be brief and should not just reproduce the claim. The take away is the invention focuses on generating the device profile (a collection of information about the devices).

Establish the broadest reasonable interpretation (BRI) of the claim.

II. Does the claimed invention fall within one of the four statutory categories of invention (process, machine, manufacture or composition of matter) (Step 1)?

Choose A or B:

A. Yes, the claimed invention is a series of steps, which is a process.

Continue with the SME analysis.

B. No, the claimed invention is not one of the four statutory categories. Make a rejection of the claim as being drawn to non-statutory subject matter. Use *Form Paragraphs 7.05 and 7.05.01 available in Custom OACs.*

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If the claim could be amended to fall within one of the statutory categories, it is recommended to **continue with the SME analysis** under that assumption. Make the assumption clear in the record if a rejection is ultimately made under *Step 2*, and consider suggesting a potential amendment to applicant that would result in the claim being drawn to a statutory category.

If no amendment is possible, **conclude the SME analysis** and continue with examination under each of the other patentability requirements.

III. Is the claim directed to an abstract idea (Step 2A)?

Courts have found certain concepts to be “abstract ideas”, for example fundamental economic practices, certain methods of organizing human activity, ideas themselves (standing alone), or mathematical relationships/formulae. Assistance in identifying such abstract ideas can be obtained by referring to the [case law chart](#) available on the website and the court case discussions in the 2014 Interim Eligibility Guidance. A claim is “directed” to an abstract idea when the abstract idea is recited (*i.e.*, **set forth** or **described**) in the claim.

Choose A, B, or C:

- A. No, the claim does not recite a concept that is similar to those found by the courts to be abstract. **Conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the broadest reasonable interpretation of the claim is not directed to an abstract idea.)
- B. Yes, but the streamlined analysis is appropriate as the eligibility is self-evident, and a full eligibility analysis is not needed. Applicant’s claimed invention, explained in Section I above, is not focused on the abstract idea, and the claim clearly does not attempt to tie up an abstract idea such that others cannot practice it. (Refer to the [February 2015 Training Slides](#) for information and examples of a streamlined analysis.) **Conclude SME analysis** and continue with examination under each of the other patentability requirements.

- C. Yes, identify the limitation(s) in the claim that recite(s) the abstract idea and explain why the recited subject matter is an abstract idea. After identifying the abstract idea, **continue with SME analysis**.

The limitation(s) in the claim that set(s) forth or describe(s) the abstract idea is (are):

The steps of the method describe generating and combining data, including:

generating first data for describing a device dependent transformation of color information content of the image to a device independent color space through use of measured chromatic stimuli and device response characteristic functions;

generating second data for describing a device dependent transformation of spatial information content of the image in said device independent color space through use of spatial stimuli and device response characteristic functions; and

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combining said first and second data into the device profile.

The reason(s) that the limitation(s) are considered an abstract idea is (are):

The claim recites the steps of generating first data and second data using mathematical techniques and combining the first and second data into a device profile. The claim simply describes the concept of gathering and combining data by reciting steps of organizing information through mathematical relationships. The gathering and combining steps merely employ mathematical relationships to manipulate existing information to generate additional information in the form of a "device profile" without limit to any use of the device profile. This idea is similar to the basic concept of manipulating information using mathematical relationships that courts have found to be an abstract idea.

IV. Does the claim as a whole amount to significantly more than the abstract idea (Step 2B)?

- A. Are there any additional elements (features/limitations/step) recited in the claim beyond the abstract idea identified above?

Choose 1 or 2:

As the claim only recites the abstract idea with no additional limitations the analysis effectively ends at Step 2A: Ineligible. Note that the abstract idea of generating the device profile is the entirety of applicant's claimed invention.

1. No, there are no other elements in the claim in addition to the abstract idea. **Conclude SME analysis** by making a § 101 rejection and continue with examination under each of the other patentability requirements. Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.

See the sample rejection below.

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

2. Yes, the claim elements (features/limitations/steps) in addition to the abstract idea are:

Continue with the SME analysis.

- B. Evaluate the significance of the additional elements. Identifying additional elements and evaluating their significance involves the search for an "inventive concept" in the claim.

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It can be helpful to keep in mind what applicant invented (identified in Section I above) and how that relates to the additional elements to evaluate their significance.

Consider all of the identified additional elements individually and in combination to determine whether the claim as a whole amounts to significantly more than the abstract idea identified above. Reasons supporting the significance of the additional elements can include one or more of the following:

- improves another technology or technical field
- improves the functioning of a computer itself
- applies the abstract idea with, or by use of, a particular machine
 - *not* a generic computer performing generic computer functions
 - *not* adding the words “apply it” or words equivalent to “apply the abstract idea”
 - *not* mere instructions to implement an abstract idea on a computer
- effects a transformation or reduction of a particular article to a different state or thing
- adds a specific limitation other than what is well-understood, routine and conventional in the field
 - *not* appending well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality
 - *not* a generic computer performing generic computer functions
- adds unconventional steps that confine the claim to a particular useful application
 - *not* adding insignificant extrasolution activity, such as mere data gathering
- adds meaningful limitations that amount to more than generally linking the use of the abstract idea to a particular technological environment

Complete (1) or (2) below:

1. Yes, the additional elements, taken individually or as a combination, result in the claim amounting to significantly more than the abstract idea because

If any elements, individually or as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude SME analysis** and continue with

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examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the claim recites the abstract idea of “x”, but amounts to significantly more than the idea itself with the additional element “y” because “abc”.)

2. No, the additional elements, taken individually and as a combination, do not result in the claim amounting to significantly more than the abstract idea because
-
-

If no elements, taken individually and as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude the SME analysis** by making a § 101 rejection and continue with examination under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

A sample rejection follows:

[FP 7.05] Claim 10 is rejected under 35 U.S.C. 101 because

[FP 7.05.015] the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more. Claim(s) 10 is/are directed to the abstract idea of gathering and combining data by reciting steps of organizing information through mathematical relationships. The gathering and combining steps merely employ mathematical relationships to manipulate existing information to generate additional information in the form of a “device profile” without limit to any use of the device profile. This idea is similar to the basic concept of manipulating information using mathematical relationships found to be an abstract idea by the courts.

The claim(s) does/do not include additional elements that are sufficient to amount to significantly more than the judicial exception because there are no additional elements besides the abstract idea.

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For purposes of simplicity in this workshop, the questions below only refer to *abstract ideas* and will be used to walk through several of the [abstract ideas examples](#) published on the website. (A blank generic worksheet is available on the training website.) It is suggested that the worksheet be used with the [2014 Interim Eligibility Guidance Quick Reference Sheet](#), which includes an overview of the analysis, along with the flowchart and form paragraphs referenced herein.

Worksheet Summary: Section I is designed to address the first activity in examination, which is to determine what applicant invented and to construe the claim in accordance with its broadest reasonable interpretation (BRI). Next, referring to the eligibility flowchart reproduced in the *Quick Reference Sheet*, Section II addresses *Step 1* regarding the four statutory categories of invention. Section III addresses *Step 2A* by determining whether the claim is directed to an abstract idea. Section IV addresses *Step 2B* by identifying additional elements to determine if the claim amounts to significantly more than an abstract idea.

Application/Example No. and claim: Example 6, claim 1

I. What did applicant invent?

Review the disclosure to identify what applicant considers as the invention. (MPEP 2103(I))

Applicant invented:

An automated system for managing various aspects of a game of Bingo, including solving tampering problems with Bingo tickets and minimizing other security risks during Bingo ticket purchases.

This can be brief and should not just reproduce the claim. The important take away here is that applicant’s invention is focused on managing the game, especially the aspects of ticket sales.

Establish the broadest reasonable interpretation (BRI) of the claim.

II. Does the claimed invention fall within one of the four statutory categories of invention (process, machine, manufacture or composition of matter) (Step 1)?

Choose A or B:

A. Yes, the claimed invention is a system for managing a game of Bingo comprising computer elements, which is a machine or a manufacture.

Although this is a product claim, it is not automatically eligible and needs further analysis to ensure that the claim is not directed to an abstract idea without significantly more.

Continue with the SME analysis.

B. No, the claimed invention is not one of the four statutory categories. Make a rejection of the claim as being drawn to non-statutory subject matter. *Use Form Paragraphs 7.05 and 7.05.01 available in Custom OACs.*

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If the claim could be amended to fall within one of the statutory categories, it is recommended to **continue with the SME analysis** under that assumption. Make the assumption clear in the record if a rejection is ultimately made under *Step 2*, and consider suggesting a potential amendment to applicant that would result in the claim being drawn to a statutory category.

If no amendment is possible, **conclude the SME analysis** and continue with examination under each of the other patentability requirements.

III. Is the claim directed to an abstract idea (Step 2A)?

Courts have found certain concepts to be “abstract ideas”, for example fundamental economic practices, certain methods of organizing human activity, ideas themselves (standing alone), or mathematical relationships/formulae. Assistance in identifying such abstract ideas can be obtained by referring to the [case law chart](#) available on the website and the court case discussions in the 2014 Interim Eligibility Guidance. A claim is “directed” to an abstract idea when the abstract idea is recited (*i.e.*, **set forth** or **described**) in the claim.

Choose A, B, or C:

- A. No, the claim does not recite a concept that is similar to those found by the courts to be abstract. **Conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the broadest reasonable interpretation of the claim is not directed to an abstract idea.)
- B. Yes, but the streamlined analysis is appropriate as the eligibility is self-evident, and a full eligibility analysis is not needed. Applicant’s claimed invention, explained in Section I above, is not focused on the abstract idea, and the claim clearly does not attempt to tie up an abstract idea such that others cannot practice it. (Refer to the [February 2015 Training Slides](#) for information and examples of a streamlined analysis.) **Conclude SME analysis** and continue with examination under each of the other patentability requirements.

- C. Yes, identify the limitation(s) in the claim that recite(s) the abstract idea and explain why the recited subject matter is an abstract idea. After identifying the abstract idea, **continue with SME analysis**.

The limitation(s) in the claim that set(s) forth or describe(s) the abstract idea is (are):

Claim elements (i) - (viii) describe the steps enabled by the program for managing a game of Bingo, including:

- (i) input of at least two sets of Bingo numbers which are preselected by a player to be played in at least one selected game of Bingo in a future time period;
- (ii) storage of the sets of Bingo numbers which are preselected by the player as a group in the memory of the computer;
- (iii) assignment by the computer of a player identifier unique to the player for the group having the sets of Bingo numbers which are preselected

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- by the player wherein the player identifier is assigned to the group for multiple sessions of Bingo;
- (iv) retrieval of the group using the player identifier;
 - (v) selection from the group by the player of at least one of the sets of Bingo numbers preselected by the player and stored in the memory of the computer as the group for play in a selected game of Bingo in a specific session of Bingo wherein a number of sets of Bingo numbers selected for play in the selected game of Bingo is less than a total number of sets of Bingo numbers in the group;
 - (vi) addition by the computer of a control number for each set of Bingo numbers selected for play in the selected game of Bingo;
 - (vii) output of a receipt with the control number, the set of Bingo numbers which is preselected and selected by the player, a price for the set of Bingo numbers which is preselected, a date of the game of Bingo and optionally a computer identification number; and
 - (viii) output for verification of a winning set of Bingo numbers by means of the control number which is input into the computer by a manager of the game of Bingo.

These steps describe both (a) the underlying management scheme by which played numbers and a control number are selected, a player identifier is assigned, and a winning set of numbers is verified, and (b) the acts enabled by the program for effecting the scheme (e.g., input and output). The scheme (a) is the abstract idea.

The reason(s) that the limitation(s) are considered an abstract idea is (are):

This management scheme can be performed mentally or in a computer and is similar to kind of 'organizing human activity' at issue in *Alice Corp.* Establishing rules by which the numbers are selected and a winning set is verified to manage players during multiple sessions and minimize security risks during the games is similar in concept to managing risk during consumer transactions as in *Bilski* and mitigating settlement risk as in *Alice Corp.*

IV. Does the claim as a whole amount to significantly more than the abstract idea (Step 2B)?

- A. Are there any additional elements (features/limitations/step) recited in the claim beyond the abstract idea identified above?

Choose 1 or 2:

1. No, there are no other elements in the claim in addition to the abstract idea.

Conclude SME analysis by making a § 101 rejection and continue with examination

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under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

2. Yes, the claim elements (features/limitations/steps) in addition to the abstract idea are:

Additional claim elements include a computer with a central processing unit (CPU), memory, printer, input and output terminals, and a program. The CPU performs computing functions such as assignment and retrieval of an identifier and selection of numbers. The peripherals, such as the memory, printer, input and output, perform functions of input, storage and output of data (numbers/receipts).

Continue with the SME analysis.

- B. Evaluate the significance of the additional elements. Identifying additional elements and evaluating their significance involves the search for an “inventive concept” in the claim. It can be helpful to keep in mind what applicant invented (identified in Section I above) and how that relates to the additional elements to evaluate their significance.

Consider all of the identified additional elements individually and in combination to determine whether the claim as a whole amounts to significantly more than the abstract idea identified above. Reasons supporting the significance of the additional elements can include one or more of the following:

The courts have found that some computerized systems implementing abstract ideas do not add significantly more to the abstract idea. Thus, providing a programmed computer does not automatically satisfy a ‘particular machine’ for this analysis.

The additional elements must show an “inventive concept.” Many of these considerations overlap, and more than one can often be applied to describe an element. It is not important how the elements are characterized or how many considerations apply from this list. It is important to evaluate the significance of the additional elements relative to applicant’s invention.

- improves another technology or technical field
- improves the functioning of a computer itself
- applies the abstract idea with, or by use of, a particular machine
 - *not* a generic computer performing generic computer functions
 - *not* adding the words “apply it” or words equivalent to “apply the abstract idea”
 - *not* mere instructions to implement an abstract idea on a computer
- effects a transformation or reduction of a particular article to a different state or thing

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In this case, the circled considerations indicate that the additional elements are generic computer elements, represent mere instructions to implement the idea on a computer, and merely add insignificant extrasolution activity.

- adds a specific limitation other than what is well-understood, routine and conventional in the field
 - *not* appending well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality
 - *not* a generic computer performing generic computer functions
- adds unconventional steps that confine the claim to a particular useful application
 - *not* adding insignificant extrasolution activity, such as mere data gathering
- adds meaningful limitations that amount to more than generally linking the use of the abstract idea to a particular technological environment

Complete (1) or (2) below:

1. Yes, the additional elements, taken individually or as a combination, result in the claim amounting to significantly more than the abstract idea because

If any elements, individually or as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the claim recites the abstract idea of “x”, but amounts to significantly more than the idea itself with the additional element “y” because “abc”.)

2. No, the additional elements, taken individually and as a combination, do not result in the claim amounting to significantly more than the abstract idea because

The additional elements are generic computer components claimed to perform their basic functions of storing, retrieving and processing data. The recitation of the computer limitations amounts to mere instructions to implement the abstract idea on a computer, such as using a computer program to enable selection of numbers from a group of preselected numbers or to output a receipt. Taking the elements both individually and as a combination, the computer components at each step of the management process perform

The applicant is using existing computer elements to perform generic computer functions in implementing the invention.

SUBJECT MATTER ELIGIBILITY WORKSHEET:

For use in abstract idea workshop

purely generic computer functions. The claim as a whole does not amount to significantly more than the abstract idea itself.

Claim is ineligible.

If no elements, taken individually and as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude the SME analysis** by making a § 101 rejection and continue with examination under each of the other patentability requirements. Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

A sample rejection follows:

[FP 7.05] Claim 1 is rejected under 35 U.S.C. 101 because

[FP 7.05.015] the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more.

Claim(s) 1 is/are directed to the abstract idea of managing a game of Bingo.

Elements (i) - (viii) describe the underlying management scheme by which played numbers and a control number are selected, a player identifier is assigned, and a winning set of numbers is verified. This management scheme is a type of organizing human activity similar to those found by the courts to be abstract.

The claim(s) does/do not include additional elements that are sufficient to amount to significantly more than the judicial exception because the additional elements are generic computer components claimed to perform their basic functions of storing, retrieving and processing data. The recitation of the computer limitations amounts to mere instructions to implement the abstract idea on a computer, such as using a computer program to enable selection of numbers from a group of preselected numbers or to output a receipt. Taking the elements both individually and as a combination, the computer components at each step of the management process perform purely generic computer functions. The claim as a whole does not amount to significantly more than the abstract idea itself.

SUBJECT MATTER ELIGIBILITY WORKSHEET:

This worksheet can be used to assist in analyzing a claim for “Subject Matter Eligibility” (SME) under 35 U.S.C. 101 for any judicial exception (law of nature, natural phenomenon, or abstract idea) in accordance with the [2014 Interim Eligibility Guidance](#). As every claim must be examined individually based on the particular elements recited therein, a separate worksheet should be used to analyze each claim.

For purposes of simplicity in this workshop, the questions below only refer to *abstract ideas* and will be used to walk through several of the [abstract ideas examples](#) published on the website. (A blank generic worksheet is available on the training website.) It is suggested that the worksheet be used with the [2014 Interim Eligibility Guidance Quick Reference Sheet](#), which includes an overview of the analysis, along with the flowchart and form paragraphs referenced herein.

Worksheet Summary: Section I is designed to address the first activity in examination, which is to determine what applicant invented and to construe the claim in accordance with its broadest reasonable interpretation (BRI). Next, referring to the eligibility flowchart reproduced in the *Quick Reference Sheet*, Section II addresses *Step 1* regarding the four statutory categories of invention. Section III addresses *Step 2A* by determining whether the claim is directed to an abstract idea. Section IV addresses *Step 2B* by identifying additional elements to determine if the claim amounts to significantly more than an abstract idea.

Application/Example No. and claim: Example 7, claim 1

I. What did applicant invent?

Review the disclosure to identify what applicant considers as the invention. (MPEP 2103(I))

Applicant invented:

a method for providing a performance guaranty (a contract) in an online commercial transaction by guaranteeing a first party's performance when the first party and second party enter into the online transaction.

This can be a brief description and should not merely reproduce the claim. The important take away here is that applicant's invention is focused on providing safe online transactions using a performance guaranty.

Establish the broadest reasonable interpretation (BRI) of the claim.

II. Does the claimed invention fall within one of the four statutory categories of invention (process, machine, manufacture or composition of matter) (Step 1)?

Choose A or B:

A. Yes, the claimed invention is a series of steps, which is a process.

Continue with the SME analysis.

B. No, the claimed invention is not one of the four statutory categories. Make a rejection of the claim as being drawn to non-statutory subject matter. *Use Form Paragraphs 7.05 and 7.05.01 available in Custom OACs.*

SUBJECT MATTER ELIGIBILITY WORKSHEET:

If the claim could be amended to fall within one of the statutory categories, it is recommended to **continue with the SME analysis** under that assumption. Make the assumption clear in the record if a rejection is ultimately made under *Step 2*, and consider suggesting a potential amendment to applicant that would result in the claim being drawn to a statutory category.

If no amendment is possible, **conclude the SME analysis** and continue with examination under each of the other patentability requirements.

III. Is the claim directed to an abstract idea (Step 2A)?

Courts have found certain concepts to be “abstract ideas”, for example fundamental economic practices, certain methods of organizing human activity, ideas themselves (standing alone), or mathematical relationships/formulae. Assistance in identifying such abstract ideas can be obtained by referring to the [case law chart](#) available on the website and the court case discussions in the 2014 Interim Eligibility Guidance. A claim is “directed” to an abstract idea when the abstract idea is recited (*i.e.*, **set forth** or **described**) in the claim.

Choose A, B, or C:

- A. No, the claim does not recite a concept that is similar to those found by the courts to be abstract. **Conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the broadest reasonable interpretation of the claim is not directed to an abstract idea.)
- B. Yes, but the streamlined analysis is appropriate as the eligibility is self-evident, and a full eligibility analysis is not needed. Applicant’s claimed invention, explained in Section I above, is not focused on the abstract idea, and the claim clearly does not attempt to tie up an abstract idea such that others cannot practice it. (Refer to the [February 2015 Training Slides](#) for information and examples of a streamlined analysis.) **Conclude SME analysis** and continue with examination under each of the other patentability requirements.

- C. Yes, identify the limitation(s) in the claim that recite(s) the abstract idea and explain why the recited subject matter is an abstract idea. After identifying the abstract idea, **continue with SME analysis**.

The limitation(s) in the claim that set(s) forth or describe(s) the abstract idea is (are):

The “receiving,” “processing,” and “offer[ing]” steps describe creating a contract, including receiving a request for a performance guaranty (contract), processing the request by underwriting to provide a performance guaranty and offering the performance guaranty.

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The reason(s) that the limitation(s) are considered an abstract idea is (are):

The creation of a contractual relationship as recited in the claim is a commercial arrangement involving contractual relations similar to the fundamental economic practices found by the courts to be abstract ideas (e.g., hedging in *Bilski*, mitigating settlement risk in *Alice*).

IV. Does the claim as a whole amount to significantly more than the abstract idea (Step 2B)?

- A. Are there any additional elements (features/limitations/step) recited in the claim beyond the abstract idea identified above?

Choose 1 or 2:

1. No, there are no other elements in the claim in addition to the abstract idea.
Conclude SME analysis by making a § 101 rejection and continue with examination under each of the other patentability requirements. Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

2. Yes, the claim elements (features/limitations/steps) in addition to the abstract idea are:

Additional claim elements include a computer application running on a computer and a computer network.

Continue with the SME analysis.

- B. Evaluate the significance of the additional elements. Identifying additional elements and evaluating their significance involves the search for an “inventive concept” in the claim. It can be helpful to keep in mind what applicant invented (identified in Section I above) and how that relates to the additional elements to evaluate their significance.

Consider all of the identified additional elements individually and in combination to determine whether the claim as a whole amounts to significantly more than the abstract idea identified above. Reasons supporting the significance of the additional elements can include one or more of the following:

- improves another technology or technical field
- improves the functioning of a computer itself

The courts have found that some computerized systems implementing abstract ideas do not add significantly more to the abstract idea. Thus, providing a programmed computer does not automatically satisfy a 'particular machine' for this analysis.

The additional elements must show an “inventive concept.” Many of these considerations overlap, and more than one

SUBJECT MATTER ELIGIBILITY WORKSHEET:

- applies the abstract idea with, or by use of, a particular machine
 - *not* a generic computer performing generic computer functions
 - *not* adding the words “apply it” or words equivalent to “apply the abstract idea”
 - *not* mere instructions to implement an abstract idea on a computer
- effects a transformation or reduction of a particular article to a different state or thing
- adds a specific limitation other than what is well-understood, routine and conventional in the field
 - *not* appending well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality
 - *not* a generic computer performing generic computer functions
- adds unconventional steps that confine the claim to a particular useful application
 - *not* adding insignificant extrasolution activity, such as mere data gathering
- adds meaningful limitations that amount to more than generally linking the use of the abstract idea to a particular technological environment

In this case, the circles indicate that the computer limitations are generic elements performing generic functions.

Complete (1) or (2) below:

1. Yes, the additional elements, taken individually or as a combination, result in the claim amounting to significantly more than the abstract idea because

If any elements, individually or as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the claim recites the abstract idea of “x”, but amounts to significantly more than the idea itself with the additional element “y” because “abc”.)

2. No, the additional elements, taken individually and as a combination, do not result in the claim amounting to significantly more than the abstract idea because

The additional elements are a generic recitation of a computer and a computer network performing their basic, generic computer functions. The claim amounts to no more than stating create a contract on a computer and send it over a network. The addition of the computer and network do not

SUBJECT MATTER ELIGIBILITY WORKSHEET:

add a meaningful limitation to the method of creating a performance guaranty. These generic computing elements do not amount to significantly more than the judicial exception.

The claim is ineligible.

If no elements, taken individually and as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude the SME analysis** by making a § 101 rejection and continue with examination under each of the other patentability requirements. Use *Form Paragraphs 7.05 and 7.05.015* available in *Custom OACs*.

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

A sample rejection follows:

[FP 7.05] Claim 1 is rejected under 35 U.S.C. 101 because

[FP 7.05.015] the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more. Claim(s) 1 is/are directed to the abstract idea of creating a contract. While the claim does not explicitly recite "creating a contract," the concept of "creating a contract," is described by the "receiving," "processing," and "offer[ing]" steps. The creation of a contractual relationship as recited in the claim is a commercial arrangement involving contractual relations similar to the fundamental economic practices found by the courts to be abstract ideas (*e.g.*, hedging in *Bilski*, mitigating settlement risk in *Alice*).

The claim does not include additional elements that are sufficient to amount to significantly more than the judicial exception because the additional elements are simply a generic recitation of a computer and a computer network performing their generic computer functions. The claim amounts to no more than stating create a contract on a computer and send it over a network. Taking the elements both individually and as a combination, the computer components in claim 1 perform purely generic computer functions. The claim as a whole does not amount to significantly more than the abstract idea itself. Accordingly, claim 1 is ineligible.

SUBJECT MATTER ELIGIBILITY WORKSHEET:

This worksheet can be used to assist in analyzing a claim for “Subject Matter Eligibility” (SME) under 35 U.S.C. 101 for any judicial exception (law of nature, natural phenomenon, or abstract idea) in accordance with the [2014 Interim Eligibility Guidance](#). As every claim must be examined individually based on the particular elements recited therein, a separate worksheet should be used to analyze each claim.

For purposes of simplicity in this workshop, the questions below only refer to *abstract ideas* and will be used to walk through several of the [abstract ideas examples](#) published on the website. (A blank generic worksheet is available on the training website.) It is suggested that the worksheet be used with the [2014 Interim Eligibility Guidance Quick Reference Sheet](#), which includes an overview of the analysis, along with the flowchart and form paragraphs referenced herein.

Worksheet Summary: Section I is designed to address the first activity in examination, which is to determine what applicant invented and to construe the claim in accordance with its broadest reasonable interpretation (BRI). Next, referring to the eligibility flowchart reproduced in the *Quick Reference Sheet*, Section II addresses *Step 1* regarding the four statutory categories of invention. Section III addresses *Step 2A* by determining whether the claim is directed to an abstract idea. Section IV addresses *Step 2B* by identifying additional elements to determine if the claim amounts to significantly more than an abstract idea.

Application/Example No. and claim: Example 8, claim 1

I. What did applicant invent?

Review the disclosure to identify what applicant considers as the invention. (MPEP 2103(I))

Applicant invented:

A method for distributing media products over the Internet where the consumer receives a copyrighted media product at no cost in exchange for viewing an advertisement, and the advertiser pays for the copyrighted content.

This can be a brief description and should not merely reproduce the claim. The important take away here is that applicant's invention is focused on the distribution of content based on advertising.

Establish the broadest reasonable interpretation (BRI) of the claim.

II. Does the claimed invention fall within one of the four statutory categories of invention (process, machine, manufacture or composition of matter) (Step 1)?

Choose A or B:

A. Yes, the claimed invention is a series of steps, which is a process.

Continue with the SME analysis.

B. No, the claimed invention is not one of the four statutory categories. Make a rejection of the claim as being drawn to non-statutory subject matter. Use *Form Paragraphs 7.05 and 7.05.01* available in *Custom OACs*.

SUBJECT MATTER ELIGIBILITY WORKSHEET:

If the claim could be amended to fall within one of the statutory categories, it is recommended to **continue with the SME analysis** under that assumption. Make the assumption clear in the record if a rejection is ultimately made under *Step 2*, and consider suggesting a potential amendment to applicant that would result in the claim being drawn to a statutory category.

If no amendment is possible, **conclude the SME analysis** and continue with examination under each of the other patentability requirements.

III. Is the claim directed to an abstract idea (Step 2A)?

Courts have found certain concepts to be “abstract ideas”, for example fundamental economic practices, certain methods of organizing human activity, ideas themselves (standing alone), or mathematical relationships/formulae. Assistance in identifying such abstract ideas can be obtained by referring to the [case law chart](#) available on the website and the court case discussions in the 2014 Interim Eligibility Guidance. A claim is “directed” to an abstract idea when the abstract idea is recited (*i.e.*, **set forth** or **described**) in the claim.

Choose A, B, or C:

- A. No, the claim does not recite a concept that is similar to those found by the courts to be abstract. **Conclude SME analysis** and continue with examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the broadest reasonable interpretation of the claim is not directed to an abstract idea.)
- B. Yes, but the streamlined analysis is appropriate as the eligibility is self-evident, and a full eligibility analysis is not needed. Applicant’s claimed invention, explained in Section I above, is not focused on the abstract idea, and the claim clearly does not attempt to tie up an abstract idea such that others cannot practice it. (Refer to the [February 2015 Training Slides](#) for information and examples of a streamlined analysis.) **Conclude SME analysis** and continue with examination under each of the other patentability requirements.

- C. Yes, identify the limitation(s) in the claim that recite(s) the abstract idea and explain why the recited subject matter is an abstract idea. After identifying the abstract idea, **continue with SME analysis**.

The limitation(s) in the claim that set(s) forth or describe(s) the abstract idea is (are):

The claims describe the abstract idea of showing an advertisement before delivering free content, which in effect is a scheme that uses advertising as an exchange or currency. The process of receiving copyrighted media, selecting an ad, offering the media in exchange for watching the selected ad, displaying the ad, allowing the consumer access to the media, and receiving payment from the sponsor of the ad all describe this abstract idea.

SUBJECT MATTER ELIGIBILITY WORKSHEET:

The reason(s) that the limitation(s) are considered an abstract idea is (are):

The idea of showing an advertisement before delivering content is "an idea, having no particular concrete or tangible form." This is similar to the concepts involving human activity relating to commercial practices (e.g., hedging in *Bi/ski*) that have been found by the courts to be abstract ideas. The limitations that narrow the idea, such as receiving copyrighted media, selecting an ad, offering the media in exchange for watching the selected ad, displaying the ad, allowing the consumer access to the media, and receiving payment from the sponsor of the ad, do not make the concept less abstract.

IV. Does the claim as a whole amount to significantly more than the abstract idea (Step 2B)?

- A. Are there any additional elements (features/limitations/step) recited in the claim beyond the abstract idea identified above?

Choose 1 or 2:

1. No, there are no other elements in the claim in addition to the abstract idea.
Conclude SME analysis by making a § 101 rejection and continue with examination under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

2. Yes, the claim elements (features/limitations/steps) in addition to the abstract idea are:

Accessing and updating an activity log, requiring a request from the consumer to view the advertising, restricting public access, and using the Internet as an information transmitting medium are additional limitations in the claimed method of distributing products.

As these steps are not intrinsic to the scheme for using advertisement as currency, they are treated as additional limitations

Continue with the SME analysis.

- B. Evaluate the significance of the additional elements. Identifying additional elements and evaluating their significance involves the search for an "inventive concept" in the claim. It can be helpful to keep in mind what applicant invented (identified in Section I above) and how that relates to the additional elements to evaluate their significance.

SUBJECT MATTER ELIGIBILITY WORKSHEET:

Consider all of the identified additional elements individually and in combination to determine whether the claim as a whole amounts to significantly more than the abstract idea identified above. Reasons supporting the significance of the additional elements can include one or more of the following:

The additional elements must show an "inventive concept." Many of these considerations overlap, and more than one can often be applied to describe an element. It is not important how the elements are characterized or how many considerations apply from this list. It is important to evaluate the significance of the additional elements relative to applicant's invention.

- improves another technology or technical field
- improves the functioning of a computer itself
- applies the abstract idea with, or by use of, a particular machine
 - *not* a generic computer performing generic computer functions
 - *not* adding the words "apply it" or words equivalent to "apply the abstract idea"
 - *not* mere instructions to implement an abstract idea on a computer
- effects a transformation or reduction of a particular article to a different state or thing
- adds a specific limitation other than what is well-understood, routine and conventional in the field
 - *not* appending well-understood, routine, and conventional activities previously known to the industry, specified at a high level of generality
 - *not* a generic computer performing generic computer functions
- adds unconventional steps that confine the claim to a particular useful application
 - *not* adding insignificant extrasolution activity, such as mere data gathering
- adds meaningful limitations that amount to more than generally linking the use of the abstract idea to a particular technological environment

Requiring a consumer request and restricting public access are necessary and routine activities in using advertising as currency. In other words, it is routine that currency is tendered upon a request for a good.

The claimed logging activity is merely gathering data.

Using the Internet merely limits the idea to a particular technological environment and does not add a meaningful limitation in this case.

Complete (1) or (2) below:

1. Yes, the additional elements, taken individually or as a combination, result in the claim amounting to significantly more than the abstract idea because

If any elements, individually or as a combination, amount to the claim reciting significantly more than the abstract idea, **conclude SME analysis** and continue with

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examination under each of the other patentability requirements. If needed, the record can be clarified by providing remarks in the Office action regarding interpretation of the claim (*for example*: the claim recites the abstract idea of “x”, but amounts to significantly more than the idea itself with the additional element “y” because “abc”.)

2. No, the additional elements, taken individually and as a combination, do not result in the claim amounting to significantly more than the abstract idea because None of the limitations, considered individually, provide eligibility, because consulting and updating an activity log represent routine, insignificant data-gathering steps, restricting public access represents only routine, insignificant pre-solution activity, and narrowing the idea to the Internet is an attempt to limit the use of the abstract idea to a particular technological environment.

The invention uses these steps to perform routine functions.

None of the limitations, considered as an ordered combination, provide eligibility, because the claims simply instruct the practitioner to implement the abstract idea with routine, conventional activity.

Claim is ineligible.

If no elements, taken individually and as a combination, amount to the claim reciting significantly more than the abstract idea, conclude the SME analysis by making a § 101 rejection and continue with examination under each of the other patentability requirements. *Use Form Paragraphs 7.05 and 7.05.015 available in Custom OACs.*

Are there elements in the disclosure that could be added to the claim that may make it eligible? Identify those elements and consider suggesting them to applicant:

The disclosure does not contain any such features. For example, the disclosed computer is only a general purpose computer operating on conventional steps. The disclosed invention addresses controlling a transaction of goods, rather than, for example, providing a solution necessarily rooted in computer technology to overcome a problem specifically arising in the realm of computer networks.

See Sample Rejection that follows:

SUBJECT MATTER ELIGIBILITY WORKSHEET:

Sample Rejection:

Use Form Paragraphs 7.05 and 7.05.015

Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more. Claim 1 is/are directed to the abstract idea of showing an advertisement before delivering free content. This is a concept involving human activity relating to commercial practices. The process of receiving copyrighted media, selecting an ad, offering the media in exchange for watching the selected ad, displaying the ad, allowing the consumer access to the media, and receiving payment from the sponsor of the ad all describe the abstract idea.

The claim(s) does/do not include additional elements that are sufficient to amount to significantly more than the judicial exception because the additional limitations of consulting and updating an activity log represent insignificant data-gathering steps, restricting public access represents only insignificant pre-solution activity, and narrowing the idea to the Internet is an attempt to limit the use of the abstract idea to a particular technological environment. None of the limitations, considered as an ordered combination, provide eligibility, because taken as a whole, the claims simply instruct the practitioner to implement the abstract idea with routine, conventional activity.