Patent Webinar Series

How To Defeat An *Alice* Rejection

May 6, 2020

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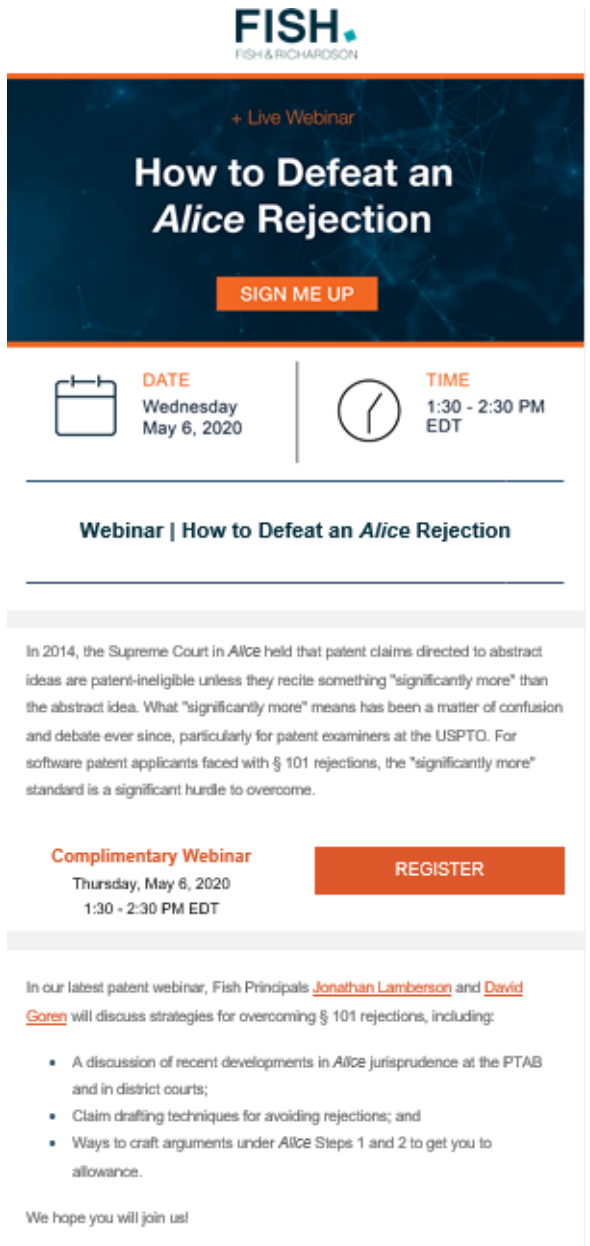
Overview

- **Topics**
  - Important Decisions
  - Developments
  - Practice Tips
- **Housekeeping**
  - CLE
  - Questions
  - Materials
    - http://www.fr.com/webinars



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+ Live Webinar

How to Defeat an *Alice* Rejection

SIGN ME UP

DATE
Wednesday
May 6, 2020

TIME
1:30 - 2:30 PM
EDT

Webinar | How to Defeat an *Alice* Rejection

In 2014, the Supreme Court in *Alice* held that patent claims directed to abstract ideas are patent-ineligible unless they recite something "significantly more" than the abstract idea. What "significantly more" means has been a matter of confusion and debate ever since, particularly for patent examiners at the USPTO. For software patent applicants faced with § 101 rejections, the "significantly more" standard is a significant hurdle to overcome.

Complimentary Webinar
Thursday, May 6, 2020
1:30 - 2:30 PM EDT

REGISTER

In our latest patent webinar, Fish Principals Jonathan Lamberson and David Goren will discuss strategies for overcoming § 101 rejections, including:

- A discussion of recent developments in *Alice* jurisprudence at the PTAB and in district courts;
- Claim drafting techniques for avoiding rejections; and
- Ways to craft arguments under *Alice* Steps 1 and 2 to get you to allowance.

We hope you will join us!

Agenda

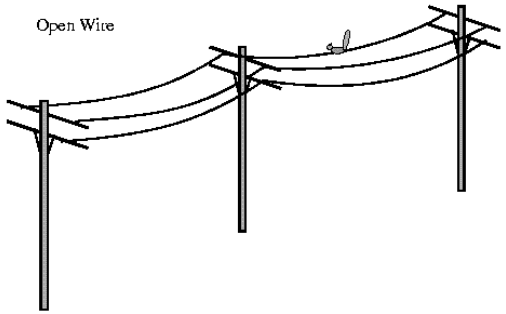
- Navigating Section 101 Issues at the PTO
- How District Courts Analyze Abstract Ideas
- Danger Level for Types of Inventions

Navigating Section 101 Issues at the PTO

Patentable Subject Matter

- **Form of claim = a method or physical thing**
  - a method, e.g., “a method of aggregating data”
  - an article, e.g., “a non-transitory computer readable medium”
  - a system, e.g., “a server system”
  - can’t cover a propagating signal (in the US)

Yes



No

Patent-Eligibility of Software

Alice Corp. v. CLS Bank, S. Ct. (2014)

- **Exceptions to patent-eligibility:**
  - Laws of nature, natural phenomena, and abstract ideas.
- **Subject matter in question:**
  - Computer-implemented, electronic escrow service for facilitating financial transactions.
  - Settles parties' obligations to eliminate the risk that only one party's obligation will be paid.
- **Patents invalidated as being ineligible.**
- **Set forth a test for evaluating patent eligibility.**

Alice Two-Step Inquiry

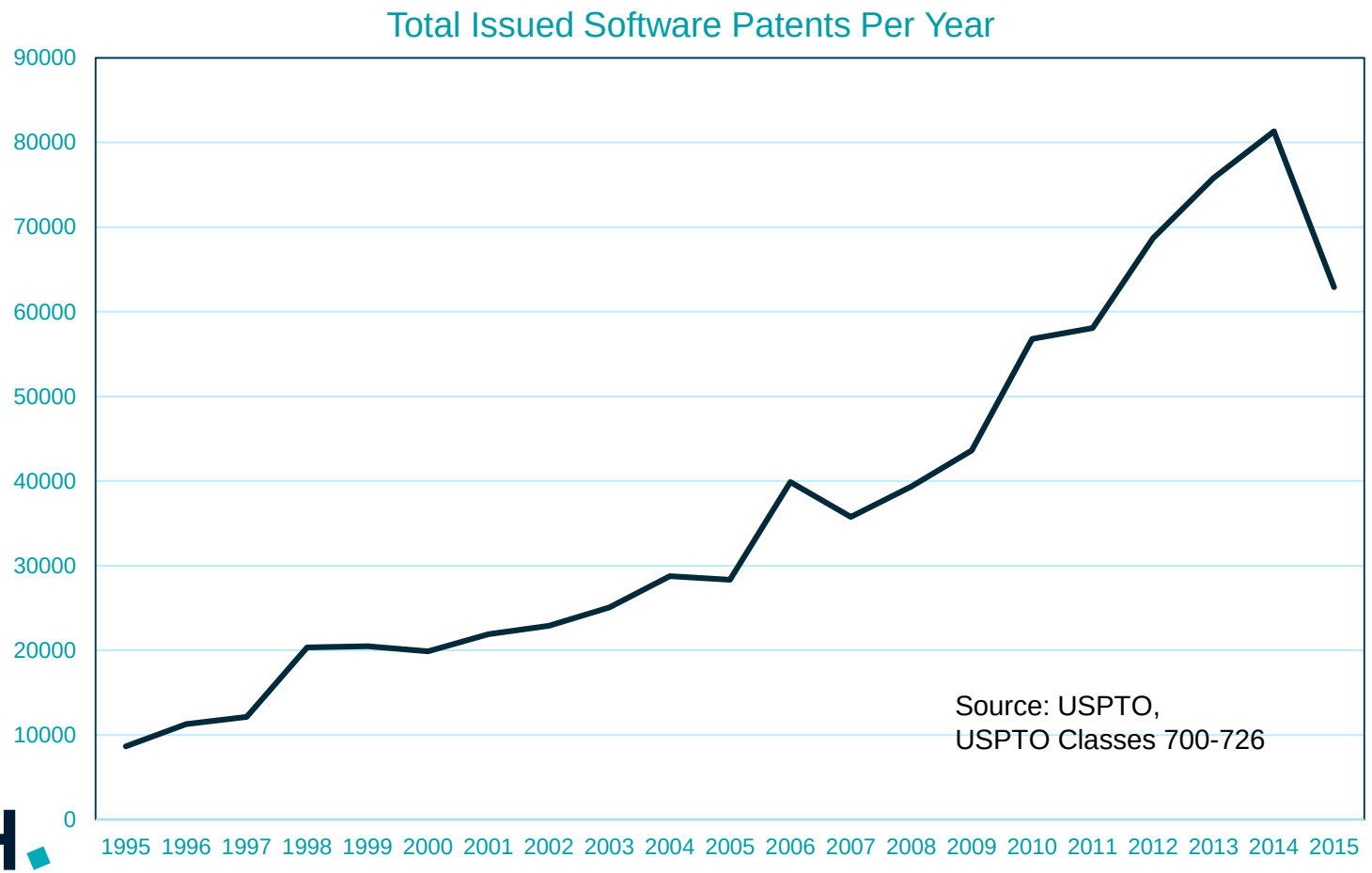
1. **Determine whether the claims are directed to a patent-ineligible concept (law of nature, natural phenomena, abstract idea)**
2. **Ask "what else is there in the claims before us?"**
   - "To answer that question, we consider the elements of each claim both individually and 'as an ordered combination' to determine whether the additional elements 'transform the nature of the claim' into a patent-eligible application. We have described step two of this analysis as a search for an 'inventive concept'—i.e., an element or combination of elements that is 'sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.'"

“Improve the Functioning of the Computer Itself”

- “[C]laims ‘purporting to improve the functioning of the computer itself,’ or ‘improving an existing technological process’ might not succumb to the abstract idea exception.” *Enfish, LLC v. Microsoft Corp.,* 822 F.3d 1327, 1335 (Fed. Cir. 2016)
- The claims themselves must recite “how the purported invention improved the functionality of a computer.” The claimed "improvement" cannot be “result-oriented generality” that amounts to “a mere implementation of an abstract idea on a computer, not the specific way to improve the functionality of a computer.” *See Koninklijke KPN N.V. v. Gemalto M2M GmbH,* 942 F.3d 1143, 1152 (Fed. Cir. 2019)

Software Patents – Overall Trend

Historically software patents have been on the rise,
but significant drop after *Alice*



Art Unit 3620 – 3yr allowance rate 21%
Business Methods - Incentive Programs, Coupons; Operations Research; Electronic Shopping; Health Care; Point of Sale, Inventory, Accounting; Cost/Price, Reservations, Shipping and Transportation; Business Processing

Art Unit 3680 – 3yr allowance rate 26%
Incentive Programs, Coupons; Electronic Shopping; Business Cryptography, Voting; Health Care; Point of Sale, Inventory, Accounting; Business Processing, Electronic Negotiation

Art Unit 3690 – 3yr allowance rate 30%
Finance/Banking/ Insurance

COMPARE

Art Unit 2120 – 3yr allowance rate 70%
AI & Simulation/Modeling

Art Units 2430-2490 – 3 yr allowance rate 76%
Cryptography and Security

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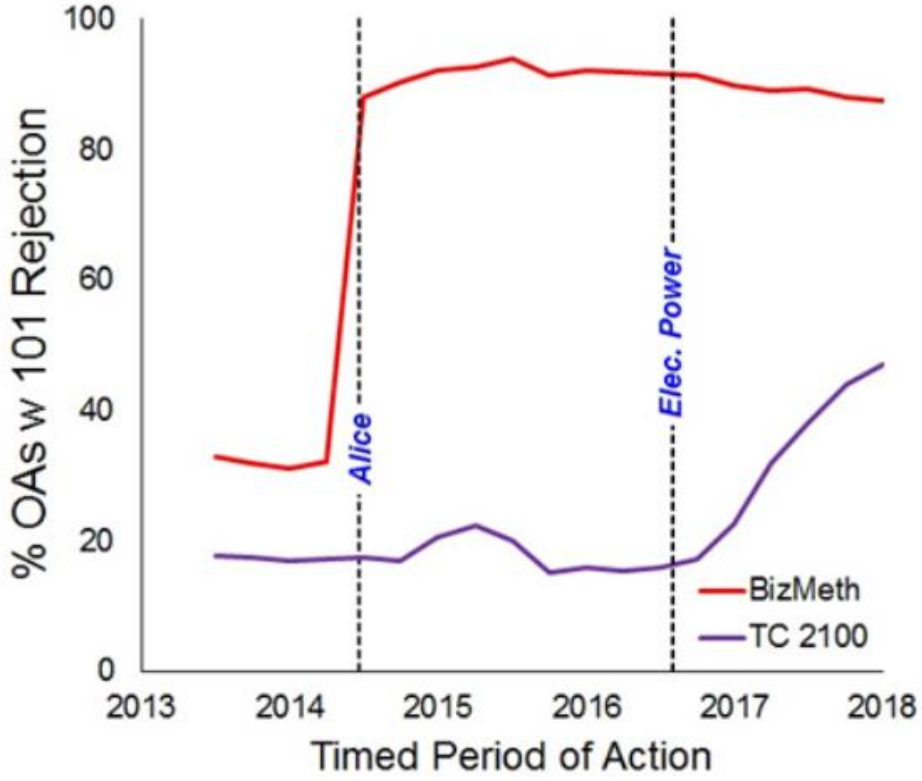
Software Patents – Overall Trend

Nearly all business method patents hit by *Alice*



TC2100 = Computer Architecture and Software

Source: https://www.jdsupra.com/legalnews/years-after-alice-eligibility-70833/

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Software Patents – USPTO

Initial classification is vital

For general software, rate of rejection no longer significantly higher than similar fields

Data from 2014-2016

Source: Bilsky Blog
www.bilskiblog.com

~93% rejection rate in most recent data

Percent of Office Actions with Section 101 Rejections

Tech Cent..	Art Unit Tech	Before Alice	Prelim Guidanc..	Interim Guidan..	July 2015 Upda..	Enfish May 2016	McRO Nov. 2016
2100	Computer Engineering	12%	16%	14%	11%	9%	11%
	Computer Science & Applications	25%	24%	24%	20%	18%	20%
2400	Communications & Networking	13%	13%	17%	22%	17%	16%
	Computer Science & Applications	17%	16%	20%	22%	16%	17%
	Cryptography	27%	26%	34%	36%	29%	31%
2600	Communications & Networking	9%	9%	11%	11%	11%	9%
	Computer Engineering	5%	5%	5%	4%	3%	4%
	Computer Science & Applications	22%	22%	22%	22%	21%	18%
	Signal Processing	16%	16%	19%	18%	17%	16%
2800	Computer Engineering						
	Electrical Components, Devices & Sys..	4%	7%	8%	7%	9%	9%
	Physics	2%	3%	3%	2%	3%	2%
	Semiconductors	2%	2%	1%	1%	0%	0%
3600	Civil Engineering	3%	4%	4%	4%	3%	3%
	Manufacturing	2%	2%	2%	2%	2%	2%
	Transportation	12%	16%	13%	14%	14%	14%
3600BM	Business Crypto	49%	67%	74%	81%	84%	82%
	Business Processing	39%	87%	96%	91%	93%	92%
	Cost/Price, Reservations	40%	72%	88%	88%	90%	91%
	E-Shopping	51%	92%	95%	91%	94%	89%
	Finance & Banking	41%	83%	96%	95%	96%	94%
	Health Care	42%	85%	93%	93%	95%	96%
	Incentive Programs	45%	87%	95%	92%	93%	93%
	Operations Research	50%	88%	97%	95%	95%	93%
	POS, Inventory, Accounting	28%	74%	78%	77%	79%	78%
3700	Amusement & Education	20%	40%	50%	43%	38%	36%
	Energy & Power	2%	4%	4%	3%	3%	2%
	Manufacturing	1%	2%	1%	1%	1%	0%
	Medicine	6%	9%	11%	10%	9%	9%
Grand Total		11%	15%	17%	16%	14%	15%

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USPTO and Congressional Reaction

- **Alice decided June 19, 2014**
- **USPTO "Preliminary Examination Instructions" published June 25, 2014**
  - Just 6 days after!
- **USPTO "Interim Eligibility Guidelines" published December 16, 2014**
  - Provides concrete examples based on case law
  - Abstract Idea example published January 27, 2015
- **Series of updates and memoranda in 2015-2018**
- **2019 Revised Patent Subject Matter Eligibility Guidance (January 7, 2019)**
- **Summer 2019, legislative activity – Senate and House Judiciary Subcommittees proposed revisions to section 101.**
  - Released framework proposes to amend Section 101 by having a defined, closed list of subject matter that is not eligible for patent protection. In other words, everything would be subject-matter eligible for a patent unless it fell under a specific exclusion.
  - Exclusions would be 1) fundamental scientific principles; 2) products that exist solely and exclusively in nature; 3) pure mathematical formulas; 4) economic or commercial principles; and 5) mental activities.

How District Courts Analyze Abstract Ideas

Gracenote, *Inc. v. Free Stream Media Corp.*, 2019 U.S. Dist. LEXIS 190397 (D. Del. 2019)

11. A method comprising:

(a) playing back multimedia content on a multimedia playback device, including providing at least some of the multimedia content on a display associated with the multimedia playback device;

(b) during the playback of the multimedia content by the multimedia playback device, repeatedly deriving, by the multimedia playback device, fingerprints from respective segments of the multimedia content;

(c) comparing the derived fingerprints to reference fingerprints representing features of the multimedia content, each reference fingerprint associated with one or more actions;

(d) determining that one of the derived fingerprints matches one of the reference fingerprints; and

(e) in response to the determining that the one of the derived fingerprints matches the one of the reference fingerprints, causing execution of an action associated with the one of the reference fingerprints, the action being associated with a time point indicating when, in the multimedia content, the action is to be performed.

The Parties' Arguments

- Defendant contends that the asserted claims are directed to the abstract idea of recognizing portions of a multimedia signal and performing actions in response at a specified time
- Defendant alleges that the claimed fingerprints used to trigger responsive actions were known in the prior art, and the encoding, storage, matching, and processing features of the asserted claims are no more than generic computer functions
- Plaintiff argues that the asserted claims represent specific technological solutions to the problems of insufficient accuracy in marking a multimedia stream and requiring cooperation from the broadcaster to mark the multimedia stream.
- According to Plaintiff, the asserted claims represent an inventive narrative method of triggering action in a multimedia stream without involving a broadcaster

Gracenote, Inc. v. Free Stream Media Corp., 2019 U.S. Dist. LEXIS 190397 (D. Del. 2019)

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Reasons for the District Court's Step 1 Conclusion

- **Specific improvement over the prior art:** the claimed invention "enable[s] detection of trigger actions without modifying the multimedia signal" to avoid the disadvantage of watermarking, which "necessarily changes the video/audio."
- **Improve the functioning of the device:** "the fingerprint matching ensures that the trigger actions appear at the correct corresponding moment in the broadcast since the invention is time-independent but content-dependent"
- **Unconventional use of existing technology:** uses "known fingerprints in an unconventional manner to improve the accuracy of a trigger's position within a multimedia stream"

Intellectual Ventures I, LLC v. Motorola Mobility LLC, 81 F. Supp. 3d 356 (D. Del. 2015)

1. A method comprising:

(a) coupling one or more subscriber customer premise equipment (CPE) stations with a base station over a shared wireless bandwidth using a packet-centric protocol; and

(b) allocating said wireless bandwidth and system resources based on contents of packets to be communicated over said wireless bandwidth, wherein the contents of each packet include a packet header and wherein the allocating is responsive to at least one field in the packet header.

The Parties' Arguments

- Motorola alleges that the asserted claims of the '450 patent are invalid because they claim the abstract idea of allocating wireless bandwidth based on packet contents
- IV argues that the claimed improvement "schedules the flow of information on the network" in a way that differs from how it would otherwise proceed, improving the network

Intellectual Ventures I, LLC v. Motorola Mobility LLC, 81 F. Supp. 3d 356 (D. Del. 2015)

1. A method comprising:

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(b) allocating said wireless bandwidth and [illegible]m resources based on contents of packets to be communicated over said wi[illegible]s bandwidth, wherein the contents of each packet include a packet header and whe[illegible] the allocating is responsive to at least one field in the packet header.

Reasons for the District Court's Step 2 Conclusion

- **Improvement Over the Prior Art:** "The '450 patent distinguishes the claimed invention from prior art 'circuit-centric' architecture, describing one of the advantages of the claimed method as providing 'a QoS [quality of service] mechanism that can dynamically optimize system behavior to each particular IP flow, and can also adapt to changes with changing network load, congestion and error rates.'"
- **Rooted in Computer Technology:** "the present invention is 'necessarily rooted in computer technology' and solves a 'problem specifically arising in the realm of computer networks.'"
- **Specific Solution to Technological Problem:** "the present invention '[specifies] how interactions with the [network] are manipulated to yield a desired result' by reallocating bandwidth based on the contents of packet headers."
- "Even though claim 1 itself does not provide a detailed explanation of how packet headers are used to allocate the bandwidth, the inventive concept lies in the limitation of using packet headers to allocate bandwidth, not in the details of implementation."

Callwave Communs., LLC v. AT&T Mobility, LLC, 207 F. Supp. 3d 405 (D. Del. 2016)

14. A method of determining the location of mobile platforms, said mobile platforms between them being locatable by a plurality of remote tracking systems, each which is adapted to determine the location of a respective mobile platform according to a property that is predetermined for each mobile platform, the method comprising:

(a) accepting inputs from a subscriber identifying one or more mobile platforms to be located;

(b) determining for each mobile platform one of the remote tracking systems that is capable of locating said mobile platform;

(c) communicating the identity of the one or more mobile platforms to be located to the determined remote tracking system(s);

(d) receiving the location of each mobile platform from the respective remote tracking system; and

(e) transmitting the location of each mobile platform to said subscriber.

The Parties' Arguments

- Defendants argue the patent claims the abstract idea of "relaying location-related information through an intermediary."
- Defendants argue that (1) location tracking systems were known, (2) the only purported novelty is providing an intermediary capable of communicating with the tracking systems, and (3) the claims are written so broadly that they could be performed by humans
- Plaintiffs contend the claims describe a specific technologic problem that arises in the context of complex location tracking systems, and a specific solution to that problem.
- Plaintiff argue the patent solves specific problems "arising from employing multiple location tracking systems, each with a different and proprietary software, data and communication formations, and each having 'various advantages, disadvantages and cost implications."'
- Plaintiff argue the claims have a structural requirement that the remote tracking systems be specially adapted to determine the location of a respective mobile platform according to a property that is predetermined for each mobile platform.

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(e) transmitting the location of e bile platfor id subscriber.

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Reasons for the District Court's Step 1 Conclusion

- The claim is directed to a basic series of communications for requesting and receiving location information
- Requesting and receiving location information is an abstract idea, and adding that the information travels through an intermediary makes it no more concrete
- It is unclear how the claim as written solves any problems described in the specification
- The claim steps are implemented using various existing technological tools, but without improving any of them

Reasons for the District Court's Step 2 Conclusion

- **Most claim limitations just describe basic steps of requesting or sending information**
- **The only additional limitations involve looking at a database to figure out what location tracking service is capable of locating a particular device**
- **None of these limitations add something substantially more to the abstract idea of requesting and receiving location information**

IBM v. Priceline Group Inc., 2016 U.S. Dist. LEXIS 18660 (D. Del. 2016)

1. A computerized method for preserving state information in a conversation between a client adapted to request services from one or more servers which are networked via a stateless protocol to the client, said services including one or more of data and programs which the client may request, wherein the conversation is a sequence of communications between the client and one or more servers for said services wherein each response from the server includes one or more continuations which enable another request for said services and wherein the client must invoke one of the continuations to continue the conversation, the method comprising the steps of:

[(1)] the client initiating the conversation with the server using the stateless protocol;

[(2)] detecting when the request for a service requires preservation of the state information;

[(3)] performing said service and identifying all continuations in an output from said service, in response to said step of detecting;

[(4)] recursively embedding the state information in all identified continuations; and

[(5)] communicating the output to the client, in response to said step of embedding; wherein the state information is preserved and provided to all services for the duration of the conversation.

The Parties' Arguments

- "Defendants contend that the claims of the '601 patent 'attempt to monopolize an abstract idea,' which they articulate as 'keeping track of prior communications during a conversation between computers.'"
- Plaintiff responds that this 'over simplification glosses over important differences between the claimed inventions and alternative mechanisms,' and that the patent is eligible under step one of Alice because it 'is directed to a discrete solution to [a] computer-specific problem.'"

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[(2)] detecting when the requested service requires preservation of the state information;

[(3)] performing said service and identifying continuations in an output from said service, in response to said step of detecting;

[(4)] recursively embedding the state information in all identified continuations; and

[(5)] communicating the output to the client, in response to said step of embedding; wherein the state information is preserved and provided to all services for the duration of the conversation.

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Reasons for the District Court's Step 1 Conclusion

- The specification provides detail about then-current methods for preserving state (and their drawbacks)
- The inventors' claimed solution—recursively embedding state information—is described as a new way of preserving state that is assertedly better than what existed in the prior art
- The claims recite this purported improvement in sufficient detail
- There is no "real world" analog to the improvement the claims recite

Reasons for the District Court's Step 2 Conclusion

- The patent's specification details several examples of prior art mechanisms to preserve state information that were deficient
- Claim 1 clearly discloses one way of how to solve the patent's identified problem, which would improve the function of the computer
- No evidence recursively embedding state information was conventional in the specification (it was described as novel)
- No concerns of broad preemption since other ways exist in the art for preserving state information

TriPlay, Inc. v. WhatsApp Inc., 2015 U.S. Dist. LEXIS 55068 (D. Del. Apr. 28, 2015)

12. A method of message communication via a messaging system between one or more originating communication devices assigned to a sender and one or more destination communication devices assigned to a receiver, the method comprising:

a) before delivery to the receiver, obtaining by a messaging system a message having initial characteristics comprising, at least, a message format and an initial message layout;

b) selecting a message layout and converting at least said initial message layout to said selected message layout to form an adapted message layout in accordance with at least one criterion selected from a group comprising:

i) criterion related to message communication capabilities of the destination communication device with regard to message communication capabilities of the originating communication device;

ii) criterion related to message displaying capabilities of the destination communication device with regard to message communication capabilities of the originating communication device; and

iii) criterion related to communication media between originating and destination device; and

c) facilitating delivery of the adapted message to the receiver.

The Parties' Arguments

- **Defendant argues the claims recite the abstract idea of converting and forwarding messages**
- **Plaintiffs argue the patent claims a purely technological, solution to a purely technical problem, an intermediary messaging system with specific functionality for addressing differing electronic messaging layouts and formats between originating and destination devices.**

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ii) criterion related to message displaying capabilities of the destination communication device with regard to message communication capabilities of the originating communication device; and

iii) criterion related to communication media between originating and destination device; and

c) facilitating delivery of the adapted message to the receiver.

Reasons for the District Court's Step 1 Conclusion

- The majority of the limitations describe the idea of converting and forwarding messages, so that messages are sent in a format and layout in which they can be received by a recipient
- The structures recited in the claim (end devices and intermediaries) only serve to implement this abstract idea on a computer system
- The idea of converting communications messages is not necessarily rooted in computer technology, but could apply in any communications context

Reasons for the District Court's Step 2 Conclusion

- The claim elements are generic messages operated on by generic computing devices
- The claim does not limit itself to a specific way of converting messages, it simply covers the act of converting based on unspecified criteria
- The claim limitations are "purely functional" and place no meaningful limits on the performance of the abstract idea

Take-Aways

- The specification should clearly describe the technological problem, and the solution
- The specification should describe how and why the solution improves the functioning of the computer/system
- The claims should incorporate the solution, rather than merely describing the results of using the solution
- Be careful using broadly functional claim language that only recites the outcome, rather than the way, of practicing the improvement
- Have claims incorporate sufficient structure(s) to implement the improvement
- Look to see whether anything in the claim goes beyond the generic (more than just computer, server, processor, network, etc.)
- Think about whether there is any real-world analog to what is being described/claimed

Danger Level for Types of Inventions

Danger Level for Types of Inventions

Regimes of Abstract Ideas

- **Tangible**
  - Process affecting/affected by a real-world, tangible output/input
  - System with real-world, tangible component(s)

Example: Internet of Things

- **Technology as Necessity**
  - Process affects a virtual outcome
  - Technological environment required to even exist

Example: Cybersecurity

- **Technology as Implementation**
  - Process affects a virtual outcome
  - Claims technological environment as implementation for abstract idea

Example: Big Data

Tangible

1) Using data to control real-world, tangible output

2) Using measurements from real-world, tangible sensors to generate data output

<u>Machine Control Systems</u>
Classic case: *Diamond v. Diehr*
Should be eligible, yet surprising resistance, may have changed at PTO with revised guidelines

<u>Internet of Things</u>
Would also expect to be eligible
Inconsistent decisions, compare Chamberlain Group (garage door opener) to Thales Visionix (positioning system)
But note: simply having new output is probably insufficient (Electric Power Group)

<u>Areas for Protection</u>
- Data collection (interaction with devices) ?
- Data integration Probably

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Technology as Necessity

1) **Can techniques be divorced from the computer implementation?**
2) **Can the entire technique be characterized as abstract idea?**

Have clear argument to say no on each of these.

Cybersecurity, Network Control, dangers here are
-analogizing to traditional security techniques
-Examiner taking entire approach as the abstract idea
-Courts appear adverse to content delivery as patentable

Areas for Protection

- New approaches (e.g., new key exchange, new routing algorithm) YES
- Fraud detection, intrusion detection Probably
- Using security in new areas Unlikely

Graphical User Interfaces,
Note that “collecting, displaying and manipulating data” is an abstract idea But some favorable cases, e.g., Trading Technologies (dynamic bid and ask prices), Data Engine Technologies (notebook tabbed interface for spreadsheet patentable)

Intangible – Technology as Implementation

- **New and Non-Obvious Abstract Idea ≠ Eligible**
- **Need to improvise technology somehow**
  - Resources (processors, memory) / bandwidth conserved
- **No preemption**

<u>Machine Learning, Big Data</u>
Possibly strictest requirement to show improvement in technology, but conversely often easiest to make the case, e.g., on efficiency (e.g., search algorithms)

<u>Advertising, Financial Transaction, Social Media</u>
You will get put into Group 3600

Areas for protection

• Applications (how data is used)	Maybe
• Search parameters (new inputs)	?
• Search algorithms	YES

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Prosecution Tips

WHEN DRAFTING

- Selection of appropriate kinds of inventions for filing: is there a technical improvement or is this a business opportunity?
- Avoid key words in title, abstract and independent claim that will trigger classification as business method, e.g., “financial”. Instead discuss as general data mining or data analysis technique, with financial as one possibility.
- Clear problem/solution statement.
- Key hook in the claim that you can point to as providing the technical improvement.
  - The Examiner is likely to become lost if the improvement is distributed across multiple steps
  - Clear identification in claim of which component performs which operation.
- Make sure any claimed functional step has at least one algorithm to perform that step.
  - Also expect rejection for lack of enablement of step plus function clauses in the future

Prosecution Tips

- **Hold Examiners to the Guidelines:**
  - Egregious use of generalized boilerplate:
    - “Examiners … should not overgeneralize the claim or simplify it into its "gist" or core principles, when identifying a concept as a judicial exception.” (*McRO* and *BASCOM* Memo).
  - Inaccurate characterizations of claims and irrelevant decisions:
    - “an *appropriate court decision* that supports the identification of the subject matter recited in the claim language as an abstract idea” (May 2016 Update).
    - “the concepts of using categories to organize, store and transmit information, comparing new and stored information to identify options, […] corresponds to concepts identified as abstract ideas by the courts,” citing to *Content Extraction*, *Digitech*, *Cyberfone*, and/or *SmartGene*.
  - Non-precedential decisions:
    - “examiners should avoid relying upon or citing non-precedential decisions (*e.g., SmartGene, Cyberfone*) unless the facts of the application under examination uniquely match the facts at issue in the non-precedential decision.”
- **Talk, talk, talk to the Examiner:**
  - Conduct an Examiner Interview for at least the first 101 rejection.
  - Include the Examiner’s supervisor whenever possible.
  - Examiners are on a spectrum:
    - “You’ll have to appeal me.”
    - “If you amend the claims to include [X], we should be in good shape.”

Fish's *Alice* Tracker - https://www.fr.com/alice-tracker/

The Alice Tracker provides a single source for significant decisions in which the patent-eligibility of claims is addressed under Alice. Our index of sampled cases is updated regularly, and can be filtered on various parameters. Although this page does not include every Alice-related decision, we strive to capture the most relevant and informative decisions, and post new decisions as they are published. Although Alice dealt with software, Alice was not about software per se. Instead, it was about the patent-eligibility of an invention encompassing an abstract idea, regardless of whether the abstract idea is implemented in software. Alice has changed the landscape for prosecutors and litigators alike. Since the decision, courts have struggled with identifying abstract ideas, as well as the "something more" required to meet part two of the test.

Filter by keyword

Keyword | Search

Name	Date	Court	Category	Abstract Idea	Something More
In re Greenstein	7/12/2019	Fed. Cir.	Organizing Information	Yes	No
Innovation Scis., LLC v. Amazon.com, Inc.	7/2/2019	Fed. Cir.	None	Yes	No
Cellspin Soft, Inc. v. Fitbit, Inc.	6/25/2019	Fed. Cir.	Manipulating Data	Yes	Yes
In re Roman Gitlin	6/13/2019	Fed. Cir.	Mathematical Formula	Yes	No
SRI v. Cisco Systems	3/20/2019	Fed. Cir.	None	No	N/A
In re Marco Guldenaar Holding B.V.	12/28/2018	Fed. Cir.	Methods of Organizing Human Activities, Rules for Playing a Game	Yes	No
Ancora Techs. v. HTC Am.	11/16/2018	Fed. Cir.	None	No	N/A
In re Mario Villenna	8/29/2018	Fed. Cir.	Fundamental Economic Practices	Yes	No
BSG Tech v. BuySeasons	8/15/2018	Fed. Cir.	None	Yes	No
SAP America v. Investpic	8/2/2018	Fed. Cir.	Fundamental Economic Practices	Yes	No
Interval Licensing v. AOL	7/20/2018	Fed. Cir.	None	Yes	No

What is Alice?

In *Mayo Collaborative Services v. Prometheus Labs., Inc.*, 132 S. Ct. 1289 (2012), the Supreme Court articulated a two-part analytical framework for determining whether a claim is patent-eligible under 35 U.S.C. § 101 (the "Mayo-test"). Mayo dealt with laws of nature and natural phenomena, two of the three judicial exceptions to patent-eligibility. In *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347 (2014), the Supreme Court applied the Mayo-test to abstract ideas, the third of the three judicial exceptions.

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