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DISTRICT COURT CASES

Judge Gilstrap, in the Eastern District of Texas, Grants Defendants' Rule 12(b)(6) Motions to Dismiss under 35 U.S.C. § 101

On September 21, 2015, Judge Gilstrap in the Eastern District of Texas ruled that the claims of U.S. Patent No. 6,266,674 (the "674 Patent") are ineligible under 35 U.S.C. § 101. The outcome is not surprising given the '674 Patent claims. But some have interpreted Judge Gilstrap's recent modification to his Sample Docket Control Order requiring a showing of good cause before filing a Section 101 motion as an attempt to stem the tide of Section 101 motions being filed in his court. The prompt resolution of defendants' motions in this case – approximately two and a half months from their opening briefs to the order – indicates otherwise.

The '674 Patent, entitled "Random Access Information Retrieval Utilizing User-Defined Labels," generally claims computerized methods for storing and retrieving information. Before delving into the two-step test reaffirmed in *Alice Corporation Pty. Ltd. v. CLS Bank International*, 134 S. Ct. 2347 (2014), the court determined that the claim construction was not required. With respect to the first step, the court determined that the '674 Patent claims are directed to "the abstract idea of storing and labeling information," which are "routine tasks that could be performed by a human." In doing so, the court disregarded plaintiff's expert declarations stating that the claimed steps cannot be performed by a human.

As to the second step, the court noted that the claims merely recite generic computer terms such as "data structure," "data," input," and "label." As a result, the inclusion of those terms "that may vaguely allude to computer-based activity does not suffice to meaningfully restrict the '674 Patent from preempting the abstract idea itself." Indeed, the express language of the claims does not require a computer. Because the '674 Patent claims are directed to an abstract idea and the claims do not transform the claim into a patent-eligible application, the court ruled that the claims of the '674 Patent are ineligible for patent protection.

Edekka LLC v. 3balls.com, Inc., et al., No. 2:15-cv-541-JRG (E.D. Tex. Sept. 21, 2015); *Edekka LLC v. E Revolution Ventures, Inc., et al.*, No. 2:15-cv-585-JRG (E.D. Tex. Sept. 21, 2015)

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PATENT TRIAL AND APPEAL BOARD

Patent and Trial Appeal Board Finds Patent Claims Invalid Due to Obviousness After Jury Awards Damages For Infringement of Other Claims of Patent

On Thursday, September 17, 2015, the Patent and Trial Appeal Board (PTAB) found that 19 claims of U.S. Patent Number 8,023,580 (the 580 Patent) are invalid because they are obvious. Samsung Electronics Co., Ltd. and three affiliated Samsung entities (Samsung) instituted *inter partes* review of more than 20 claims of the '580 Patent on the grounds that the claims were invalid due to obviousness. The '580 Patent relates to data communications and modems, and in particular, to a data communications system in which a plurality of modems uses different types of modulation in a network.

Previously, in March 2013, Rembrandt Wireless Technologies, LP (Rembrandt) sued Samsung in the Eastern District of Texas, alleging infringement of the '580 Patent and another patent, claiming that Samsung's Galaxy S mobile phones support technology with an "enhanced data rate" mode that was alleged to infringe the patents. In February 2015, the case went to trial, and the jury found that Samsung infringed both patents, awarding \$15.7 million in damages.

The PTAB's decision does not affect the verdict, however, as the decision does not address the validity of the two patent claims that Samsung was found to infringe. The PTAB expressly declined to review those two claims because it was not persuaded that there was a reasonable likelihood that Samsung would prevail on its challenge to the claims.

Samsung Electronics Co. Ltd. et al. v. Rembrandt Wireless Technologies LP, Case No. IPR2014-00518, before the Patent Trial and Appeal Board.

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