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IP Newsflash

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DISTRICT COURT CASES

Mobile Device Data Monitoring Patent Not Directed to Abstract Idea Under § 101

On October 26, 2015, Judge Sparks of the Western District of Texas denied defendant's motion for summary judgment that U.S. Patent No. 7,092,740 (the "'740 Patent") was not directed to patentable subject matter. The '740 Patent innovated the then-young mobile devices space, allowing for the creation of "external states" a user wishes to monitor. The goal of the '740 Patent was to allow a relatively large amount of data about particular external states to be easily monitored on mobile devices.

Defendant, Zoho Corp., filed a summary judgment motion, arguing that the '740 Patent was invalid under § 101, because it was directed to an abstract idea and fails to disclose any technological advance. Specifically, Zoho argued that the '740 Patent claims are directed to "the disembodied idea of using symbols on a display to represent external information and updating these symbols as that information changes."

Plaintiff countered that at the time the '740 Patent was issued, the growth of mobile device usage led to a corresponding increase in the demand for rich information content; however, the inevitable space constraints on mobile devices "limit[ed] the richness of information content available to a user." The '740 Patent, as plaintiff argues, had "the specific technical objective of allowing status updates to be displayed more efficiently within the limited display screen of a mobile phone, pager, PDA or similar mobile device."

In his holding, Judge Sparks held (without reasoning) that the '740 Patent "does not embody an impermissibly abstract idea. Therefore, the court need not determine whether the claims contained an inventive concept sufficient to transform the allegedly abstract idea into patent-eligible subject matter."

Versata Software, Inc. et al v. Zoho Corp., 1-13-cv-00371 (W.D. Tex. October 26, 2015, Order) (Sparks, J.).

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PATENT TRIAL AND APPEAL BOARD

PTAB Upholds Breast Cancer Treatment Drug Patent

On October 27, 2015, the Patent Trial and Appeal Board (PTAB) issued a final written decision denying petitioner's claims against U.S. Patent No. 8,337,856. The petitioner, Phigenix, Inc., had filed a petition in April 2014 seeking inter partes review of the '856 patent as obvious in light of prior art references.

The '856 patent, owned by ImmunoGen Inc., covers the drug, Kadcyla, which is used to treat HER2-positive metastatic breast cancer. The '856 patent claims an immunoconjugate comprised of Herceptin, which is a humanized form of a mouse monoclonal antibody, and a maytansinoid, which has cytotoxic properties. Phigenix argued that the claims of the '856 patent were obvious in light of a prior art reference, Chari 1992. Chari 1992 also discloses an immunoconjugate of a humanized form of a mouse monoclonal antibody and a maytansinoid. Petitioner argued that it would have been obvious to substitute Herceptin for the antibody disclosed in Chari 1992. ImmunoGen contended that at the time the '856 patent was filed in March 2000, Herceptin-maytansinoid immunoconjugates would have been expected to cause toxicity in the patient's liver. The PTAB ruled that, given the references disclosing the toxic effect that would have been expected from a Herceptin-maytansinoid immunoconjugate, it would not have been obvious to an ordinary artisan to substitute the Chari 1992 antibody with Herceptin.

Phigenix had also filed a petition seeking inter partes review of U.S. Patent No. 7,097,840, which was also a patent for Kadcyla. The PTAB declined to institute review in that case, finding that it was unlikely that Phigenix would prevail on its claims.

Phigenix, Inc. v. ImmunoGen, Inc., IPR2014-00676, Paper No. 39, (PTAB Oct. 27, 2015).

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