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Federal Circuit Affirms Dismissal of Patent Claims Directed to a Graphical User Interface as Ineligible Subject Matter Under 35 U.S.C. § 101

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The Federal Circuit recently affirmed a Rule 12(b)(6) dismissal of patent claims directed to a graphical user interface that seeks to enhance how search results are displayed to a user. The court agreed that the claims are patent ineligible under 35 U.S.C. § 101 because they do nothing more than identify, analyze and present certain data to a user, without disclosing any technical improvement as to how computer applications are used.

Int'l Bus. Machs. Corp. v. Zillow Grp., Inc., No. 2022-1861 (Fed. Cir. Jan. 9, 2024) (nonprecedential).

IBM sued Zillow in the Western District of Washington for allegedly infringing five patents, including U.S. Patent No. 6,778,193. The '193 patent is directed to a graphical user interface (GUI) for a customer self-service system that performs resource search and selection. Representative claim 1 recites such a GUI comprising:

(1) A first visual workspace comprising entry field enabling entry of a query for a resource and one or more context elements having context attributes.

(2) A second visual workspace for visualizing the set of resources that the system has determined match the user's query.

(3) A third visual workspace for enabling the user to modify context attribute values to enable increased specificity and accuracy of a query's search parameters and for enabling the user to specify resource selection parameters and relevant resource evaluation criteria.

(4) A mechanism enabling the user to navigate among the visual workspaces to identify and improve selection logic and response sets fitted to the query.

The court analyzed eligibility using the Supreme Court's two-step *Alice* framework. In step one, a court determines whether the claims are "directed to a patent-ineligible concept," such as an abstract idea. *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 217 (2014). If they are, the court proceeds to step two—the search for an "inventive concept"—and considers "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." *Id.* (citing *Mayo Collaborative Servs. v. Prometheus Lab'ys, Inc.*, 566 U.S. 66, 78-79 (2012)).

Addressing *Alice* step one, the court agreed with the district court that the claims "possess the following indicia of abstractness: (i) describing processes that can be performed with a pen and paper; (ii) using claim language that is result-oriented; and (iii) focusing on an intangible, namely information." The court also agreed that the patent "merely mimics what humans do to search for information, with the added feature of conducting the entire exercise on a computer."

In other words, the claims "do nothing more than improve a user's experience while using a computer," which the court compared to the claims found abstract in *Customedia Technologies, LLC v. Dish Network Corp.*, 951 F.3d 1359, 1365 (Fed. Cir. 2020), and *IBM Corp. v. Zillow Group, Inc.*, 50 F.4th 1371, 1377 (Fed. Cir. 2022). The court further stated that the claims are directed to identifying, analyzing and presenting certain data to a user, which is "not an improvement specific to computing," and the claims do not disclose "any technical improvement to how computer applications are used."

Addressing *Alice* step two, the court again agreed with the district court, finding that the patent owner's allegations of inventiveness "do not concern the computer's or graphical user interface's capability or functionality, but relate merely to the user's experience and satisfaction with the search process and results" (cleaned up). Relying on *Weisner v. Google LLC*, 51 F.4th 1073 (Fed. Cir. 2022), the patent owner argued that the district court erred in granting the Rule 12(b)(6) motion by not accepting its factual allegations—supported by an inventor declaration—as true and not construing all reasonable inferences in its favor. The Federal Circuit disagreed, however, because "the district court need not accept a patent owner's conclusory allegations of inventiveness."

The court distinguished *Weisner*. In that case, the court had held that allegations of inventiveness for patents directed to a "specific technique for using physical location history data to improve computerized search results" satisfied the pleading requirement under Rule 12, particularly where the specification included a "specific implementation" of improving search results rather than "a simple conceptual description" of an improvement. In contrast, the court found in this case that the allegations of inventiveness were not tied to the claims or the specification. As an example, the court found that neither the claims nor the specification included what the inventor declaration described as "one of the key innovative aspects of the invention."

Practice Tip: In the computer arts, patent owners should focus the claims on improvements in computer capabilities, and not merely improving a user's experience while using computers. Patent owners should also describe and claim technical details for tangible components in the claimed system, including how the advance over the prior art is implemented. To overcome a challenge at the pleadings stage, plaintiffs should include in the complaint allegations concerning the state of the prior art and the specific, unconventional claim limitations that address problems in the prior art while avoiding generic allegations of inventiveness.

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