



Federal Circuit Clarifies the Applicability of Alice to Software Patents

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The Federal Circuit held that the patents did, in fact, claim eligible subject matter because the invention did not simply take a process that had been done before and automate it with a computer. Rather, the invention claimed a whole new way of animating. Before the invention, animators had manually animated a 3-D model's facial features to make it appear as if it were speaking. The court reasoned that "[i]t is the incorporation of the claimed rules, not the use of the computer that improved the existing technological process by allowing automation of further tasks." This is different from other *Alice* cases where the claimed computer process and the prior process were carried out in the same way. The court also noted that, by claiming automatic animation rules, the patents were not preempting other ways of automatically animating 3-D models (something that claiming a previously existing process now executed by a computer would do).

The Federal Circuit's decision may make it easier for software patents to survive invalidity challenges. If the claims in the patent involve steps or processes different from prior process (aside from being done by a computer), the patent might be valid under *Alice*.

McRO, Inc., dba Planet Blue v. Bandai Namco Games America Inc. et al (Fed. Cir. Sept. 13, 2016). [Reyna (opinion), Taranto, Stoli]

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