Section 101: You Will Know It When You See It

***Int'l Bus. Machines Corp. v. Zillow Grp., Inc. et al.*, 2021 WL 2982372 (W.D. Wash. 2021)**

By: Robyn Bowland & Daniel Sokoloff | July 26, 2021

In this case, the defendants filed a Rule 12(c) motion for judgment on the pleadings aimed at four patents on the ground that all are directed to abstract ideas. As discussed below, the Western District of Washington, ("The Court") granted the motion as to two of the patents and provided a comprehensive review of the current status of the law regarding Section 101 unpatentability of abstract ideas.

There is no "single, succinct, usable definition or test" for an abstract idea.[1] Instead, the framework is to apply *Alice*[2] by determining (1) whether the claims are directed to an abstract idea and (2) whether the claims plausibly revealed an inventive concept. Courts do this by examining earlier cases and evaluating whether the matter at hand is analogous.[3] Various judges have expressed dissatisfaction with this approach and analogized it with the rule for obscenity—*i.e.*, you will know it when you see it. *Id*. at 1351.

Here, the first patent addressed by the Court, the '389 Patent, claimed a "system and method for displaying objects in a plurality of layers." The Court found that the '389 Patent was directed to the unpatentable abstract ideas of categorizing and displaying information as well as altering the manner of display upon user demand. The Court further added that there was no inventive concept because these tasks have long been done by humans using pen and paper, so the patent failed to recite patentable subject manner.

The other patent the Court found to be directed to an unpatentable abstract idea, the '789 Patent, claimed methods for geospatial and list-based mapping, including the use of customizable lists of elements. The allegedly novel element was concurrent updating of both the map and the lists based on a user's selection of a portion of the map. The Court concluded that the '789 Patent was directed to the abstract idea of responding to a user's selection of a portion of a displayed map by simultaneously updating the map and list of items on the map and found that the claimed methods could be and had been performed by hand.

As for the third patent considered by the Court, the '183 Patent, the Court found that, although it was directed to an abstract idea, it was plausible that the '183 Patent was directed to an inventive concept under step 2 of the *Alice* analysis because it claimed the improvement of the analysis of unstructured data by computer systems. Thus, the Court denied the defendants' motion.

Finally, the Court denied the defendants' motion regarding the final patent, the '346 Patent, on the basis that the defendants had not proved it claimed unpatentable subject matter because the subject matter could seek to solve a problem inherent in computer networking by using single sign on technology to automatically create user accounts at the service provider level.[4]

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[1] *See Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016).
[2] *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208 (2014).
[3] *See Interval Licensing LLC v. AOL, Inc.*, 896 F.3d 1335, 1350 (Fed. Cir. 2018).
[4] *See Int'l Bus. Machs. Corp. v. The Priceline Grp. Inc.*, 2016 WL 626495, at *16 (D. Del. 2016).