Section 101: Unconventional Arrangements

Certain Movable Barrier Operator Systems and Components Thereof, Inv. No. 337-TA-1209 (Oct. 13, 2021) (EDIS Doc. No. 754096)

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In a 363-page final initial determination of a Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), action, publicly released on October 13, 2021, Administrative Law Judge ("ALJ") David P. Shaw addressed a number of arguments with respect to several patents owned by Overhead Door Corporation and GMI Holdings Inc. Significant among them was the decision on patentability under 35 U.S.C. § 101. ALJ Shaw found that the relevant patents were not invalid under Section 101 because they used unconventional arrangements of components to solve technological problems.

In *Alice*, the Supreme Court reaffirmed a two-step inquiry to determine whether claims "are directed to a patent-ineligible concept" under Section 101. Step one "determine[s] if the claim's character as a whole is directed to excluded subject matter."[1] Claims that are "directed to a specific improvement in the capabilities of computing devices" are not abstract.[2] Even if the claims are abstract, they are patent eligible at step two if they add an "inventive concept," which "can be found in the non-conventional and non-generic arrangement of known, conventional pieces."[3]

Here, the relevant patents, U.S. Patent Nos. 8,970,345 and 9,483,935, involved barrier operator systems, such as garage door openers, that improved the use of RF signaling by modifying the message transmission in two notable steps. First, claims 1 and 16 of both patents recited channel switching to transmit multiple copies of a message. The use of channel-switching allowed the patented system to broaden the range of useful frequencies, thereby solving certain challenges with interference. Second, the receiver scanned multiple channels at a different rate than the transmitter's switching, so that the RF receiver would detect data packets on the first pass of that RF channel, which allowed the patented system to solve the problem of missing packets that may result from channel-switching.

ALJ Shaw found that the claims recited patent-eligible advances because they recited a specific implementation of channel switching to solve the interference issues created by conventional systems utilizing a single, fixed RF frequency. ALJ Shaw also found that, even if the claims were directed to an abstract idea, they were patent eligible under *Alice* step two because they recited a non-conventional arrangement and configuration of the wireless communication system. Specifically, the industry utilized single, fixed RF frequency for garage operators. It was unconventional for a remote RF transmitter to transmit multiple copies of a message on multiple RF channels because it was considered unwise and a waste of valuable battery power. Finally, it was unconventional for multi-channel systems to have a receiver that switched frequencies at a different rate than the transmitter's switching.

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[1] *Koninklijke KPN N.V. v. Gemalto M2M GmbH*, 942 F.3d 1143, 1149 (Fed. Cir. 2019).
[2] *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1360 (Fed. Cir. 2018).
[3] *BASCOM Global Internet Servs. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016).