

Alice is lost in Wonderland

Jonathan Moss
18 January 2015

H|C

The Approaches

Section 1(2) Patents Act 1977

It is hereby declared that the following (among other things) are not inventions for the purposes of this Act, that is to say, anything which consists of—

(a) a discovery, scientific theory or mathematical method;

...

(c) a scheme, rule or method for performing a mental act, playing a game or doing business, **or a program for a computer**;

(d) the presentation of information;

but the foregoing provision shall prevent anything from being treated as an invention for the purposes of this Act only to the extent that a patent or application for a patent relates to that thing as such."

The Approaches

UK: the *Aerotel* approach, as modified by *Symbian*

UK test is, in essence: Is there *relevant* or *enough* technical effect, or put another way are *enough* of the ‘signposts’ satisfied?

“The real question is whether this is a *relevant* technical effect, or, more crudely, whether there is enough technical effect: is there a technical effect over and above that to be expected from the mere loading of a program into a computer?” per Pumfrey J in *Shopalotto*

EPO: for discussion over a drink...

The Aerotel Approach

1. Properly construe the claim.
2. Identify the actual contribution.
3. Ask whether it falls solely within the excluded subject matter.
4. Check whether the actual or alleged contribution is actually technical in nature.

The sign-posts from AT&T

The signposts to a relevant technical effect (as modified in HTC v Apple) are:

- i) whether the claimed technical effect has a technical effect on a process which is carried on outside the computer;
- ii) whether the claimed technical effect operates at the level of the architecture of the computer, that is to say whether the effect is produced irrespective of the data being processed or the applications being run;
- iii) whether the claimed technical effect results in the computer being made to operate in a new way;
- iv) whether the program makes the computer a better computer in the sense of running more efficiently and effectively as a computer;
- v) whether the perceived problem is overcome by the invention as opposed to merely being circumvented.

Computer program...as such?

“I can’t explain myself, I’m afraid Sir, because I’m not myself you see” per Alice

“It is, to me at least, regrettable that because these apparently simple words have no clear meaning both our courts and the Technical Boards of Appeal at the EPO have stopped even trying to understand them. However we are so far down that road that “returning were as tedious as go o’er”. Instead we are now engaged on a search for a “technical contribution” or a “technical effect”. Instead of arguing about what the legislation means, we argue about what the gloss means. We do not even know whether these substitute phrases mean the same thing

So the upshot is that we now ignore the words “computer program . . . as such” and instead concentrate on whether there is a technical contribution. It is, if I may say so, a singularly unhelpful test because the interaction between hardware and software in a computer is inherently “technical” in the ordinary sense of the word.”

Per Lewison LJ *HTC v Apple* §140, 143, 147

Technical today, but not tomorrow?

“It’s no use going back to yesterday, because I was a different person then” said Alice

“It cannot be right, as Mr Beresford argues, that simply because at one point in history a process constitutes a technical contribution that the same or similar process, even if novel, **will constitute a technical contribution for all time**. The judge made the same point at [16] of his judgment. In short, that was then, and this application is now (if any earlier date is relevant, it cannot be earlier than the date of filing the claim).” per Arden LJ, *Lantana*

So technical contribution can change over time

BUT – doesn’t this reveal how far we have moved from the test of what is excluded?

i.e. a computer program today may not be a computer program next year?

Standard of review on appeal



“Oh dear! Oh dear! I shall be too late”

Can you change your technical contribution on appeal, or will you always be running too late?

A matter of law

IPO's view, and case law has agreed with this, is that the decision of the Hearing Officer is one of multi-factorial evaluation:

“It means that the appellant has to attain that high hurdle or show an error of law, for example, an erroneous self-direction or the taking into account of a material matter which was irrelevant. **The determination of what is a technical contribution involves the application of judgment, and therefore this court should be reluctant to interfere with the judge's assessment. ...**

Moreover, since the appeal is confined to questions of law, **it is not open to this court to reject any of the primary factual findings, for example, about the method by which the two computers communicate with each other, or the method whereby the remote computer is configured to respond automatically to the request for a file from its list of documents, on the basis that there was an error of fact.** There is no basis on which we could reach the conclusion that these findings were wrong in law.”
per Arden LJ at 22-25 *Lantana*

Slide to unlock

Slide to unlock patent ('022)

Held to be patentable subject matter in *Apple v HTC* [2012] EWHC 1789 (Pat)

“I think there was a contribution here which went beyond a computer program as such or the mere presentation of information. **There is a sense in which the invention provides a technical effect outside the computer, namely an improved switch.** Moreover this is a real world effect which is not limited to the presentation of information. Whilst the subject matter of the invention is obvious, the patent is not invalid for excluded subject matter.”

But note that the argument for inherent patentability was run from a particular piece of prior art (Neonode)

So how to address this in drafting

- Focus the specification on inherent patentability, i.e. address what the technical contribution is.
- But remember the test is substance of the invention, not the form.
- Get your technical contribution argument right at the start, all the facts need to be before the Hearing Officer.
- Consider whether there is need for evidence on appeal (as in *Symbian*).

The Beginning of the End?

- 23 LORD JUSTICE LAWS: Why do you need step 4? Why is the matter not
24 concluded at step 3?
25 MR. MELLOR: You do not always need step 4.
-

[Page 375]

- 1 MELLOR
2 LORD JUSTICE LAWS: In what circumstances do you need it?
3 MR. MELLOR: It is a check.
4 LORD JUSTICE LAWS: Of what?
5 MR. MELLOR: That you have reached the right conclusion at step 3.
6 LORD JUSTICE LAWS: Curiouser and curiouser.

The End of the End?

But I don't want to go among mad people," Alice remarked.

"Oh, you can't help that," said the Cat: "we're all mad here. I'm mad. You're mad."

"How do you know I'm mad?" said Alice.

"You must be," said the Cat, "or you wouldn't have come here."

Review of Post-Alice Landscape

January 2016

Presented by

Darin Gibby

Partner, Denver

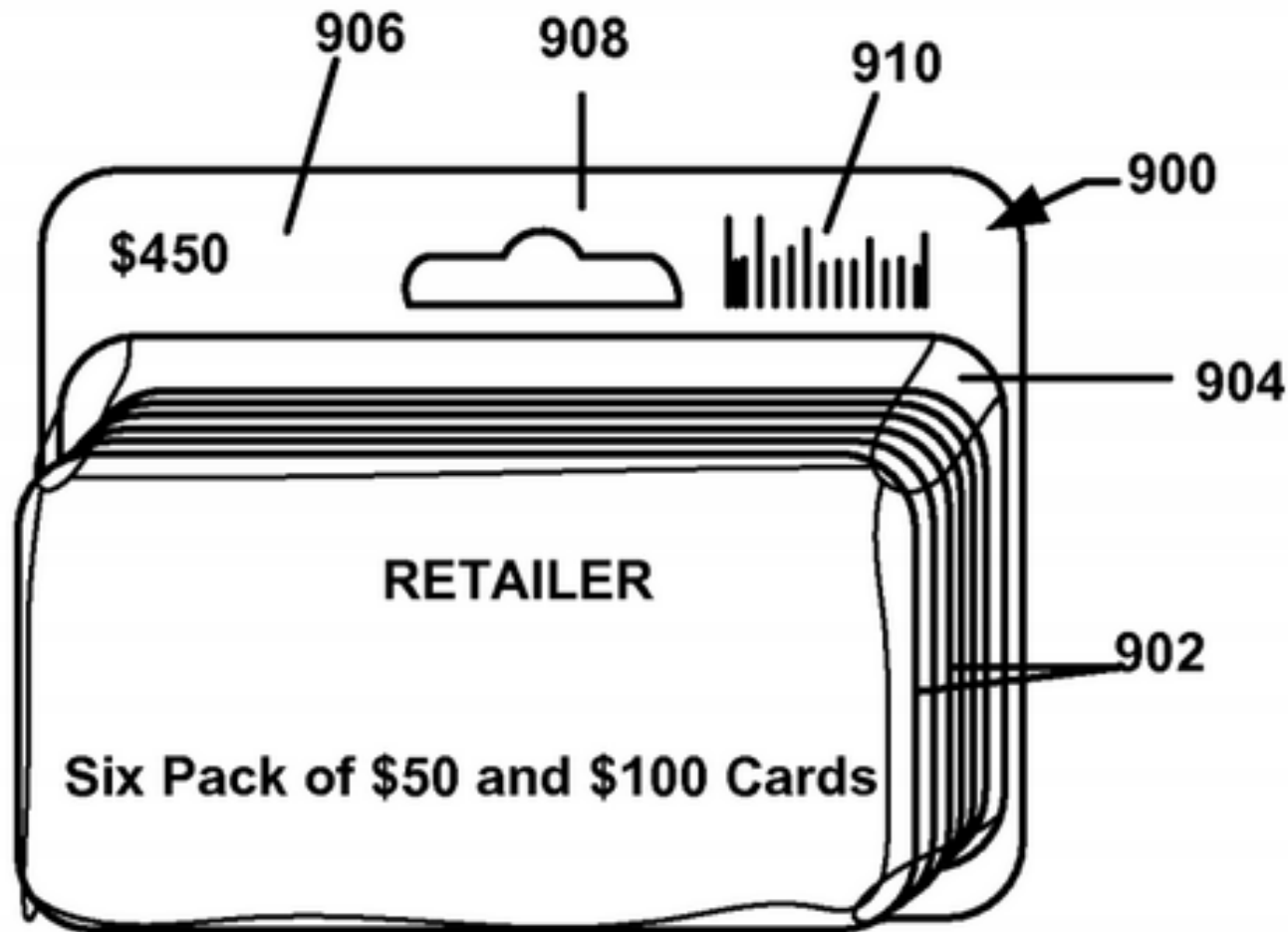
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The PTO Thinks This Is An “Abstract Idea”



Agenda

- U.S. Supreme Court *Alice* Decision
- Trend of Decisions in Federal Circuit, District Courts and the Patent Trial and Appeal Board
- Strategies for Handling
- U.S. Patent and Trademark Office Guidelines

Patentable Subject Matter

35 U.S.C. § 101

- “Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.”

Exceptions

- “[L]aws of nature, natural phenomena, and abstract ideas are not patentable.” – *Mayo Med. Labs., et al. v. Prometheus Labs., Inc.* 566 U.S. ____ (U.S. 2012)

Ineligible Subject Matter Over the Years

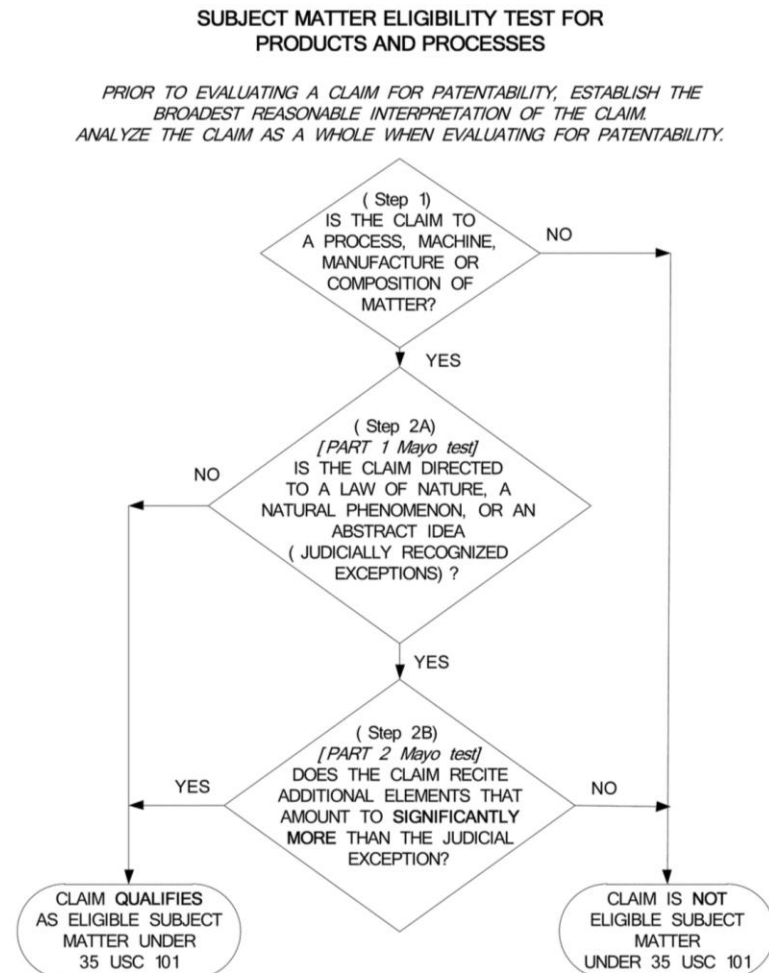
- ✗ **Electromagnetism for printing characters at a distance** – *O'Reilly v. Morse*, 56 U.S. 62 (1854)
- ✗ **Algorithm for binary coded decimal** – *Gottschalk v. Benson*, 409 U.S. 63 (1972)
- ✗ **Computing alarm limits in catalytic conversion** – *Parker v. Flook*, 437 U.S. 584 (1978)
- ✗ **Hedging against financial risk of price fluctuations** – *Bilski v. Kappos*, 561 U.S. 593 (2010)
- ✗ **Administering drug in optimal dose** – *Mayo Med. Labs., et al. v. Prometheus Labs., Inc.* 566 U.S. ____ (U.S. 2012)
- ✗ ***Isolated DNA that was otherwise naturally occurring** – *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. ____ (2013)

Eligible Subject Matter Over the Years

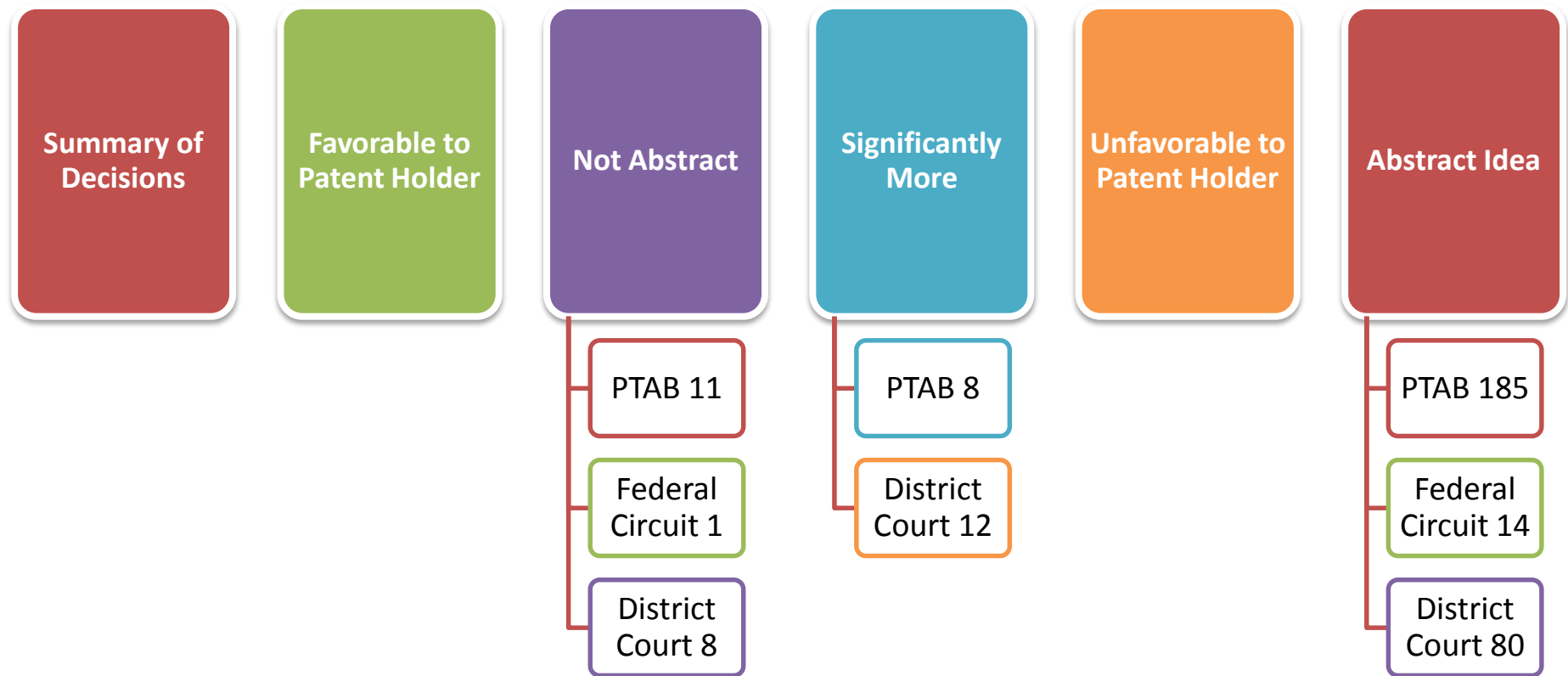
- ✓ **Arrhenius equation applied to rubber-molding press** – *Diamond v. Diehr*, 450 U.S. 175 (1981)
- ✓ **Data processing system for mutual funds that pool funds in central hub** – *State Street Bank & Trust Co. v. Signature Fin. Group, Inc.*, 149 F.3d 1368 (Fed. Cir. 1998)
- ✓ **Digital halftoning of gray scale images** – *Research Corp. Techs. v. Microsoft Corp.*, 536 F.3d 1247 (Fed. Cir. 2010)
- ✓ ***Isolated cDNA** – *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. ____ (2013)

Alice-Mayo Test

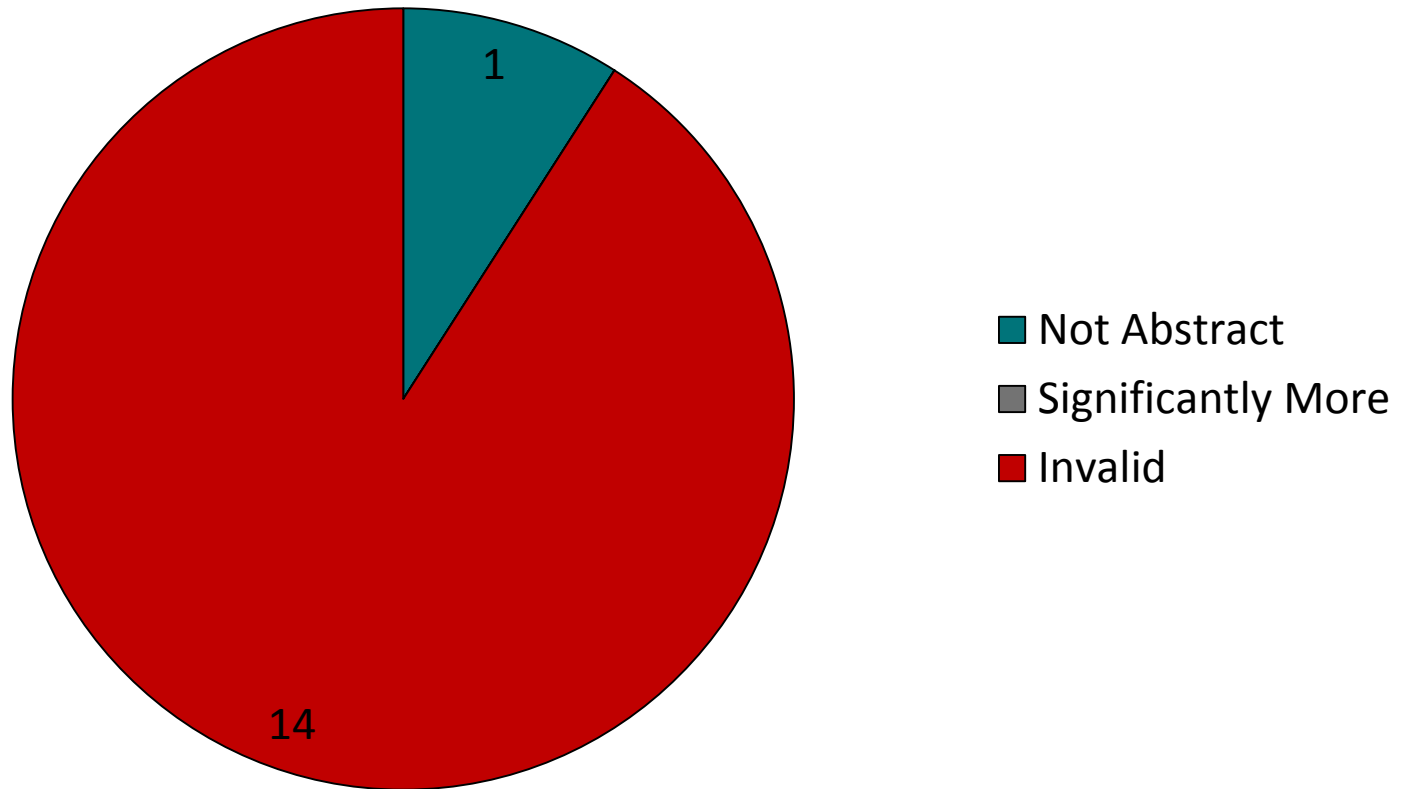
- **Step 1** – Is the claim to a process, machine, manufacture or composition of matter?
- **Step 2a** – Is the claim directed to a law of nature, a natural phenomenon, or an abstract idea?
- **Step 2b** – Does the claim recite additional elements that amount to significantly more than the judicial exception?



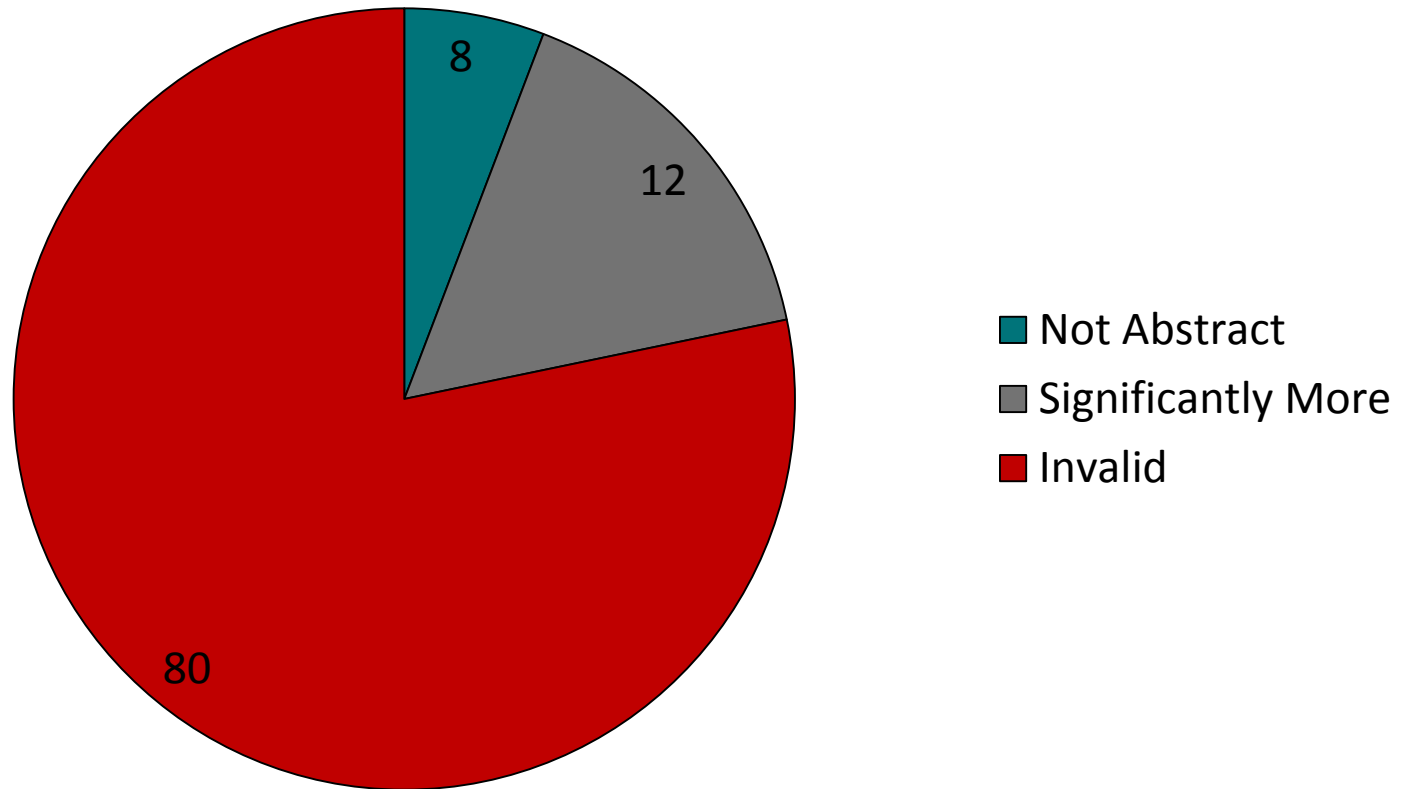
Federal Circuit – Post-Alice



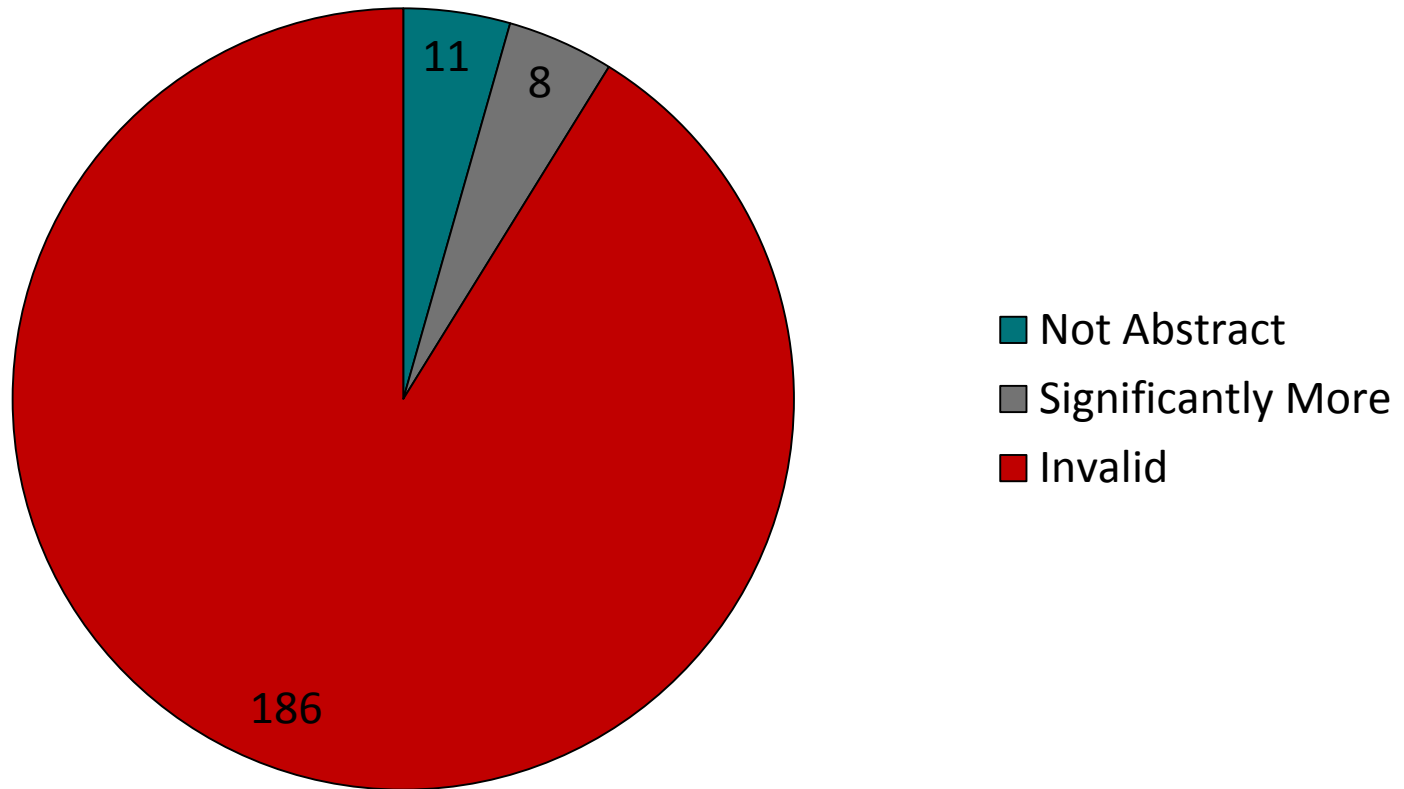
Federal Circuit Decisions



District Court Decisions



Patent Trial and Appeal Board Decisions



Strategies for Dealing With *Alice*

- Don't let your case into 3600
- Argue the claim is not an abstract idea
- Argue your claim is “significantly more”
- Interview
- Expect prolonged and expensive prosecution
- Be creative – possible an expert declaration

Avoiding the Business Method Group

- If it goes into Group 3600, it's not coming out
- Other groups don't see near the amount of *Alice* rejections
- How to draft an application to avoid this group:
 - Focus specification on technical effect of innovation
 - Describe “hardware layer” for invention
 - Weave abstract idea into the hardware layer
 - Concentrate on how hardware layer behaves uniquely
 - Draft claims that weave innovation into hardware elements

Arguing the Idea is Not Abstract

- If you do get an *Alice* rejection, first need to argue the claim is not an abstract idea (a judicial exception)
- Argue:
 - The invention is not a fundamental economic practice
 - The claim does not preempt a building block of human ingenuity
 - Point out that the inventor is not claiming the world
- Also remind the examiner that he or she can't just look at one element and need to examine as a whole
- Mention that “directed to” means the abstract idea must be spelled out in the claim

Arguing the Idea is Significantly More

- Show it like a case the courts have said is patent eligible (e.g. *DDR*), as the 2015 guidelines say the examiner must show how it is similar to a case that was denied
- For something more, if there are no 102 or 103 rejections, then there must be “something more” to get over prior art
- Could have an expert say rooted in computer technology to show not abstract
- Best is to pigeon hole into a case since the revised guidelines require that

Other Possible Approaches

- Interview
 - Anecdotal Stories
- Expect prolonged and expensive prosecution
- Be creative – possibly an expert declaration
- Appeal and wait for more favorable decisions

... and Other Issues to Consider When Amending to Avoid *Alice*

- No indirect infringement without direct infringement – *Limelight Networks, Inc. v. Akamai Technologies, Inc.*, 572 U.S. ____ (S. Ct. June 2, 2014)

If you amend to include multiple pieces of hardware working on a network, you'll likely end up with a claim that can't be infringed.

Federal Circuit – *DDR Holdings*

- ✓ **Serving composite web page combining host's and merchant's web sites**

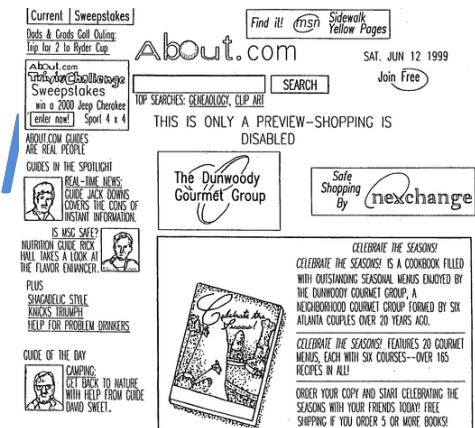
DDR Holdings LLC v. Hotels.com LP, 773 F.3d 1245 (Fed. Cir. Dec. 5, 2014)

2-1 Decision

13. An e-commerce outsourcing system comprising:

- a data store including a look and feel description associated with a host web page having a link correlated with a commerce object; and
- a computer processor coupled to the data store and in communication through the Internet with the host web page and programmed, upon receiving an indication that the link has been activated by a visitor computer in Internet communication with the host web page, to serve a composite web page to the visitor computer wit[h] a look and feel based on the look and feel description in the data store and with content based on the commerce object associated wit[h] the link.

“the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.”



Federal Circuit – *Sequen*



✗ Detect paternal cffDNA in maternal plasma to determine birth defects

Ariosa Diagnostics, Inc. v. Sequenom, Inc. (Fed. Cir. June 12, 2015) (affirming summary judgment)

3-0 Decision

1. A method for detecting a paternally inherited nucleic acid of fetal origin performed on a maternal serum or plasma sample from a pregnant female, which method comprise

amplifying a paternally inherited nucleic acid from the serum or plasma sample and

detecting the presence of a paternally inherited nucleic acid of fetal origin in the sample.

“We agree [with the significance] but note that the Supreme Court instructs that “[g]roundbreaking, innovative, or even brilliant discovery does not by itself satisfy the § 101 inquiry.” (citing *Myriad*)

Court of Federal Claims



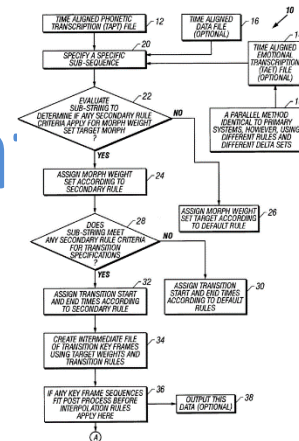
✗ F-35 fighter helmet sensor system

Thales Visionix, Inc. v. U.S. and Elbit Systems of America, LLC, No. 14-513C,
(Fed. Cl. July 20, 2015) (granting judgment on the pleadings)

1. A system for tracking the motion of an object relative to a moving reference frame, comprising:
 - a first inertial sensor mounted on the tracked object;
 - a second inertial sensor mounted on the moving reference frame; and
 - an element adapted to receive signals from said first and second inertial sensors and configured to determine an orientation of the object relative to the moving reference frame based on the signals received from the first and second inertial sensors.

“Put simply, the system in Claim 1 appears to be an arrangement of generic data-gathering elements designed to feed orientation data into the navigation equations”

District Court – Lip Sync Animation



✗ Lip sync animation of 3D characters

McRO, Inc. v. Activision Publishing, Inc., Case No. CV 14-336 (C.D. Cal. Sept. 22, 2014)
(granting motion for judgment on the pleadings; on appeal)

1. A method for automatically animating lip synchronization and facial expression of three-dimensional characters comprising:

- obtaining a first set of rules that define output morph weight set stream as a function of phoneme sequence and time of said phoneme sequence;
- obtaining a timed data file of phonemes having a plurality of sub-sequences;
- generating an intermediate stream of output morph weight sets and a plurality of transition parameters between two adjacent morph weight sets by evaluating said plurality of sub-sequences against said first set of rules;
- generating a final stream of output morph weight sets at a desired frame rate from said intermediate stream of output morph weight sets and said plurality of transition parameters; and
- applying said final stream of output morph weight sets to a sequence of animated characters to produce lip synchronization and facial expression control of said animated characters.

“So, what the claim adds to the prior art is the use of rules, rather than artists, to set the morph weights and transitions between phonemes. However, both of these concepts are specified at the highest level of generality. . . This case illustrates the danger that exists when the novel portions of an invention are claimed too broadly.”

Fairfield Indus., Inc. v. Wireless Seismic, Inc., Case No. 4:14-CV-2972 (S.D. Tex. Dec. 23, 2014) (denial of motion to dismiss)

providing a plurality of seismic data acquisition units, each unit comprising a transceiver configured to wirelessly communicate seismic data with one or more of the other seismic data acquisition units in the plurality of seismic data acquisition units;

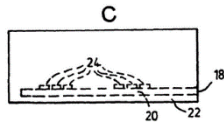
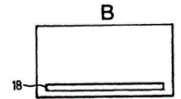
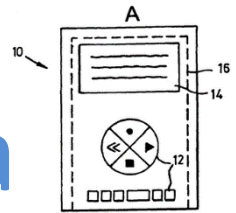
wirelessly communicating acquired data from the acquisition units to the concentrator units;

wherein, during the step of wirelessly communicating acquired data from the acquisition units to the concentrator units, a first pair of acquisition units communicate with each other at the same time that a second pair of acquisition units communicate with each other; and

assigning first and second transmission parameters to the first and second pairs of acquisition units to substantially prevent communication interference between the first and second pairs.

HOGARTH | CHAMBERS 

District Court – Payment for Data



✓ Payment system for digital multimedia content

SmartFlash LLC v. Apple, Inc., Case No. 6:13-CV-448-JRG-KNM (Jan. 21, 2015)
(denial of motion for summary judgement)

3. A data access terminal for retrieving data from a data supplier and providing the retrieved data to a data carrier, the terminal comprising:

- a first interface for communicating with the data supplier;
- a data carrier interface for interfacing with the data carrier;
- a program store storing code; and
- a processor coupled to the first interface, the data carrier interface, and the program store for implementing the stored code, the code comprising:
 - code to read payment data from the data carrier and to forward the payment data to a payment validation system;
 - code to receive payment validation data from the payment validation system;
 - code responsive to the payment validation data to retrieve data from the data supplier and to write the retrieved data into the data carrier; and
 - code responsive to the payment validation data to receive at least one access rule from the data supplier and to write the at least one access rule into the data carrier, the at least one access rule specifying at least one condition for accessing the retrieved data written into the data carrier, the at least one condition being dependent upon the amount of payment associated with the payment data forwarded to the payment validation system.

“Entry into the Internet Era presented new and unique problems for digital content providers in combatting unauthorized use and reproduction of protected media content. . . .The patents claim methods and systems designed to prevent such easy and unauthorized reproduction and access while allowing the access to be nearly instantaneous and the storage to be permanent.”

District Court – GUI

✓ GUI for displaying electronic trading info.

Trading Technologies Int'l, Inc. v. CQG, Inc., Case No. 05-cv-4811 (N.D. Ill. Feb. 24, 2015)

1. A method of placing a trade order for a commodity on an electronic exchange having an inside market with a highest bid price and a lowest ask price, using a graphical user interface and a user input device, said method comprising:

setting a preset parameter for the trade order

displaying market depth of the commodity, through a dynamic display of a plurality of bids and a plurality of asks in the market for the commodity, including at least a portion of the bid and ask quantities of the commodity, the dynamic display being aligned with a static display of prices corresponding thereto, wherein the static display of prices does not move in response to a change in the inside market;

displaying an order entry region aligned with the static display prices comprising a plurality of areas for receiving commands from the user input devices to send trade orders, each area corresponding to a price of the static display of prices; and

selecting a particular area in the order entry region through single action of the user input device with a pointer of the user input device positioned over the particular area to set a plurality of additional parameters for the trade order and send the trade order to the electronic exchange.

“Rather, the claims are directed to solving a problem that existed with prior art GUIs, namely, that the best bid and best ask prices would change based on updates received from the market. There was a risk with prior art GUIs that a trader would miss intended price as a result of prices changing from under the pointer when clicked on the price cell on the GUI.”

The screenshot shows a trading interface with a grid of data. The top row is labeled 'SYCOM FGBL DEC99'. The grid has columns for 'E/W', 'L', 'R', 'BxQ', 'AskQ', 'Prc', and 'LTQ'. The rows are numbered 1009 to 1021. The grid contains various symbols and numbers, including 'L 3', 'R 5', '720', '10', '0', '10', '1H', '3H', '1K', 'SH', 'CLR', '17', 'CX', '18', '97', '30', '43', '110', '23', '31', '125', and '21'. The grid is divided into several sections by lines, representing different order entry regions.

District Court – e-Commerce

✗ Traffic control for transactions in e-commerce

Telebuyer, LLC v. Amazon.com, 2015 BL 236343 (W.D. Wash. July 23, 2015)
(granting summary judgement on invalidity)

185. A method enabling on-line and off-line communications including video communication, between at least two parties from different buyer-vendor groups, located at remote terminals with communication capability, for example personal computers, through a public communication system, the communications directed and exchanged under control of a central data system that facilitates interactive data sharing by the parties, comprising the steps of:

- interfacing at least a requesting one of the parties from a first group, at a remote terminal, with the central data system, for on-line communication through said public communication system wherein said party uses said remote terminal to request data from the central data system;

- receiving data from the requesting party to indicate an area of interest and other data to facilitate further electronic communication;

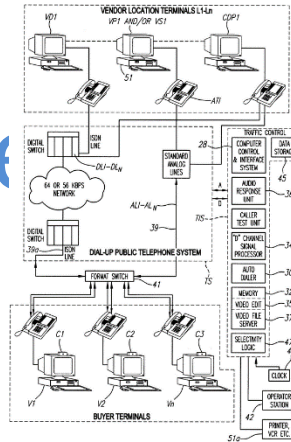
- storing at least a part of the data received from the requesting party indicative of an area of interest at the central data system;

- selectively providing select data relating to the area of interest from the central data system, the select data including stored video data obtained from a video storage device associated with the central data system, the video storage device having a plurality of different video images relating to different areas of interest obtained from parties of a second group, the select data obtained from the video storage device and comprising either high resolution freeze frame data or dynamic data or both and a graphic including text display of pertinent information relating to the area of interest;

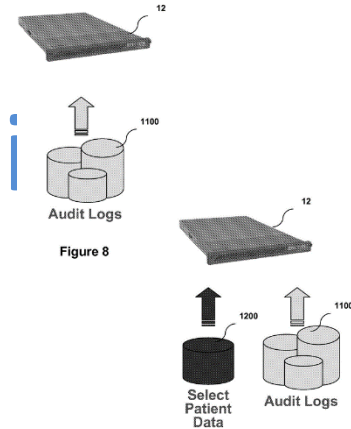
- transmitting from the central data system to the requesting party a notification soliciting further viewing of video and text data embodied in sales presentations relating to the select area of interest; and

- subsequently interfacing the requesting party to the central data system for further viewing of select video sales presentations.

“While Telebuyer describes the use of a data-driven traffic control system in e-commerce, it left to others the task of creating (i.e., inventing) the necessary algorithms and other specialized programming to achieve that system”



District Court – Authenticati



✗ Detecting fraudulent access to elec. Files

Fairwarning IP, LLC v. Iatric Systems, Inc., Case No. 8:14-cv-2685-T-23MAP
(M.D. Fl. July 24, 2015) (granting motion to dismiss)

1. A method of detecting improper access of a patient's protected health information (PHI) in a computer environment, the method comprising:

generating a rule for monitoring audit log data representing at least one of [the] transactions or activities that are executed in the computer environment, which are associated with the patient's PHI, the rule comprising at least one criterion related to accesses in excess of a specific volume, accesses during a pre-determined time interval, accesses by a specific user, that is indicative of improper access of the patient's PHI by an authorized user wherein the improper access is an indication of potential snooping or identity theft of the patient's PHI, the authorized user having a pre-defined role comprising authorized computer access to the patient's PHI;

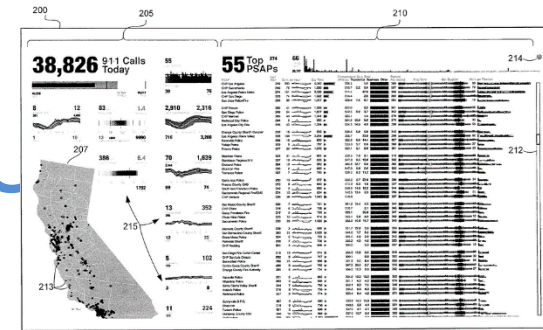
applying the rule to the audit log data to determine if an event has occurred, the event occurring if the at least one criterion has been met;

storing, in a memory, a hit if the event has occurred; and

providing notification if the event has occurred.

"[T]he abstract idea remains unpatentable despite the patent's effort to limit the invention to one field (health information) and to one technology (a computer)"

District Court – GU



✗ 911 dashboard GUI

Boar's Head Corp. v. DirectApps Inc., case number 2:14-cv-01927 (E.D. Cal. July 27, 2015) (granting 12(b)(6) motion)

1. A method for communicating information associated with emergency calls communicated to emergency response centers, the method comprising:

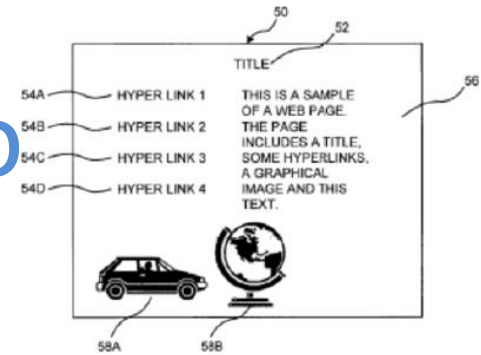
receiving, by an emergency call analysis system, emergency call information that defines an emergency call communicated to an emergency response center within a geographic region, wherein the emergency call information includes location information of the emergency call;

determining, by the emergency call analysis system, statistical information that includes a quantity of emergency calls that originated within a geographic region during a first period, and an average quantity of emergency calls that originated within the geographic region during a second period that is greater than the first period;

generating, by a computer server, browser code executable by a browser to cause the browser to display the statistical information via graphical indicia of the quantity of emergency calls originated during the first period, and graphical indicia of the average quantity of emergency calls that originated during the second of period.

“The purported ‘limitations’ of ‘displaying certain specified information in real time as emergency calls occur’ and ‘superimposing one or more charts’ are not limitations, but simply examples of a computer generating data in response to inputted data. This is what computers have done since their inception, as courts have recognized for years.”

PTAB – Authentication



✓ Authenticity key to create formatted data

PNC Bank v. Secure Axxess, LLC, Case No. CBM2014-00100,
(PTAB Sept. 9, 2014) (CBM trial instituted on obviousness grounds, not §101 grounds)

1. A method comprising:

transforming, at an authentication host computer, received data by inserting an authenticity key to create formatted data; and

returning, from the authentication host computer, the formatted data to enable the authenticity key to be retrieved from the formatted data and to locate a preferences file,

wherein an authenticity stamp is retrieved from the preferences file.

“We also find that Petitioner does not provide sufficient persuasive evidentiary support that the placing of a trusted stamp or seal on a document is ‘a fundamental economic practice’ or a ‘building block of the modern economy.’”

PTAB – Advertising on Stamp



✓ Delivering advertising to mass market

Ex parte Martin A. Urban, Appeal 2012-005678, (PTAB April 3, 2015)
(obviousness rejections sustained; application since abandoned by applicant)

1. A method of advertising comprising the steps of:
 - receiving compensation from a party; and
 - placing an advertisement of the party on postage in exchange for the compensation received to advertise for the party.

“But the Examiner does not explain how, and we fail to see how, applying an advertisement, i.e., a physical implementation, to a postage stamp, i.e., a physical object, constitutes an abstract idea”

What is Abstract?

Hints from the U.S. Supreme Court:

- *Alice*
 - “[The claims] do not, for example, purport to improve the functioning of the computer itself.”
 - “Nor do they effect an improvement in any other technology or technical field.”
- *Bilski*
 - “[T]he machine-or-transformation test is a useful and important clue, an investigative tool, for determining whether some claimed inventions are processes under §101.”

USPTO Guidelines After *Alice*



March 4, 2014 – Memo to examiners (superseded)

“2014 Procedure for Subject Matter Eligibility Analysis of Claims Reciting Or Involving Laws Of Nature/Natural Principles, Natural Phenomena, And/Or Natural Products” (issued in view of *Mayo* and *Myriad*)

June 19, 2014 – *Alice* decision

June 25, 2014 – Memo to examiners (still in force)

“Preliminary Examination Instructions in view of the Supreme Court Decision in *Alice Corporation Pty. Ltd. v. CLS Bank International, et al*” (issued in view of *Alice*)

Dec. 10, 2014 – Official Guidance

“2014 Interim Guidance on Patent Subject Matter Eligibility”

Jan. 27, 2015 – Examples

“Examples: Abstract Ideas”

July 30, 2015 – Updated Guidance and Examples

“July 2015 Update: Subject Matter Eligibility” (issued in response to >60 public comments on Dec. 10 guidance)

July 2015 Update – Subject Matter Eligibility

1. Additional examples – business method, GUI, software, medical diagnostic)
2. Markedly different characteristics explanation
3. Identifying abstract ideas in Step 2A
 - a. “Fundamental economic practices”
 - b. “Certain Methods of Organizing Human Activity”
 - c. “An Idea ‘Of Itself’”
 - d. “Mathematical relationships/formulas”
4. Requirements of a *prima facie* case – “For Step 2B, examiners should rely on what the courts have recognized, or those in the art would recognize, as elements that are well-understood, routine and conventional.” (listing 6 computer functions)
5. Training, preemption, streamlined analysis

Questions

