

# Seyfarth PTAB Blog

A legal look at Patent Trial and Appeal Board decisions and trends



## Who said Financial Service Patents are Dead?

By Patrick T. Muffo

The PTAB recently declined to institute a Covered Business Method (CBM) review over a modified ATM patent, holding the process for delivering money to be patent-eligible despite the Petitioner's arguments to the contrary.

In the case of *NRT Technology Corp. v. Everi Payments, Inc.*, CBM2015-00167 (January 22, 2016 Decision Denying Institution), the PTAB held Everi's patent claims to be patent-eligible. The claims are directed to a method for providing cash through a modified ATM machine. The machine receives a PIN number of an ATM card, and if the user is over their daily withdrawal limit, the user may instead obtain money via a point-of-sale network. The ATM will then notify a nearby money location (such as "cash windows or 'cages' within casinos or racetracks, front desks or concierges of hotels, ticket booths, will-call windows or customer service windows at stadiums, colosseums, theaters, stores, or amusement parks" and the user can then collect their cash at the money location.

The PTAB applied the test from *Alice* and noted the Petitioner did not specifically define any "abstract idea" that the claims allegedly embodied. Instead, the Petitioner merely implied that the alleged "abstract idea" is "providing money to an account holder" and "trial-and-error." The Board declined to accept this summary of the claim, calling it "oversimplified" and inaccurate. Instead, the Board held that the claims are more fairly described as being drawn to "particular methods of providing money to an account holder using an ATM via a [point of sale] transaction after an ATM transaction has failed." The Board then cited *Alice* to hold the claims patent-eligible, holding "Applications of such concepts to a new and useful end ... remain eligible for patent protection."

The Board stopped its analysis of the second *Alice* prong before it started. The Board noted that the Petitioner failed to articulate how the claims lacked any inventive concept and that "[i]t was the Petitioner's burden to do so."

## Takeaway

This case presents another example of a Petitioner biting off more than it could chew by summarizing a claimed invention using overbroad, vague, or excessively-abstract language. *Alice* challenges require the Defendant or Petitioner to summarize an invention, but overreaching in this regard can backfire. Petitioners should also recognize that the PTAB will not craft its own arguments for invalidating software patents, but will require the Petitioner to do so.

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