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

Eastern District of Texas Finds Website Labeling Patent Invalid Under §101

By Patrick T. Muffo

Nearly one third of all patent cases filed in the United States are heard by a single judge - J. Rodney Gilstrap of the Eastern District of Texas. Many of these cases involve e-commerce or other internet-based patents such that patent eligibility is commonly challenged. It is therefore significant when J. Gilstrap holds a website-based patent invalid under §101, as he recently did in the case of *Gonzalez v. Infostream Group*.

In *Gonzalez*, the alleged invention involved gathering and labeling information to facilitate efficient retrieval of the labeled information. Both of the patents at issue tied the claimed methods to computer and internet-based technology, specifically website and computer-based searches.

J. Gilstrap applied the test from *Alice* and *Mayo* and quickly held the claims of both patents to be directed to an abstract idea. In a one paragraph analysis, J. Gilstrap analogized the patents-in-suit to the patent of the *eDekka v. 3balls.com* case, and concluded "As the Court recently found in *eDekka*, a case in which the asserted patent … was similarly directed to the abstract idea of storing and labeling information, 'the claimed idea represents routine tasks that could be performed by a human.'"

J. Gilstrap further held the claims were not directed to any inventive concept, finding the claims were merely tied to a computer or website environment and as such were insufficient to transform the ineligible concept to a patentable invention. Particularly significant were comments the patentee made to the Patent Office: "this kind of labeling is common in commerce in physical form" but "it has not heretofore been used or proposed in digital form for websites." Such comments lead the court to find the invention to be an internet or computer-based implementation of an age-old concept, insufficient to obtain patent protection.

Takeaway

If you are involved in a patent lawsuit, chances are good the lawsuit is in the Eastern District of Texas. Decisions such as these provide a clue as to how the court views patent-eligibility and what concepts it deems important.

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From this case, it appears J. Gilstrap is persuaded that a claim is ineligible if it involves steps that can be performed by a human but that are claimed as being performed by a computer. It is unclear what other patent-eligibility concepts (e.g., preemption) carry the same weight in the eyes of the Eastern District of Texas.

Patrick T. Muffo is an author of the Seyfarth PTAB Blog and Associate in the firm's Chicago office. For more information, please contact a member of the Patent Practice Group, your Seyfarth Shaw LLP attorney, or Patrick T. Muffo at pmuffo@seyfarth.com.

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