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

Another Software Patent Survives an *Alice* Challenge

By Patrick T. Muffo

Inventions directed to "organizing information" have long been the subject of §101 challenges. Courts and the Patent Office alike have invalidated software patents that organize information and activity, often citing *Bilski* for the proposition that "certain methods of organizing human activity" are unpatentable abstract ideas. Recently, however, the District of Delaware declined to hold invalid a patent directed to categorizing summarized information, proving there is no "one size fits all" approach to this group of inventions.

The case of *Yodlee, Inc. v. Plaid Technologies, Inc.*, Case No. 14-1445-LPS (May 23, 2015 Report and Recommendation) involves seven patents directed to various different inventions. For example, one of the asserted patents involves storing user names and passwords so a user can browse through the Internet without having to manually log on to websites. Other asserted patents included similar inventions that summarized categories of information for the user, or implemented dynamic prediction models.

Among the seven patents, some claims were held patent-eligible and some were not. The court noted the parties did not appear to dispute whether patents claiming categorizing of summarized data were directed to abstract idea – for these particular patents, they were. However, other patents were directed to dynamic predictive models that were not deemed abstract ideas. Here, the defendant argued these patents to be directed to a 19th century method of using transaction information to predict future transactions. The court agreed that such a method would be considered an abstract idea, but that the patents were not directed to something as basic as what the defendant suggested:

> The Court agrees with [defendant] . . . that businesses have used past transaction information to predict future transactions or for business purposes long before the [patents] existed . . . What the [patents] claim to add is not simply the idea of summarizing past transaction information for some future predictive purpose or for a business purpose (as [defendant's] proffered abstract ideas suggest), but rather the added value of having a categorization system that grows and improves in its ability to do its job, based on the consistent incorporation of new information. . . . . . [Defendant's] proffered 19th century example of the asserted abstract idea does not appear to speak to how the catalog service would periodically amend their predicting or forecasting processes based on updated information -- the asserted improvement that is called out by the patent specifications and referenced in the claims.

Takeaway:

In a rather complex case, *Yodlee* again focused on the definition of the "abstract idea" by the defendant. Many times, defendants frame the alleged "abstract idea" too broadly to improve their §101 invalidity argument, and courts or the PTAB find the definition is too broad. Other times, defendants frame the abstract idea too narrowly and courts agree with the defendant on the definition of the invention, but find such a narrow definition to not be drawn to an abstract idea. Here, the defendant framed the abstract idea in a manner inconsistent with the claimed invention, and the court found no apples to apples comparison.

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