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Docket Report for June 17, 2015

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Wed, Jun 17, 2015 at 7:30 AM

Patent Docket Report for June 17, 2015. To avoid missing an issue add docketreport@docketnavigator.com to your address book.

Courtesy of



June 17, 2015

U.S. District Courts

- 10 new cases
1 award
20 injunctions
26 claim terms construed
9 determinations
12 rulings
International Trade Commission
nothing to report
Patent Trial & Appeal Board
10 new petitions
15 claim terms construed
11 institution rulings
5 rulings

Computer Voice Control Patent Claims Invalid Under 35 U.S.C. § 101

The court granted defendant's motion for judgment on the pleadings that four claims of plaintiff's patent for voice control of a computer were invalid for lack of patentable subject matter and found the claims were directed to an abstract idea.

Potter Voice Technologies LLC, v. Apple, Inc., et al, 4-13-cv-01710 (CAND June 11, 2015, Order) (Wilken, J.)
Docket sheet Read order

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U.S. DISTRICT COURTS

New cases

Shane Chen v. Soibatian Corporation, 2-15-cv-04562 (CACD)

June 16, 2015

District Judge Percy Anderson

Magistrate Judge Jean P. Rosenbluth

Infringement

Soibatian Corporation

no counsel of record

Shane Chen

Paul Nathan Tauger

Apogee Law Group

Devon J Zastrow Newman

Schwabe Williamson & Wyatt

8738278 Two-wheel, self-balancing vehicle with independently movable foot placement sections

5/27/2014

80 Percent Arms Inc. v. Modulus Designs, Inc., 8-15-cv-00953 (CACD)

June 16, 2015

Infringement

Modulus Designs, Inc.

no counsel of record

80 Percent Arms Inc.

Shunsuke S Sumitani

Stefina Brunda Garred & Brucker

William J Brucker

Stefina Brunda Garred & Brucker

9009986 Jig for firearm lower receiver manufacture

4/21/2015

Endeavor MeshTech, Inc. v. FreeWave Technologies, Inc., 1-15-cv-01276 (COD)

June 16, 2015

Magistrate Judge Michael J. Watanabe

Infringement

FreeWave Technologies, Inc.

no counsel of record

Endeavor MeshTech, Inc.

Jacqueline Knapp Burt

Heninger Garrison Davis

James F McDonough, III

Heninger Garrison Davis

F Brittin Clayton, III

Ryley Carlock & Applewhite

7379981 Wireless communication enabled meter and network

8700749 Wireless communication enabled meter and network

8855019 Wireless communication enabled meter and network

5/27/2008

4/15/2014

10/7/2014

June 16, 2015

Medigus Ltd. v. EndoChoice, Inc., 1-15-cv-00505 (DED)

Infringement

EndoChoice, Inc.

no counsel of record

Medigus Ltd.



PROTECTIVE ORDER MATERIAL

UP-000001

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Bradium Exhibit 2015



8/23/2018

Unified Patents Inc. Mail - Docket Report for June 17, 2015

	Andrew C Mayo John G Day Lauren E Maguire Howard N Wisnia	Ashby & Geddes Ashby & Geddes Ashby & Geddes Mintz Levin Cohn Ferris Glovsky & Popeo	
patent	6997871	Multiple view endoscopes	2/14/2006
	Unikay Technologies, Inc. v. Assa Abloy Hospitality Inc. et al, 6-15-cv-00986 (FLMD)		June 16, 2015
judges	District Judge John Antoon, II Magistrate Judge Gregory J. Kelly		
claim	Infringement		
	Assa Abloy Hospitality Inc.		
defendants	HID Global Corporation Starwood Hotels & Resorts Worldwide, Inc.		
	no counsel of record		
	Unikay Technologies, Inc.		
plaintiff	Brendan S Cox Kimberly A Mottley Matthew Triggs Steven M Bauer	Proskauer Rose Proskauer Rose Proskauer Rose Proskauer Rose	
patent	9057210	Wireless access control system and related methods	6/16/2015
	SnowCast Solutions LLC d/b/a Nobel Weather Associates v. Endurance Specialty Holdings Ltd., 1-15-cv-05305 (ILND)		June 16, 2015
judge	District Judge Manish S. Shah		
claim	Infringement		
defendant	Endurance Specialty Holdings Ltd.		
	no counsel of record		
	SnowCast Solutions LLC d/b/a Nobel Weather Associates		
plaintiff	Alain Villeneuve Angelo J Bufalino Michael J Waters	Vedder Price Vedder Price Vedder Price	
patents	8543427 8924242	Weather risk management system Weather risk management system	9/24/2013 12/30/2014
	Penguin Licensing, LLC v. Mansfield Plumbing Products, LLC et al, 5-15-cv-12175 (MIED)		June 16, 2015
judges	District Judge John Corbett O'Meara Magistrate Judge Elizabeth A. Stafford		
claim	Infringement		
	Mansfield Plumbing Products, LLC		
defendants	Menard, Inc.		
	no counsel of record		
	Penguin Licensing, LLC		
plaintiff	Christopher Wanli Wen Thomas A Hallin	Fishman Stewart Yamaguchi Fishman Stewart Yamaguchi	
patent	9057187	Anti-overflow toilet and method	6/16/2015
	Wireless Environment, LLC v. Sunvalleytek International, Inc. et al, 1-15-cv-01215 (OHND)		June 16, 2015
claim	Infringement		
	Hootoo.com Inc. (d/b/a Taotronics)		
defendants	Sunvalleytek International, Inc.		
	no counsel of record		
	Wireless Environment, LLC		
plaintiff	Amelia J Workman-Farago Julie A Crockner Michael H Diamant Philip R Bautista	Taft Stettinius & Hollister Taft Stettinius & Hollister Taft Stettinius & Hollister Taft Stettinius & Hollister	
patent	D729956	LED light bulb	5/19/2015
	Fellowship Filtering Technologies, LLC v. Oracle America, Inc., 2-15-cv-01045 (TXED)		June 16, 2015
claim	Infringement		
defendant	Oracle America, Inc.		
	no counsel of record		
	Fellowship Filtering Technologies, LLC		
plaintiff	D Jeffrey Ramin Elizabeth L DeRieux Brian J Dunne Daniel P Hipskind Dorian S Berger Matt Olavi	Capshaw DeRieux Capshaw DeRieux Olavi Dunne Olavi Dunne Olavi Dunne Olavi Dunne	
patent	5884282	Automated collaborative filtering system	3/16/1999
	Creswell Holdings LLC v. Lenovo (US) Inc., 4-15-cv-00407 (TXED)		June 16, 2015
claim	Infringement		
defendant	Lenovo (US) Inc.		
	no counsel of record		
plaintiff	Creswell Holdings LLC		
	Hao Ni Neal G Massand	Ni Wang & Massand Ni Wang & Massand	

PROTECTIVE ORDER MATERIAL

UP-00002

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Stevenson Moore V
Timothy Wang

6194677 Structure of keyswitch
6318695 Notebook computer key
6340803 Computer keyswitch

Ni Wang & Massand
Ni Wang & Massand

2/27/2001
11/20/2001
1/22/2002

U.S. DISTRICT COURTS
Significant activity

Sunworld Industrial Co. Ltd. v. DYE Precision, Inc., 2-14-cv-07654 (CACD)

District Judge Ronald S.W. Lew

6/15/2015

Injunctions granted

against

DYE Precision, Inc.

in favor of

Sunworld Industrial Co. Ltd.

for

Injunction

Patent determinations

patent title

8720427 Paintball gun having internal pressure regulator

RE44328 Paintball gun having internal pressure regulator

determinations

Infringed

Infringed

Subotincic et al v. Propack Processing & Packaging Systems Inc. et al, 8-13-cv-00066 (CACD)

District Judge Andrew J. Guilford

6/12/2015

Injunctions granted

against

Chris Follows

Propack Processing & Packaging Systems Inc.

Chris Follows

Propack Processing & Packaging Systems Inc.

in favor of

Milos Misha Subotincic

Milos Misha Subotincic

Subo Automation Inc.

Subo Automation Inc.

for

Injunction

Injunction

Injunction

Injunction

Allergan USA Inc. et al v. Medicis Aesthetics, Inc. et al, 8-13-cv-01436 (CACD)

District Judge Andrew J. Guilford

6/12/2015

Injunctions granted

against

Galderma Laboratories, LP

Medicis Aesthetics, Inc.

Medicis Pharmaceutical Corporation

Valeant Pharmaceuticals International

Valeant Pharmaceuticals International, Inc.

Valeant Pharmaceuticals North America, LLC

Galderma Laboratories, LP

Medicis Aesthetics, Inc.

Medicis Pharmaceutical Corporation

Valeant Pharmaceuticals International

Valeant Pharmaceuticals International, Inc.

Valeant Pharmaceuticals North America, LLC

in favor of

Allergan Industrie, SAS

Allergan Industrie, SAS

Allergan Industrie, SAS

Allergan Industrie, SAS

Allergan Industrie, SAS

Allergan Industrie, SAS

Allergan USA, Inc.

Allergan USA, Inc.

Allergan USA, Inc.

Allergan USA, Inc.

Allergan USA, Inc.

Allergan USA, Inc.

for

Injunction

Injunction

Injunction

Injunction

Injunction

Injunction

Injunction

Injunction

Injunction

Injunction

Injunction

Sillage, LLC v. Kenrose Perfumes, Inc. d/b/a Europerfumes et al, 8-14-cv-02043 (CACD)

District Judge Christina A. Snyder

6/9/2015

Motion to Sever

Granted

AIA Joinder Rule (35 USC § 299) The court granted defendants' motion to sever and stay plaintiff's claims against two retailer defendants because the defendants were direct competitors. "[D]irect competitors at the same level of commerce cannot be properly joined as patent infringement defendants under § 299. Plaintiff does not contest that [the retailers] are direct competitors at the same level of commerce, and does not allege a conspiracy; consequently, the retail defendants are misjoined and must be severed." (page 7)

Motion to Stay - Other

Granted

Suit Against Customer The court granted defendants' motion to sever and stay plaintiff's claims against the retailer defendants pending resolution of the claims against the manufacturer because the retailers agreed to be bound by the results of the manufacturer's litigation. "Although the customer suit exception does not directly apply, the Court concludes that staying the severed actions against the retail defendants would be the most efficient and fair course of action. . . . While the Court is not persuaded that staying litigation against a downstream defendant will invariably be the most efficient course, the Court finds it to be justified in this case, largely because each retail defendant has agreed to be bound by the results of litigation against [the manufacturer]. . . . [I]t is hard to imagine a situation in which litigation against the distributor would not resolve or at least simplify the litigation against the retail defendants." (page 8)

Potter Voice Technologies LLC, v. Apple, Inc., et al, 4-13-cv-01710 (CAND)

District Judge Claudia Wilken

6/11/2015

Patent determinations

patent title

6729659 Method and apparatus for controlling a digital computer using oral input

Motion for Judgment on the Pleadings

determinations

Invalid

Denied in part, granted in part

Unpatentable Subject Matter (35 USC § 101) The court granted defendant's motion for judgment on the pleadings that four claims of plaintiff's patent for voice control of a computer were invalid for lack of patentable subject matter and found the claims were directed to an abstract idea. "[The [patent-in-suit] describes a method and apparatus that 'uses oral input, natural language based rules, associative search and tabular data structures to provide an easily learned means for controlling a digital computer.' . . . [Plaintiff] also emphasizes that the patent is directed to using the human voice to control a computer using natural language. . . . The present patent is like that in [Ultramercial, Inc. v. Hulu, LLC, 772 F.3d 709, 714 (Fed. Cir. 2014)] in that it is directed to an abstraction; its disclosure of the use of a human voice to control a computer has no tangible or concrete form. Like Ultramercial, the claims contain some limitations, such as the use of a microphone and word recognition software, but these are not novel inventions. . . . The [patent-in-suit] does not simply perform a pre-existing business practice on the internet, but neither does it solve a business problem created by internet commerce." (page 6)

Unpatentable Subject Matter (35 USC § 101) The court denied defendant's motion for judgment on the pleadings that three claims of plaintiff's patent for voice control of a computer were invalid for lack of patentable subject matter. "Although [one] claim term does not disclose any inventive concepts, the specification further describes using content determination in conjunction with natural language and associative search. [Plaintiff] argues that the [patent-in-suit] advanced existing voice controls for computers by using syntactic and semantic content information to enable associative searching. . . . In light of Alice's instruction to 'tread carefully in construing [its] exclusionary principle lest it swallow all of patent law,' the Court finds that [one claim] and its [two dependent claims] may involve an inventive concept of content determination when described and limited by the relevant language

PROTECTIVE ORDER MATERIAL

UP-000003

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Bradium Exhibit 2015

Unpatentable Subject Matter (35 USC § 101) The court granted defendant's motion for judgment on the pleadings that four claims of plaintiff's patent for voice control of a computer were invalid for lack of patentable subject matter and found the claims lacked an inventive concept. "[Plaintiff] contends that its patent introduces the inventive concept of using associative searching. . . . As [defendant] points out, this is itself an abstract idea. The patent does not introduce any novel hardware. . . . [T]he claims simply recite the abstract idea of finding and processing data implemented on a generic computer which is controlled by a generic word recognition device." (page 10)

Toesox, Inc. v. Toez et al, 3-14-cv-02542 (CASD) District Judge Marilyn L. Huff 6/15/2015

Monetary awards			
against	in favor of	for	award
Kelly Sheppard	ToeSox, Inc.	Costs	\$1,176
Injunctions granted			
against	in favor of	for	
Kelly Sheppard	ToeSox, Inc.	Injunction	
Toez	ToeSox, Inc.	Injunction	

CIMA Labs Inc. et al v. Mylan Pharmaceuticals Inc., 1-10-cv-00625 (DED) District Judge Leonard P. Stark 6/15/2015

Claim terms construed			
patent	title	terms construed	
6024981	Rapidly dissolving robust dosage form		3 terms
6221392	Rapidly dissolving robust dosage form		3 terms

adidas AG et al v. Under Armour Inc. et al, 1-14-cv-00130 (DED) District Judge Gregory M. Sleet 6/15/2015

Claim terms construed			
patent	title	terms construed	
7905815	Personal data collection systems and methods		1 term
7931562	Mobile data logging systems and methods		4 terms
7957752	Location-aware fitness training device, methods, and program products that support real-time interactive communication and automated route generation		3 terms
8068858	Methods and computer program products for providing information about a user during a physical activity		2 terms
8244226	Systems and methods for presenting characteristics associated with a physical activity route		2 terms
8579767	Performance monitoring apparatuses, methods, and computer program products		2 terms
8652009	Modular personal network systems and methods		2 terms
8721502	Systems and methods for displaying performance information		2 terms
8725276	Performance monitoring methods		2 terms

Quest Integrity USA LLC v. Clean Harbors Industrial Services Inc., 1-14-cv-01482 (DED) District Judge Sue L. Robinson 6/12/2015

Motion for Preliminary Injunction Denied

Likelihood Of Success The court denied plaintiff's motion for a preliminary injunction from using the accused furnace tube inspection systems because defendants raised a substantial question of invalidity due to anticipation and obviousness in light of plaintiff's own prior art system. "It is evident that the inspection data in the [report about the prior system] has been divided into subsets of smaller size, i.e., according to data markers (return bends). The resulting display, while not as user-friendly as any of the contemporary systems, still presents the inspection data in a way that 'maps' or 'connects systematically' the data to the physical geometry of the furnace. . . . [N]othing in the specification or claims of the [patent-in-suit] that requires the inventive system to perform or look exactly like [plaintiff's] latest commercial iteration of its [system], so long as the inspection data can be displayed in a way that suggests data markers representing the physical geometry of the furnace." (page 15)

Irreparable Harm The court denied plaintiff's motion for a preliminary injunction from using the accused furnace tube inspection systems because plaintiff failed to establish irreparable harm. "[Plaintiff] must 'clearly establish' that monetary damages will not suffice and that the alleged harm is related to the alleged infringing features of the accused inspection services. . . . [Plaintiff] has not even attempted to analyze the relative importance of patented versus non-patented features and has tacitly conceded that several of the initially raised factors cannot be demonstrated. And although the court recognizes that, to some extent, the irreparable harm analysis is a forward-looking exercise, nevertheless, the court is not persuaded that [plaintiff] has demonstrated that defendants pose a threat of irreparable harm if allowed to compete, given the size of the market, the large number of refineries, and the fact that the parties have been competing for years." (page 17)

Market Track, LLC v. Efficient Collaborative Retail Marketing, LLC, 1-14-cv-04957 (ILND) District Judge John J. Sharp, Jr. 6/12/2015

Patent determinations			
patent	title	determinations	
7849083	Automatic creation of output file from images in database	Invalid	
		Granted	

Motion for Judgment on the Pleadings

Unpatentable Subject Matter (35 USC § 101) The court granted defendant's motion for judgment on the pleadings that plaintiff's output file creation patent was invalid for lack of patentable subject matter and found that the patent was directed to an abstract idea. "The claim elements recite a method of processing a query and returning results, deriving content from those results, and then organizing and delivering that content somewhere. . . . The method does add certain limitations, such as requiring that the query be processed against a database, that the database regard images, that the output be a stand-alone file containing an image and associated information, and that the file be delivered. But. . . these limitations add no real degree of particularity, but regardless, at its core, the central concept of the claimed invention is highly abstract: it is the idea of identifying, organizing, and presenting stored information." (page 12)

Unpatentable Subject Matter (35 USC § 101) The court granted defendant's motion for judgment on the pleadings that plaintiff's output file creation patent was invalid for lack of patentable subject matter and found that the patent lacked an inventive concept. "[T]he marriage of image and text data in the presentation of information is a ubiquitous, not inventive, practice. . . . What that leaves, then, is only [plaintiff's] claim that its method of automatically generating those stand-alone output files combining image and text data is new and innovative. What [plaintiff] describes as its 'concrete and particularized' methods for automatically creating those files, however, amount to nothing more than routine and well understood data processing procedures. . . . It is difficult to understand how a process whose steps can be deleted, modified, supplemented, and re-ordered, and which depends on no particular system or software for its implementation, provides a 'concrete' or 'particularized' limitation on the abstract concept of identifying, organizing, and presenting data." (page 15)

Unpatentable Subject Matter (35 USC § 101) The court granted defendant's motion for judgment on the pleadings that plaintiff's output file creation patent was invalid for lack of patentable subject matter and found that the patent implicated preemption concerns. "The process, system, and software disclosed by the [patent-in-suit] are so abstract and generic that they represent little more than an attempt to monopolize any and every technical implementation of the basic process of identifying, organizing, and presenting images and associated data stored in a database. Critically, claiming all forms of 'automatically creating at least one stand-alone output file' could preempt even future innovations not contemplated by the [patent's] inventor." (page 19)

Eli Lilly and Company v. Amgen Inc., 1-14-cv-01647 (INSD) UP-000004

District Judge Tanya Walton Pratt

Motion for Expedited Discovery

6/15/2015

Denied

Jurisdictional Discovery

The court denied plaintiffs' motion for jurisdictional discovery and to stay defendants' motion to dismiss for lack of personal jurisdiction. Plaintiffs request discovery bearing on the issue of whether this Court has general jurisdiction over Defendants by virtue of their contacts with Indiana, requesting not only information about their past and current conduct, but future conduct as well. . . . Plaintiffs cannot address the issue of infringement until they clear the personal jurisdiction hurdle, and activities that have not yet occurred cannot form the basis for general personal jurisdiction. . . . [T]here is already sufficient evidence in the record for Plaintiffs to respond to the motion to dismiss, as Plaintiffs are already in possession of Defendants' ANDA. The additional discovery requested by Plaintiffs would essentially amount to a fishing expedition. . . ." (page 2)

Sprint Communications Company L.P. v. Comcast Cable Communications, LLC et al, 2-11-cv-02684 (KSD)

Magistrate Judge James P. O'Hara

Motion to Compel Discovery

6/15/2015

Denied in part, granted in part

Depositions

Asserting Objection

The court granted in part defendant's motion to compel the production of a 30(b)(6) witness for deposition but rejected defendant's argument that plaintiff waived certain objections because of a seven-minute filing delay after the close of fact discovery. "[Plaintiff] concedes that it e-mailed [defendant] its formal objections to [defendant's] Second and Third Rule 30(b)(6) Notices . . . seven minutes after the . . . close of fact discovery. . . . [Defendant] has not demonstrated that it has been prejudiced by the seven-minute, middle-of-the-night filing delay; and there is no indication that [plaintiff's] negligible delay was the result of bad faith or an attempt to seek an unfair advantage against [defendant]. . . . [Defendant] argues that '[b]ecause of [plaintiff's] delay, there are eleven additional topics on which [plaintiff] will need to produce witnesses, now almost three months past the close of fact discovery.' However, the fact that [plaintiff] may need to produce witnesses after the close of discovery would be true even if [it] had served its objections seven minutes earlier." (page 6)

Laches

Depositions

Objection: Relevance

The court denied defendant's motion to compel the production of a 30(b)(6) witness for deposition regarding plaintiff's layoffs over the last 15 years. "[T]here is no obvious connection between [plaintiff's] layoffs and reductions in force in the last fifteen years and [defendant's] equitable estoppel or laches defenses. . . . [Defendant] has not addressed why [plaintiff's] decision to terminate an employee for misconduct would bear any relation to [defendant's] choice to end its voice partnership with [plaintiff]. . . . [Defendant] has not explained how [plaintiff's] termination of any employee other than key [plaintiff] personnel who [plaintiff] claims were being actively recruited by [defendant] supports [its] argument that it did not, in fact, improperly hire key [plaintiff] personnel. In the end, Topic 32 seeks a lot of information that cannot possibly be relevant to this case." (page 15)

Laches

Depositions

Objection: Relevance

The court granted defendant's motion to compel the production of a 30(b)(6) witness for deposition regarding plaintiff's document retention policy because the information was relevant to defendant's equitable estoppel and laches defenses. "A defendant can meet the prejudice element of a laches defense by proving that plaintiff's delay in filing suit has hurt defendant's ability to present a full and fair defense on the merits 'due to the loss of records,' among other things. Likewise, a defendant can meet the prejudice element of an equitable estoppel defense by proving that a patentee's misleading communication caused a loss of evidence, such as a 'loss of records' or that 'documents and correspondence have been destroyed.'" (page 24)

Hard Metal Advantage L L C v. Famco Machine Shop et al, 6-14-cv-02769 (LAWD)

District Judge Donald E. Walter

Injunctions granted

against

FAMCO Machine Shop

Patent determinations

patent title

D649987 Carbide chip

D656167 Mill

in favor of
Hard Metal Advantage, LLC

for
Injunction

determinations
Not invalid, Not unenforceable
Not invalid, Not unenforceable

6/15/2015

Trustees of Boston University v. Everlight Electronics Co., Ltd., et al., 1-12-cv-11935 (MAD)

Magistrate Judge Jennifer C. Boal

Motion for Protect. Order - Preserve Confidentiality

Protective Orders

Preserving Confidentiality

The court granted in part defendants' motion for keystroke tracking when plaintiff accessed their modules in discovery on designated computers. "[B]ecause such monitoring might implicate attorney work product concerns, keystroke data shall be stored by [plaintiff] but shall not be produced to the Defendants absent a further court order on a showing of good cause." (page 3)

6/15/2015

Denied in part, granted in part

Intellectual Ventures I LLC et al v. Capital One Financial Corporation et al, 8-14-cv-00111 (MDD)

Special Master Raphael V. Lupo

Patent determinations

patent title

6314409 System for controlling access and distribution of digital property

6715084 Firewall system and method via feedback from broad-scope monitoring for intrusion detection

MSJ - Invalidity

determinations
Invalid
Invalid
Recommended granting

6/11/2015

Unpatentable Subject Matter (35 USC § 101)

The special master recommended granting defendants' motion for summary judgment that plaintiffs' data access patent was invalid for lack of patentable subject matter and found that the claims were directed to an abstract idea. "[T]he plain language of the [patent] claims and the oft-repeated descriptions of the invention throughout the entire document - are directed to controlling the redistribution of decrypted or 'unprotected' data. . . . In this regard, the claimed invention embodies an idea that has long-plagued governments, militaries, and other organizations for centuries; viz., restricting the distribution of classified, sensitive, or otherwise private information beyond those with a 'need to know' and to use the information." (page 29)

Unpatentable Subject Matter (35 USC § 101)

The special master recommended granting defendants' motion for summary judgment that plaintiffs' data access patent was invalid for lack of patentable subject matter and found that the patent lacked an inventive concept. "Plaintiffs assert that implementing the 'access mechanism' creates a new machine - 'a special-purpose computer.' Plaintiffs further respond to Defendants' arguments by asserting that 'the patent provided the necessary structure to allow for the appropriate data protection in the limited context to which the patent applies and [that] the claims must necessarily be directed to this structure.' . . . The [patent-in-suit's] specification confirms that the 'access mechanism' is nothing more than a generic computer - basically it's either hardware or software that controls access to data." (page 33)

Unpatentable Subject Matter (35 USC § 101)

The special master recommended granting defendants' motion for summary judgment that plaintiffs' firewall patent was invalid for lack of patentable subject matter and found that the claims were directed to an abstract idea. "[T]he purpose of the claimed invention of the [patent-in-suit] is the equivalent to the basic problem-solving process of collecting and analyzing information from multiple sources and taking steps to use the results of that analysis so that corrective action can be taken. Applying that process to a provider network to add an additional layer of intrusion detection protection to a collection of already-protected customer networks, without more, does not make the claimed invention any less abstract. The Special Master also agrees with Defendants that the patent is directed to abstract concepts that existed before computer technology and the internet existed." (page 43)

Unpatentable Subject Matter (35 USC § 101)

The special master recommended granting defendants' motion for summary judgment that plaintiffs' firewall patent was invalid for lack of patentable subject matter and found that the patent lacked an inventive concept. "Plaintiffs' position is that the [patent-in-suit] asserted claims are directed to solving the problem of preventing malicious computer attacks by reviewing a broad range of network data, presents a better way to protect a network, and is necessarily rooted in and inextricably tied to computer technology. . . . [T]he concept of using another computer to apply intrusion detection methods to a network of networks does not suggest an inventive concept or a method that advances the science of network intrusion detection; it merely adds a level of protection above existing intrusion detection systems." (page 46)

MSJ - Claim Barred by SOL, Laches, Estoppel

Res Judicata & Collateral

The special master recommended denying defendants' motion for summary judgment that issue preclusion barred plaintiffs' claims for two

Recommended denial

PROTECTIVE ORDER MATERIAL

UP-000005

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