773 F.3d 1245
United States Court of Appeals,
Federal Circuit.

DDR HOLDINGS, LLC, Plaintiff–Appellee,
v.
HOTELS.COM, L.P., Cendant Travel Distribution Services Group, Inc., Expedia, Inc., Travelocity.Com, L.P., Site59.Com, LLC, International Cruise & Excursion Gallery, Inc., Ourvacationstore, Inc., Internetwork Publishing Corporation, and Orbitz Worldwide, LLC, Defendants,
and
National Leisure Group, Inc. and World Travel Holdings, Inc., Defendants–Appellants,
and
Digital River, Inc., Defendant.

No. 2013–1505.
|
Dec. 5, 2014.

Synopsis

Background: Patentee brought infringement action against competitors, alleging infringement of patents relating to an e-commerce system and method providing hosts with transparent, context sensitive e-commerce supported pages. After a jury returned a verdict against competitors, competitors filed renewed motions for judgment as a matter of law (JMOL), and one competitor moved for a new trial. The United States District Court for the Eastern District of Texas, Rodney Gilstrap, J., 954 F.Supp.2d 509, denied motion. Competitors appealed.

Holdings: The Court of Appeals, Chen, Circuit Judge, held that:

[1] asserted claims of one patent were invalid as anticipated;

[2] asserted claims of patents were not so manifestly abstract as to render them invalid for failing to claim patentable subject matter;

[3] patent was not invalid for indefiniteness; and

[4] substantial evidence supported finding of direct infringement by second competitor.

Affirmed in part, reversed in part, and remanded.

Mayer, Circuit Judge, filed dissenting opinion.

West Headnotes (22)

[1] **Federal Courts**
Taking case or question from jury;judgment as a matter of law

Court of Appeals reviews the denial of a motion for judgment as a matter of law de novo.

1 Cases that cite this headnote

[2] **Federal Civil Procedure**
Weight and Sufficiency of Evidence

Federal Civil Procedure
Conclusions or inferences from evidence

Federal Civil Procedure
Evidence

Judgment as a matter of law is appropriate if the facts and inferences point so strongly and overwhelmingly in favor of one party that the court concludes that reasonable jurors could not arrive at a contrary verdict.

Cases that cite this headnote

[3] **Federal Courts**
Taking case or question from jury;judgment as a matter of law

In reviewing the denial of a motion for judgment as a matter of law, Court of Appeals must presume that the jury resolved all factual disputes in the prevailing party's favor.

Cases that cite this headnote

[4] **Patents**
Extent of similarity or difference between prior art and claimed invention in general

A patent claim is anticipated if a single prior art reference expressly or inherently discloses every limitation of the claim. 35 U.S.C.A. § 102(a).

5 Cases that cite this headnote

[5] **Patents**
Construction of claims and comparison with prior art in general

Anticipation challenges must focus only on the limitations actually recited in the patent claims. 35 U.S.C.A. § 102(a).

7 Cases that cite this headnote

[6] **Patents**
Novelty;anticipation

Whether a reference discloses a patent claim limitation is a question of fact reviewed for substantial evidence.

5 Cases that cite this headnote

[7] **Patents**
Degree of proof

Invalidity of a patent by anticipation must be proven by clear and convincing evidence. 35 U.S.C.A. § 102(a).

3 Cases that cite this headnote

[8] **Patents**
Particular products or processes

Clear and convincing evidence in the record established that competitor's prior art secure sales system anticipated the asserted claims of patent relating to an e-commerce system and method providing hosts with transparent, context sensitive e-commerce supported pages, and thus patent was invalid as anticipated; like the patented system, competitor's system generated webpages that allowed website visitors to purchase and download digital products of their choice, but still retained the look and feel of the host's site. 35 U.S.C.A. § 102(a).

2 Cases that cite this headnote

[9] **Patents**
Patentability and Validity

Court of Appeals reviews the district court's determination of patent eligibility de novo. 35 U.S.C.A. § 101.

3 Cases that cite this headnote

[10] **Patents**
Laws of nature, natural phenomena, and abstract ideas;fundamental principles

To distinguish patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts, courts first determine whether the claims at issue are directed to one of those patent-ineligible concepts, and if so, then consider the elements of each claim—both individually and as an ordered combination—to determine whether the additional elements transform the nature of the claim into a patent-eligible application of that abstract idea. 35 U.S.C.A. § 101.

303 Cases that cite this headnote

[11] **Patents**
Use or operation of machine or apparatus as affecting process;"machine or transformation" test

Recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible. 35 U.S.C.A. § 101.

175 Cases that cite this headnote

[12] **Patents**
Business methods;Internet applications

Claims of patents relating to an e-commerce system and method providing hosts with transparent, context sensitive e-commerce supported pages, that involved storing and serving webpages having the similar look

and feel of another and different webpage, disclosed a specific set of physical linkages that involved a data store, server, computer, that together, and through the claimed interconnectivity, accomplished the process of displaying composite webpages having the look and feel of the source web page, and therefore the claims satisfied the machine-or-transformation test, and were not so manifestly abstract as to render them invalid for failing to claim patentable subject matter. 35 U.S.C.A. § 101.

48 Cases that cite this headnote

[13] **Federal Courts**
Intellectual property

Patent indefiniteness is a question of law that Court of Appeals reviews de novo. 35 U.S.C.A. § 112.

3 Cases that cite this headnote

[14] **Patents**
Ambiguity, Uncertainty, or Indefiniteness

Definiteness requirement for patents focuses on whether a patent's claims, viewed in light of the specification and prosecution history, inform those skilled in the art about the scope of the invention with reasonable certainty; the inquiry trains on the understanding of a skilled artisan at the time of the patent application. 35 U.S.C.A. § 112.

19 Cases that cite this headnote

[15] **Patents**
Lack of antecedent basis

When a patent claim term depends solely on the unrestrained, subjective opinion of a particular individual purportedly practicing the invention, without sufficient guidance in the specification to provide objective direction to one of skill in the art, the term is indefinite. 35 U.S.C.A. § 112.

11 Cases that cite this headnote

[16] **Patents**
Particular products or processes

Phrase “look and feel” had an established, sufficiently objective meaning in the art, and thus patent relating to an e-commerce system and method providing hosts with transparent, context-sensitive e-commerce supported pages, which used such phrase consistent with that meaning was not invalid for indefiniteness. 35 U.S.C.A. § 112.

7 Cases that cite this headnote

[17] **Patents**
Particular fields of invention

Substantial evidence supported jury's verdict of direct infringement as to the “look and feel” elements of patent relating to an e-commerce system and method providing hosts with transparent, context-sensitive e-commerce supported pages; jury had published images of all nine website pairs as evidence before it to make the ultimate factual determination that the look and feel of the host corresponded to the accused websites, and patentee

presented expert testimony comparing the website pairs for substantial similarities and listing out the similarities in a demonstrative exhibit before the jury.

1 Cases that cite this headnote

[18] **Federal Courts**
Interest

Court of Appeals reviews a district court's award of prejudgment interest for an abuse of discretion.

Cases that cite this headnote

[19] **Interest**
Particular cases and issues

Prejudgment interest should ordinarily be awarded after a finding of patent infringement, absent some justification for withholding such an award. 35 U.S.C.A. § 284.

3 Cases that cite this headnote

[20] **Patents**
In general;utility

US Patent 6,629,135. Cited.

Cases that cite this headnote

[21] **Patents**
In general;utility

US Patent 6,993,572. Invalid.

Cases that cite this headnote

[22] **Patents**
In general;utility

US Patent 7,818,399. Infringed.

Cases that cite this headnote

Attorneys and Law Firms

***1248** Louis J. Hoffman, Hoffman Patent Firm, of Scottsdale, AZ, argued for Plaintiff–Appellee. On the brief was Ian B. Crosby, Susman Godfrey LLP, of Seattle, WA.

Norman H. Zivin, Cooper & Dunham LLP, of New York, NY, argued for Defendants–Appellants, National Leisure Group, Inc., et al. With him on the brief was Tonia A. Sayour.

Before WALLACH, MAYER, and CHEN, Circuit Judges.

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