

Federal Circuit Patent Bulletin: *Elec. Power Grp., LLC v. Alstom S.A.*

August 1, 2016

“Merely requiring the selection and manipulation of information—to provide a ‘humanly comprehensible’ amount of information useful for users—by itself does not transform the otherwise-abstract processes of information collection and analysis.”

On August 1, 2016, in *Elec. Power Grp., LLC v. Alstom S.A.*, the U.S. Court of Appeals for the Federal Circuit (Taranto,* Bryson, Stoll) affirmed the district court’s summary judgment that U.S. Patents No. 7,233,843, No. 8,060,259, and No. 8,401,710, which related to systems and methods for performing real-time performance monitoring of an electric power grid by collecting data from multiple data sources, analyzing the data, and displaying the results, were invalid as patent ineligible under 35 U.S.C. § 101. The Federal Circuit stated:

Section 101 provides that “[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.” The provision, however, “contains an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable.” The Supreme Court, setting up a two-stage framework, has held that a claim falls outside § 101 where (1) it is “directed to” a patent-ineligible concept, i.e., a law of nature, natural phenomenon, or abstract idea, and (2), if so, the particular elements of the claim, considered “both individually and ‘as an ordered combination,’” do not add enough to “‘transform the nature of the claim’ into a patent-eligible application.” The Supreme Court’s formulation makes clear that the first-stage filter is a meaningful one, sometimes ending the § 101 inquiry. At the same time, the two stages are plainly related: not only do many of our opinions make clear that the two stages

Authors

Lawrence M. Sung
Partner
202.719.4181
lsung@wiley.law

involve overlapping scrutiny of the content of the claims, but we have noted that there can be close questions about when the inquiry should proceed from the first stage to the second. Reflecting those points, we have described the first-stage inquiry as looking at the “focus” of the claims, their “character as a whole,” and the second-stage inquiry (where reached) as looking more precisely at what the claim elements add—specifically, whether, in the Supreme Court’s terms, they identify an “inventive concept” in the application of the ineligible matter to which (by assumption at stage two) the claim is directed.

The claims in this case fall into a familiar class of claims “directed to” a patent-ineligible concept. The focus of the asserted claims, as illustrated by claim 12 quoted above, is on collecting information, analyzing it, and displaying certain results of the collection and analysis. We need not define the outer limits of “abstract idea,” or at this stage exclude the possibility that any particular inventive means are to be found somewhere in the claims, to conclude that these claims focus on an abstract idea— and hence require stage-two analysis under § 101.

Information as such is an intangible. Accordingly, we have treated collecting information, including when limited to particular content (which does not change its character as information), as within the realm of abstract ideas. In a similar vein, we have treated analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category. And we have recognized that merely presenting the results of abstract processes of collecting and analyzing information, without more (such as identifying a particular tool for presentation), is abstract as an ancillary part of such collection and analysis. Here, the claims are clearly focused on the combination of those abstract-idea processes. The advance they purport to make is a process of gathering and analyzing information of a specified content, then displaying the results, and not any particular assertedly inventive technology for performing those functions. They are therefore directed to an abstract idea. . . .

When we turn to stage two of the Alice analysis and scrutinize the claim elements more microscopically, we find nothing sufficient to remove the claims from the class of subject matter ineligible for patenting. Most obviously, limiting the claims to the particular technological environment of power-grid monitoring is, without more, insufficient to transform them into patent-eligible applications of the abstract idea at their core. More particularly, a large portion of the lengthy claims is devoted to enumerating types of information and information sources available within the power-grid environment. But merely selecting information, by content or source, for collection, analysis, and display does nothing significant to differentiate a process from ordinary mental processes, whose implicit exclusion from § 101 undergirds the information-based category of abstract ideas.

The claims in this case do not even require a new source or type of information, or new techniques for analyzing it. As a result, they do not require an arguably inventive set of components or methods, such as measurement devices or techniques, that would generate new data. They do not invoke any assertedly inventive programming. Merely requiring the selection and manipulation of information—to provide a “humanly comprehensible” amount of information useful for users—by itself does not transform the otherwise-abstract processes of information collection and analysis.

Inquiry therefore must turn to any requirements for how the desired result is achieved. But in this case the claims' invocation of computers, networks, and displays does not transform the claimed subject matter into patent-eligible applications. The claims at issue do not require any nonconventional computer, network, or display components, or even a "non-conventional and nongeneric arrangement of known, conventional pieces," but merely call for performance of the claimed information collection, analysis, and display functions "on a set of generic computer components" and display devices. Nothing in the claims, understood in light of the specification, requires anything other than off-the-shelf, conventional computer, network, and display technology for gathering, sending, and presenting the desired information. That is so even as to the claim requirement of "displaying concurrent visualization" of two or more types of information, even if understood to require time-synchronized display: nothing in the patent contains any suggestion that the displays needed for that purpose are anything but readily available. We have repeatedly held that such invocations of computers and networks that are not even arguably inventive are "insufficient to pass the test of an inventive concept in the application" of an abstract idea.