Rothwell Figg Clients ViacomCBS, Showtime, CBS, and Viacom Win Dismissal of Patent Infringement Claims Based on Section 101

Judge Koeltl of the Southern District of New York granted Rothwell Figg clients ViacomCBS Inc. Showtime Networks Inc., CBS Interactive Inc., and Viacom International Inc.'s motion to dismiss infringement claims with respect to a subset of patents asserted by plaintiff DigiMedia Tech, LLC. The District Court agreed with the defendants' analysis, finding that under the *Alice* standard for patent eligibility under 35 U.S.C. § 101, all of the claims asserted by Digimedia for the challenged patents were not patent-eligible.

The case began when Digimedia filed a complaint against ViacomCBS and Showtime asserting five patents: United States Patent Nos. 6,473,532 (the "'532 patent"), 6,744,818 (the "'818 patent"), 7,743,399 (the "'399 patent"), 8,087,049 (the "'049 patent"), and 9,055,328 (the "'328 patent"). After ViacomCBS and Showtime filed a motion to dismiss the '399, '049, and '328 patents (the "Preview Patents") for claiming patent-ineligible subject matter, Digimedia filed an amended complaint adding CBS and Viacom as defendants. In its amended complaint, Digimedia also asserted an additional patent—U.S. Patent No. 8,160,980 (the "'980 patent")—and alleged that the claims of the asserted patents provided technical solutions to technical problems, that the claims were not directed to an abstract idea, law of nature, or natural phenomenon, that the claims contained one or more inventive concepts, and that the claimed sequences were not well-understood, routine, or conventional.

In response to the amended complaint, the defendants filed another motion to dismiss, challenging both the Preview Patents and the '980 patent under section 101. In particular, the defendants asserted that the claims of the Preview Patents were directed to the abstract idea of providing preview summaries of video or audio programming over a network and that there was no inventive concept. The District Court agreed, finding that "providing preview summaries of video or audio content is an abstract idea that exists independent of computer technology" and that "because the asserted claims do not recite any specific technological improvement or improve computer functionality, this amounts to using the computer as a tool to perform what is itself an abstract

Key Contacts

D. Lawson Allen

Sharon L. Davis

Steven Lieberman

Jennifer B. Maisel

Related Areas of Practice

Media and Constitutional Law

Patent Litigation

Technologies

Media

idea." The District Court also found that the asserted claims did not provide an inventive concept because they "use only conventional computer hardware and software to carry out the abstract idea of providing preview summaries of video and audio programming over a network."

With respect to the '980 patent, the Defendants asserted that the claims were directed to the abstract idea of manipulating data and displaying it to a user and that there was no inventive concept. The District Court agreed that the claims were directed to this abstract idea and found that "the patent does not articulate any specific technological improvement." The District Court also found that "neither the patent nor the [first amended complaint] explains how these improvements to user experience are a product of any particular technological innovation."

The District Court noted regarding any future amendments to the complaint that "the plaintiff should explain, in any motion to amend, how the proposed amendment would resolve the issues raised in [the decision]" and that the plaintiff "should bear in mind that allegations about inventiveness that are 'wholly divorced from the claims or the specification' would not cure the deficiencies in counts III-VI of the FAC because such allegations are not sufficient to overcome a motion to dismiss."

As a result of this ruling, ViacomCBS, Showtime, CBS, and Viacom were able to completely remove these four patents from the case before having to undertake any discovery.

Defendants were represented in this case by Rothwell Figg attorneys Sharon Davis, Jennifer Maisel, Steven Lieberman, and D. Lawson Allen.