

Dancing With Alice? Stay Within the Claims

A photograph of a modern building's curved glass facade, showing multiple floors with large windows, set against a clear blue sky.

2 MIN READ

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The *Alice* two-step analysis on patent eligibility cannot venture far outside the actual claim language according to the Federal Circuit's non-precedential opinion issued on Thursday, February 1, 2024. See *Eolas Techs. v. Amazon et al.*, No. 22-1932, 22-1933, 22-1934, 22-1935. Focusing on the claim language, the Federal Circuit disagreed with the District Court's characterization of the patented concept but still found the claims to be directed to an abstract idea. Similarly focusing on the claim language, the Federal Circuit affirmed the lack of an inventive concept to transform the abstract nature of the claims into patent-eligible subject matter under 35 U.S.C. § 101.

The technology at issue involved the use of apps and plug-ins in internet browsers. The appeal stemmed from summary judgment of patent ineligibility of claims that the District Court determined were "directed to the abstract idea of enabling interactivity with remote objects on a client computer browser using distributed computing."

The appellant argued that the District Court's characterization of the patented concept under *Alice* step one overgeneralized the challenged claims. Paradoxically, the Federal Circuit agreed that the District Court's description was too general, and at the same time "too specific in that the court included implementation detail—i.e., using distributed computing," which "may be best left for consideration under *Alice* step two." The Federal Circuit then proceeded to hold that its slightly modified view of what the claims are directed to, "interacting with data objects on the World Wide Web," was still an abstraction.

At *Alice* step two, the Federal Circuit determined that the alleged inventive concept of distributed processing between the application in the browser and applications on remote distributed computers was “well-understood, routine, and conventional,” and that the additional limitation requiring remote computers to generate and send commands to perform viewing transformation to provide a 3D view was “well-known in the art at the time of the invention.” The other two alleged inventive concepts were not recited by the claims and therefore could not transform the abstract nature of the claims to render the claims patent-eligible.

Eolas’s claims are not directed to computers, networks, or interacting with content generally; rather, they recite interacting with content on the World Wide Web.... The [D]istrict [C]ourt’s characterization disregards these express claim elements

...

Eolas contends that relocation of the interactive content application from outside to inside the World Wide Web browser itself was an important new structural change that improved interactivity with the World Wide Web. But we do not see this limitation anywhere in the claims and thus it cannot satisfy *Alice* step two.

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