



Fed. Cir. Hears Mobile Interface Eligibility Appeal – What Happened Next BLEW MY MIND

Jan 29, 2018

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The result of *Core Wireless v. LG* should have been a foregone conclusion. *Core Wireless* was a subject matter eligibility case, which are notoriously difficult for patentees.^[1] Moreover, the invention in *Core Wireless* was remarkably similar to the invention found ineligible in *Intellectual Ventures I v. Erie Indemnity*.^[2] In *Core Wireless*, the claims were directed to “an improved user interface for computing devices,”^[3] and the improvement was creating a list of commonly accessed functions and data that could be accessed directly from a main menu.^[4] In *Intellectual Ventures*, the claims were directed to a “‘mobile interface’ on a user’s device”^[5] and improved on the prior art by “display[ing] a plurality of pointers to user-specific resources and information stored on the user’s various devices.”^[6] The fact that the claims in *Core Wireless* improved on the prior art by allowing information to be directly accessed from a main menu also invites comparison with the claims found ineligible in *Apple v. Ameranth*,^[7] which “claim[ed] systems including menus with particular features.”^[8]

Despite the Federal Circuit’s track record and the apparent similarity to the *Intellectual Ventures* and *Apple* cases, the Federal Circuit found that *Core Wireless*’ claims were patent eligible. Even more shocking, the Federal Circuit reached its finding because *Core Wireless*’ claims were not directed to an abstract idea, rather than because of any specific inventive contribution that might have distinguished the claims at issue in *Intellectual Ventures* and *Apple*.^[9] Accordingly, *Core Wireless* can arguably be treated as standing for the proposition that any “improved user interface for computing devices” should be treated as patent-eligible despite the contrary conclusion that might previously have been implied by *Intellectual Ventures* and *Apple*.

However, it may also be possible to draw lessons from *Core Wireless* that don’t implicitly treat the Federal Circuit as an arbitrary body whose panels capriciously use section 101 as a pretext for

enacting their policy preferences without regard to law or logic. In concluding that Core Wireless' claims were eligible, the Federal Circuit emphasized that the claims actually required a specific way of improving on the interfaces of the prior art.^[10] By contrast, when finding the claims in *Intellectual Ventures* and *Apple* ineligible, it emphasized that they failed to recite any particular way their improvements would be implemented.^[11] Accordingly, one way of understanding the Federal Circuit's user interface eligibility cases as part of a consistent body of law is to treat the eligibility determination as turning on whether a claim recites a specific means for implementing an improvement, rather than just the improvement itself. This approach to harmonizing the interface eligibility cases not only has the benefit of not cynically treating the Federal Circuit as not acting in good faith, but it's also consistent with explanations given of the results of non-interface cases such as *McRO v. Bandai Namco* and *Finjan v. Blue Coat*.^[12]

In context, *Core Wireless* is an impressive result. Not only does an interface patent survive an eligibility challenge, but the Federal Circuit explained its holding in a way that could bring a measure of coherence to the chaotic world of subject matter eligibility. If you're of a more cynical bent, it could just be enough to BLOW YOUR MIND.

^[1] See, e.g., #ALICESTORM: April Update and the Impact of TC Heartland On Patent Eligibility, June 1, 2017, available at <http://www.bilskiblog.com/blog/2017/06/alicestorm-april-update-and-the-impact-of-tc-heartland.html> (presenting statistics on patent invalidity determinations).

^[2] *Intellectual Ventures I LLC v. Erie Indemnity Company*, 850 F.3d 1315 (Fed. Cir. 2017).

^[3] *Core Wireless* at 2.

^[4] *Core Wireless* at 10 ("The disclosed invention improves the efficiency of using the electronic device by bringing together 'a limited list of common functions and commonly accessed stored data,' which can be accessed directly from the main menu.").

^[5] *Intellectual Ventures*, 850 F.3d. at 1330.

^[6] *Id.* at 1329.

[7] *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229 (Fed. Cir. 2016).

[8] *Id.* at 1241.

[9] *Core Wireless* at 10 (“Because we hold that the asserted claims are not directed to an abstract idea, we do not proceed to the second step of the inquiry.”).

[10] *Id.* at 10:

[after describing particular claim requirements, concluding that] [t]hese limitations disclose **a specific manner** of displaying a limited set of information to the user, rather than using conventional user interface methods to display a generic index on a computer. Like the improved systems claimed in *Enfish*, *Thales*, *Visual Memory*, and *Finjan*, these claims recite **a specific improvement** over prior systems, resulting in an improved user interface for electronic devices.

(emphasis added)

[11] *Intellectual Ventures*, 850 F.3d at 1330:

the claimed invention **does not recite any particular unique delivery of information through this mobile interface**. Rather, it merely recites retrieving the information through the mobile interface. **Nor do the claims describe how the mobile interface communicates with other devices** or any attributes of the mobile interface, aside from its broadly recited function. Thus, the mobile interface here does little more than provide a generic technological environment to allow users to access information.

(emphasis added)

Apple, 842 F.3d at 1241:

The patents claim systems including menus with particular features. **They do not claim a particular way** of programming or designing the software to create menus that have these features.

(emphasis added)

[12] See *McRO, Inc. v. Bandai Namco Games America, Inc.*, 837 F.3d 1299, 1315 (Fed. Cir. 2016):

The claimed process uses a combined order of **specific rules** that renders information into a **specific format** that is then used and applied to create desired results: a sequence of synchronized, animated characters.

...

Claim 1 requires that the rules be rendered **in a specific way**: as a relationship between sub-sequences of phonemes, timing, and the weight to which each phoneme is expressed visually at a particular timing (as represented by the morph weight set).

(emphasis added)

See Finjan, Inc. v. Blue Coat Systems, Inc., Appeal No. 2016–2520 (Fed. Cir., Jan. 10, 2018) at 9:

Here, the claims recite more than a mere result. Instead, **they recite specific steps ... that accomplish the desired result**. Moreover, there is no contention that the only thing disclosed is the result and not an inventive arrangement for accomplishing the result.

(emphasis added)

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