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PATENTS

The authors see some hope that district court decisions, particularly Judge Pfaelzer's twin decisions Nov. 3, may help uncover the dividing line between an abstract idea and patent eligibility, but they fault the Federal Circuit for failing to offer any further clarity.

Patent Eligibility Post-*Alice*: The Lower Courts' Response

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On June 19, 2014, the Supreme Court decided *Alice v. CLS Bank*, unanimously holding that claims directed to a "computer-implemented scheme for mitigating 'settlement risk' " were invalid for lack of patent eligible subject matter.[1] The opinion made clear that in analyzing patent claims under 35 U.S.C. § 101, courts must apply a two-step process: (1) determine whether the claims are directed to a patent-ineligible concept such as an abstract idea; and (2) if a patent-ineligible concept is present, determine whether the claims describe a sufficiently inventive concept to "transform that abstract idea into a patent-eligible invention."[2]

Since *Alice*, numerous software, business method and other patent claims have faced scrutiny by the district courts under Section 101 for lack of patent eligible subject matter.[3] A huge majority of those claims were

[1] *Alice Corp. Pty Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2014 BL 170103, 110 U.S.P.Q.2d 1976 (2014) (88 PTCJ 513, 6/20/14).
[2] *Id.* at 2355-57.
[3] *See* Appendix A.

found to be ineligible.[4] The Federal Circuit has issued five decisions on patent eligible subject matter post-*Alice*, including its recent reconsideration of *Ultramercial*.[5] Every one found the claimed subject matter to be ineligible.

However, despite the Supreme Court's unanimous holding and the numerous district court and Federal Circuit decisions that granted or denied Section 101 challenges, the Federal Circuit's recent *Ultramercial* decision and Judge Mayer's concurrence reemphasizes that it is still unclear where jurisprudence under Section 101 is ultimately headed in light of *Alice*.

Specifically, the following questions remain unanswered:

- When should courts make a Section 101 determination?
- Are patent claims challenged under Section 101 considered presumptively subject matter eligible?
- Where is the line drawn in deciding what is patent eligible subject matter and what is not? To wit, what is an ''abstract idea'' and how much ''inventive concept'' is enough to turn an abstract idea into patent eligible subject matter?

Timing of the *Alice* Determination

On Nov. 14 , the Federal Circuit decided *Ultramercial* after its prolonged ''up and down journey to and from the Supreme Court.''[6] The Federal Circuit panel (Judges Lourie and O'Malley from the original panel and Judge Mayer replacing now-retired Chief Judge Rader) reversed its earlier two decisions that the subject matter of the claims at issue was patent eligible and found that the claims were directed to an abstract idea merely implemented on a generic computer, and therefore patent-ineligible under the *Alice* doctrine.[7] But when one compares the majority decision in *Ultramercial* with Judge Mayer's forceful concurrence, it becomes readily apparent that the debate still rages at the Federal Circuit about the full impact of the *Alice* doctrine on computer and Internet-implemented patent claims, particularly business method claims.

Judge Rader's 2013 *Ultramercial* decision for a unanimous panel stressed that a Section 101 determination ''is rife with underlying factual issues,'' and that ''in part because of the factual issues involved, claim construction normally will be required.''[8] The original panel likewise stated that a ''Rule 12(b)(6) dismissal for lack of eligible subject matter will be the exception, not the rule.''[9]

The Federal Circuit's change in position on the timing of an *Alice* determination is the most recent *Ultramercial* decision, affirming the district court's Rule 12(b)(6) dismissal for lack of patent eligible subject matter.[10] Nor is this decision an island.[11] Yet, Judge Mayer's concurring opinion in *Ultramercial* makes clear that the Federal Circuit still lacks consensus on the significance of an early Section 101 determination.

As firmly stated by Judge Mayer, a Section 101 analysis ''is a threshold question, one that *must* be addressed at the outset of litigation.''[12] Judge Mayer provided several reasons for why Section 101 determinations should be made at the outset of litigation, including conserving judicial resources while serving as ''the most efficient and effective tool'' to ''weed[] out those patents that stifle innovation.''[13]

This is not the first time Judge Mayer has emphasized the value of a preliminary patent eligibility determination. In his concurring opinion in *I/P Engine v. AOL*, Judge Mayer explained, ''[u]ntil it is determined that claimed subject matter is even *eligible* for patent protection, a court has no warrant to consider subordinate validity issues.''[14] Notably, however, Judge Mayer's *Ultramercial* concurrence goes a step further to stress that an early Section 101 determination is seemingly the best weapon to combat patent non-practicing entities wielding business method patents.

As Judge Mayer explained, ''The scourge of meritless infringement claims has continued unabated for decades due, in no small measure, to the ease of asserting such claims and the enormous sums required to defend against them.''[15] The concurrence elaborated that despite having weak patents, owners of ''vague and overbroad business method patents'' are motivated to sue because ''the accused infringer will be forced to spend huge sums to comply with broad discovery requests'' and are therefore ''compelled to settle early in the process.''[16] ''Addressing section 101 at the threshold will thwart attempts—some of which bear the 'indicia of extortion,'—to extract 'nuisance value' settlements from accused infringers.''[17] Judges Lourie and O'Malley's lack of agreement with these statements suggests that, at the very least, the Federal Circuit may not always welcome early Section 101 challenges as being necessary or even appropriate.

While it is evident that the Federal Circuit will at times give its blessing to early challenges to subject matter eligibility, the *Ultramercial* concurrence makes

[4] *See id.*

[5] *See I/P Engine, Inc. v. AOL Inc.*, 576 F. App'x 982, 2014 BL 226689 (Fed. Cir. 2014) (88 PTCJ 1044, 8/22/14); *Digitech Image Techs., LLC v. Elecs. For Imaging, Inc.*, 758 F.3d 1344, 1349, 111 U.S.P.Q.2d 1717 (Fed. Cir. 2014) (88 PTCJ 748, 7/18/14); *Planet Bingo, LLC v. VKGS, LLC*, 576 F. App'x 1005, 2014 BL 235907 (Fed. Cir. 2014) (88 PTCJ 1112, 8/29/14); *BuySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 112 U.S.P.Q.2d 1093, 2014 BL 242935 (Fed. Cir. 2014) (88 PTCJ 1180, 9/12/14); *Ultramercial, Inc. v. Hulu, LLC*, No. 2010-1544, 2014 BL 320546 (Fed. Cir. Nov. 14, 2014) (89 PTCJ 166, 11/21/14).

[6] *See Ultramercial*, 2014 BL 320546.

[7] *See id.*

[8] *Ultramercial, Inc. v. Hulu, LLC*, 722 F.3d 1335, 1339, 107 U.S.P.Q.2d 1193 (Fed. Cir. 2013) (86 PTCJ 455, 6/28/13), *vacated*, 2014 BL 320546.

[9] *Id.*

[10] *Ultramercial*, 2014 BL 320546, at *1.

[11] *See e.g.*, *BuySAFE*, 765 F.3d 1350 (upholding district court's judgment on the pleadings invalidating the claims-at-issue as invalid under *Alice*); *Loyalty Conversion Sys. Corp. v. Am. Airlines, Inc.*, No. 13-cv-655, 2014 BL 243816 (E.D. Tex. Sept. 2, 2014) (Bryson, J., sitting by designation) (granting a motion for judgment on the pleadings regarding invalidity under Section 101).

[12] *Ultramercial*, 2014 BL 320546, at *8 (Mayer, J., concurring) (emphasis added).

[13] *Id.* at *10.

[14] *I/P Engine*, *supra* note 5.

[15] *Ultramercial*, 2014 BL 320546, at *9.

[16] *Id.* at *9-*10.

[17] *Id.* at *10 (quoting *Eon-Net LP v. Flagstar Bancorp.*, 653 F.3d 1314, 1326-27 (Fed. Cir. 2011)).

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clear that at least some Federal Circuit judges are reluctant to give Section 101 challenges as much early emphasis as Judge Mayer. Unless the Federal Circuit reaches a consensus on the appropriate timing, the strategic use of early Section 101 challenges to combat weak patents may be met with varying responses from the Federal Circuit.

Presumption of Patent Eligibility

The journey of *Ultramercial* also provides insight on the Federal Circuit's stance—or lack thereof—regarding the standard of review for determining a patent's eligibility. In the Federal Circuit's 2013 *Ultramercial* decision, the panel stated that for a decision invalidating a patent under Section 101 to hold, ''the *only* plausible reading of the patent must be that there is clear and convincing evidence of ineligibility.''[18] Yet, in Judge Mayer's concurring opinion to the Federal Circuit's most recent *Ultramercial* decision, he distinctly stated, ''*no* presumption of eligibility attends the section 101 inquiry.''[19]

Giving voice to what many have muttered under their breath these last few years, Judge Mayer bitterly noted that ''the PTO has for many years applied an insufficiently rigorous subject matter eligibility standard, [so] no presumption of eligibility should attach when assessing whether claims meet the demands of section 101.''[20] Judge Mayer elaborated to explain, ''Although the Supreme Court has taken up several section 101 cases in recent years, it has never mentioned—much less applied—any presumption of eligibility.''[21] In *I/P Engine*, Judge Mayer similarly articulated that if ''certain classes of claims—such as claims on methods of doing business—are deemed presumptively patent ineligible, [] the United States Patent and Trademark Office will have more resources to devote to expeditiously processing applications.''[22]

The Federal Circuit's disjointed patent eligibility standard has carried over to district courts. Although Judge Rader's *Ultramercial* decision was vacated after *Alice*, the panel's admonition regarding ''the only plausible'' claim construction has been adopted post-*Alice* by several district courts considering claims under the *Alice* doctrine.[23] Other district courts have focused instead on the traditional standard of a patent's presumption of validity.[24] Yet, some district courts appear to agree more closely with Judge Mayer.[25]

Without clarification, the Federal Circuit's ambiguity on which standard to apply to subject matter eligibility analyses will likely continue to result in disparate decisions at the district court level. However, given that patent claims are presumptively valid by force of law, the formation of an *Alice* doctrine that carves out Section 101 challenges will require some rather interesting legal gymnastics.

Dividing Line of Patent Eligible Subject Matter

Since the Supreme Court's decision in *Alice*, every patent claim challenged before the Federal Circuit under a Section 101 analysis has been held invalid.[26] Moreover, despite issuing five opinions focused on the *Alice* analysis, ''these cases reveal examples of software patents that the Federal Circuit deems ineligible, [but] the cases do not explain when other kinds of software patents survive.''[27] Given the dearth of case law at the appellate level and since district courts have invalidated nearly every post-*Alice* software claim, Judge Pfaelzer's recent twin cases at the Central District of California provide an interesting insight as to where the line for patentability may be drawn.

On Nov. 3 , Judge Pfaelzer issued two decisions on summary judgment motions for invalidity under Section 101: *Enfish v. Microsoft*[28] and *California Institute of Technology v. Hughes Communications*.[29] All of the claims before Judge Pfaelzer claimed software—in *Enfish*, the claims were directed to ''an information management and database system,''[30] and in *CIT*, the claims were directed to ''method and apparatus claims relating to error correction.''[31] Yet, the claims in *Enfish* fell to *Alice*, while the claims in *CIT* survived. A deeper analysis explains why.

In *CIT*, Judge Pfaelzer addressed the issue of the patentability of software head on, explaining ''[c]ourts should not read § 101 to exclude software patents,'' although ''neither *Alice* nor any other Supreme Court precedent defines when software is patentable.''[32] Judge Pfaezler specifically criticized the *Alice* decision as a ''missed opportunity to clarify computer software patentability.''[33] Instead, according to Judge Pfaelzer, courts ought to focus their Section 101 determinations on preemption to ensure patentees are not too broadly claiming a ''building block of research,'' such as mathematics or formulas describing existing natural relationships.[34]

Although the claims at issue in *CIT* ''explicitly recite the fundamental concepts of encoding and decoding data,'' Judge Pfaelzer clarified that ''[a]n algorithm is not necessarily expressed as a mathematical formula. Rather, an algorithm is a series of steps for accomplish-

[18] 722 F.3d at 1339.

[19] 2014 BL 320546, at *8 (emphasis added).

[20] *Id.* at *11.

[21] *Id.*

[22] 576 F. App'x at 996 (Mayer, J., concurring).

[23] *See, e.g.*, *Tuxis Techs., LLC v. Amazon.com, Inc.*, No. 13-1771, 2014 BL 243738, at *2 (D. Del. Sept. 3, 2014); *Data Distrib. Techs., LLC v. BRER Affiliates*, No. 12–4878 (JBS/KMW), 2014 BL 230378, at *7-*8 (D.N.J. Aug. 19, 2014) (postponing adjudication of a patent eligibility determination due to the presumption of eligibility and an insufficient record).

[24] *See, e.g.*, *CMG Fin. Servs., Inc. v. Pacific Trust Bank, F.S.B.*, No. 11-10344 PSG, 2014 BL 284645, at *7 (C.D. Cal. Aug. 29, 2014).

[25] *See, e.g.*, *Enfish, LLC v. Microsoft Corp.*, No. 2:12-cv-07360-MRP, 2014 BL 313228, at *15 n.3 (C.D. Cal. Nov. 3, 2014) (89 PTCJ 87, 11/14/14) (applying Judge Rader's presumption of eligibility standard, ''[d]espite misgivings about the standard's relevance to § 101''); *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, No. 1:10-cv-910, 2014 BL 302357, at *4-*5 (E.D. Va. Oct. 24, 2014) (88 PTCJ 1684, 10/31/14) (''A claim directed to 'a method of organizing human activity' seems presumptively patent ineligible.'').

[26] *See supra* note 1.

[27] *Cal. Inst. of Tech. v. Hughes Commc'ns*, No. 2:13–cv–07245–MRP–JEM, 2014 BL 313254, at *11 (C.D. Cal. Nov. 3, 2014) (89 PTCJ 88, 11/14/14).

[28] *Enfish*, *supra* note 25.

[29] *CIT*, *supra* note 27.

[30] 2014 BL 313228, at *2.

[31] 2014 BL 313254, at *2.

[32] *Id.* at *7-*8.

[33] *Id.* at *7.

[34] *Id.* at *14.

ing a goal.''[35] Under this reasoning, although Judge Pfaelzer found the asserted claims to be abstract, because the algorithms were narrowly defined and were tied to a *specific* process, they contained sufficient inventive concepts to survive *Alice*.[36] Therefore, Judge Pfaelzer distinguished these methods from claims that ''simply apply longstanding ideas to a computer environment.''[37]

Under this same analysis, the claims in *Enfish* were found to be not only abstract, but also non-inventive.[38] Judge Pfaelzer determined that the claims, directed to ''storing, organizing, and retrieving memory,'' recited conventional steps and therefore were not sufficiently inventive to survive *Alice*.[39] Specifically, the claims recited ''the obvious purpose of all tables,'' simply implemented on a computer.[40]

Taken together, Judge Pfaelzer has provided an example of where the line can be drawn between patentable and unpatentable subject matter post-*Alice*. The claims in *Enfish* were directed to conventional steps that merely enjoyed ''rapid processing'' or the ability to process information for efficiently due to the use a computer.[41] In *CIT*, on the other hand, the claims recited ''a modern, computer-specific concept to solve [a] modern, computer-specific problem.''[42]

Of the handful of cases sustaining the validity of patent claims post-*Alice*, Judge Pfaelzer's approach appears to have been applied. For example, in *AutoForm Engineering*, the court upheld the claims at issue under *Alice*, explaining that ''[w]hile the patent may include or rely on some basic concepts in the design of sheet metal forming tools, the patents also include numerous limitations that narrow the scope.''[43] Similarly, in *Helios Software*, the court considered the existence of ''meaningful limitations'' to uphold validity.[44]

While Judge Pfaelzer's decisions provide at least more precision to which claims will or will not survive *Alice*, the Federal Circuit's decisions continue to fail to clarify where this dividing line should fall. It very well could be that there is no more satisfactory test than knowing a claim covers an unpatentable abstract idea when you see it.

APPENDIX A: Post-*Alice* District Court Decisions

Invalidating Patent Claims Under *Alice*

Software Claims:

- *DietGoal Innovation, LLC v. Bravo Media, LLC*, No. 13 Civ. 8391 (PAE), 2014 BL 188254, at *1, *14 (S.D.N.Y. July 8, 2014) (invalidating claims directed to '' '[a] system and method for computerized visual behavior analysis, training, and planning,' for the purpose of modifying diet behavior'' because it ''do[es] no more than 'simply instruct the practitioner to implement the abstract idea . . . on a generic computer' '') (quoting *Alice*)
- *Comcast IP Holdings I, LLC v. Sprint Commc'ns Co.*, No. 12-205-RGA, 2014 BL 196979, at *3, *5 (D. Del. July 16, 2014) (invalidating a claim directed to a ''telephony network optimization method'' because it ''merely covers the application of what has for a long time been conducted solely in the mind to modern, computerized, telephony networks'')
- *CMG Fin. Servs., Inc. v. Pacific Trust Bank, F.S.B.*, No. 11-10344 PSG, 2014 BL 284645, at *20 (C.D. Cal. Aug. 29, 2014) (invalidating claims because they ''are directed at the abstract idea of a mortgagee paying down a mortgage early when funds are available and borrowing funds as needed to reduce the overall interest charged by the mortgage'')
- *Loyalty Conversion Sys., Corp. v. Am. Airlines, Inc.*, No. 2:13-cv-655, 2014 BL 243816, at *2-6 (E.D. Tex. Sept. 2, 2014) (invalidating claims directed to ''a method enabling a customer to convert loyalty award credits'' and ''a method in which a computer provides one or more Web pages that can be used by clients to convert non-negotiable loyalty award points,'' explaining that the claims are ''not fundamentally different from the kinds of commonplace financial transactions that were the subjects of the Supreme Court's recent decisions'' in *Bilski* and *Alice*)
- *Walker Digital, LLC v. Google, Inc.*, No. 11-318, 2014 BL 243753, at *1 (D. Del. Sept. 3, 2014) (invalidating claims under § 101 that ''relate generally to 'controlling the release of confidential or sensitive information of at least one of the parties in establishing anonymous communications' '')
- *Tuxis Techs., LLC v. Amazon.com, Inc.*, No. 13-1771, 2014 BL 243738, at *1-*2, *5-*6 (D. Del. Sept. 3, 2014) (invalidating a claim reciting a ''method for providing offers in real time . . . utilizing an electronic communications device . . .'' because ''[t]he computer performs nothing more than purely conventional steps that are well-understood, routine, and previously known to the industry'')
- *Eclipse IP LLC v. McKinley Equip. Corp.*, No. 14-cv-154, 2014 BL 250679, at *6-7 (C.D. Cal. Sept. 4, 2014) (invalidating a claim directed to a ''method for communications in connection with a computer-based notification system,'' and explaining that the *Alice* ''analysis fits the [] claims precisely'')
- *Every Penny Counts, Inc. v. Wells Fargo Bank, N.A.*, No. 8:11-cv-2826, 2014 BL 252750, at *5 (M.D. Fla. Sept. 11, 2014) (relying on *Alice* to invalidate a method and a system of automated saving or automated charitable giving)
- *Open Text S.A. v. Alfresco Software Ltd*, No. 13–cv–04843–JD, 2014 BL 260621, at *1 (N.D. Cal.

[35] *Id.* at *14, *17.
[36] *Id.* at *17.
[37] *Id.* at *22.
[38] 2014 BL 313228, at *2.
[39] *Id.* at *8-*10.
[40] *Id.* at *9.
[41] *See id.* at *14.
[42] *See id.*
[43] *AutoForm Eng'g GMBH v. Eng'g Tech. Assocs., Inc.*, No. 10–14141, 2014 BL 246858, *3 (E.D. Mich. Sept. 05, 2014).
[44] *Helios Software, LLC v. SpectorSoft Corp.*, No. 12–081–LPS, slip op., at 37 (Sept. 18, 2014).

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Sep. 19, 2014) (''[T]he Court finds that the challenged claims are directed to a very simple abstract marketing idea that uses generic computer and Internet technology, and contain no additional inventive concept.'')

- *McRO, Inc. v. Atlus U.S.A.*, No. SACV 13–1870–GW(FFMx), slip op. (Sep. 22, 2014) (invalidating claims directed to ''automatically animating lip synchronization and facial expression of three-dimensional characters'')[45]
- *Cogent Med., Inc. v. Elsevier Inc.*, Nos. C–13–4479–RMW, C–13–4483, C–13–4486, 2014 BL 285951, at *4 (N.D. Cal. Sep. 30, 2014) (invalidating patent that ''claims the abstract idea of maintaining and searching a library of information'')
- *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, No. 1:10-cv-910, 2014 BL 302357, at *12 (E.D. Va. Oct. 24, 2014) (invalidating claims directed to correlating, generating, compiling, and reporting network accounting records, finding that ''Amdocs's asserted claims recite such conventional operation, in such a general way, that even if the inventor had developed an actual working system, the patent claims could foreclose fields of research beyond the actual invention'')
- *Wolf v. Capstone Photography*, No. 2:13-cv-09573, 2014 BL 312690, at *1, *12 (C.D. Cal. Oct. 28, 2014) (invalidating claims directed to the abstract idea of ''methods of inspecting, selecting, distributing, and advertising on photographs,'' and holding that ''the patents in suit merely implement basic computer technology to perform the same process, with computer systems automating much of the work previously done manually'')
- *Enfish, LLC v. Microsoft Corp.*, No. 2:12-cv-07360-MRP, 2014 BL 313228, at *8-*9 (C.D. Cal. Nov. 3, 2014) (invalidating claims directed to a ''methods for storing and retrieving data in a computer memory'' because the limitations only include ''conventional elements'' that, ''when viewed individually or in a combination, do not sufficiently cabin the claims scope'')
- *Hemopet v. Hill's Pet Nutrition, Inc.*, No. CV 12-01908-JLS (JPRx), slip op., at 10-11 (Nov. 24, 2014) (''[T]he formulation and preparation of pet food is nothing more than an extension of the abstract idea of 'determine' a dog or cat's diet. The creating or formulating processes directed in the claims are couched in the most general terms, lacking any specifics that would allow a practitioner to learn how to actually develop or produce such a diet.'')

Biotechnology Patents:

- *Genetic Techs. Ltd. v. Lab. Corp. of Am. Holdings*, No. 12–1736–LPS–CJB, 2014 BL 243747, at *14-*15 (D. Del. Sept. 3, 2014) (invalidating a claim related to ''the correlation between a particular genetic variation and sprinting, strength or power performance,'' finding it claimed a natural process, and ''because claim 1 does not confine its reach to a particular inventive *application* of the recited natural correlation, there is a danger that future innovation based on the correlation will be stifled'')
- *Genetic Techs. Ltd. v. Bristol-Myers Squibb*, Nos. 12-394-LPS, 12-396-LPS, 2014 BL 308265, at *7, *9 (D. Del. Oct. 30, 2014) (invalidating claim related to ''amplifying genomic DNA'' and ''analyzing the amplified DNA'' because''[t]he asserted claim recites a series of steps to manifest the natural law - that is, to detect the natural correlations between coding and noncoding sequence'') (emphases in original)

Sustained Validity Under *Alice*

- *AutoForm Eng'g GMBH v. Eng'g Tech. Assocs., Inc.*, No. 10–14141, 2014 BL 246858, *1, *3 (E.D. Mich. Sept. 05, 2014) (sustaining validity of patent directed to ''a method for creating addendum zones of tools for the manufacture of formed sheet metal parts'' because ''[w]hile the patent may include or rely on some basic concepts in the design of sheet metal forming tools, the patents also include numerous limitations that narrow the scope'')
- *Helios Software, LLC v. SpectorSoft Corp.*, No. 12–081–LPS, slip op., at 33, 36-37 (Sept. 18, 2014) (sustaining validity of patents that ''relate to remotely monitoring data associated with an Internet session and . . . controlling computer network access'' because ''even if the asserted claims were drawn to abstract ideas, the claims would remain patentable because they satisfy the machine-or-transformation test'' where the computer played a significant role in the ''real-time data capture and transmission and reception'' of information)
- *Cal. Inst. Of Tech. v. Hughes Commc'ns., Inc.*, No. 2:13-cv-07245-MRP, 2014 BL 313254, at *17(C.D. Cal. Nov. 3, 2014) (sustaining validity of patents claiming a method of encoding and decoding data to help avoid errors because the claims ''contain meaningful limitations that represent specifically inventive concepts[.] . . . Although many of these limitations are mathematically algorithms, these algorithms are narrowly defined, and they are tied to a specific error correction process'')
- *Ameranth, Inc. v. Genesis Gaming Solutions, Inc.*, No. SACV 11-000189 AG (RNBx), slip op. (C.D. Cal. Nov. 12, 2014) (denying a motion for summary judgment of invalidity under *Alice* because defendants did not satisfy their burden)

[45] This is one of 16 cases involving McRO. The other cases have other defendants, but the patents and decision are the same in each.