NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

AUTOMATED TRACKING SOLUTIONS, LLC,
Plaintiff-Appellant

v.

THE COCA-COLA COMPANY,
Defendant-Appellee

2017-1494

Appeal from the United States District Court for the Northern District of Georgia in No. 1:15-cv-04348-WSD, Judge William S. Duffey, Jr.

Decided: February 16, 2018

ROBERT EVAN SOKOHL, Sterne Kessler Goldstein & Fox, PLLC, Washington, DC, argued for plaintiff-appellant. Also represented by NIRAV DESAI, LORI A. GORDON, PAULINE PELLETIER.

SCOTT J. PIVNICK, Alston & Bird LLP, Washington, DC, argued for defendant-appellee. Also represented by ALAN SHANE NICHOLS, SIRAJ M. ABHYANKAR, Atlanta, GA.

Before MOORE, WALLACH, and STOLL, *Circuit Judges*.

STOLL, *Circuit Judge*.

The Coca-Cola Company moved for judgment on the pleadings that Automated Tracking Solutions, LLC's ("ATS's") asserted claims are not directed to patent-eligible subject matter under 35 U.S.C. § 101 (2012). The district court granted Coca-Cola's motion and ATS appeals. Given the specific facts in the record before us, including the patentee's admissions, we affirm the district court's judgment of ineligibility.

BACKGROUND

Dr. Fred H. Sawyer is the founder and owner of ATS and the sole named inventor on all four patents ATS asserts against Coca-Cola: U.S. Patent Nos. 7,551,089; 7,834,766; 8,842,013; and 8,896,449 (collectively, "Asserted Patents"). As defined in ATS's own complaint, the patents are directed to "inventory control." J.A. 225 ¶ 11; *see* J.A. 225–34 ("*Am. Compl.*"). ATS argued that, conventionally, inventory control processes had been performed by hand or not all. *Id.* ¶¶ 11, 12. Dr. Sawyer sought to integrate radio frequency identification ("RFID") technology into these manual processes. To this end, he "designed and built an operable system for performing [inventory control] functions" that was the genesis of the Asserted Patents. *Id.* ¶ 14.

All four Asserted Patents are titled "Method and Apparatus for Tracking Objects and People" and share a common specification.[1] As ATS explains in its complaint,

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[1] The '013 and '449 patents are continuations of the applications that led to the '766 patent, which in turn is a continuation of the application that led to the '089 patent. For ease of reference, we cite the '089 patent when discussing the common specification.

the Asserted Patents relate to processes and systems to perform the functions of "identification, tracking, location, and/or surveillance of tagged objects anywhere in a facility or area." *Id.* ¶¶ 14. The common specification states that prior art inventory control systems had significant drawbacks and that the claimed invention "reduce[s] human responsibility" and provides "an automatic locating and tracking system." '089 patent col. 1 ll. 48, 63.

To achieve this, Dr. Sawyer incorporated RFID technology into his claimed invention. RFID is "a means of storing and retrieving data through electromagnetic transmission to a radio frequency compatible integrated circuit." *Id.* at col. 3 ll. 8–10. As to hardware, an RFID system could be as simple as just three components: a scanner,[2] a transponder, and a computer. *Id.* at col. 3 ll. 10–12. Indeed, at the time of the invention, various companies, including Microchip, SCS, Intermec, and Texas Instruments, were already manufacturing RFID products and providing a great deal of explanatory material. *Id.* at col. 3 ll. 5–7. According to the specification, the inventions used RFID technology, computer programming, database applications, networking technologies, and hardware elements to achieve the stated goal of locating, identifying, tracking, and surveilling objects. *Id.* at col. 2 ll. 45–50.

With this understanding of the common specification, we turn to the claims. In a § 101 analysis, courts may evaluate representative claims. *See Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1348 (Fed. Cir. 2014). To that end, ATS identified four representative claims in its Opposition to Defendant's Motion for Judgment on the Pleadings—one independent claim to represent each patent: claim 49 of

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[2] ATS uses "reader" and "scanner" interchangeably. *See* Appellant Br. 5 n.3.

the '089 patent; claim 1 of the '766 patent; claim 1 of the '013 patent; and claim 1 of the '449 patent.[3] J.A. 1168–70.

The district court, however, adopted Coca-Cola's proposal to select only two of the above claims as representative claims: (1) claim 49 of the '089 patent to represent the claims of the '089 and '013 patents; and (2) claim 1 of the '766 patent to represent the claims of the '766 and '449 patents. ATS conceded at oral argument that the district court's selection of these two representative claims was proper. Oral Arg. at 35:25–32, http://oralarguments.cafc.uscourts.gov/default.aspx?fl=2017-1494.mp3. ATS also conceded that the district court's decision not to analyze ATS's two additional proposed representative claims (claim 1 of the '013 patent and claim 1 of the '449 patent) did not affect the § 101 analysis. *Id.* at 35:32–42. Accordingly, we restrict our analysis to the claims ATS agrees are representative: claim 49 of the '089 patent and claim 1 of the '766 patent.

Representative claim 1 of the '766 patent recites:

> 1. A system for locating, identifying and/or tracking of an object, the system comprising:
>
> > a first transponder associated with the object;
> >
> > a reader that is configured to receive first transponder data via a radio frequency (RF) signal from the first transponder;

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[3] ATS's complaint lists its asserted claims as "including, but not limited to" these four enumerated claims. The parties have not disputed that invalidation of these four asserted claims—or even the two analyzed claims discussed below—would support the district court's grant of judgment on the pleadings in this case.

> *an antenna* in communication with the reader and having a first *coverage area*;
>
> a processor coupled to the reader, wherein the processor is configured to receive the first transponder data from the reader and to generate detection information based on the received first transponder data, the detection information comprising first sighting and last sighting of the first transponder in the first *coverage area*; and
>
> a storage device that is configured to store the detection information.

'766 patent col. 20 l. 58 – col. 21 l. 6 (emphases added).[4] The district court granted Coca-Cola's motion for judgment on the pleadings that all asserted claims are patent-ineligible under § 101. *Automated Tracking Sols., LLC v. Coca-Cola Co.*, 223 F. Supp. 3d 1278, 1292 (N.D. Ga. 2016) ("*Ineligibility Op.*") (citing *Alice Corp. Pty. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014)). Under *Alice* step one, the district court concluded that the representative claims were directed to the patent-ineligible abstract idea of "collecting data, analyzing it, and determining the results based on the analysis of data." *Id.* at 1289. The district court determined under *Alice* step two that the claims lacked an inventive concept because nothing in the claim limitations or their ordered combination was sufficient to transform the abstract idea into a patent-eligible application. *Id.* at 1290. Accordingly, the district court held all four patents ineligible under § 101.

ATS appeals. We have jurisdiction pursuant to 28 U.S.C. § 1295(a)(1).

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[4] For reasons explained below, we do not recite representative claim 49 of the '089 patent in full here.

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