NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

MAX A. RADY,
Plaintiff-Appellant

v.

THE BOSTON CONSULTING GROUP, INC., DE BEERS UK LTD.,
Defendants-Appellees

2022-2218

Appeal from the United States District Court for the Southern District of New York in No. 1:20-cv-02285-ALC-BCM, Judge Andrew L. Carter.

Decided: March 27, 2024

STEVEN EDWARD TILLER, Whiteford, Taylor & Preston, LLP, Baltimore, MD, argued for plaintiff-appellant. Also represented by PETER JAMES DAVIS; KEVIN HROBLAK, Ice Miller LLP, Baltimore, MD.

BRIAN ROBERT MATSUI, Morrison & Foerster LLP, Washington, DC, argued for all defendants-appellees. Defendant-appellee Boston Consulting Group, Inc. also represented by SHAUN PATRICK DELACY, KYLE W.K. MOONEY,

New York, NY.

CHRISTOPHER P. BORELLO, Venable LLP, New York, NY, for defendant-appellee De Beers UK Ltd. Also represented by JOSHUA DANIEL CALABRO.

Before REYNA, MAYER, and CUNNINGHAM, *Circuit Judges*.

PER CURIAM.

Max A. Rady appeals an order of the United States District Court for the Southern District of New York dismissing his patent infringement claim after concluding that his asserted patent claimed ineligible subject matter under 35 U.S.C. § 101. For the reasons discussed below, we affirm.

I. BACKGROUND

Rady owns U.S. Patent No. 10,469,250 (the "'250 patent"), which is directed to "a framework [for] record[ing] to a blockchain" the "unique identification[s] (signatures) of physical items which have unique, random properties." '250 patent, Abstract. The claimed invention involves scanning a physical item, such as a gemstone, determining its unique pattern of imperfections, i.e., the item's "signature," and then recording that signature to a blockchain if the physical object has not previously been registered. *Id.* col. 1 ll. 22–53. The patent purports to solve problems related to asset provenance and asset and supply chain management. *Id.* col. 3 l. 33–col. 5 l. 43. Claim 1 of the '250 patent recites:

> **1**. A network node comprising:
>
> one or more processing devices;
>
> a storage device, coupled to the one or more processing devices and storing instructions for execution by at least some of the one or more processing devices;

a communications subsystem, coupled to the one or more processing devices, to communicate with at least one or more other nodes of a peer-to-peer network; and

item analysis components coupled to the one or more processing devices, the item analysis components comprising at least one imaging device configured to determine spectral analysis data and 3D scan data from measurements generated by the item analysis components;

wherein the one or more processing devices operate to configure the network node to:

analyze an instance of a physical item using the item analysis components to determine a unique signature for the instance, the unique signature determined using 3D spatial mapping to define the unique signature from the spectral analysis data and 3D scan data generated by the item analysis components for the physical item;

determine, using the unique signature, whether the instance of the physical item is previously recorded to a blockchain maintained by the peer-to-peer network to provide item tracking and authentication services, comparing the unique signature generated by the network node to previously recorded unique signatures using 3D spatial analysis techniques, rotating in virtual space features of the physical item defined in the unique signature to determine a match with features defined in the previously recorded unique signatures; and

record the instance of the physical item to the blockchain in response to the determining whether the instance is previously recorded.

Id. col. 19 ll. 15–51.*

In March 2020, Rady filed suit against The Boston Consulting Group, Inc. and De Beers UK Ltd. (collectively, "BCG"), alleging infringement of the '250 patent. BCG thereafter filed a motion to dismiss Rady's infringement claim pursuant to Federal Rule of Civil Procedure 12(b)(6). In its motion to dismiss, BCG asserted that "the claims of the '250 patent are directed to the patent-ineligible abstract idea of collecting, processing, and storing data to track physical items" and they "do not improve anything about computer technology itself." J.A. 196.

In granting BCG's motion, the district court stated that while Rady's claimed system "record[s] a fingerprint for a gemstone" to a blockchain, the patent does "not improv[e] the functionality of storing and processing data on a blockchain." J.A. 5. The court noted, moreover, that "a blockchain is merely a ledger maintained and verified through a peer-to-peer network, and [Rady] d[id] not describe how the patent improves blockchains." J.A. 5–6. Furthermore, according to the court, "tracking physical objects do[es] not make [the] claims any less abstract." J.A. 5.**

Rady then filed a timely appeal with this court. We have jurisdiction under 28 U.S.C. § 1295(a)(1).

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* Because Rady has not adequately developed any eligibility arguments about claims of the '250 patent other than claim 1, we treat claim 1 as representative.

** In addition to patent infringement claims, Rady's Second Amended Complaint contained breach of contract and trade secret misappropriation claims. *See* J.A. 183–86. After the district court entered its order dismissing his infringement claims, Rady agreed to dismiss, with prejudice, his breach of contract and trade secret misappropriation claims. *See* J.A. 728–29.

II. DISCUSSION

A. Standard of Review

We apply regional circuit law when reviewing motions to dismiss for failure to state a claim under Rule 12(b)(6). *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1346 (Fed. Cir. 2014). "In the Second Circuit, grant of a motion to dismiss is reviewed *de novo* to determine whether the claim is plausible on its face, accepting the material factual allegations in the complaint and drawing all reasonable inferences in favor of the plaintiff." *Ottah v. Fiat Chrysler*, 884 F.3d 1135, 1141 (Fed. Cir. 2018) (first citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); and then citing *Johnson v. Priceline.com, Inc.*, 711 F.3d 271, 275 (2d Cir. 2013)).

B. Patent Eligibility

Section 101 defines patent-eligible subject matter as "any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof." 35 U.S.C. § 101. It has been long recognized that this language excludes "[l]aws of nature, natural phenomena, and abstract ideas." *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013) ("*Myriad*") (quoting *Mayo Collaborative Servs. v. Prometheus Lab'ys, Inc.*, 566 U.S. 66, 70 (2012)); *see also Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 216 (2014).

The Supreme Court has articulated a two-stage framework to determine whether a claim falls outside the scope of section 101. *See Alice*, 573 U.S. at 217–18. In the first stage, a court must determine whether the claim at issue is directed to a patent-ineligible concept, such as an abstract idea. *Id.* at 217. If so, the court, in the second stage, must assess whether the elements of the claim, considered both individually and as an ordered combination, are sufficient to "'transform the nature of the claim' into a patent-eligible application" of the concept. *Id.* (quoting *Mayo*, 566

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