

Federal Circuit: Rare Guidance on Subject Matter Eligibility of Software Claims

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In [Core Wireless Licensing S.A.R.L. v. LG Electronics, Inc. et al.](#), the Federal Circuit offered rare guidance on the contours of patent eligible subject matter under § 101.

The two related asserted patents, both entitled “Computing device with improved user interface for applications,” are directed to an improved user interface which has a “specific application to mobile telephones” with small screens. The improved interface allows users to more quickly access functions and data on devices with a small screen that “tend to need data and functionality divided into many layers or views.” The patents’ solution is an “application summary window” that displays “a limited list of common functions and commonly accessed stored data which itself can be reached directly from the main menu listing some or all applications.” Figure 3, reproduced below, shows an example of an “application summary window.”

In finding that the disputed claims were directed to patent eligible subject matter, the Federal Circuit’s precedential opinion focused on “whether the claims are directed to a specific improvement in the capabilities of computing devices, or, instead, ‘a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool,’” and looked towards a number of its decisions in which claims were found to be non-abstract for guidance. Decision at 7 (quoting *Enfish, LLC. v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016)).

Starting with *Enfish*, the Federal Circuit discussed how in that case it held the claims were directed to a “self-referential table for a computer database eligible under step one” were not an abstract idea “because the claims were directed to a particular improvement in the computer’s functionality.” Decision at 7 (citing 822 F.3d at 1336). Moving on to *Thales*, the Court noted that claims “reciting an improved method of utilizing inertial sensors to determine position and orientation of an object on a moving platform” were not directed to an abstract idea. Decision at 8 (citing *Thales Visionix Inc. v. United States*, 850 F.3d 1343, 1349 (Fed. Cir. 2017)).

The Court also noted that in *Visual Memory*, “claims directed to an improved computer memory system with programmable operational characteristics defined by the processor” were found to be directed to patent eligible subject matter. Decision at 8 (citing *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1259 (Fed. Cir. 2017)). Finally, the Court noted that in *Finjan*, claims “directed to a behavior-based virus scanning method” were held patent eligible because they “‘employ[] a new kind of file that enables a computer security system to do things it could not do before.’” Decision at 8 (citing *Finjan, Inc. v. Blue Coat Systems, Inc.*, 2018 WL 341882 at *4 (Fed. Cir. Jan 10, 2018)).

The Federal Circuit’s decision focused on a single claim as representative for the purpose of evaluating patent eligibility for both patents, which is provided below (emphasis on language highlighted by the Federal Circuit).

1. A computing device comprising a display screen, the computing device being configured to display on the screen a menu listing one or more applications, and additionally being configured to display on the screen **an application summary that can be reached directly from the menu**, wherein **the application summary displays a limited list of data** offered within the one or more



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applications, **each of the data in the list being selectable to launch the respective application and enable the selected data to be seen within the respective application**, and wherein **the application summary is displayed while the one or more applications are in an un-launched state**.

According to the Federal Circuit, like in the cases cited above, the improved interface claims at issue in *Core Wireless* are also directed to a specific improvement in the capabilities of electronic devices, and not an abstract idea. Decision at 9 (“[a]lthough the generic idea of summarizing information certainly existed prior to the invention, these claims are directed to a particular manner of summarizing and presenting information in electronic devices”).

The claim includes the feature of “an application summary that can be reached directly from the menu,” which the Federal Circuit found specifies a “**particular manner** by which the summary window must be accessed,” *i.e.* a specific improvement. Decision at 9 (emphasis added). The claim also requires a listing of a limited set of data in the “application summary window” thus “restrain[ing] the type of data that can be displayed in the summary window,” through the feature of “each of the data in the list being selectable to launch the respective application and enable the selected data to be seen within the respective application.” Decision at 9. The claim also includes a feature of “the application summary is displayed while the one or more applications are in an un-launched state,” which the Federal Circuit interpreted as requiring “the device applications exist in a particular state.” Decision at 9. Taken together, the Federal Circuit found these features to “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.” Decision at 9.

Thus, the claims were found to be analogous to those at issue in *Enfish*, *Thales*, *Visual Memory*, and *Finjan* in their recitation of a “specific improvement over prior systems.” Decision at 9. The Federal Circuit also consulted the common specification, which explained how the claimed interface is an improvement over the prior art, to confirm its conclusion that “the claims are directed to an improvement in the functioning of computers, particularly those with small screens.” Decision at 10.

Thus, *Core Wireless* provides guidance on patentability of claims drawn to software interfaces, particularly where arguments can be made about improvements over the prior art. More broadly, *Core Wireless* is another guide post for litigants to consider when defending and attacking subject matter eligibility as it evolves through appellate precedent.

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