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Federal Circuit Patent Bulletin: *Affinity Labs of Texas, LLC v. Amazon.com Inc.*

September 26, 2016

"[C]ustomizing information based on . . . information known about the user" is an abstract idea.

On September 23, 2016, in *Affinity Labs of Texas, LLC v. Amazon.com Inc.*, the U.S. Court of Appeals for the Federal Circuit (Prost, Bryson,* Wallach) affirmed the district court's dismissal of Affinity's suit alleging infringement of U.S. Patent No. 8,688,085, which related to a method for targeted advertising in which an advertisement is selected for delivery to the user of a portable device based on at least one piece of demographic information about the user, due to patent ineligible subject matter under 35 U.S.C. § 101. The Federal Circuit stated:

In addressing the first step of the section 101 inquiry, as applied to a computer-implemented invention, it is often helpful to ask whether the claims are directed to "an improvement in the functioning of a computer," or merely "adding conventional computer components to well-known business practices." The claims of the '085 patent fall into the latter category. Affinity contends that the magistrate judge improperly engaged in fact-finding when he stated that the idea of delivering media content to a wireless portable device is one of long standing. It is not debatable, however, that the delivery of media content to electronic devices was well known long before the priority date of the '085 patent, and Affinity does not argue otherwise. . . . An example of technology that is even closer to the idea underlying the '085 patent is the delivery of selectable prerecorded messages to callers on demand in services such as dial-a-prayer and dial-a-joke, which were available long before the invention of cellular telephones or the Internet.

While Affinity criticizes the magistrate's making factual findings on a motion for judgment on the pleadings, the practice of taking note of fundamental economic concepts and technological developments in this context is well supported by our precedents. Affinity also objects to the magistrate judge's conclusion that the claims merely set forth "routine and generic processing and storing capabilities of computers generally." Yet the claim terms to which the magistrate judge referred, such as a "network based media management system" and a "graphical user interface," are simply generic descriptions of well-known computer components. Affinity makes no claim that it invented any of those components or their basic functions, nor does it suggest that those components, at that level of generality, were unknown in the art as of the priority date of the '085 patent. In an effort to show that claim 14 is not directed to an abstract idea, Affinity focuses in particular on the recitation of a "customized user interface" in that claim. . . . This court, however, has held that "customizing

information based on . . . information known about the user" is an abstract idea.

Turning to the second step of the *Mayo/Alice* inquiry, we conclude that there is nothing in the claims or the specification of the '085 patent that constitutes a concrete implementation of the abstract idea in the form of an "inventive concept." . . . The only putatively narrowing limitation in that result-focused claim is the limitation requiring that the "network based media managing system" have "a customized user interface page for the given user." But neither the claim nor the specification reveals any concrete way of employing a customized user interface. . . .

In sum, the patent in this case is not directed to the solution of a "technological problem," nor is it directed to an improvement in computer or network functionality. It claims the general concept of streaming user-selected content to a portable device. The addition of basic user customization features to the interface does not alter the abstract nature of the claims and does not add an inventive component that renders the claims patentable. We therefore uphold the district court's judgment that the claims of the '085 patent are not eligible for patenting.