

Federal Circuit Reverses District Court's Patent Ineligibility Finding in *Ceiva Opco, LLC v. Amazon.com, Inc.*

by

Michael L. Kiklis

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In what is a rare occurrence, the Federal Circuit today reversed a district court's finding of patent ineligibility in *Ceiva Opco v. Amazon* (nonprecedential). That's a good headline. But I think what is more important is that the court considered two representative claims that shared a common specification, finding one was not result oriented and the other was result oriented—the difference between life and death. Consequently, the result-oriented claim was struck down, whereas the other satisfied *Alice*'s step one.

Four patents were at issue, all sharing a common specification. The technology involves adding network connectivity to a digital picture frame so that the user does not need to physically interact with the frame to provide it with new images. After reading this, I immediately thought of *Chargepoint*, where simply adding network connectivity to electric vehicle charging stations was patent ineligible. But, that case did not dictate the outcome here.

Here are the two representative claims, side-by-side for comparison:

'573 Patent Claim 19 “digital picture frame” Not Result Oriented	'930 Patent Claim 1 “digital display device” Result Oriented
19. A system for distributing image data comprising: at least one digital picture frame comprising memory and operating system software located inside said digital picture frame configured to operate according to preferences defined by a user, said at least one digital picture frame comprising a border region modeled to resemble a picture frame designed to circumscribe printed photographs; a user interface coupled to at least one server system via a network wherein said user interface is physically separable from said at least one digital picture frame and configured to obtain image data and said preferences from said user and provide said image data and said preferences to said at least one server system; said at least one server system coupled to said at least one digital picture frame via said network, wherein said at least one server system is configured to periodically relay said image data and said preferences to said at least one digital picture frame when said at least one digital picture frame automatically issues a request for said image data and wherein said at least one digital picture frame is configured to obtain an update for said operating system software from said at least one server system.	1. A digital display apparatus having an integrated housing, said integrated housing comprising: an image display region on an outside surface of said integrated housing; a memory in an inside of said integrated housing, said memory comprising a plurality of image data files, security information comprising authentication information for a first remote server system and a unique identifier for said digital display apparatus, and a current version of onboard software; a processor configured to control the display of image data from said plurality of image data files in said image display region in accordance with said onboard software in said inside of said integrated housing; communication circuitry configured to engage a network medium in said inside of said integrated housing under the control of said processor; wherein said onboard software comprises: an image display function configured to btain image data from said plurality of image data files in said memory for rendering in said image display region a remote connection function configured to automatically initiate communications with said first remote server system across said network medium, said remote connection

	function further configured to send a request for image data to said first remote server system after initiating said communications and to receive in response to said request for image data a set of data from said first remote server system comprising one or more image data files; an authentication function configured to authenticate said first remote server system prior to accepting said set of data from said first remote server system; a software update function configured to obtain an updated version of said onboard software from said server and to replace said current version of said onboard software in said memory with said updated version.
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Digital Picture Frame Claim ('573 patent claim 19 – **not result oriented**)

This is the claim for which the Federal Circuit reversed the district court's finding of patent ineligibility under 35 U.S.C. § 101 because it was not directed to an abstract idea.

As an initial matter, the court started by stating that any “novelty in implementation of the idea is a factor to be considered only in the second step of the *Alice* analysis.” (citing *Ulramercial*) As I've mentioned many times, the Federal Circuit is split on this issue: some panels consider conventionality at step one, while others do not. *See Powerblock* (conventionality not considered at step one); *Rensselaer PolyTechnic Inst. v. Amazon* (“[w]e have also ‘repeatedly analyzed conventionality at step one.’”).

The primary factor that swayed the court toward eligibility was that the claim was directed to a technological solution to a technological problem:

Like the claims in *Ollnova*, *Contour IP*, and *Packet Intelligence*, claim 19 is directed to a technical solution to a technological problem, specifically an improved system for sharing digital images via a “digital picture frame” with a “physically separable” user interface. Claim 19 captures this technological improvement through its combination of claim limitations and requirement of a “digital picture frame” that is “physically separable” from the frame’s “user interface,” i.e., a “picture box” on a webpage, such that a user can upload “image data” and change the settings of the digital picture frame remotely via the user interface. In other words, because the claimed “digital picture frame” with a “physically separable” user interface governs *when* and *how* the digital picture frame (1) receives and displays image data to the user and (2) receives updates to its settings, the claim captures a sufficiently specific technological advancement (remote user access to a digital picture frame) in digital picture frame technology. *Ollnova*, at 1361. Put another way, the functional result of remote user access to the digital picture frame “is achieved by limiting the claim scope to” sufficiently concrete structures, including a “digital picture frame” with a “physically separable” user interface.

The court then considered the specification which “confirms that the claimed invention addresses technological problems in digital picture frame technology.” Referring back to my comparison to *Chargepoint*, the specification there was functional with limited details. This difference seems to me to be one way that we can reconcile *Chargepoint* with this case.

Another interesting point from the court’s analysis is that it faulted the district court for characterizing the “claim at an impermissibly high level of generality.” I know the court says this on occasion, but if you look at, for example, *Electric Power Group*, the Federal Circuit is often guilty of the same thing. Here, the court faulted the district court for omitting the “critical claim limitation that the user interface ‘*is physically separable from said at least one digital picture frame*’” in its characterization. (emphasis in original)

Digital Display Device Claim ('930 Patent Claim 1 - **result oriented**)

For this claim, the Federal Circuit affirmed the district court's finding of patent ineligibility. At step one, the court stated, "the digital display device claims are notably unlike claim 19 of the '537 patent in that they are 'purely functional' claims that are directed to a result." As I have been recently posting about, the Federal Circuit is seemingly using functional claiming as its own abstract-idea category. Here, the court was definitely focused on this: "claims can be 'abstract' under step one when they lack the 'specificity required to transform a claim from one claiming only a result to one claiming a way of achieving it.'"

The court compared the representative claims as follows:

Here, the representative claims are not limited to a "digital picture frame" that is "physically separable" from a "user interface," such that the claims capture a concrete technological improved digital picture frame, as claim 19 of the '573 patent does. Rather, these claims are broader, reciting variations of a "display device," with most claims not even referring to a "user interface." Additionally, some of the claims focus on "software" configured to achieve various functions, including remote access, but do not claim any specific way to achieve those results.

Because the claim was not "directed to how to implement the software for the 'remote connection function,'" the court found the claim result oriented and abstract.

At step two, the patent owner made an interesting argument. It argued that secondary considerations show an inventive concept. I like this argument because the Federal Circuit used "unexpected results" (a secondary consideration) to strike down patents in *Universal Secure Registry*. That's an outlier case, though, as I have not seen any other panel follow it. Nevertheless, this was a creative argument. The court cited to *Ficpe* and stated that "[q]uestions of nonobviousness

such as secondary considerations ... are irrelevant when considering eligibility.” However, the court did entertain this a just little bit by stating that “[e]ven assuming such evidence can be relevant under a step two analysis, Ceiva does not explain how such evidence relates to any particular claim element...” I certainly think this argument is worth another try.

Ultimately, the court found that the claim does nothing more than “implement the abstract idea” and struck it down.

Key Takeaways

- We now have a direct comparison between what the Federal Circuit considers to be result oriented and not. This is very helpful because the patents share a common specification. If you are having a difficult time seeing a huge difference, I will admit that I don’t see too much of a difference myself.
- Functional claiming will trigger an abstract-idea finding.
- When arguing § 101 at the Federal Circuit, show some creativity and try relying on the court’s outlier cases, like *Universal Secure Registry* and others.