

Early Case 101 Motion to Dismiss Denied in Text Order

MAY 26, 2020

In a one-paragraph docket-text order, the court denied defendant's early case Rule 12 motion to dismiss due to alleged patent ineligibility under *Alice* and Section 101. In denying defendant's motion to dismiss, the court indicated that the present suit—involving four software patents broadly related to search requests via wireless devices—was not one of those “rare cases where it is appropriate to resolve Section 101 eligibility of the patents-in-suit as a Rule 12(b) motion to dismiss.” The court based its decision on its prior holding in *Slyce v. Syte*, No. 6:19-cv-257-ADA, 2020 WL 278481 (W.D. Tex. Jan. 10, 2020), where the court found Rule 12 motions to be a presumptively improper vehicle for Section 101 eligibility determinations based on (1) the presumption of validity, (2) the likelihood that claim construction is needed first, (3) the requirement that all fact issues under *Berkheimer* and *Aatrix* be resolved in favor of the patent at the Rule 12 stage, and (4) unpredictability in this area of the law.

The court further stated that while defendant's motion to dismiss was without prejudice, any future motion would need to address **all** claims (not just representative claims).

Aeritas LLC v. Sonic Corp., 6:20-CV-00103-ADA (Mar. 14, 2020)

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