

Techniques Determined to Be Non-Infringing Could Not Support Non-Enablement Position

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After a prior remand, the patentee appealed the Central District of California's orders granting the accused infringers' motions for summary judgment on non-infringement and invalidity. On appeal, the court upheld the non-infringement finding, and vacated the invalidity finding. With regard to non-infringement, the patentee's argument depended on the claim construction of "morph weight set." While the parties did not dispute the district court's construction, they did dispute the meaning of "vector" within the construction. The court agreed with the district court, finding "vector" has the narrower geometric meaning, and not the broader computer science meaning as the patentee urged, based on the intrinsic evidence.

With regard to invalidity, the court took issue with the cases the accused infringers and the district court advanced because none involved an abstract assertion of breadth without concrete identification of matter that is not enabled but is or may be within the claim scope. Since the two techniques (bones and BALDI) the accused infringers advanced in support of their non-enablement position were determined to be non-infringing under the claim construction, the accused infringers did not have any concretely identified animation techniques to support their position. Without the two techniques available as claim-covered techniques that must be enabled, the court found the district court's reasoning too abstract and too conclusory to support summary judgment. Accordingly, the court vacated and remanded the case for further proceedings, considering the accused infringers offered to withdraw their invalidity counterclaims.

A copy of the opinion can be found [here](#).

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