

## Judge Albright Publishes Reasoning Behind Grant of Summary Judgment on Section 101 Grounds in *USC IP Partnership v. Facebook*

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On December 13, we reported that Judge Albright granted summary judgment for Facebook in *USC IP Partnership* on section 101 grounds. On December 19, Judge Albright published a written order explaining his reasoning.

USC IP Partnership's asserted patent was titled "System and Method for Intent Data Processing" (The "'300 patent"). The '300 patent encompassed 17 claims – all of which were asserted against Facebook. Both parties agreed that claim 1 was representative:

1. A method for predicting an intent of a visitor to a webpage, the method comprising:  
receiving into an intent engine at least one input parameter from a web browser displaying the webpage;  
processing the at least one input parameter in the intent engine to determine at least one inferred intent;  
providing the at least one inferred intent to the web browser to cause the at least one inferred intent to be displayed on the webpage; prompting the visitor to confirm the visitor's intent;  
receiving a confirmed intent into the intent engine;  
processing the confirmed intent in the intent engine to determine at least one recommended webpage that matches the confirmed intent, the at least one recommended webpage selected from a plurality of webpages within a defined namespace;  
causing the webpage in the web browser to display at least one link to the at least one recommended webpage;  
prompting the visitor to rank the webpage for the inferred intent; receiving a rank from the web browser; and  
storing a datapoint comprising an identity of the webpage, the inferred intent and the received rank.

Facebook moved for summary judgment, arguing that the '300 patent's claims were directed to the abstract idea of "collecting, analyzing and using intent data" at a high level, and directed to the abstract idea of "providing recommended information to a visitor based on his or her current intent" on a more granular level. Judge Albright agreed. A breakdown of his two-step *Alice* analysis can be found below:

***Alice* Step One: The '300 patent's claims are directed to the abstract idea of "collecting, analyzing and using intent" data.**

- First, Judge Albright noted that "the problem the '300 patent attempts to address – finding information that matches the user's intent – is a longstanding problem that existed long before the advent of computers and is not

unique to the Internet. [Unlike the claims asserted in *DDR Holdings, LLC v. Hotels.com L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. Dec. 5, 2014)], the asserted claims [here] do not solve an Internet-specific problem with an Internet-specific solution.”

- Second, Judge Albright found that the '300 patent's claims were not “directed to an improvement to the functionality of the computer or network itself. [Rather], [t]he asserted claims only recite high-level functional language without explaining how the claimed invention improve the functionality of the computer or the Internet.” In other words, the '300 patent merely recites results without also reciting specific steps that achieve said results.

***Alice* Step Two: The '300 patent's claims, whether considered individually or combined, do not contain anything “significantly more” than the abstract idea itself.**

- Notably, this piece of the analysis greatly favored Facebook because, in its response to Facebook's summary judgment motion, USC IP Partnership focused only on explaining the high burden Facebook must meet to prevail on summary judgment on an invalidity argument – rather than explaining why its claims contain an inventive concept.
- Judge Albright concluded that Facebook met this burden, finding that “[n]othing in the ['300 patent's] claims . . . requires anything other than off-the-shelf, conventional computer, network, and display technology for gathering, sending, and presenting the desired information.”

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