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INTELLECTUAL PROPERTY

May 2017

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Automakers Win at Federal Circuit on Non-Patentable Subject Matter

West View sued several automakers for infringement of the former's patents.

A representative patent claim described the invention as "computerized apparatus capable of interactive information exchange with a human user." The Federal Circuit described the patents as hardware and software "to collect, organize, and display information."

According to the Federal Circuit, the patent claims "do not go beyond receiving or collecting data queries, analyzing the data query, retrieving and processing the information constituting a response to the initial data query, and generating a visual or audio response to the initial data query." That is abstract, non-patentable subject matter.

And, the Federal Circuit determined that the computer components, in their "many different arrangements," were generic. The patent claims recite "conventional elements at a high level of generality and do not constitute an inventive concept.

COMMENT:

There is no surprise ending when the Federal Circuit starts by describing the patent as collecting, organizing and displaying information.

US Government Loses at Federal Circuit on Patentable Subject Matter

Thales owned a patent for tracking the inertial motion of an object on a moving platform. Conventional solutions measured motion relative to earth. The invention did not do so.

Here is the Federal Circuit's description of the invention: "it increases the accuracy", the "system therefore requires fewer measured points", and "installation is also simpler."

Thales sued the government based on the latter's helmet mounted display system.

According to the Federal Circuit, the patent claims "utilize mathematical equations to determine the orientation of the object relative to the moving reference frame, the equations - dictated by the placement of the inertial sensors and application of laws of physics - serve only to tabulate the position and orientation information."

Moreover, according to the Federal Circuit, "this combination of sensor placement and calculation based on a different reference frame mitigates errors by eliminating inertial calculations with respect to the earth." In other words, the patent uses "inertial sensors in a non-conventional manner."

Importantly, the Federal Circuit explained that because a "mathematical equation is required to complete the claimed method and system does not doom the claims to abstraction" and thus patent ineligibility.

COMMENT:

What appears to have saved this patent from being found invalid is the different arrangement of sensors.

First Lady Melania Trump's Trademark Enforcement

The First Lady has reportedly hired trademark counsel to prevent the unauthorized use of her name and likeness in her home country of Slovenia.

In Slovenia, it seems that folks have been using the First Lady's name and/or likeness on a variety of goods, from honey to pancakes. Her picture also appears on a billboard for a web company.

In the US, the First Lady holds trademarks for "Melania" that covers jewelry and cosmetics.

A US trademark applicant for the mark "Melania Diet" was refused registration because US trademark laws preclude the registration of a name identifying a living individual, unless the individual has consented to registration.

The laws also prevent registration of the name of a famous person if there is a suggested link between the well-known person and the brand seeking registration.

COMMENT:

It seems unlikely that any famous person would consent to the use of his/her name, in the absence of compensation.

Abbott and Costello's "Who's on First" Comedy May Be Reviewed by the US Supreme Court

The heirs of the comedy duo Abbott and Costello brought a copyright infringement action against the producers of a Broadway play "Hand to God". The play incorporated, verbatim, more than a minute of the duo's famous routine "Who's on First."

The duo performed variations of the routine in different motion pictures produced by Universal Pictures (UPC). UPC registered US copyrights for the motion pictures.

The duo entered into a quitclaim agreement with UPC's successor, and upon which the heirs argued served as the basis of copyright ownership to the routine.

The Second Circuit Court of Appeals determined that defendants' verbatim copying was not a fair use. But the heirs did not prove copyright ownership.

The heirs are now seeking review by the US Supreme Court.

COMMENT:

The court explained that "even if the Play's purpose and character are completely different from the vaudevillian humor originally animating Who's on First?, that, by itself, does not demonstrate that defendants' use . . . was transformative of the original work.

Though not stated by the court, perhaps it was the great amount of undeniable audience recognition of Who's on First that subconsciously raised the bar of what was needed to meet the fair use requirements.

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