

Georgia Federal Court Recognizes Alice Decision Potentially Impacts Case by Allowing Late Motion for Judgment on Pleadings

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Intellectual Property

Mobile Telecommunications Technologies, LLC (“Mobile”), initiated a patent infringement case against [United Parcel Service, Inc.](#) (“UPS”), in 2012 on [U.S. Patent No. 5,786,748](#) on a method and apparatus for giving notification of express mail delivery.

UPS filed a Motion for Summary Judgment [Dkt. 95], which was submitted to a [Special Master](#) for consideration. The Special Master issued a Report and Recommendation (“R&R”) [Dkt. 139] on July 8, 2015, recommending that the motion be granted in part and denied in part. Both parties filed objections to the R&R [Dkts. 142 and 143]. In addition to its objection, UPS filed a motion for judgment on the pleadings [Dkt. 145] arguing that the asserted patent should be found invalid under 35 U.S.C. 101 in light of the Supreme Court’s decision in *Alice Corp. Pty. Ltd. v. CLS Bank Int’l, et al.*, 134 S.Ct. 2347, 2350 (2014). In *Alice*, the Supreme Court emphasized that “a patent-ineligible concept” or “abstract idea” is not made patentable by “generic computer implementation” described as a method claim. *Id.*

Judge Totenberg agreed with UPS that the resolution of this motion could obviate the need for deciding the summary judgment motion, and she therefore decided to allow the motion despite its lateness in the procedural timeline. She ruled that it presented a threshold question of validity, which, “in the interest of judicial economy and efficiency,” was not appropriately deferred to trial.

The Court removed the pending summary judgment motion from the docket by denying it without prejudice, but committed to reviving the motion herself if UPS’s motion for judgment on the pleadings is denied. This action achieved the removal of a decision on the summary judgment motion from the Court’s time tracking requirements, while avoiding adding a burden on either party to resurrect the summary judgment motion.

The case is ***Mobile Telecommunications Technologies, LLC v. United Parcel Service, Inc.***, Docket No. 148, decided August 4, 2015, in 1:12-cv-032223-AT, in the United States District Court for the Northern District of Georgia, Atlanta Division, assigned to Judge Amy Totenberg.

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