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International Trade Commission Invalidates Patents to Fitness Monitoring Systems as Ineligible under § 101

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A recent patent validity decision involving personal fitness monitoring devices underscores the wide-ranging application of the Supreme Court's *Alice* decision as a tool for patent defendants accused of infringing patents to computer-implemented technologies. In an initial determination issued on April 27, 2016, the U.S. International Trade Commission (ITC) invalidated claims of two patents directed to wearable sleep monitoring systems on patent eligibility grounds. The ITC concluded that the claims contained nothing more than an abstract idea—monitoring, recording and reporting a user's sleep patterns—implemented using standard, non-inventive computer technology.

The ITC's decision related to a Motion for Summary Determination filed by FitBit, Inc. and addressed two related patents: U.S. Patent Nos. 8,961,413 and 8,073,707 assigned to BodyMedia, Inc. and AliphCom, Inc. d/b/a Jawbone. The asserted claims of both patents recited similar systems for monitoring and reporting a "status" of an individual, each including at least two sensors and a processor configured to collect and manipulate physiological data from a user. In the '413 patent, for example, the claims recited a wearable device configured to collect and transmit information relating to the user's sleep pattern, including sleep onset and awakening. The claims of both patents include functionally defined limitations, and their specifications make clear that the claimed systems could be built from preexisting, off-the-shelf components.

The ITC concluded that the '413 and '707 patents "seek a monopoly on the abstract ideas of collecting and monitoring sleep and other health-related data, and are therefore ineligible under section 101." In particular, the decision held that the information collected by the claimed systems can be and has been collected and recorded by humans well before the advent of computer technology, and the implementation of those abstract concepts using generic computer technology did not add anything inventive to the claims. Because the patentee had not invented any of the actual technological components used in the claimed systems, it could not patent the idea of monitoring sleep or other physiological processes using those means. The ITC also rejected the recommendation of its own investigative staff that limiting the claims to a system housed in a single, wearable unit saved the claims of the '413 Patent, reasoning that the recitation of a "handful of generic computer components" (quoting *Alice*) and a wearable device to house them was not substantively different than the idea itself. The judge concluded that invalidity was not even a "close

question.”

This decision highlights § 101 as a source of invalidity arguments in the personal fitness monitoring space, as many claims to monitoring methods or systems could be similarly cast as abstract. This decision follows another ITC decision invalidating similar claims directed to weight monitoring systems, *In re Certain Activity Tracking Devices, Systems, and Components Thereof,* Inv. No. 337-TA-963, Order No. 54.

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