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Automatic Animation Software Method Found Patentable under 35 U.S.C. § 101

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Since the Supreme Court's decision two years ago in *Alice v. CLS Bank*, courts and the U.S. Patent and Trademark Office have found a large percentage of software and computer-related inventions to claim abstract ideas and not be directed to patentable subject matter – but a decision earlier this month represents a significant step in the other direction.

In a recent Federal Circuit decision, *McRO, Inc. v. Bandai Namco*, claims of two software-related patents entitled "Method for Automatically Animating Lip Synchronization and Facial Expression of Animated Characters" were found to be directed to patentable subject matter under 35 U.S.C. § 101. In *McRO*, the claims were found to represent a process specifically designed to achieve an improved technological result using rules embodied in computer software processed by general purpose computers.

The court referred to the *Alice/Mayo* two-step framework for analyzing whether claims are patent eligible. First, it is determined whether the claim at issue is "directed to" a judicial exception, such as an abstract idea. The Federal Circuit warned that "[w]e do not assume that such claims are directed to patent ineligible subject matter because 'all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas'" and stressed that the analysis must consider the claim as a whole. Step two includes consideration of whether the claims contain an "inventive concept" sufficient to "transform the nature of the claim into a patent-eligible invention."

The claimed process used a combined order of specific rules that rendered information into a specific format that is used and applied to create desired results, including a sequence of synchronized, animated characters. The incorporation of the claimed rules, not the use of the computer, improved the existing technological process. As a result, the patent claims were not directed to an abstract idea, and there was no analysis under step two of the *Alice* framework.

McRO follows two other recent Federal Circuit decisions that found software and computer-related claims to be patent-eligible, including the May Federal Circuit opinion, *Enfish, LLC v. Microsoft Corp.*,

and the June Federal Circuit opinion, *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC.* In Enfish, the court rejected another lower court ruling and found a database software related patent to be eligible under 35 U.S.C. § 101. The claims were found to be directed to computer functionality and not an abstract idea. In *BASCOM*, the district court found that the claims were directed to merely filtering content provided on the Internet, which is a well-known method of organizing human activity, but the Federal Circuit reversed and held that the claims do not merely recite the abstract idea of filtering content along with the requirement to perform it on the internet. *McRO, Enfish,* and *BASCOM* represent a growing number of court decisions finding computer-implemented patent claims to be patent eligible and the first important decisions since the December 2014 *DDR Holdings* Federal Circuit decision.

Although the patent landscape has shifted significantly since *Alice*, recent Federal Circuit decisions have shown that specific computer-implemented patent claims processed by general purpose computers remain patent eligible.

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