



## Patent Claims Directed to Making and Sharing Videos Over a Social Network Dismissed As Subject Matter Ineligible

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Judge Wu in the Central District of California recently granted dismissal of patent infringement claims directed to generating and sharing video content over a social network because they are patent ineligible under 35 U.S.C. § 101. After deciding claim construction, the court held that the claims fail the *Alice* two-step framework. Under *Alice* step one, the court found that the claims are directed to the abstract idea of prompting a user to record and share content because the claimed steps involve generic actions without reciting any specific improvement to the claimed user interface or other computer technology. Under *Alice* step two, the court found that the claims lack an inventive concept because they are results-oriented and they do not recite any specific means of accomplishing the claimed results other than using existing, off-the-shelf computer technology.

*Playvuu, Inc. v. Snap, Inc.*, No. 22-cv-6019 (C.D. Cal.).

Patent owner Playvuu sued Snap, alleging that Snap's SnapChat App infringes U.S. Patent No. 10,931,911. Snap moved to dismiss the patent claim for subject matter ineligibility under § 101. The court deferred its ruling until after claim construction, where the court gave all unconstrued terms their plain and ordinary meaning. Representative claim 1 recites a method for generating and sharing audio/video content to a social network. The claimed steps generally include in relevant part:

initiating a content creating process; prompting a user to record content; prompting the user to select an audio composition; presenting the user with a record button; presenting the user with a selection of pre-recorded visual media content for use as a background, wherein the

user is presented with an interface to selectively edit the selected content; providing playback of the audio composition during recording; generating recorded content based on the recording session by composing video captured during the recording session with the pre-recorded visual media content; displaying a preview that enables the user to change the timing or latency of the recorded content relative to the selected audio composition; selecting a privacy attribute for the recorded content; sending the recorded content to the host server; receiving a request to publish the recorded content; processing and encoding components of the recorded content to create a streamable video; and publishing the streamable video.

The court analyzed eligibility using the Supreme Court's two-step *Alice* framework. In step one, a court determines whether the claims, in their entirety, are “directed to a patent-ineligible concept,” such as an abstract idea. *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 217 (2014). If they are, the court proceeds to step two—the search for an “inventive concept”—and considers “the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Id.* (citing *Mayo Collaborative Servs. v. Prometheus Lab'ys, Inc.*, 566 U.S. 66, 78-79 (2012)).

### 1. *Alice* Step One

Addressing *Alice* step one, the court concluded that claim 1 is directed to the abstract idea of prompting a user to record and share content using existing technology. The claim recites a method for “generating and sharing audio/video content to a social network,” and the recited steps only involve “generic actions.” The court also found that the claims do not disclose any new way to accomplish the known, claimed tasks (e.g., prompting, presenting, and providing), and the claims are directed to the results of those tasks, not the “how-to” of those tasks.

The patent owner argued that the claims recite an “innovative user interface.” The court determined, however, that neither the claims nor the specification include any detail suggesting disclosure of a new user interface providing a specific improvement to computer technology. Instead, the specification suggests that the claimed interface is a “black-box component” because it “can be any combination of hardware components and/or software agents” able to perform the claimed functions.

The court distinguished the claims from those in *Core Wireless Licensing S.A.R.L. v. LG Electronics, Inc.*, 880 F.3d 1356 (Fed. Cir. 2018). In *Core Wireless*, the claims “recite a specific improvement over prior systems,” i.e., “a specific manner of displaying a limited set of information to the user, rather than using conventional user interface methods to display a generic index on a computer.” In contrast, the court found that “the ’911 Patent does not provide specific requirements for the claimed user interface, such as a particular manner of use or display, restraint on the type of use or display, or requirements to exist in a particular state.” Also, the court found that the claims do not recite “specific structural elements” that might help illustrate an improved user interface.

## 2. *Alice* Step Two

Addressing *Alice* step two, the court concluded the claim lacked any inventive concept because the claims only describe using existing computer technology. The patent owner argued that the claims contain a “combination of specialized software for media generation and editing with a specific mechanism for transmitting it to a series of servers for distribution, according to a computerized privacy attribute set by the user.” The court disagreed because the claims are “results-oriented and suggest using off-the-shelf components ... without providing specific requirements or specialized software for doing so.” The court also stated that the claimed abstract idea itself cannot supply the inventive concept.

The patent owner relied on *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018), to argue that step two presents a question of fact that precludes dismissal. The court, however, distinguished *Berkheimer* because the claims at issue there recited “non-abstract features of a digital asset management system that the specification described as unconventional improvements over conventional systems,” such that there was a genuine factual dispute over unconventionality. In this case, the court found that the patent owner had pointed to no such “non-abstract features” of the claimed method.

**Practice Tip:** Patent owners should avoid claiming generic tasks that are results-oriented, and instead claim a specific way to achieve those tasks, i.e., the “how-to” of those tasks. Patent owners should also describe and claim specific structural elements that are improvements over prior systems—black-box descriptions allowing for “any combination” of hardware

and/or software may not be sufficient. In addition, patent owners should claim “non-abstract features” that can be identified in the claim when asserting inventiveness.

## Categories

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