

Media Mention: Appellate Court Affirms Lower Court's Ruling in Ward and Smith Patent Case

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Abstract ideas are not patent-eligible, according to the Federal Circuit.

The appellate court's recent ruling is another win for Ward and Smith client Del-Ton, Inc. Voit Technologies sued the gun manufacture back in 2017 for patent infringement over the method of buying and selling items online. In January 2018, a federal judge dismissed the lawsuit filed in the Eastern District of North Carolina, and more than a year later, the court of appeals affirmed the ruling of the lower court.

Publication Law360 explains the court's decision:

In a seven-page, nonprecedential opinion, the panel found that the patent's claims were considered ineligible under the Supreme Court's Alice test, which held that abstract ideas implemented using a computer are not patent-eligible under Section 101 of the Patent Act. The patent at issue in the suit against a gun manufacturer is related to technology for displaying items for sale online.

"The asserted claims are directed to an abstract idea at Alice step one," the panel said in its opinion. "Nor do the asserted claims recite an inventive concept that transforms the abstract idea into a patentable invention."

The panel said it found Voit's arguments regarding the validity of its patent "unavailing." "Voit has to do more than simply restate the claim limitations and assert that the claims are directed to a technological improvement without an explanation of the nature of that improvement," the panel said.

The Federal Circuit's decision affirmed the ruling of the lower court, which tossed the case in January 2018 after it similarly found that Voit's patent failed to meet the Alice test for eligibility. The Supreme Court's Alice Corp. v. CLS Bank International decision in 2014 had a major impact on litigation strategy by placing restrictions on what claims were patent eligible.

The Alice test is applied in two steps. For the first, the court must determine whether the patent's claims are related to an abstract idea. If they are, then the court has to decide whether the patent's claims have an inventive concept that transforms the idea to make it patent-eligible.

You can view the entire Law360 article [here](#), behind the paywall. Click [here](#) for the Federal Circuit's full opinion.

Litigator Joe Schouten represented Del-Ton, Inc.

