

Intrinsic Evidence of Statements in Patent Specification May Be Sufficient to Determine Patentability at the Rule 12(b)(6) Stage Under Alice Step One Without Consulting Prior Art

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CardioNet, LLC et al. v. InfoBionic, Inc., No. 2019-1149 (Fed. Cir. Apr. 17, 2020)

The patentee appealed the district court's dismissal after finding on the pleadings that the asserted claims were patent-ineligible under Section 101. The Federal Circuit reversed and remanded.

The Federal Circuit held the claims-at-issue are patent-eligible under *Alice* step one, finding they are not directed to an abstract idea employed on a generic machine. The representative claim is directed to a device that detects beat-to-beat timing of cardiac activity and determines its relevance to certain abnormal heart rhythms. The claimed device takes into account the variability in the beat-to-beat timing caused by premature ventricular beats detected separately by the device. This leads to multiple technological improvements according to the specification, including more accurate detection of certain abnormal heart rhythms, as distinct from other arrhythmias, leading to more reliable and immediate treatment of these medical conditions. Further, there was no suggestion in the specification that doctors previously employed the methods performed on the claimed device. The court thus held the claims-at-issue are patent-eligible because they focus on a specific method that improves cardiac monitoring technology.

The Federal Circuit further held that *Alice* step one can be resolved at the Rule 12(b)(6) stage in this case without remand to determine the state of the art. *Alice* step one presents a legal question that can be answered based on intrinsic evidence. A trial court may in its discretion take judicial notice of a longstanding practice even if there is no evidence of such practice in the intrinsic record. It is not necessary, however, to consult the prior art to see if the specification's assertions of improvement are true. Judge Dyk dissented from this part of the opinion, which he called dicta, finding it was unnecessary to opine on whether a factual inquiry into the prior art would be relevant to the Section 101 analysis. Judge Dyk explained the accused infringer had not argued a more developed record on prior art would have revealed a longstanding practice of using the claimed process.

A copy of the opinion can be found [here](#).

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