DDR HOLDINGS, LLC. v. HOTELS.COM, L.P., Appeal No. 2013-1505 (Fed. Cir. December 5, 2014). Before Wallach, Mayer and Chen. Appealed from E.D. Tex. (Judge Gilstrap).

Background:

DDR sued numerous defendants for infringement of two patents (U.S. Patent Nos. 6,993,572 and 7,818,399) directed to systems and methods that generate a composite site web page that combines certain visual elements of a host website and content of a third-party merchant. All of the defendants, except for National Leisure Group ("NLG"), settled with DDR. The jury found the patents valid and infringed, and the court denied NLG's JMOL motion. NLG appealed.

Issue/Holding:

Did the district court err in denying the JMOL motion? Yes, in part, remanded.

Discussion:

On appeal, NLG argued that (i) the claims of the '572 Patent were invalid as being anticipated, (ii) the claims of the patents were indefinite and (iii) the claims of the patents were directed to patent ineligible subject matter.

Regarding anticipation, the Federal Circuit held that prior art to a Secure Sales System (SSS) was operational and sold more than one year prior to the filing date of the provisional application of the '572 Patent. The SSS product material described that the system allowed website visitors to purchase and download digital products of their choice, but still retained the look and feel of the host's website, which the Federal Circuit held corresponded to the required claim element of generating a web page based on a look and feel description in a data store and content based on a commerce object associated with a link. The Federal Court disagreed with DDR's allegations that the claim language required an "overall match" or a specific number of "look and feel" elements.

Regarding indefiniteness, the Federal Circuit held that the recited "look and feel elements" were not facially subjective terms and had an established meaning in the art by the relevant timeframe (consistent with examples in the specification of the '399 Patent).

Regarding patent eligible subject matter, the Federal Circuit noted that "it is clear today that not all machine implementations are created equal." However, the Federal Circuit, distinguishing the claims of the present case from claims involved in recent decisions, held that the asserted claims in the '399 Patent do not recite a mathematical algorithm and do not recite a fundamental economic or longstanding commercial practice. The Federal Circuit noted that although the claims address a business challenge (retaining website visitors), it is a challenge particular to the Internet. Thus, the Federal Circuit concluded that "the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks." In distinguishing the asserted claims from those asserted in *Ultramercial*, the Federal Circuit noted that the "claims at issue specify how interactions with the Internet are manipulated to yield a desired result - a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink."