

AMDOCS (ISRAEL) Ltd. v. OPENET TELECOM, INC., Appeal No. 2015-1180 (Fed. Cir. November 1, 2016). Before Newman, Plager, and Reyna. On appeal from E.D. Va (Judge Brinkema).

Background:

Amdocs sued Openet in 2010 for patent infringement of four patents, each sharing essentially a common specification. Various motions were filed by each side addressing claim construction and summary judgment; some were granted, some denied. Ultimately, the district court granted summary judgment of non-infringement to Openet. Amdocs appealed to the Federal Circuit, which reversed based on an incorrect claim construction. *See* 761 F.3d 1329 (Fed. Cir. 2014) ("*Amdocs I*"). During the time the case was before the Federal Circuit, the Supreme Court decided *Alice Corp. v. CLS Bank International*, 134 S.Ct. 2347 (2014). Following remand from the Federal Circuit in *Amdocs I*, Openet moved for and obtained judgment on the pleadings, arguing that *Alice* barred Amdocs' claims as patent ineligible under 35 U.S.C. §101. Amdocs appealed to the Federal Circuit.

Issue/Holding:

Did the district court err in granting judgment on the pleadings to Openet? Yes, reversed and remanded.

Discussion:

The claims in issue involved systems, methods, and computer program products for collecting, processing, and compiling customers' network usage for tracking and billing.

Noting that *Alice* held that abstract ideas implemented using a computer are not patent-eligible, the court found that there is presently no "single, succinct, usable definition or test" for determining what constitutes an abstract idea. The court added:

Instead of a definition, then, the decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen — what prior cases were about, and which way they were decided. ... That is the classic common law methodology for creating law when a single governing definitional context is not available. ... We shall follow that approach here.

Upon following that approach, the court examined findings of eligible and ineligible claims of a similar nature in post-*Alice* cases, ultimately finding that the facts were closer to those cases in which the claims were found to be patent eligible. The court ultimately concluded that the patents use unconventional new technological solutions using "components arrayed in a distributed architecture that minimizes the impact on network resources," which "is an advantage over prior art systems that stored information in one location."

The court cautioned that its decision did not mean that the claims were patentable under §§102, 103, and 112.

Judge Reyna dissented, criticizing the majority's "mechanical comparison of the asserted claims in this case to the claims at issue in some, but not all, of the cases" and its "avoid[ing] determining whether the asserted claims are directed to an abstract idea, or even identifying what the underlying abstract idea is," contrary to *Alice*. He added that "distributed architecture" has no meaning and cannot make the patents eligible.