BASCOM GLOBAL INTERNET SERVICES, INC. v. AT&T MOBILITY LLC, Appeal No. 2015-1763 (Fed. Cir. June 27, 2016). Before Newman, O'Malley and Chen. Appealed from N.D. Tex. (Judge Lynn).

Background:

Bascom sued AT&T for infringement of its patent directed to filtering internet accessible content. Prior to Bascom's patent, content on the internet was filtered either by (1) installing filtering software on local computers or (2) installing filtering software on a server, which users connected to for internet access. Bascom's claims were directed to a hybrid filtering system that stored the filtering software on a server, but also allowed for customizing the filtered content based on the user.

In response to Bascom's suit for patent infringement, AT&T alleged that Bascom's claims were invalid under §101 because the claims were directed to the abstract idea of "filtering content," an alleged well-known method of organizing human activity. AT&T analogized the idea of filtering content to a parent forbidding children from reading certain books, and adding the internet to this process does not make the idea non-abstract. AT&T also argued that none of the claimed limitations transformed the alleged abstract idea into a patent-eligible concept because they recite routine and conventional steps performed by generic computer components.

The district court, agreeing with AT&T, granted AT&T's motion to dismiss. Bascom appealed.

Issue/Holding:

Are Bascom's claims directed to patent-ineligible subject matter? No, reversed and remanded.

Discussion:

The Federal Circuit agreed with the district court that under the first step of the *Alice* test, Bascom's claims were directed to an abstract idea. Under the second step, the Federal Circuit explained that the "inventive concept" may be found in either the individual limitations or in the ordered combination of limitations. Here, analysis of the claim limitations individually under the second step of *Alice* indicates that the limitations are directed to generic computer, network, and internet components, none of which are inventive by themselves. However, the Federal Circuit found that analysis of the ordered combination of limitations shows that Bascom's specific method of filtering internet content cannot be found to have been conventional or generic.

The Federal Circuit likened Bascom's claims to the claims at issue in *DDR Holdings*. As in *DDR*, the court found that Bascom's claims were a technical solution to a problem unique to the internet, that Bascom's claimed invention improves the computer system itself, and that Bascom's "inventive concept" overcomes existing problems with prior internet filtering systems. The court concluded that Bascom's claims are not simply directed to the idea of filtering content. Thus, the district court's decision was reversed, and the case remanded for further proceedings.

Judge Newman concurred, adding that the *Alice* two-step analysis is onerous, leads to different views of the "inventive concept," and confuses patentability with eligibility.