

SIMIO, LLC v. FLEXSIM SOFTWARE PRODUCTS, INC., Appeal No. 2020-1171 (Fed. Cir. December 29, 2020). Before Prost, Clevenger, and Stoll. Appealed from D. Utah (Judge Benson).

Background:

Simio accused FlexSim of infringing its patent directed to a computer-based system for developing simulation models on a physical computing device. FlexSim moved for summary judgment on the grounds that the asserted claims were ineligible under §101. The district court granted the motion. Simio then moved for leave to file an amended complaint, which the district court denied.

Issue/Holding:

Did the district court err in granting the motion for summary judgment? No, affirmed.

Discussion:

The essence of Simio's patent was using graphics instead of programming to create object-oriented simulations, which made computer modeling more efficient by eliminating the need to code each new object. The Federal Circuit spent the bulk of its analysis on Step One of the *Alice* inquiry. Both parties acknowledged that using graphical processes to simplify simulation building has been done since the 1980s. The Federal Circuit found that simply applying the already-widespread practice of using graphics instead of programming to the environment of object-oriented simulations is no more than an abstract idea.

Simio argued that the claims result in improvements in prior simulation systems through the use of graphical or process modeling flowcharts with no programming code required, and by employing a new way of customized simulation modeling with improved processing speed. But the Federal Circuit held that these improvements were inherent in the abstract idea and that merely applying the abstract idea on a computer is insufficient to render the claims patent eligible as an improvement to computer functionality. In so doing, the Federal Circuit distinguished *Enfish*, *McRO*, and *KPN*, finding that, in each of these cases, the nature of the claims read in light of their specifications confirmed that they were directed to an actual technological improvement.

Simio focused on the so-called executable-process limitation, *i.e.*, "an executable process to add a new behavior directly to an object instance of the one or more object instances without changing the object definition and the added new behavior is executed only for that one instance of the object," arguing that at least this limitation should survive Step One. The Federal Circuit found that this limitation merely suggests that new behavior can be added to one instance of a simulated object *without the need for programming*, and therefore cannot stand for an improvement in *computer functionality*.

Under Step Two, Simio emphasized that the executable-process limitation was novel and therefore significantly more than the abstract idea itself. The Federal Circuit noted that the search for an inventive concept under §101 is distinct from prior art analysis. In the end, the Federal Circuit characterized Simio's claim as "maybe being directed to a new idea, but still an abstract one—and lacking any inventive concept, any meaningful application of this idea."