



PTAB Nixes Auto Loan Software Patent As Abstract

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Law360, Los Angeles (January 27, 2016, 5:15 PM ET) -- Auto finance company Westlake Services LLC has successfully shown that a rival's patent covering online software that helps process credit reports and auto loan approvals is directed toward an abstract idea under the [U.S. Supreme Court's Alice framework](#), the Patent Trial and Appeal Board said.

In a final written decision to a covered business method patent review issued Monday, a three-judge panel concluded that Westlake sufficiently proved that numerous claims of [Credit Acceptance Corp.'s U.S. Patent Number 6,950,807](#) are invalid under Section 101 of the Patent Act, which pertains to patent eligibility.

"Petitioner has shown, by a preponderance of the evidence, that each of the challenged claims recites an abstract idea, and the generic computer components recited in those claims do not transform the claims into patent-eligible applications of those ideas," the panel said.

In its petition for an America Invents Act review — the second between the parties related to the '807 patent — Westlake had argued that claims 10-12 and 14-33 were not patentable. The company had successfully challenged other claims of the patent in another CBM review.

In its ruling Monday, the PTAB found that the relevant claims were directed toward the abstract idea of processing an application for financing a purchase and performed the concept with generic computer components.

"Processing an application for financing a purchase is a method of organizing human activity, or the performance of an abstract business practice," the PTAB said.

The panel also concluded that the elements of the challenged claims were not sufficient to transform the abstract idea into an invention that is patent-eligible, meaning the patent can't pass muster under the second prong of the Alice test.

"The PTAB did the right thing for the right reasons," John van Loben Sels of [Fish & Tsang LLP](#), an attorney for Westlake, told Law360 Wednesday.

Counsel for Credit Acceptance was not immediately available for comment.

The CBM review stemmed from a March 2013 lawsuit filed by Credit Acceptance in California federal court accusing Westlake of violating the '807 patent.

Westlake then challenged the validity of the '807 patent at the PTAB by requesting an AIA review. In a final written decision in March 2014, the board found a number of claims invalid for relating to the abstract idea of processing an application for financing a purchase.

A short time later, the U.S. Supreme Court ruled in its landmark Alice decision that abstract ideas implemented using a computer are not patent-eligible under Section 101.

Credit Acceptance voluntarily dismissed the federal court lawsuit against Westlake in early 2015.

Meanwhile, before the case was dropped, Westlake filed a second petition with the PTAB challenging the remaining claims of Credit Acceptance's patent. The board instituted a CBM review of those claims in February 2015, leading to Monday's final decision.

Not long after Credit Acceptance dropped the lawsuit, Westlake also moved to recover fees it spent defending against the infringement suit in district court. But U.S. District Judge S. James Otero ultimately ruled that the case **did not qualify as exceptional** to warrant fees, rejecting numerous arguments by Westlake, including the idea that Credit Acceptance should have dropped the suit once the Supreme Court decided the Alice case.

The judge earlier this month also **denied Westlake's attempt** to recoup more than \$73,000 in fees it paid to the [U.S. Patent and Trademark Office](#) as part of the first AIA review.

Last month, Judge Otero **also dismissed** Westlake's related antitrust lawsuit alleging Credit Acceptance had fraudulently acquired the '807 patent and used it to keep others out of the subprime auto loan market.

The judge determined that the suit rested on "threadbare recitals of legal elements and are not supported by any factual allegations." Although Judge Otero gave Westlake a chance to amend the suit, he warned that sanctions might be possible if the next complaint has the same flaws.

Westlake is appealing the judge's ruling that the case was not exceptional to warrant fees and has until Feb. 19 to file an amended complaint in the antitrust action, according to van Loben Sels.

Administrative Patent Judges Justin T. Arbes, David C. McKone and Gregg I. Anderson sat on the panel for the PTAB.

The patent-in-suit is U.S. Patent Number 6,950,807.

Westlake is represented by John van Loben Sels and Ellen Wang of Fish & Tsang LLP.

Credit Acceptance is represented by Douglas Nemecek and James Pak of [Skadden Arps Slate Meagher & Flom LLP](#).

The case is Westlake Services LLC v. Credit Acceptance Corp., case number CBM2014-00176, before the Patent Trial and Appeal Board.