

**AMDOCS (ISRAEL) LTD.**

**(Plaintiff-Appellant)**

**Vs.**

**OPENET TELECOM, INC.**

**(Defendants-Appellees)**

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# **1. INTRODUCTION**

## **About Amdocs**

Amdocs is a multinational corporation that was founded in Israel and currently headquartered in Chesterfield, Missouri, with support and development centers located worldwide. The company was founded in 1982 in Israel as an offshoot of Golden Pages, the Israeli phone directory company, which was owned by the Aurec Group headed by Morris Kahn. The company specializes in software and services for communications, media and financial services providers and digital enterprises.

Between 1990 and 1995 Amdocs took its initial diversification steps, expanding first into the wireline telephony arena and then the mobile space. Over the years, Amdocs has continued to expand its product and services offerings.

## **About Openet**

Openet is a software vendor with corporate headquarters in Dublin, Ireland, and two regional headquarters in Malaysia and the United States with offices worldwide. Openet products are used by telecommunications service providers to commercialize and analyze activity on their network by processing customers' data usage. The company was founded in 1999 by Joe Hogan and Declan Conway, both ex-Retix Ireland employees. Openet has an 11 percent share of the wireless policy management software market. Openet's product suite consists of Policy Manager, Evolved Charging, Interaction Gateway and Convergent Mediation.

## **About the Case**

Amdocs initiated a legal complaint against Openet in August 2010 alleging the company violated two of its patents. Two additional patents

were added to the case in January 2011. In the United States, a Virginia District judge Leonie Brinkema ruled in Openet's favour in February 2012, finding that Openet did not infringe on Amdocs' patents. The judgment was reversed on appeal in Federal Circuit Court ( *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*) and the case was settled in April 2018. On July 23rd 2020 , Amdocs announced the acquisition of Openet.

The Boards of Directors of Openet and Amdocs have approved the transaction for net consideration of approximately \$180 million in cash which, subject to the satisfaction of the conditions to closing.

## 2. BACKGROUND of the CASE

### Procedural History and Technology involved

In 2010, Amdocs sued Openet for patent infringement in the United States District Court. Amdocs asserted that Openet infringed claims 1, 4, 7, 13, and 17 of the '065 patent; claims 16, 17, and 19 of the '510 patent; claims 1, 2, 7, 8, and 13 of the '984 patent; and claims 1, 2, 7, 8, and 19 of the '797 patent.

In its answer and counterclaim, Openet alleged invalidity, unenforceability, and non-infringement. The parties filed motions addressing claim construction and summary judgment. The district court granted Openet's motion for summary judgment of non-infringement and Amdocs's motion for summary judgment of no inequitable conduct. Upon motions of the parties, which the court granted, certain claim constructions were made. However, the court denied the parties' motions for summary judgment with respect to validity. Amdocs appealed the trial court's judgment to the Federal Circuit court.

The patents-in-suit relate to an accounting and billing system for network service providers. In the words of the Federal Circuit:

- The '065 patent concerns a system, method, and computer program for merging data in a network-based filtering and aggregating platform as well as a related apparatus for enhancing networking accounting data records.
- The '510 patent concerns a system, method, and computer program for reporting on the collection of network usage information.
- The '984 patent concerns a system and accompanying method and computer program for reporting on the collection of network usage information from a plurality of network devices.
- The '797 patent concerns a system, method, and computer program for generating a single record reflecting multiple services for accounting purposes.

The inventions allow the service providers to bill for Internet Protocol (IP) traffic. The distributed nature of the disclosed systems "minimizes the impact on network and system resources," and "minimizes network impact by collecting and processing data close to its source." Particularly, "each patent explains that this is an advantage over prior art systems that stored information in one location, which made it difficult to keep up with massive record flows from the network devices and which required huge databases."

## Requirements of an eligible invention

A claimed invention is eligible for patenting under 35 U.S.C. 101 if it meets the requirements of the two-step test set forth by the Supreme Court in *Alice Corp. v. CLS Bank Int'l*. According to the test, one must first determine whether the claim at hand is directed to a judicially-excluded law of nature, a natural phenomenon, or an abstract idea. If so, then one must further determine whether any element, or combination of elements, in the claim is sufficient to ensure that the claim amounts to significantly more than the judicial exclusion. But generic computer implementation of an otherwise abstract process does not qualify as

"significantly more." A goal of this test is to prevent one from patenting judicial exclusions, and thereby preempting others from using these basic scientific tools.

### 3. JUDGEMENT

#### District court Decision

The district court invalidated the patents on the pleadings, holding all four patents invalid under 35 U.S.C. 101 because they claimed an abstract idea implemented in a non-inventive manner. The district court considered each patent separately.

The court found that claim 1 was directed to the abstract idea of "the concept of correlating two network accounting records to enhance the first record." This satisfied step one of the Supreme Court's *Alice* methodology and therefore the district court proceeded to step two—"whether the claim adds enough to the abstract idea to make the claim patent eligible."

Because the claim did "not limit the correlation to any specific hardware, nor give any detail regarding how the records are 'correlated' or 'enhanced', the claim amounts to 'nothing significantly more than an instruction to apply the abstract idea' of correlating two network accounting records 'using some unspecified, generic' computer hardware." That made the claim invalid under the *Alice* test.

The court turned to the '510 patent, whose claim 16 was representative. The court held this patent "directed to the abstract idea of using a database to compile and report on network usage information." Proceeding, therefore, to step two of the *Alice* methodology, the court said that the claim describes a generic computer that "collects, filters, aggregates, and completes network communications information" and then "stores the information in a database, and queries the database to

retrieve reports." All of these things were "basic functions" of a computer and a database system.

The district court next considered representative claim 1 of the '797 patent. The court said that "the abstract idea in this claim is to generate a single record reflecting multiple services," and proceeded to step two of the *Alice* analysis. It found that "the claim is directed to an abstract idea performed using purely conventional computer operations, and is, therefore, invalid under 101.

Last, the district court considered representative claim 1 of the '984 patent. Here, the abstract idea was "reporting on the collection of network usage information from a plurality of network devices." All of the steps were conventional acts for both generic computers and generic databases, making the claim invalid.

## Federal Circuit Panel Decision

**The Federal Circuit panel majority reversed the district court judgment.** It analyzed the judgment by assuming that the claims were directed to an abstract idea, but it found that the claims satisfied step two of the *Alice* methodology. Judge Plager wrote the majority decision, which was joined by Judge Newman. Judge Reyna dissented.

### The Majority Decision

Upon review of the *Alice* test, the Court noted that "there is considerable overlap between step one and step two, and in some situations this analysis could be accomplished without going beyond step one," but also admitted that "there is no such single, succinct, usable definition or test" for what an 'abstract idea' encompasses. The Court observed that "the decisional mechanism courts now apply is to examine earlier cases in which a similar or parallel descriptive nature can be seen."

Undertaking this comparative endeavor, the Court briefly reviewed cases dealing with related subject matter. In *Digitech Image Techs v. Elecs.*

Imaging, Inc., Content Extraction & Transmission v. Wells Fargo Bank, and In re TLI Commc'ns LLC Patent Litig., the Court found claims **ineligible**. But in *DDR Holdings v. Hotels.com* and *BASCOM Global Internet Services v. AT&T Mobility*, the Court found claims to be **eligible**.

While the Court reviewed all four patents in detail, we will try to focus on representative claims from only two as the other two were of similar kind.

a. The '065 Patent

Claim 1 of the '065 patent recites:

1. A computer program product embodied on a computer readable storage medium for processing network accounting information comprising:

- computer code for receiving from a first source a first network accounting record;
- computer code for correlating the first network accounting record with accounting information available from a second source; and
- computer code for using the accounting information with which the first network accounting record is correlated to enhance the first network accounting record.

The Court observed that, on its face, this claim shares commonalities with claims from all five of the cases cited above, but it is closer to those of *DDR Holdings* and *BASCOM* than the others. Thus, while involving the potentially abstract notions of organizing information, recognizing data, and classifying information found ineligible in *Digitech*, *Content Extraction*, and *TLI*, the claim went beyond these mere concepts.

Particularly, the Court focused on the term "enhance," which was construed as "to apply a number of field enhancements in a distributed fashion." According to the District Court, this meant that "the network usage records are processed close to their sources before being



transmitted to a centralized manager." The Federal Circuit found this distributed processing to be "a critical advancement over the prior art" because (as stated in the specification of the '065 patent) in the prior art "all the network information flows to one location, making it very difficult to keep up with the massive record flows from the network devices and requiring huge databases." *Thus, in the Court's view "this claim entails an unconventional technological solution (enhancing data in a distributed fashion) to a technological problem (massive record flows which previously required massive databases)."*

The Court then went to great lengths to distinguish this claim over those of *Digitech* and *Content Extraction*, the claims in those cases being broader, more preemptive, generic, ordinary, and lacking inventive concepts. The Court also drew parallels between claim 1 and that of *BASCOM*, noting that "when all limitations are considered individually and as an ordered combination, they provide an inventive concept through the use of distributed architecture."

Thus, claim 1 was found to be patent-eligible, apparently meeting the requirements of both steps of the *Alice* test.

#### b. The '510 Patent

Representative claim 16 of the '510 patent recites:

16. A computer program product stored in a computer readable medium for reporting on a collection of network usage information from a plurality of network devices, comprising:

- computer code for collecting network communications usage information in real-time from a plurality of network devices at a plurality of layers;
- computer code for filtering and aggregating the network communications usage information;
- computer code for completing a plurality of data records from the filtered and aggregated network communications usage

information, the plurality of data records corresponding to network usage by a plurality of users;

- computer code for storing the plurality of data records in a database;
- computer code for submitting queries to the database utilizing predetermined reports for retrieving information on the collection of the network usage information from the network devices; and
- computer code for outputting a report based on the queries;
- wherein resource consumption queries are submitted to the database utilizing the reports for retrieving information on resource consumption in a network; and
- wherein a resource consumption report is outputted based on the resource consumption queries.

The Court viewed this claim as requiring "that the network usage information is collected in real-time from a plurality of network devices at a plurality of layers and is filtered and aggregated before being completed into a plurality of data records." Again relying on claim construction, the Court noted that the term "completing" was construed to mean "enhance a record until all required fields have been populated" where "enhance" has the same meaning as it did for the '065 patent.

The Court also reviewed the claims in light of the specification. Particularly, "the written description explains that the distributed architecture allows the system to efficiently and accurately collect network usage information in a manner designed for efficiency to minimize impact on network and system resources." As detailed in the specification, doing so has a number of purported advantages over the prior art. *Thus, as was the case for the '065 patent, the Court found this claim to satisfy both steps of the Alice test because it recited a technological improvement and involved an inventive ordered combination of components.*

### c. The Remaining Patents

*The Court found the '984 and '797 patents to be eligible based on reasoning similar to that discussed above. Therefore, all of the Amdocs patents passed muster under 101, and the District Court's ruling was reversed.*

## The Dissent

Judge Reyna's dissent is nearly as long as the majority opinion, and was written in the style of a majority opinion. Thus, this case may have been a close call, with Judge Newman being swung to Judge Plager's side late in the game. But ultimately, Judge Reyna agreed with the majority's position on the '510 and '984 patents. His dissenting view is focused on the '065 and '797 patents.

After a discussion of the patents-in-suit, Judge Reyna noted that "it is apparent that a desired goal, absent structural or procedural means for achieving that goal, is an abstract idea." While abstract ideas need not be claimed as goals, Judge Reyna believes that the Supreme Court has clearly established that claims directed to no more than aspirational goals are abstract. Judge Reyna also warned that field-of-use limitations and extra-solution activity are "illusory limitations" that "describe only procedure or structure common to every means of accomplishing a given result, also cannot provide an inventive concept."

Turning to the patents, Judge Reyna made it clear that the written descriptions of each disclose patent-eligible network monitoring embodiments. But, citing *Synopsys v. Mentor Graphics Corp.*, he wrote that "the [101] inquiry is not whether the *specifications* disclose a patent-eligible system, but whether the *claims* are directed to a patent ineligible concept."

### a. The '065 Patent

Regarding claim 1 of the '065 patent, Judge Reyna found that it "discusses only very broad, high-level functionality rather than details about how exactly that functionality is implemented, providing no

information about the structure of the software," and thus contains no physical or digital structure. Instead, the claim "defines the program product using only functional limitations" with "no specific process for accomplishing the abstract goal of combining data from two sources."

Judge Reyna objected to the majority's interpretation of "enhance" to mean applying the claimed functions "in a distributed fashion." He believes that the latter term has no context in the claims, and the claim fails to specify any components or structure that can be distributed. *Therefore, Judge Reyna would have found claim 1 to be ineligible.*

#### b. The '510 Patent

While Judge Reyna discussed claim 16 of this patent in depth, ultimately he concluded that the claim recites enough detail to be eligible. Particularly, the claim recites that "the network information is collected from a specific source, the distributed system operates on the collected information by applying two specific types of functions – filtering and aggregating [and the] information is further processed by enhancing it in a distributed fashion." Importantly, claim 16 recites the network devices over which the enhancements take place.

Thus, like the claims of *Enfish and McRO v. Bandai Namco Games*, claim 16 is "directed to a particular process that improves upon the manner in which systems collect and process network usage information, and the claimed process is limited in a specific way." Thus, Judge Reyna agreed with the majority, at least in its conclusion that the claim passes step one of *Alice*.

## 4. SUMMARY

In *Amdoc (Israel) Ltd. v. Openet Telecom, Inc.*, the Federal Circuit reversed the district court's finding that four patents directed to solving accounting and billing problems faced by network service providers were directed to patent-ineligible abstract ideas.

On appeal, the Federal Circuit reversed the district court decision and provided additional guidance for applying the two-step patent-eligibility test in *Alice*. The majority examined the claims in light of the Court’s prior decisions to determine whether the claims at issue are similar to those previously found ineligible. The Court explained that the claims at issue, even if they are directed to an abstract idea, “contain a sufficient ‘inventive concept’” to render them patent-eligible. The Court relied on the claims constructions of certain terms that required a specific distributed architecture and network devices “working together in a distributed manner.” The Court recognized that, although the claims may recite generic components, those components work “in an unconventional distributed fashion to solve a particular technological problem.”

Judge Reyna dissented. In his view, the majority avoided identifying the abstract idea under the first step of the *Alice* test and incorrectly imported limitations from the specification into the claims. Although Judge Reyna acknowledged that the “network monitoring system disclosed [in the specification] is eligible for patenting,” he thought the claims should not be patent-eligible because they are not directed to any specific structure.

## 6. CONCLUSION

Openet's request for the Court to revisit its claim constructions of enhance and distribute are denied, and Amdocs' proposed claim construction of network accounting record , network entity and data collector is denied.

The majority's decision was driven by looking beyond the plain language of the claims, but relying on construed claim terms to do so, as well as improvements over the prior art discussed in the specifications.

Judge concluded that Amdocs' software claim "recites a software product embodied on a storage medium, but it provides no structural limitation of either the physical medium or the digital software."

After eight years of ensuring expensive holidays for their lawyers, rival telecoms software companies Amdocs and Openet have decided to call it a draw.

An extremely short announcement from Amdocs said "Amdocs and Openet announced that they have settled a patent infringement dispute in the United States Federal District Court for the Eastern District of Virginia. As part of the confidential settlement, Amdocs agreed to license certain patents to Openet."

## **7. REFERENCES**

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