

Federal Circuit Upholds e-Commerce Patent as Patent Eligible

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Friday, December 19, 2014

In [***DDR Holdings, LLC v. Hotels.com L.P.***](#) (Fed. Cir. Dec. 5, 2014), a split panel of the Federal Circuit held that DDR's e-commerce patent involving an online syndication system governing the interactions of a host website with content from third-party merchants **was patent eligible under Section 101**. The court distinguished DDR's patent from those found patent ineligible in *Alice Corp v. CLS Bank, Ultramercial*, and other recent cases. The court in DDR applied the two-step approach to eligibility required by the Supreme Court's decision in *Alice Corp.*, and found that the DDR patent: (1) is not directed to an abstract idea; and (2) claims an "inventive concept" for solving a particular internet-centric problem. In finding that the patent was not directed to an abstract idea, the court explained that the claims did not merely recite the performance of a business practice from the pre-internet world with the requirement to perform it on the internet. Instead, the claims were

aimed at solving a particular problem arising with pre-existing computer networks, that in the conventional functioning of internet hyperlink protocol, customers would be automatically transported away from a host website and to a third-party merchant's website by clicking on the hyperlink of a merchant's advertisement. The claimed invention worked around that convention and redirected the customer to a hybrid web page where the customer could purchase products from the merchant without actually entering the merchant's website, allowing the host website to retain control over the attention of the customer. The case may breathe new life into some software, business method, and e-commerce patents, most challenges to which had been successful following *Alice Corp.* On the other hand, commentators appear to be taking odds on whether the 2-1 panel decision will survive en banc or Supreme Court review.

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National Law Review, Volume IV, Number 353

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