



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Fed. Circ. Affirms Alice Ax Of Lost Luggage Patent

By **Tiffany Hu**

Law360 (November 5, 2019, 5:26 PM EST) -- The Federal Circuit on Tuesday upheld a lower court ruling that invalidated an airline bag delivery company's patent on technology for picking up lost luggage, unpersuaded by the company's argument that the claims covered more than a patent-ineligible abstract idea.

In a nonprecedential one-line order, a three-judge panel summarily affirmed a Delaware federal judge's decision invalidating a Baggage Airline Guest Services Inc. patent for being directed to the abstract idea of "coordinating and monitoring baggage delivery" and therefore not patentable under the U.S. Supreme Court's **Alice** test.

Bags, as the company called itself, had contended that the representative claim "uses a specific configuration of computers coupled with specific coordination efforts between the delivery person and the passenger to increase the efficiency of baggage delivery."

"A claim that covers only a specific application of an abstract idea cannot be said to be 'directed to' the idea itself," Bags argued on appeal.

But the panel was unpersuaded, leaving in place the lower court's invalidation.

Edward Pennington of Smith Gambrell & Russell LLP, an attorney for accused infringer Roadie Inc., told Law360 in a Tuesday email that his client is pleased with the panel's ruling and will be seeking attorney fees at the lower court.

"This case never had merit, either on validity or infringement, and should never have been brought," Pennington said.

An attorney for Bags declined to comment Tuesday.

The dispute dates **back to 2017**, when Bags accused Roadie Inc., a rival transportation company that pairs customers who need items shipped to drivers already headed in that direction, of developing an app that infringes the patent.

The patent covers a process for a server to send and receive communications from a consumer's mobile phone that transmits delivery data, driver information, car make, package location, a map and the most efficient travel route in real time.

In its bid for judgment on the pleadings, Roadie had argued that the patent was invalid for claiming a method of tracking baggage delivery, which was "nothing more than a description of basic human activity" that existed long before the application for the patent was filed.

"However, even if the claims of the ... patent were directed to patent-eligible subject matter, judgment in favor of Roadie must be granted ... as plaintiff's allegations fail to state a claim of infringement upon which relief can be granted," Roadie wrote in its February 2018 motion.

The case, originally filed in Florida federal court, was moved to Delaware last May after Roadie argued that it did not reside in the Sunshine State and did not have a "regular and established place of business there."

In January, U.S. District Judge Richard G. Andrews granted Roadie's motion for judgment on the pleadings, prompting Bags to appeal the lower court ruling at the Federal Circuit.

U.S. Circuit Judges Kimberly A. Moore, Alvin A. Schall and Richard G. Taranto sat on the panel for the Federal Circuit.

The patent-in-suit is U.S. Patent No. 9,659,336.

Bags is represented by Stefan V. Stein and Cole Carlson of GrayRobinson PA.

Roadie is represented by Edward A. Pennington and John P. Moy of Smith Gambrell & Russell LLP.

The case is Baggage Airline Guest Services Inc. v. Roadie Inc., case number 19-1511, in the U.S. Court of Appeals for the Federal Circuit.

--Additional reporting by Christopher Crosby. Editing by John Campbell.