

Fed. Circ. Undoes '101 Alice Ax Of Camera Patents In GoPro Case

By [Ryan Davis](#) · [Listen to article](#)

Law360 (September 10, 2024, 10:14 PM EDT) -- The Federal Circuit on Monday reversed a decision invalidating two video camera patents that [GoPro Inc.](#) is accused of infringing, ruling that the patents cover technological improvements, and not only an abstract idea, as a California federal judge had ruled.

The appeals court's [precedential opinion](#) revives a case that has been pending since 2015, in which GoPro has already been found to infringe one of the two patents. Owned by Contour IP Holding LLC, the patents cover technology used in point-of-view, or POV, digital video cameras for action sports.

The patents describe a camera mounted on the user's head to record activities like skiing, which stores a high-quality video on the camera and streams a lower-quality version of the video to a device like a mobile phone, so the user can see how it looks and make adjustments in real time.

A three-judge panel of the Federal Circuit disagreed with U.S. District Judge William H. Orrick III of the Northern District of California, who [ruled in 2022](#) that the patents are invalid under the [U.S. Supreme Court's](#) [Alice v. CLS Bank](#) decision for covering only an abstract idea. In particular, the panel said they are directed to the idea of creating and transmitting video at different resolutions and adjusting the settings remotely.

The appeals court reversed and sent the case back for further proceedings, finding that the patent claims do not cover an abstract idea and that "the district court's decision characterizes the claims at an impermissibly high level of generality."

Instead, the patents disclose "a technological solution to a technological problem" that is eligible for patenting, the Federal Circuit said. Specifically, they cover "improving POV camera technology through specific means of generating high- and low-quality video streams in parallel and transferring a low-quality video stream to a remote device," the court said.


Contour sued GoPro over the patents in 2015, then filed a separate suit over the same patents but newer GoPro products in 2021. Judge Orrick's decision that the patents are invalid, which came after he [granted](#) summary judgment that GoPro infringed one of them, disposed of both cases.

The Federal Circuit focused on the judge's claim construction, which found that the patents cover streaming data "in parallel," meaning that the higher-quality video on the camera and the lower-quality video on the phone are generated at the same time.


The appeals court said that is distinct from previous cameras that stream video "in sequence," where the higher-quality stream is created first and then converted to a lower-quality version.

Contour's patents thus cover a "technological improvement to the real time viewing capabilities of a POV camera's recordings on a remote device," and not the patent-ineligible abstract idea of creating video at different resolutions, which would include other techniques like in sequence streaming, the Federal Circuit held.

The appeals court rejected GoPro's arguments that the two previous patent eligibility decisions indicate that Contour's patents are invalid under Alice.

In a [2021 case](#) known as [Yu v. Apple](#) , the Federal Circuit held that a patent on a digital camera was invalid for claiming only the abstract idea of taking two pictures and using one to enhance the other, which the court held was a "longstanding, fundamental practice in photography."

While GoPro said Contour's patents were likewise invalid, the Federal Circuit said GoPro did not argue that the parallel streaming technology in the patents was a long-known or fundamental practice.

A [2019 ruling](#) Federal Circuit ruling called [ChargePoint v. SemaConnect](#)  concluded that charging stations for electric vehicles were directed to the abstract idea of communication over a network in the context of vehicle charging. GoPro argued that Contour's patents cover the same abstract idea, but the appeals court said they in fact cover "more than wireless data transfer within a particular technological environment."

"We hold that the asserted claims are directed to patent eligible subject matter," the court concluded. "We thus reverse the district court's invalidity determination based on subject matter ineligibility ... and remand for further proceedings."

At the district court, GoPro made other arguments that the patents are invalid, including that Contour did not invent parallel streaming. The judge denied those motions as moot after he found the patents invalid, but they could potentially be revived in the remand.

GoPro also challenged the patents at the Patent Trial and Appeal Board, arguing that they are invalid as obvious based on earlier inventions, but the board rejected that argument in a [final decision](#) in 2019.

John R. Keville of [Sheppard Mullin Richter & Hampton LLP](#), an attorney for Contour, said that the company "was an original innovator in the action camera market. GoPro has already been found to infringe Contour's patent, and also lost an inter partes review challenging the patent's validity at the PTAB."

"With GoPro's second challenge to validity now overcome, Contour is looking forward to trying this case before Judge William Orrick and a San Francisco jury to establish the strength of the patent and the amount of Contour's damages," he said.

Counsel for GoPro declined to comment on the decision.

The patents-in-suit are U.S. Patent Nos. 8,890,954 and 8,896,694.

U.S. Circuit Judges Jimmie Reyna, Sharon Prost and Alvin Schall sat on the panel for the Federal Circuit.

Contour is represented by John R. Keville and Michael C. Krill of Sheppard Mullin Richter & Hampton LLP and Richard L. Stanley of the Law Office of Richard L. Stanley.

GoPro is represented by Sean S. Pak, Nathan A. Hamstra, Marc L. Kaplan and William B. Adams of [Quinn Emanuel Urquhart & Sullivan LLP](#).

The case is Contour IP Holding LLC v. GoPro Inc., case number [22-1654](#), in the [U.S. Court](#)

[of Appeals for the Federal Circuit.](#)

--Editing by Andrew Cohen.