

Justices Deny Google Foe's Bid For Patent '101 Eligibility Clarity

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

Law360 (March 4, 2025, 11:36 AM EST) -- The U.S. Supreme Court on Monday rejected a patent owner's appeal arguing that the Federal Circuit has a "broken approach to patent eligibility" and that the justices must clarify the law, in a case where advertising patents asserted against [Google](#) were found to cover abstract ideas.

Impact Engine's petition, [filed in February](#), contended that its web-based advertising system is a "quintessentially technological" invention that should be patent eligible, but that the Federal Circuit has wrongly expanded what counts as an ineligible abstract idea.

The appeals court reduced Impact Engine's patents to a "caricature" by saying they cover only the abstract idea of processing information, reflecting the court's "standardless" manner of analyzing eligibility, the petition said.

"That reasoning vividly illustrates the Federal Circuit's broken approach to patent eligibility," Impact Engine said, adding that the case "presents a critical opportunity to restore balance in patent law and clarify" eligibility law "so it invites rather than impedes innovation."

Impact Engine accused Google of infringing seven patents on creating, editing and distributing online ads. A California federal judge [granted](#) Google's motion for summary judgment, finding all the claims invalid under the Supreme Court's 2014 [Alice v. CLS Bank](#) [decision](#) holding that abstract ideas implemented using a computer are not patent eligible.

The Federal Circuit [affirmed](#) Google's win last year, holding in a 2-1 decision that the patents cover only the abstract idea information processing, "and not any improved concrete tools or methods" for doing that.

Impact Engine told the justices that the decision "corrupts" the high court's precedent, which

it said barred patents on abstract ideas out of a concern about "preemption," meaning that "basic building blocks of human ingenuity" should not be patented.

The petition said that concern "plainly is not implicated" by Impact Engine's online ad system.

The Federal Circuit "has expanded the 'abstract idea' exception's narrow ambit by substituting the court's preemption concern with a standardless approach to assessing patent eligibility," the petition said, claiming that "the Federal Circuit has turned Alice on its head."

According to the petition, the decision also threatens another part of the Patent Act that allows patents to describe elements of an invention based on the functions they perform, if they include algorithms describing how those functions are performed.

Impact Engine said the Federal Circuit identified algorithms in its patent but ignored them when assessing patent eligibility, and that "Congress could not have intended that result."

Google waived the right to respond to the petition. At the Federal Circuit, it argued that the ineligibility ruling was correct because the patents "merely computerize tasks previously performed manually without adding an inventive concept."

Since Alice was decided over a decade ago, the Supreme Court has denied dozens of petitions urging the court to provide more clarity on which inventions are eligible for patents. Several other pending petitions make similar arguments, including one where a response is due on March 6.

The patent owner in [that case](#) contends that the Federal Circuit wrongly permits courts to find patents ineligible when there are factual disputes that should be left to a jury.

Three more [petitions](#) addressing patent eligibility, as well as issues like [foreign damages](#) and the Federal Circuit's [one-line orders](#) upholding decisions, will be considered by the court later in the term.

Representatives for Impact Engine and Google didn't immediately respond to requests for comment Monday.

The patents-in-suit are U.S. Patent

Nos. [7,870,497](#); [8,356,253](#); [8,930,832](#); [9,361,632](#); [10,068,253](#); [10,565,618](#);
and [10,572,898](#).

Impact Engine is represented by Jason Wilcox of [Kirkland & Ellis LLP](#).

Google is represented by Andrew Dufresne of [Perkins Coie LLP](#).

The case is Impact Engine Inc. v. Google LLC, case number [24-836](#), before the [Supreme Court of the United States](#).

--Editing by Jay Jackson Jr.