Westlaw Today

USAA v. PNC Bank and inconsistent court decisions under *Alice*

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APRIL 29, 2026

More than a decade after the decision in *Alice Corp. v. CLS Bank Int'l*, software patents still face unpredictable outcomes regarding their patent subject matter eligibility. Courts continue to struggle to consistently apply the *Alice* framework.

A central problem is that the Federal Circuit's current approach often begins with a highly subjective framing step.

Courts continue to struggle to consistently apply the Alice framework.

Once a claim is described at a sufficiently high level of generality, *Alice* step one's abstraction inquiry can do most of the work, and *Alice* step two risks collapsing into the same conclusion, albeit restated in terms of conventionality. As a result, these cases often turn on how the claim is characterized at the outset rather than on a stable rule.

The Federal Circuit's decision in *United Services Automobile Ass'n v. PNC Bank, N.A.* ("*USAA*") demonstrates the difficulty courts have drawing the line between patent-eligible and ineligible claims, and the uncertainty involved in applying the *Alice* framework to computer-based inventions that include structural features.

USAA serves military personnel deployed overseas, at sea, or otherwise far from physical bank branches. Before the claimed invention, conventional remote-deposit systems relied on specialized scanners operating in controlled environments. Even after mobile technology became available for taking pictures, there was no guarantee that the picture would be sufficiently aligned and focused for use in depositing checks.

USAA's patent sought to solve that problem through a handheld mobile device and a banking app downloaded to it. The system used the device display to assist the customer in taking the image, guided the check's orientation, transmitted the image over a wireless network, performed error checking, and allowed the deposit to proceed only after optical character recognition confirmed that the image was adequate.[1]

These claims ultimately formed the basis for a jury finding of infringement against PNC Bank, resulting in a significant verdict.

On appeal, however, the Federal Circuit held that the asserted invention is not patent eligible under 35 U.S.C § 101 and determined it to be nothing more than an abstract idea of "depositing a check using a handheld mobile device."[2]

The Federal Circuit gave two principal reasons.

First, the court said the claim was directed to "routine data collection and analysis steps" traditionally performed by banks and people depositing checks, such as reviewing checks, recognizing data, checking for errors, and storing the result.[3]

Second, there was no inventive concept because the claim merely recited "routine image capture, OCR, and data processing steps" performed on a generic handheld device in a conventional manner.[4]

This decision reflects a consistent pattern that, when a court characterizes the claimed invention at a high level of generality, the remaining limitations typically fail to supply an inventive concept because they are treated as nothing more than conventional means of carrying out that broad concept.

*USAA*is a good example of this phenomenon. By framing the invention at a high level of generality, the court left little room for the claim's specific operational features to shape its analysis.

To understand how the court's ruling in *USAA* strays from the *Alice* framework, it is helpful to review the decisions in *Alice Corp. v. CLS Bank International*. In *Alice*, the Supreme Court addressed a computer-based invention for mitigating settlement risk via a third-party intermediary.

It concluded that the claims were directed to the abstract idea of intermediated settlement, an established commercial practice, and further concluded that the functions carried out by the computer, such as obtaining data, adjusting account balances, storing data, and issuing instructions, were routine and conventional.[5]

USAA is unlike *Alice* because *USAA*'s claim was neither a generalized computerization of a traditional business practice

nor a claim to a business goal (of remote deposit). Indeed, the Federal Circuit acknowledged that USAA's patent was aimed at improving early remote check-deposit systems that relied on specialized scanners to ensure high-quality image capture.

The opinion further recognized that, to increase the likelihood that the image would be accepted for deposit, the patent contemplated real-time error checking so that the resulting image would be of sufficient quality for computer-based check-recognition systems.

Judge Howard T. Markey famously wrote: "Only God works from nothing. Man must work with old elements."

Viewed in that context, *USAA* addressed a far more specific claim than those in dispute in *Alice*, because the claim was directed to a particular way of obtaining a usable check image and validating it before submission.

The claimed technological solution to the prior art problem included a downloaded app that guides the capture process; the orientation assistance is important to make the image usable; and an OCR-based confirmation serves as a gatekeeping step before the deposit proceeds.

The Federal Circuit did not satisfactorily explain why these limitations should not matter in the *Alice* analysis, or why they fail to give the claim a more concrete technological setting basis that distinguishes it from an overall idea.

The lack of satisfying analysis can also be seen when comparing *USAA* with another case — *Interval Licensing LLC v. AOL, Inc.*

The patent in *Interval Licensing* concerned an "attention manager" that purportedly made use of the "unused capacity" of a display device to show a second set of information.[6]

The Federal Circuit held the claims ineligible because the claim used broad functional limitations such as acquisition instructions, scheduling instructions, display instructions, and operating instructions, and said little about how the system would identify unused screen space or segregate the second information set from the first.[7]

USAA, however, appears different. Its claim does not merely recite the result of remote deposit; it sets out the specific process of depositing checks. Nor does it use a computer or mobile device as a generic tool to perform an abstract banking task.

Instead, it adapts mobile-device technology to enable reliable check capture on ordinary consumer hardware, despite the lack of controlled imaging conditions found in specialized check scanners.

In other scenarios, computer-implemented patents have been more likely to be held ineligible when the claimed advance is framed primarily as the collection, analysis, and display of data using conventional components. *CardioNet, LLC v. InfoBionic, Inc.* is a good example.[8]

The patent in *CardioNet* related to a heart-monitoring device employing an electrocardiogram. The patent addressed a recognized problem in heart monitors: some patients may have abnormally high T waves that can be misinterpreted as R waves, causing the device to incorrectly report a high heart rate.

To remedy this problem, the patent employs a T-wave filter to reduce T-wave height while maintaining R-wave height, thereby enabling more accurate heartbeat classification.[9]

The Federal Circuit held these patent claims invalid as too abstract because they related to data gathering, analysis, and display employing a filtering process, thereby constituting abstract data processing.

It further held that the claim limitations did not amount to an inventive concept because the monitoring apparatus, processors, and related technology were conventional, and the claim used those components only as tools to carry out the filtering process rather than as part of a specific technological improvement in the machine itself.[10]

Again, that was not the case in *USAA*. The invention in *USAA* was not about using a computer to perform a conventional way of collecting and analyzing data. Rather, the patent claimed a specific process for remote check deposit that coordinates actions on the customer's handheld device with validation and processing by the bank's system.

In many ways, the claimed invention in *USAA* is more analogous to that in *McRO, Inc. v. Bandai Namco Games America Inc.* In *McRO*, the invention addressed a specific problem in 3-D animation: animators traditionally programmed facial expressions and lip synchronization by hand, a process that was time-consuming and dependent solely on subjective judgment.

The claimed invention replaced the traditional approach with a rules-based method that automatically determined the character's mouth shapes and transitions based on the sequence and timing of speech sounds.

The *McRO* decision is significant not merely because the outcome differed from other cases, but because of the court's reasoning in reaching it.

The Federal Circuit stated that "in determining the patentability of a method, a court must look to the claims as an ordered combination, without ignoring the requirements of the individual steps[,]" and that "courts must be careful to avoid oversimplifying the claims by looking at them generally and failing to account for the specific requirements of the claims."[11]

The court did not characterize the claim solely in terms of its goal of automating animation; instead, it considered whether the claim limitations recited a solution to a particular problem in a particular

technological field. The court determined it did because "it is the incorporation of the claimed rules, not the use of the computer, that 'improved [the] existing technological process.'"[12]

A similar analytical approach may be useful in *USAA*.

As in *McRO*, and likely most if not all cases, the claim in *USAA* could be described at different levels of generality. One way to frame the claim is as a claim to remote deposit using a handheld device. Another is as a claim to a particular process for carrying out remote deposits on such a device. The former sounds like an abstract idea, while the latter less so.

As to the *USAA* court's second rationale — that the recited technologies were well known — the most important inquiry is not supposed to be whether individual elements (check deposit, OCR, cameras, and wireless networks) are individually conventional.

As the Federal Circuit held in *CardioNet*, the step-one question is whether the claims as a whole are directed to an abstract idea, "regardless of whether" particular aspects are "known, unknown, conventional, unconventional, routine, or not routine." Or, as Chief Judge Markey famously wrote: "Only God works from nothing. Man must work with old elements."[13]

Therefore, a better question might be whether the claim limitations, taken together, describe a sufficiently specific way of using even conventional building blocks to make remote deposit work on an ordinary handheld device.

In *USAA*, the answer is yes because there are specific limitations to this claim that give it order, structure, and operational content, and they are the mechanism by which the claimed process is carried out.

USAA introduces another potential source of inconsistency in evaluating software patent eligibility, suggesting that the outcome depends significantly on how the court characterizes it at the outset of the analysis.

Once an invention is described in a simplistic way or at a high level of abstraction, the actual limitations of the claim may become secondary (if not irrelevant) because it is easier to view them as common features of a broader abstract idea. In that sense, the court's characterization of the claim did much of the substantive work before the analysis of the individual limitations began.

A potential improvement might lie in greater reliance on the analytical framework in the USPTO's current Section 101 guidance, which builds on the 2019 Revised Patent Subject Matter Eligibility Guidance and its October 2019 Update and is now reflected in MPEP §§ 2103-2106.07.[14]

The guidance suggests that first, in Step 2A Prong One, examiners should determine whether the claim recites a judicial exception, such as an abstract idea, law of nature, or natural phenomenon.

Second, in Step 2A Prong Two, the examiner should ask whether the claim as a whole integrates that exception into a practical application, for example, by improving computer functionality or another technology, using a particular machine, or otherwise imposing a meaningful limit; if so, the claim is eligible, and the analysis ends.

Office guidelines may provide a more practical method for evaluating software-related applications than relying on the broad descriptions that predetermine the result in many court decisions.

If not, the analysis proceeds to Step 2B, which asks whether the additional claim elements, individually and in combination, provide significantly more than the exception itself, including an inventive concept rather than merely well-understood, routine, conventional activity.

Courts, of course, are not required to apply the USPTO's framework. But that guidance was shaped by years of revisions, public feedback, roundtables, and memoranda considering Federal Circuit decisions, including those involving software claims and improvements to the functioning of a computer or to any other technology or technical field.

As a result, the framework reflects an effort by a wide range of patent law experts, including those having experience with computer-implemented inventions, to synthesize case law into a more workable and consistent examination methodology.

The aspect of the USPTO's approach that may provide the most benefit is Step 2A Prong Two, which states that the additional limitations should not be evaluated in a vacuum, separate from the recited judicial exception, and that the analysis should consider all claim limitations, and how they interact and impact each other, when deciding whether the claim integrates the exception into a practical application.

It also notes that, although a specific way of achieving a result is not a stand-alone consideration, the specificity of the claim limitations is relevant to whether the claim uses a particular machine, effects a particular technological improvement, or merely states an instruction to apply the exception.

Such an approach helps avoid collapsing the entire eligibility inquiry into a high-level characterization of the claim's purpose.

Analyzing *USAA* under this framework might result in a different outcome.

In Prong One, a court might still conclude that the claim recites an abstract idea. But Prong Two would direct the court's attention to a distinct question: whether the claim, considered as a whole, integrates that idea into a practical application by

tying it to a specific image-capture-and-validation workflow on consumer hardware.

The answer to that question is likely yes, because although the claim recites a series of computer technologies that may appear conventional and well-known when viewed in isolation, those components, in combination, create a particular technological process that amounts to a patent-eligible invention.

Office guidelines may provide a more practical method for evaluating software-related applications than relying on the broad descriptions that predetermine the result in many court decisions. Moreover, because the guidelines were developed through consistent engagement with precedent, stakeholders, and ongoing practice, they may help develop a more consistent and predictable Section 101 evaluation process.

Notes:

[1] *United Servs. Auto. Ass'n v. PNC Bank N.A.*, 139 F.4th 1332, 1335 (Fed. Cir. 2025).

[2] On January 14, 2026, USAA petitioned the U.S. Supreme Court for a writ of *certiorari*.

[3] *USAA*, 139 F.4th at 1337.

[4] *Id.* at 1339.

[5] *Id.* at 1336.

[6] *Interval Licensing LLC v. AOL, Inc.*, 896 F.3d 1335, 1338 (Fed. Cir. 2018).

[7] *Id.* at 1345.

[8] *See CardioNet, LLC v. InfoBionic, Inc.*, 955 F.3d 1358, 1367-71 (Fed. Cir. 2020) (holding the claims patent-eligible because they were directed to a specific improvement in cardiac-monitoring technology). *But see CardioNet, LLC v. InfoBionic, Inc.*, Nos. 2020-2123, 2020-2150, 2021 WL 5024388 (Fed. Cir. Oct. 29, 2021) (nonprecedential) (holding different claims of a different patent ineligible as directed to abstract signal filtering with conventional components).

[9] *CardioNet, LLC v. InfoBionic, Inc.*, Nos. 2020-2123, 2020-2150, 2021 WL 5024388, at *3 (Fed. Cir. Oct. 29, 2021).

[10] *Id.* at *3.

[11] *McRO v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1313 (Fed. Cir. 2016) (cleaned up).

[12] *Id.* at 1314.

[13] Howard T. Markey, *Why Not the Statute?*, 65 J. Pat. Off. Soc'y 331, 334 (1983).

[14] U.S. PAT. & TRADEMARK OFF., *October 2019 Update: Subject Matter Eligibility* (Oct. 2019), https://bit.ly/48QawDc; Manual of Patent Examining Procedure § 2103-2106.07 *et seq.*, Rev. 01.2024, November 2024.

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This article was first published on Westlaw Today on April 29, 2026.