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No Fed. Circ. Revival For TeleSign Patents Axed Under Alice

By [Dani Kass](#)

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Law360 (January 9, 2020, 8:40 PM EST) -- The Federal Circuit on Thursday upheld a California federal judge's decision to invalidate as abstract several two-factor authentication technology patents owned by TeleSign Corp.

A three-judge panel summarily affirmed U.S. District Judge Vince Chhabria's [October 2018 decision](#) without further explanation. The California judge had said the four patents could not beat the test set up in the [U.S. Supreme Court's Alice](#) decision

[Twilio Inc.](#) had challenged the patent after TeleSign sued it for infringement in 2015. TeleSign provides two-factor authentication security services for the websites of many major companies, and Twilio provides technology that allows users to make phone calls and send text messages through websites and apps.

The complaint said the two companies compete directly in the market for phone verification services and interact regularly with the same customers on sales calls and in meetings. TeleSign said it had "suffered price erosion, lost customers, lost goodwill and other harm" because of Twilio's alleged infringement.

One patent in the case describes a method of verifying an online registration in which a registrant submits a phone number online that is then compared to one he or she provided earlier. If the numbers match, the registrant is given a code to gain access to the website.

Three other TeleSign patents collectively describe a process for verifying the identity of a person registering an account by sending him or her a code through electronic contacts, as when a bank prompts account holders to verify their identity when they make a withdrawal over a certain amount.

Judge Chhabria issued judgment on the pleadings, saying the patents were each directed to an abstract idea, without an inventive concept added. That makes them ineligible for patent protection under Alice.

On appeal, TeleSign argued in part that the patents were patent eligible under Alice, as the

claims were directed toward technological improvements, rather than abstract ideas.

It also took issue with the court's making a ruling at the pleadings stage, as "almost every aspect of the patents is hotly disputed by the parties," and for not conducting claim construction.

An attorney for Twilio declined to comment. Counsel for TeleSign did not immediately respond to a request for comment Thursday.

Circuit Judges Timothy B. Dyk, Richard G. Taranto and Raymond T. Chen sat on the panel for the Federal Circuit.

The patents-in-suit are U.S. Patent Nos. [7,945,034](#); [8,462,920](#); [8,687,038](#); and [9,300,792](#).

TeleSign is represented by Jesse J. Camacho, Ryan Dykal, Christine Guastello and Gary Miller of [Shook Hardy & Bacon LLP](#).

Twilio is represented by Wayne Stacy, Sarah J. Guske and Lauren J. Dreyer of [Baker Botts LLP](#).

The case is [TeleSign Corporation](#) v. Twilio, Inc., case number [19-1312](#), in the [U.S. Court of Appeals for the Federal Circuit](#).

--Additional reporting by Ryan Davis. Editing by Peter Rozovsky.