

# iLife Ties Its Patent Eligibility Fate to American Axle at Supreme Court



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“As in *American Axle*, the Federal Circuit conditioned patent eligibility on claim specificity, reduced the invention to “nothing more” than a patent-ineligible concept, and deemed it not “inventive”—all as a matter of law.” – iLife petition



iLife Technologies [last week petitioned the U.S. Supreme Court](#) to hear its appeal of a January 2021 [U.S. Court of Appeals for the Federal Circuit decision](#) upholding a [district court's finding](#) of patent ineligibility for claim 1 of iLife's [U.S. Patent No. 6,864,796](#).

Claim 1 of the '796 patent "is directed to a motion detection system that evaluates relative movement of a body based on both dynamic acceleration (*e.g.*, vibration, body movement) and static acceleration (*i.e.*, the position of a body relative to earth)." iLife had accused Nintendo of infringing the patent through sales of products such as Wii Sports, Wii Sports Resort, Wii Club Sports and Mario Kart 8.

The claim recites:

1.

1. A system within a communications device capable of evaluating movement of a body relative to an environment, said system comprising:

a sensor, associable with said body, that senses dynamic and static accelerative phenomena of said body, and

a processor, associated with said sensor, that processes said sensed dynamic and static accelerative phenomena as a function of at least one accelerative event characteristic to thereby determine whether said evaluated body movement is within environmental tolerance

wherein said processor generates tolerance indicia in response to said determination; and wherein said communication device transmits said tolerance indicia.

The Federal Circuit agreed with the district court's finding that Claim 1 was "directed to the abstract idea of 'gathering, processing, and transmitting information'" at step one of the *Alice/Mayo* test, and that "the elements of claim 1, considered individually and as an ordered combination, fail to recite an inventive concept" at step two.

In its petition, iLife presents the same questions as those posed in the pending [American Axle & Manufacturing, Inc. v. Neapco Holdings, LLC](#) petition, for which the Court most recently [requested views of the Solicitor General](#). The questions in both petitions are:

1. What is the appropriate standard for determining whether a patent claim is "directed to" a patent-ineligible concept under step 1 of the Court's two-step framework for determining whether an invention is eligible for patenting under 35 U.S.C. §101?

2. Is patent eligibility (at each step of the Court's two-step framework) a question of law for the court based on the scope of the claims or a question of fact for the jury based on the state of art at the time of the patent?

iLife's petition submits that the petition should be held pending disposition of *American Axle*, which the patent community hopes will be taken up. "Like the patent holder in *American Axle*, iLife patented a type of invention—an improved machine for motion detection—falling squarely within the subject matter that § 101 expressly makes patentable," explains the petition. It continues: "As

in *American Axle*, the Federal Circuit conditioned patent eligibility on claim specificity, reduced the invention to “nothing more” than a patent-ineligible concept, and deemed it not “inventive”—all as a matter of law.”

While the Federal Circuit conceded that iLife’s patent “asserted an improvement to a physical ‘motion sensor system’ by ‘evaluat[ing] relative movement of a body based on both dynamic . . .and static acceleration,’” the court, like it did in *American Axle*, nonetheless “reduced the claimed invention to “nothing more” than a patent-ineligible concept.” The petition adds:

*Just as in American Axle, the Federal Circuit conditioned eligibility on specificity, holding iLife’s patent claim ineligible because it purportedly “[f]ail[ed] to provide any concrete detail for performing the associated functions,” did “not focu[s] on a specific means or method to improve motion sensor systems,” and was not “directed to a specific physical configuration of sensors.”*

The analysis in both cases demonstrates “how far the doctrine of patent eligibility has drifted from its statutory mooring,” says the petition, and it is unparalleled in any other area of law. Ultimately, the Federal Circuit’s decision in iLife reflects the same three mistakes made in the American Axle case: 1) the court applied “an erroneous ‘nothing more’ test to determine whether patent claims are ‘directed to’ patent-eligible subject matter under §101”; 2) it conditioned patent eligibility on claim specificity in both cases, thereby transforming “a ‘threshold’ legal inquiry concerning the types of subject matter statutorily made eligible for patenting into a fact bound, subjective exploration on which no patent holder or accused infringer can predictably rely”; and 3) the ineligibility finding for iLife’s physical motion detector with specific hardware and software—like American Axle’s automobile driveshaft manufacturing process—“exemplifies yet another historically-eligible mechanical invention now disqualified from the patent system under modern §101 jurisprudence.”

Thus, the petitioners are asking the High Court to either hold the petition and then dispose of it appropriately pending further proceedings in *American Axle*, or, in the alternative, to grant the petition.

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Eileen McDermott is the Editor-in-Chief of IPWatchdog.com. Eileen is a veteran IP and legal journalist, and no stranger to the intellectual property world, having held editorial and managerial positions at several publications and industry organizations. She has acted as editorial consultant for the International Trademark Association (INTA), chiefly overseeing the editorial process for the Association's twice-monthly newsletter, the INTA Bulletin. Eileen has also served as a freelance editor for the World Intellectual Property Organization (WIPO); as senior consulting editor for the Intellectual Property Owners Association (IPO) from 2015 to 2017; as Managing Editor and Editor-in-Chief at INTA from 2013 to 2016; and was Americas Editor for Managing Intellectual Property magazine from 2007 to 2013.