

Fed. Circ.'s Thermostat Ruling Holds Patent Jury Trial Lessons

By **Bijal Vakil** (August 14, 2026, 4:41 PM EDT)

On June 4, the U.S. Court of Appeals for the Federal Circuit **vacated** the \$11.5 million verdict in Ollnova Technologies Ltd. v. Ecobee Technologies ULC and sent the case back to the U.S. District Court for the Eastern District of Texas for a new trial.

The decision confirms that infringement questions on a verdict form must be separated by patent, not combined into a single "any patent" question. It also sends an important message on patent subject matter eligibility: If a jury is asked to decide an Alice issue, it must be told what abstract idea the court has identified and that the abstract idea itself cannot be the inventive concept.



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The Federal Circuit's Opinion

In Ollnova, the Federal Circuit clarified what a court should tell the jury before letting them weigh in on the two-step inquiry established by the U.S. Supreme Court in Alice v. CLS Bank International in 2014, which asks (1) whether a patent's claims are directed to a patent-ineligible concept, such as an abstract idea, and (2) whether there is an inventive concept included in the claims, other than the ineligible concept, that is more than a well-understood, routine or conventional activity.

The Federal Circuit concluded that if a judge finds that: (1) a patent is directed to an abstract idea, but (2) the question of whether the patent includes an inventive concept is a factual one, the judge should inform the jury of the abstract idea in order to help them answer the Step 2 inquiry.

The Federal Circuit also vacated the infringement and damages judgments on Seventh Amendment grounds, reaffirming its 2025 holding in Optis Cellular Technology LLC v. Apple Inc.

The court found that a single question asking whether Ecobee infringed "ANY of the Asserted Claims of the Asserted Patents" allowed liability without requiring the jurors to unanimously find that Ecobee infringed any one patent. The Federal Circuit left open the question of whether the verdict form needs to list claim-by-claim questions for infringement.

Background

Ollnova brought a patent infringement action against Ecobee in the Eastern District of Texas in 2022, alleging infringement of four patents: U.S. Patent Nos. 7,860,495; 8,264,371; 7,746,887; and 8,224,282.

Each patent was directed to improvements in wireless communications for building automation systems. Most relevant here to our analysis are the district court's rulings on the '495 patent.

The district court found under Alice Step 1 that the '495 patent's claims were directed to the abstract idea of "controlling generic 'components' using information from two separate sources." But it also sent Alice Step 2 to the jury to decide whether the dual-network architecture added an inventive concept.

In its jury instructions on the issue, the district court told the jury that Step 1 "is one for the Court to decide and not the jury," but told the jury neither that the court had already found that the claims

were directed to an abstract idea nor what that abstract idea was.

The jury was also not told that the abstract idea itself could not supply the inventive concept. The jury was instead instructed only to decide whether the patent used only well-understood, routine and conventional technology, and the jury found it did not. The district court also rejected Ecobee's motion for judgment as a matter of law that the '495 patent had no inventive concept and thus covered patent-ineligible subject matter.

The Federal Circuit's Subject Matter Eligibility Decisions

The Federal Circuit found that the district court abused its discretion in its Alice instructions, and found that Ecobee's rejected instruction, which quoted the district court's own Step 1 articulation and directed the jury to consider "what, if anything, [was] in the claim beyond the abstract idea itself," was consistent with Federal Circuit precedent.

Without the abstract idea, the Federal Circuit found, the jury could not assess whether the remaining limitations were routine, and the Federal Circuit could not tell whether the jury had used the abstract idea as the inventive concept. The Federal Circuit also approvingly referenced the practice of denying Patent Act Section 101 motions on Step 2 fact disputes without ruling on Step 1, noting that an abstract idea may instead be fixed by stipulation or assumption.

But though Ecobee succeeded on procedural grounds, its substantive challenges failed. On judgment as a matter of law as to the '495 patent, the Federal Circuit held that a jury could find the patent included an inventive concept.

Because a two-network system with networks that do not communicate means one network could still function during a communication failure, the Federal Circuit found the '495 patent described a potentially inventive "architecture providing a technological solution to a technological problem."

The Federal Circuit found that Ecobee's expert never meaningfully addressed that limitation, and rejected Ecobee's argument that the claims needed to recite the benefit of the inventive concept.

Key Takeaways

The Federal Circuit's guidance requires courts to give more context in jury instructions for Alice Step 2, improving the position for the defense in cases where Step 1 is already resolved and Step 2 goes to the jury. With an abstract idea already spelled out and explicitly excluded from the search for an inventive concept, defendants gain a sharper tool to argue that what remains in the claims is just conventional implementation.

At the same time, the opinion underscores how patentees can salvage eligibility: Concrete operational constraints on timing, sequence or mode of implementation that solve genuine technical problems can still qualify as inventive, even when built around an abstract idea. Defense counsel should press hard on whether these alleged operational limitations actually change how the technology works, or simply dress up the same abstract idea in functional language.

Practice Tips

Consider identifying the abstract idea early.

Locking in the abstract idea at Alice Step 1 now shapes the jury's Step 2 analysis, because the jury must be told what concept to ignore in searching for an inventive concept. Even where the court denies a Section 101 motion on Step 2 fact disputes without a formal Step 1 ruling, Ollnova confirms that courts can — and should — define the abstract idea by ruling, stipulation, assumption or otherwise, before sending Step 2 to the jury.

Consider treating operational limitations as a battleground.

For plaintiffs, break claims down so that the high-level functional "what" is clearly separated from the concrete "how," and highlight specific timing, conditionality and ordering that solve technical problems. For defendants, make sure your experts dive into those operational details, showing that

the supposed limitations either mirror the abstract idea itself or rely on routine, off-the-shelf technology operating in a standard way.

Consider pushing for more granular verdict forms.

The Federal Circuit's Seventh Amendment reasoning on patent-by-patent questions could point toward a world where claim-by-claim infringement questions may be required to ensure unanimity, even if Ollnova stopped short of mandating it. Defendants should capitalize on that trajectory by asking for claim-level verdict questions and preserving objections, positioning themselves to benefit if the Federal Circuit soon makes that requirement explicit.

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