

NEWS LETTER

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IP Case

Creativity Judgment of IoT Communication Technology Solutions

Recently, the Intellectual Property Court of the Supreme People's Court concluded an administrative dispute case over the invalidation of invention patents between Appellant Company A, Appellee CNIPA and First-instance Third Parties Company B, Ms. Wang, and Mr. Wang (hereinafter collectively referred to as the Third Parties; Ms. Wang and Mr. Wang are siblings, and the legal representative of Company B is Mr. Wang's wife). In this case, the names of the involved patents are all "Method and Device for Cross-Layer Optimization in Multimedia Communication with Different User Terminals", and the Third Parties are the co-owners of the involved patents. Company A applied to CNIPA for declaring the involved patents invalid, mainly on the ground that the involved patents lack inventiveness. CNIPA decided to maintain the validity of the involved patents. After Company A refused to accept the decision and filed a lawsuit, the first-instance court ruled to dismiss its claim and uphold the challenged decision. Company A then appealed the case to the Supreme People's Court.

The substantive dispute in the case was mainly the judgment on the inventiveness of the involved communication technology solutions related to the Internet of Things (IoT) technology. In this regard, the Supreme People's Court held that: in the current communication field, technological development usually proceeds around three levels: connection breadth, connection depth and connection quality. For a technical solution that only proposes a combination of multiple scenarios or functions and realizes the combination through superposition and reorganization of existing technical means, **the focus should be on judging whether the combination of multiple scenarios has technical inspiration, whether new technical means are introduced, whether new technical problems are solved, whether the achieved effect exceeds the sum of the individual effects of**

each scenario, or whether unexpected technical effects are produced, etc., when determining its inventiveness. If the disputed technical solution only simply superimposes and reorganizes existing technical means through permutation and combination, endows hardware equipment with separate or integrated conventional communication functions by means of conventional network settings, signal transmission and reception, reading, processing and other conventional means, so as to achieve a wider communication range or more communication functions, without introducing new technical means or solving new technical problems, and there is no substantial difference in the role played in the existing technology and the disputed patent, and no unexpected technical effects are produced as a whole, then it should not be determined to have inventiveness.

According to the content disclosed by the relevant prior art evidence in the case and combined with the general cognitive level of those skilled in the art, the distinguishing features between the disputed claims of the involved patents and the closest prior art are either disclosed by other prior art evidence or belong to conventional technical means in the field, and those skilled in the art can obtain the technical inspiration to apply the distinguishing features to the closest prior art, and its technical effects are also reasonably predictable by those skilled in the art. Therefore, the disputed claims of the involved patents all lack inventiveness, and Company A's appeal grounds are established.

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