No. 2016-2604

United States Court of Appeals for the Federal Circuit

FRONT ROW TECHNOLOGIES, LLC
Plaintiff-Appellant,

v.

MLB ADVANCED MEDIA, L.P., NBA MEDIA VENTURES, MERCURY RADIO ARTS, INC., dba The Glenn Beck Program, Inc., GBTV, LLC, PREMIERE RADIO NETWORKS INC., TURNER SPORTS INTERACTIVE, INC., TURNER DIGITAL BASKETBALL SERVICES, INC.,
Defendants-Appellees,

On appeal from the United States District Court for the District of New Mexico, Consolidated Case No. 1:10-CV-00433-JB/SCY, Hon. John O. Browning, District Judge

FRONT ROW TECHNOLOGIES, LLC'S REPLY BRIEF OF APPELLANT

Michael W. Shore
Alfonso G. Chan
Christopher L. Evans
Russell J. DePalma
Ari B. Rafilson
SHORE CHAN DEPUMPO LLP
901 Main St., Suite 3300
Dallas, TX 75202
Phone: 214-593-9110

CERTIFICATE OF INTEREST

Counsel for Plaintiff-Appellant Front Row Technologies, LLC certifies the following:

1. The full name of every party I represent is:

Front Row Technologies, LLC.

2. The name of the real party-in-interest I represent is:

Front Row Technologies, LLC.

3. The parent corporation and publicly held companies that own 10 percent or more of the stock of the party I represent is:

This Disclosure Information Is Not Applicable.

4. The names of all law firms and the partners or associates that appeared for each party represented by me in the trial court or are expected to appear in this Court are:

SHORE CHAN DEPUMPO, LLP: Michael W. Shore, Alfonso G. Chan, Jennifer M. Rynell (terminated), Christopher L. Evans, Russell J. DePalma (appeal only), Ari B. Rafilson, Patrick J. Conroy (terminated), Rajkumar Vinnakota (terminated).

Davis & Gilchrist (trial court only): Bryan J. Davis, William G. Gilchrist.

Dated: March 15, 2017

/s/*Michael W. Shore*
Michael W. Shore

TABLE OF CONTENTS

CERTIFICATE OF INTEREST i

TABLE OF AUTHORITIES iv

TABLE OF ABBREVIATIONS vii

SUMMARY OF REPLY 1

REPLY 3

A. Front Row's patents are not drawn to an abstract idea 3

1. *Front Row's patents are not abstract because they use existing technology for a specific purpose.* 4

2. *The Front Row patents are directed at specific solutions.* 8

3. *Appellees' reliance on the Affinity Labs cases is misplaced.* 10

4. *Front Row's patents create new and useful processes.* 13

B. The district court's evidentiary errors require reversal. 16

1. *The district court failed to identify the evidence that clearly and convincingly showed conventional use of generic components by Front Row.* 16

2. *The district court ignored the requirements of Rule 12(d).* 19

C. The incentive concepts in Front Row's patents render them eligible. 22

D. The '027 patent contains additional inventive concepts 28

CONCLUSION 31

CERTIFICATE OF SERVICE 33

CERTIFICATE OF COMPLIANCE 33

TABLE OF AUTHORITIES

CASES

Advanced Cardiovascular Sys., Inc. v. Scimed Life Sys., Inc.,
988 F.2d 1157 (Fed. Cir. 1993).....20

Affinity Labs of Tex., LLC v. Amazon.com, Inc.,
838 F.3d 1266 (Fed. Cir. 2016).....*passim*

Affinity Labs of Tex., LLC v. DirecTV,LLC,
838 F.3d 1253 (Fed. Cir. 2016)..... 6, 10, 25

Alice Corp. v. CLS Bank Int'l,
134 S. Ct. 2347 (2014).....*passim*

Amdocs (Israel) Limited v. Openet Telecom, Inc.,
841 F.3d 1288 (Fed. Cir. 2016).....12

Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC,
827 F.3d 1341 (Fed. Cir. 2016).....8, 25

Baseball Quick, LLC v. MLB Advanced Media L.P.,
No. 11-cv-1735(KBF), 2014 WL 3728623 (S.D.N.Y. Jul. 25, 2014) 2

Bilski v. Kappos,
561 U.S. 593 (2010) 6, 27

Calif. Inst. Of Tech. v. Hughes Commn's, Inc.,
59 F.Supp. 3d 974 (C.D. Cal. 2014) 19-20

Content Extraction, and Trans. LLC v. Wells Fargo Bank, N.A.,
776 F.3d 1343 (Fed. Cir. 2014).....24-25

Diamond v. Diehr,
450 U.S. 175 (1981) 2, 13, 24

Electric Power Grp., LLC v. Alstom S.A.,
830 F.3d 1350 (Fed. Cir. 2016)..... 15-16

Enfish, LLC v. Microsoft Corp.,
822 F.3d 1327 (Fed. Cir. 2016).....*passim*

Gametek LLC v. Zynga, Inc.,
No. CV-13-2546 RS, 2014 WL 1665090 (N.D. Cal. Apr. 25, 2014)..... 19, 20

In re Cortright,
165 F.3d 1353 (Fed. Cir. 1999).....18

In re Gleave,
560 F.3d 1331 (Fed. Cir. 2009).....25

In re TLI Comms. LLC Patent Litig.,
823 F.3d 607 (Fed. Cir. 2016) 7, 12

Intellectual Ventures I LLC v. Capital One Bank (USA),
792 F.3d 1363 (Fed. Cir. 2015).....30

Kopykake Enters., Inc. v. Lucks Co.,
264 F.3d 1377 (Fed. Cir. 2001).....18

KSR Int'l Co. v. Teleflex Inc.,
550 U.S. 398 (2007) 12

Mayo Collaborative Servs. v. Promethius Labs., Inc.,
566 U.S. 66 (2012) 10, 24, 25

McRO, Inc. dba Planet Blue v. Bandai Namco Games Am., Inc.,
837 F.3d 1299 (Fed. Cir. 2016).....4, 13

Microsoft Corp. v. i4i Ltd. Partnership,
564 U.S. 91 (2011) 18-19

SCVNGR, Inc. v. DailyGobble, Inc., ___ F. Supp. 3d ___,
2017 WL 823581 (D.R.I. 2017).....14

Sommers Oil Co. v. United States,
241 F.3d 1375 (Fed. Cir. 2001).....4

SRI Int'l v. Matsushita Elec. Corp.,
775 F.2d 1107 (Fed. Cir. 1985)..... 23, 29

Thales Visionix, Inc. v. U.S.,
___ F.3d ___ 2017 WL 914618 (Fed. Cir. Mar. 8, 2017) 13

Trading Techs. Intl., Inc. v. CQG, Inc.,
___ Fed. Appx. ___ 2017 WL 192716 (Fed. Cir. Jan. 18, 2017) 13, 14

Verint Sys., Inc., *v. Red Box Recorders Ltd.*,
14-cv-5403 (KBF), 2016 WL 7156768 (S.D.N.Y. Dec. 7, 2016).....25

Wolf v. Capstone Photography, Inc.,
No. 2:13-CV-09573, 2014 WL 7639820 (C.D. Cal. Oct. 28, 2014) 19, 20

X One, Inc. v. Uber Techs., Inc.,
No. 16-CV-06050-LHK, 2017 WL 878381 (N.D. Cal. Mar. 6, 2017) 23, 27

STATUTES

35 U.S.C. § 101.....*passim*

RULES

CT. CL. R. P. 12 4

FED. R. CIV. P. 12.....4, 16-17, 19-21

FED. CIR. R. 25(e).....33

FED. R. CIV. P. 56.....1, 16, 17, 21

TABLE OF ABBREVIATIONS

"Front Row" refers to Front Row Technologies, LLC.

"Appellees" refers to all defendants-appellees collectively.

"MLBAM" refers to MLB Advanced Media, L.P., a defendant and appellee.

"*Mayo*" refers to *Mayo Collaborative Servs. v. Promethius Labs., Inc.*, 566 U.S. 66 (2012).

"*Alice*" refers to *Alice Corp. v. CLS Bank Int'l*, 134 S. Ct. 2347 (2014).

The "'184 patent" refers to United States Patent No. 8,086,184 titled "Transmitting Sports and Entertainment Data to Wireless Hand Held Devices over a Telecommunications Network," which duly and legally issued on December 27, 2011.

The "'895 patent" refers to United States Patent No. 8,270,895, titled Transmitting Sports and Entertainment Data to Wireless Hand Held Devices over a Telecommunications Network," which duly and legally issued on September 18, 2012.

The "'856 patent" refers to United States Patent No. 7,812,856, titled "Providing Multiple Perspectives of a Venue Activity to Electronic Wireless Hand Held Devices," which duly and legally issued on October 12, 2010.

The "'460 patent" refers to United States Patent No. 8,401,460, titled "Transmitting Sports and Entertainment Data to Wireless Hand Held Devices over a Telecommunications Network," which duly and legally issued on March 19, 2013.

The "'027 patent" refers to United States Patent No. 8,583,027 ("'027 patent"), titled "Methods and Systems for Authorizing Computing Devices for Receipt of Venue-Based Data Based on the Location of a User," which duly and legally issued on November 12, 2013.

SUMMARY OF REPLY

Appellees' Response repeats the conclusory "magic words" used in patent eligibility challenges but their arguments never address the obvious procedural and analytical deficiencies in the district court's ruling. Affirming the district court would rubber-stamp a decision that ignored the patents' specifications and their technological context in year 2000.

The district court erased a large, previously licensed patent portfolio by misapplying the law, accepting attorney arguments as substitutes for evidence and converting a Rule 12 motion into a fact-based Rule 56 adjudication without a factual record.[1] Despite black letter law, the district court also failed to make every inference in favor of Front Row.

Even if this Court ignores the district court's procedural mistakes, its decision is wrong. The patents are not directed toward abstract concepts. And reading the representative claims in light of the specification (even without considering its year-2000 context) demonstrates that the claims contain sufficient inventive concepts to meet Step 2 of the *Alice* test. The Appellees' reliance on four of this

[1] Appellees incorrectly claim the district court made a "scrivener's error" upon which Front Row assigns error. Resp. Br. at 16, n. 4. Instead, Front Row demonstrated how the district court failed to follow Rule 56 by finding "by clear and convincing evidence" that various concepts at the core of the patented inventions were "well-known" as of the 2000 priority date. FR Br. at 43-47 (citing Appx67-76, Appx92). All references to "Rule ___" refer to the Federal Rule of Civil Procedure unless otherwise noted.

Court's prior decisions glosses over the crucial differences that render those rulings inapplicable here. Appellees' interpretation of the law would effectively erase a binding Supreme Court decision. Until the Supreme Court states otherwise, *Diamond v. Diehr* remains binding precedent—which this Court acknowledged in March when it relied upon *Diehr* to reverse the Court of Federal Claims.

This Court should compare the analytical approach of Southern District of New York Judge Katherine Forrest to that of the district court here. Judge Forrest put analytical meat on the bare *Alice* framework. The Defendants disparage her approach because it amounts to more than their reliance on watch-words and rhetorical hyperbole.[2] The approach Judge Forrest derived from her careful evaluation of *Alice* and this Court's post-*Alice* decisions helps clarify and establish a method for adjudicating the increasing number of § 101 challenges while ensuring the Constitutional policy of promoting the useful arts will not be overwhelmed by exceptions to eligibility. Determining what is "abstract" has become an abstraction. Like the previous scourge of inequitable conduct allegations, abstraction allegations now are prevalent precisely because the

---

[2] MLBAM may disagree with Judge Forrest's view that "[w]e may admit without embarrassment that the great American pastime, baseball, can at times prove boring to watch." *Baseball Quick, LLC v. MLB Advanced Media L.P.*, No. 11-cv-1735(KBF), 2014 WL 3728623 at *1 (S.D.N.Y. Jul. 25, 2014).

murky legal climate opens patents to invalidation through the abstraction defense no matter how useful and novel claimed inventions may be. Judge Forrest's methodology, or one like it, may return some semblance of certainty to the process.

For these reasons, and the reasons in Front Row's initial brief, the Court should reverse the district court's decision.

REPLY

A. Front Row's patents are not drawn to an abstract idea.

The district court's ruling is infected by its procedural and analytical mistakes. The district court's primary analytical error led to its core holding that Front Row's claims are directed at abstract ideas. Appx116. In a nine-page section discussing whether Front Row's patents are directed to abstract ideas, the district court did not refer to the patents' specifications at all and ignored the year-2000 context of the specification. Appx116-125. The district court also failed to examine the prior art cited in the patents. *Id.*

This Court has stated that to determine whether claims as a whole are ***directed to*** patent-ineligible concepts, the reviewing court must "appl[y] a stage-one filter to claims, ***considered in light of the specification***, based on whether their character as a whole is directed to excluded subject matter." *Enfish, LLC v. Microsoft Corp.*,

822 F.3d 1327, 1335 (Fed. Cir. 2016) (internal quotation omitted).[3] The district court did not examine the representative claims in light of the specification, therefore its conclusion must be void *ab initio*. *See McRO, Inc. dba Planet Blue v. Bandai Namco Games Am., Inc.* ("*McRO*"), 837 F.3d 1299, 1312 (Fed. Cir. 2016) ("We do not assume that … claims are directed to patent ineligible subject matter"); *Sommers Oil Co. v. United States,* 241 F.3d 1375, 1378 (Fed. Cir. 2001).[4]

This Court has noted that neither "all improvements in computer-related technology" nor "claims directed to software, as opposed to hardware" are inherently abstract. *Enfish*, 822 F.3d at 1335. The Front Row patents, at minimum, both originate and improve systems and methods for delivering real-time video by using limited types of specific devices and device-capabilities in ways never used before Front Row filed the patents' applications. *E.g.,* Appx818; *see* Appx793-794, Appx756, Appx829-830, Appx1018-1019. Such new uses of existing technology are patent-eligible and not drawn to an abstract idea.

1. *Front Row's patents are not abstract because they use existing technology for a specific purpose.*

Appellees misstate Front Row's argument. Resp. Br. at 40-41. They do so by attacking the least important aspect of Front Row's argument, its description of

---

[3] Unless otherwise noted, all emphases in quoted material have been added.
[4] In *Sommers Oil,* this Court reviewed a dismissal under CT. CL. R. P. 12(b)(4), the then-equivalent of Rule 12(b)(6).

the elements of one "representative" claim. *Id.* ("Front Row argues that its patents are not drawn to an abstract idea because they recite 'tangible' elements"). But the district court held that Front Row's patents failed the § 101 eligibility test "because their claims describe these ideas in vague and broad terms." Appx3. The district court is incorrect and Appellees are avoiding the faulty bases for the district court's decision.

Front Row's claims are patent-eligible because they explain the use of extant technology to create systems and methods for delivering interactive video data to end users in new ways. Br. at 25-30. In 2000, streaming multiple video viewpoints as compressed, packeted data to users' handheld devices designed to receive, decompress and display such information, and doing so based on the user's location—location information the transmitter first obtained from the receiving handheld devices using HLRs, VLRs, and VPNs[5] over existing cellular phone networks—had not been done. *See* Appx744 ('184 patent at 2:27-40, discussing emerging "shift in focus" from analog to digital technology).

The Front Row patents themselves demonstrate that they provide concrete, specific, limited solutions and a technological framework for effectuating them.

[5] HLR, VLR and VPN are acronyms for Home Location Register, Visiting Location Register, and Venue Positioning System, respectively. *E.g.,* Appx3689. HLRs are the main databases of a mobile network's permanent subscribers, VLRs contain temporary information like location, and VPNs provide services based upon mobile device users' location. *E.g.*, Appx3689.

For this reason, the Front Row patents are ***not*** akin to the Affinity Labs patents this Court found ineligible, which contained no specific technologies for transmitting and receiving information on cellular phones. *Affinity Labs of Tex., LLC v. DirecTV, LLC* ("*Affinity/DirecTV*"), 838 F.3d 1253, 1258 (Fed. Cir. 2016). Front Row has not engaged in an attempt "to limit the use [of the patents] to a particular technological environment,"[6] instead the specifications in the Front Row patents demonstrate that their claims are directed to patent-eligible concepts by describing specific technologies in detail and direct them to a new use. Appx3681, Appx752, Appx789, Appx825.

Appellees' reading of patent law renders *any* patent claiming one or more novel combinations of existing technology into a patent directed at an abstract idea. This Court should not adopt Appellees' hypothesis that if components are used for "conventional" intended purposes, patents combining the components in new and useful ways cannot be valid. That legal theory contradicts Supreme Court precedent—building the better mousetrap from existing parts is a patent-eligible use of contemporaneous technology. *See Alice Corp. Pty. Ltd. v. CLS Bank*

---

[6] *Bilski v. Kappos*, 561 U.S. 593, 610 (2010). The '184 patent and '856 patent are limited to packeted data and do not apply to uncompressed streamed data; the '895 applies to data that the consumer can process, but not to data the end user cannot manipulate; and the '027 claims require authorizing access to specific data by user location. Appx756, Appx793-794, Appx829-830, Appx3693-3694.

Intl., 134 S.Ct. 2347, 2358 (2014) ("the claims in [*Diamond v.*] *Diehr* were patent eligible because they improved an existing technological process"). Front Row's patents were the first to disclose and claim a new and useful technological process; their patent-eligibility should not be in question.

To reach their conclusion, Appellees claim the Front Row patents contain "physical components [that] merely provide a generic environment in which to carry out the abstract idea" of sending video to wireless handheld devices. Resp. Br. at 39 (citing *In re TLI Comms. LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016)). That characterization is fundamentally incorrect— the Front Row patents do not teach sending video to wireless handheld devices, they teach systems for sending ***multiple*** video perspectives to pre-located, pre-authorized, ***specific*** end-users in possession of handheld devices capable of ***two-way*** interaction that includes the receipt, decompression and display of video data between the sender and recipient using wireless communications technology (available in 2000) that had ***not*** been used that way before.[7] Appellees' distillation ignores the Supreme Court's warning that "at some level, all inventions ... embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas"—*Alice*, 134 S.Ct. at 2354—and this Court's own warning that

[7] The '027 patent teaches authorizing users based on their location data.

"describing the claims at such a high level of abstraction and untethered from the language of the claims all but ensures that the exceptions to § 101 swallow the rule." *Enfish*, 822 F.3d at 1337; *see also Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC,* 827 F.3d 1341, 1354 (Fed. Cir. 2016) (Newman, J., concurring) ("I have come upon no guide to when a claim crosses the boundary between unacceptable abstractness and acceptable specificity. Experience with this aspect demonstrates its imprecision.").

2. *The Front Row patents are directed at specific solutions.*

All accused infringers describe claims at a high level of abstraction, thus the Supreme Court has held that to be ineligible, the patents must be directed at the abstract idea. *Alice*, 134 S. Ct. at 2354. The courts have not adhered to that maxim with consistency, thereby transforming the Supreme Court's warning that "we ***tread carefully*** in construing this exclusionary principle [the § 101 test] ***lest it swallow all of patent law***" into near-prophecy. *Alice*, 134 S. Ct. at 2354.

Appellees claim that Front Row's patents' claims "are not directed to an improvement in computer functionality, but are directed to the use of conventional or generic technology in a nascent but well-known environment." Resp. Br. at 40 (internal quotation omitted). That assertion, on a ***factual*** issue, lacks any evidentiary or expert support. Worse, Appellees conflate a "well-known" environment and "use of … generic technology" with using

conventional technology in a conventional manner to obtain purely conventional ends.

The systems and methods for sending video to handheld devices over wireless networks that Front Row created took one-way technology used "since the dawn of television"[8] and at minimum added (1) specificity by enabling only particular users to access the video, and (2) ***two-way*** interactivity by requiring the end user to authenticate permission to view the video data in a manner that complies with the IEEE 802.11 standard, (3) sending packeted video data over the wireless or cellular network to a handheld device that can process the compressed packet and display it—thereby describing a concrete way of implementing the distribution of information that the Front Row patents claim. Appx756, Appx793-794, Appx829-830, Appx3693-3694. Conventional TV broadcasts do not store data, authenticate users, or offer multiple perspectives through the same data feed. Appellees' argument that "[t]he Video Patents thus do no more than take the fundamental concepts of *capturing, transmitting, and displaying video data*, and say 'apply it with a handheld device like a cell phone or PDA'"[9] is misleading and overly simplistic—the Front Row patents demonstrate conclusively they "amount to significantly more in practice than a patent upon

[8] Resp. Br. at 30.
[9] Resp. Br. at 3.

[an ineligible concept]." *Mayo*, 566 U.S. at 73.

3. Appellees' reliance on the Affinity Labs *cases is misplaced.*

The Front Row patents' concrete elements distinguish this case from *Affinity/DirecTV.* In that case, this Court noted that the concept of out-of-region broadcasting was familiar to the industry on the priority date and the patentee had not set forth any specifics regarding how to transmit to out-of-region content to consumers. 838 F.3d at 1260 (noting the patent-in-suit "contains no further discussion of how the invention implements the delivery of ordinary broadcast radio signals to cellphones"). The patent-in-suit did not limit the transmissions to users who had to authenticate their eligibility to receive the information nor did it describe the format of the transmissions. *Id.* The patents also did not specify particular technologies to effectuate the claims. *Id.*

In the companion case, this Court held that "delivering user-selected media content to portable devices is an abstract idea" because the patent-in-suit effectively sought to broadly patent sending media content to a portable device. *Affinity Labs of Tex., LLC v. Amazon.com, Inc.*, 838 F.3d 1266, 1269 (Fed. Cir. 2016). Essentially, the Affinity Labs patents taught providing broadcasts over the internet to a cell phone user without instructions in the specification, or restrictions in technology used, for how to achieve the invention. *See id.* at 1271 (noting "any technology capable of wireless communication of audio

information to the device would be covered").

Front Row's patents go much further: they specified the form of transmission, the use of digital data packets and the need for the transmitting system to be capable of determining the user's location to authorize delivery of the data based on ***bidirectional*** data communication with the handheld device at a time that PDAs and cell phones did not "conventionally" stream video data. Appx113, Appx793, Appx3693; *see also* Appx3681 (analog technology "limits the user to [being] a passive recipient of information"), Appx752, Appx789, Appx825, Appx3689 (discussing transmission, processing and display protocols). Television and radio transmissions are one-way—from the transmitter to the user; thus, the Affinity Labs patents enabled the user to open a pathway to receive data from a network in a manner akin to opening a plumbing valve. *See Affinity/Amazon,* 838 F.3d at 1271 (describing interface features). Front Row's patents require both the recipient and the transmitter to agree to send and receive specific video data based upon predetermined and verifiable criteria so that only certain users could obtain it, a limitation not previously imposed.

Appellees also incorrectly claim that "Just as in *Affinity/Amazon,* the Video Patents here fail to disclose the mechanism or means for sending video to wireless handheld devices." Resp. Br. at 55 (emphasis in original). The patents conclusively disprove that assertion.

Figures 1-10 of all the Front Row patents' specifications show examples of the mechanisms and means for sending video to wireless handheld devices. *E.g.,* Appx725-733, Appx799-807. The descriptions of Figure 4 detail how the video transmissions are sent to the wireless handheld. *E.g.,* Appx820-821 ('856 Patent 8:52-9:67). The *Affinity/Amazon* patent lacked the detail of the patents in suit.[10]

Appellees' argument means that absent "an improvement in computer functionality" all claims utilizing existing computer technology are directed at a patent-ineligible concept because they would only use computers generically. That is not the law. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418–19 (2007)("claimed discoveries … will be combinations of what, in some sense, is already known."). The Front Row patents create an improvement in electronic functionality of a type that has previously passed this Court's § 101 test, and which should do so again. *See Amdocs (Israel) Limited v. Openet Telecom, Inc.*, 841 F.3d 1288, 1300 (Fed. Cir. 2016); *Enfish*, 822 F.3d at 1335.[11]

---

[10] That patent was U.S. Patent No. 8,688,085.

[11] The *TLI Communications* decision that Appellees rely upon also does not apply. *In re TLI Comms. LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016). In *TLI*, the patents described a system for classifying and storing digital images; thus, the patents described filing documents (albeit digital ones) using computer technology, an activity that is millennia-old and involved only performing routine activities on computers. 823 F.3d at 613.

4. Front Row's patents create new and useful processes.

The Supreme Court has held that "a new combination of steps in a process" is patentable "even though all the constituents of the combination were well known and in common use before the combination was made." *Diamond v. Diehr,* 450 U.S. 175, 188 (1981). *Diehr* shows that neither "well-known" nor "in common use" equates to "generic" or "conventional"— district courts must evaluate how those constituents are used in a challenged patent. This Court recently acknowledged *Diehr* by following its rationale to reverse a finding of patent ineligibility. *Thales Visionix, Inc. v. U.S.*, ___ F.3d ___ 2017 WL 914618 at *4 (Fed. Cir. Mar. 8, 2017).

This Court also recently noted that "ineligible claims generally lack steps or limitations specific to solution of a problem, or improvement in the functioning of technology." *Trading Techs. Intl., Inc. v. CQG, Inc.*, ___ Fed. Appx. ___ 2017 WL 192716 at *3 (Fed. Cir. Jan. 18, 2017). The Court found that processes which use combined orders of specific rules to improve upon existing technology are patent-eligible. *Id.* (citing *McRO*, 837 F.3d at 1315). Because the Trading Technologies patents required "a specific, structured graphical user interface paired with a ***prescribed functionality*** directly related to the graphical user interface's structure" and such functionality was "addressed to and resolves a specifically identified problem in the prior state of the art," this Court affirmed

that the patented subject matter met the *Alice* Step 1 eligibility standard. *Id.*; *see also SCVNGR, Inc. v. DailyGobble, Inc.*, ___ F. Supp. 3d ___, 2017 WL 823581 (D.R.I. 2017) (relying on *Trading Technologies* in rejecting § 101 challenge).

In this case, the district court failed to analyze each patent separately to determine its purpose and "essence," which caused the court to mischaracterize Front Row's patents. Each patent shows it contains steps specific to solving a problem or improving technological functions. *Trading Techs.*, 2017 WL 192716 at *3.

The '856 patent requires "processing said plurality of video perspectives at a server into ***encrypted*** video data packet for display on a touch-sensitive display screen [on] at least one authorized hand held device," transmitting the processed data and then processing the "plurality of video perspectives [on] at least one authorized hand held device into ***decrypted*** video data packet for display on said touch-sensitive display screen." Appx829-830; *see* Appx824 (15:6-49—GPRS, CDMA and W-CDMA networks transfer rates); Appx824-825 (16:30-17:6—use of Wireless Intelligent Networks to assist in authentication).

The '184 patent teaches how to deliver discrete video content to specific users with limited authorization. Thus, claim 12 claims a system that includes "at least one transmitter for wirelessly streaming said venue-based data" through a wireless "packet based data network" which requires "authenticating said at least

one hand held device via said at least one authentication module." Appx756.

The '895 patent claims a server for streamed data and requires a processor "capable of authenticating via a security code" and the data must be capable of further processing by the consumer in a handheld device. *Compare* Appx793 (claims 1, 8) *with* Appx756. The '895 patent applies to data capable of processing in response to a user's pan or zoom request, which was unavailable for TV and analog data. *See* Appx781 (2:20-52).

The '027 patent teaches streaming live video as packeted data filtered by the recipient's location through HLRs, VLRs, and WINs. Appx3689 (17:30—18:6). Analog and radio frequency transmissions are not analogous to the systems claimed in the '027 patent because those transmissions are unidirectional. The processes claimed in the '027 patent reconfigured the analog transmission paradigm for interactive use through digital means. Appx3682-3683 (2:35—3:8).[12]

Appellees' reliance upon this Court's *Alstom* decision cannot support their argument. *Electric Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016). In *Alstom,* the patents focused upon "collecting information, analyzing it, and

---

[12] Appellees claim the '027 patent is "directed to the abstract idea of authorizing handheld devices to receive streaming video based on a user's location." Resp. Br. at 60 (capitalization omitted). That characterization is remarkably specific for an "abstract" idea.

displaying certain results of the collection and analysis." *Id.* at 1353. Collecting and analyzing information are "mental processes within the abstract-idea category." *Id.* at 1354. Thus the *Alstom* patents merely reconfigured existing computer processes. By contrast, Front Row's patents create new processes and direct extant technology to new ends.

By any stretch, the Front Row patents are therefore not "directed to" a patent ineligible concept. By holding that they are, the district court committed reversible error.

B. The district court's evidentiary errors require reversal.

1. The district court failed to identify the evidence that clearly and convincingly showed conventional use of generic components by Front Row.

The district court also committed reversible error by failing to find clear and convincing evidence of whatever it concluded comprised Front Row's "conventional" uses of generic technology. Nowhere in its long opinion did the district court detail which technologies were allegedly generic in 2000 nor did it describe their "conventional" uses in the Front Row patents. Once again, the district court either: (1) made factual findings without notice to the parties and without treating Appellees' motion as a Rule 56 proceeding, or (2) failed to construe the pleadings in the light most favorable to Front Row. *See* FED. R. CIV.

P. 12(d).[13]

Appellees argued that the conventional uses the district court alluded to are contained within the prior art references of the Front Row patents but the district court did not cite prior art to support its conclusions and Appellees' lack of specificity as to which references and what "conventional" uses means their argument cannot stand. No part of the record demonstrates how Front Row's patents used wireless technology "conventionally." "Conventional" means ordinary or commonplace.[14] The patents show that streaming multiple video perspectives via data packets through cellular networks to handheld devices was ***un***conventional in 2000 because, quite simply, it was not being done. *E.g.* Appx745, Appx784-788. The novelty of Front Row's approach shows why the patents were properly granted.

To Appellees, the existence of "prior art" or technologies "well known" to a person of ordinary skill means "conventional use" of such technologies—a taxonomical fallacy. If certain concepts had been mentioned in prior art that Front Row's patents referenced, or such technology was "well known,"

---

[13] Where a movant raises matters outside the pleadings in a Rule 12(b)(6) or 12(c) motion, Rule 12(d) says "the motion ***must*** be treated as one for summary judgment under Rule 56." At that point, the Rule states "[a]ll parties must be given a reasonable opportunity to present all the material that is pertinent to the motion."

[14] https://www.merriam-webster.com/dictionary/conventional

Appellees erroneously argue the Front Row patents engage in ordinary use of that technology. *See* Resp. Br. at 22, 31, 38, 45-47. To reach Appellees' conclusion, this Court would have to hold that utilizing an existing concept or a technological component created for ***one*** purpose to create something new within a technological field constitutes *per se* clear and convincing evidence of conventional use. That concept conflicts with patent law.

Repurposing an existing product for a new or improved use in an existing technical field is patentable. Indeed, this Court has held that a century-old salve for cow udders could be patented as a human hair restorer, thus the fact that it was a well-known and commercially available product did ***not*** show that the new use to which the inventor put it was "conventional." *In re Cortright*, 165 F.3d 1353, 1359 (Fed. Cir. 1999); *see also Kopykake Enters., Inc. v. Lucks Co.*, 264 F.3d 1377, 1383-84 (Fed. Cir. 2001) (ink jet system use in printing on food not conventional even though use of ink jet systems in printing on paper was well-known). Front Row's interactive systems that take advantage of existing technologies by using them in new ways shows Front Row created either a "new and useful process" or a "new and useful improvement thereof" and are facially patent-eligible. 35 U.S.C. § 101.

Demonstrating that the patented process is not "new and useful" or an "improvement" must be the accused infringer's burden. *Microsoft Corp. v. i4i Ltd.*

Partnership, 564 U.S. 91, 95 (2011) (requiring clear and convincing proof for all patent infringement defenses). But Appellees provided no evidence to the district court that ***the combination*** of technologies that the Front Row patents taught constituted conventional use of generic equipment in 2000. Instead, Appellees argued that point in their Rule 12 motion from the vantage point of 2015 and 2016—when smartphones are commonplace and the capabilities Front Row envisioned are ubiquitous. Appellees cannot use unsubstantiated assertions as evidence of conventional use. The district court committed reversible error by accepting Appellees' arguments as support for their clear-and-convincing evidentiary burden.

2. The district court ignored the requirements of Rule 12(d).

The district court brushed off Front Row's challenge that Appellees failed to present evidence of conventionality by citing cases that had determined conventional use issues without evidentiary submissions. Appx92. Examining the district court's citations demonstrates that no case it cited entailed a factual dispute regarding state of the art or what constituted "conventional" use.[15]

[15] The district court cited *Gametek LLC v. Zynga, Inc.*, No. CV-13-2546 RS, 2014 WL 1665090, at **5-6 (N.D. Cal. Apr. 25, 2014); *Wolf v. Capstone Photography, Inc.*, No. 2:13-CV-09573, 2014 WL 7639820, at *12 (C.D. Cal. Oct. 28, 2014) and *Calif. Inst. Of Tech. v. Hughes Commn's, Inc.*, 59 F.Supp. 3d 974, 979 (C.D. Cal. 2014). The *Caltech* decision involved "no material disputed facts." 59

This Court has held that district courts cannot simply exercise initiative to resolve factual issues relevant to Rule 12 motions without notice to the parties or an opportunity to present evidence. *Advanced Cardiovascular Sys., Inc. v. Scimed Life Sys., Inc.*, 988 F.2d 1157, 1164 (Fed. Cir. 1993) ("A movant's challenge to the sufficiency of the complaint as a matter of law … is not sufficient notice that the non-movant must respond as if to a motion for summary judgment"). Exercising initiative to resolve disputed fact issues is ***exactly*** what the district court did when it relied upon its own "general historical observations" as to analog TV broadcasts. *E.g.,* Appx91-92. The trial court's decision cannot stand.

The district court provided ***no*** notice nor opportunity for Front Row to demonstrate the state of the art so that Front Row could refute Appellees' "conventional" use arguments. For example, the '856 patent requires "a ***touch-sensitive display*** screen to ***simultaneously and singularly*** display said ***venue-based data***"—streaming video data packets—"and to accept user input via said touch-sensitive display screen." In 2000, few cellular phones that could display wirelessly streamed video had touch-sensitive displays. Appx828. Similarly,

---

F.Supp.3d at 979 n.6. In *Gametek,* the Defendants met their clear and convincing evidentiary burden based on the patents' claims. 2014 WL 1665090, at **5-6. The *Wolf* patents dealt with categorizing photographs, which involved only "basic camera and computer functions." 2014 WL 7639820 at *12.

claim 2 requires end users to authenticate their access with access codes, which was not conventional in 2000. Appx829. Claim 6 calls for wirelessly streaming venue-based data through CDMA cell networks, which had not been done in practice. Appx829.

The bidirectional communications between the end user and the venue-based data transmitter in the '184 patent were not conventional in 2000. Appx756 (claim 1). Similarly, the '184 patent, the '856 patent, '460 patent and the '895 patents all claimed more than one video perspective from more than one camera would be transmitted to the handheld device enabled to allow consumers to ***choose*** the video feed they wanted to see, which was not conventional in 2000. *Id.*, Appx828, Appx1018, Appx793, Appx3689.

Such factual issues required the district court to treat Appellees' motion as one for summary judgment and provide Front Row with the procedural protections of Rule 56. FED. R. CIV. P. 12(d). Instead, the court selected "facts" on its own, without supporting evidence, to determine the state of the art. The district court therefore committed reversible error.[16]

---

[16] Appellees claim this Court has rejected the claim that wireless streaming was not "routine, conventional or well-known." Resp. Br. at 54-55 (citing *Affinity/Amazon*, 838 F.3d at 1269). Appellees are wrong, the *Amazon* court did not evaluate the state of the art. 838 F.3d at 1269. Similarly, Appellees confuse the fact that some handheld devices were video-enabled in 2000 with actual use for that purpose. Resp. Br. at 54 n. 12.

Ultimately, all 98 claims of Front Row's asserted patents fell victim to the district court's decision to accept Appellees' unsubstantiated attorney arguments applying 2016's technical knowledge to evaluate patents from 16 years earlier. To those arguments, the district court added a soupçon of its own "general historical observations." Appx91. The district court committed reversible error.

C. The inventive concepts in Front Row's patents render them eligible.

Appellees' arguments against Front Row's inventive concepts are mystifying. The Supreme Court has held that the "search for an 'inventive concept' looks for an element or combination of elements that is sufficient to ensure that the patent in practice amounts to significantly more than a patent upon" the ineligible concept. *Alice*, 134 S.Ct. at 2355 (internal citation omitted). Appellees have transformed the Supreme Court's call for "an element or combination of elements" that show inventiveness into a requirement that the ***claims*** of the patent specify how the patent must operate. Resp. Br. at 54-55.[17] That

[17] The Front Row patents need not teach exactly how to capture, transform into data, transmit, packet, authenticate, and unpack video images. Patents are written for persons with ordinary skill in the art; the parties have not litigated that person's year-2000 knowledge. Appellees allege "the Video Patents here fail to disclose the mechanism or means for sending video to wireless handheld devices." *Id.* But each patent's specification describes the various networks and protocols usable to effectuate the patented technology. *E.g.,* Appx824 (15:28-36; 16:8-24) (sending data over CDMA and TDMA networks); *see also* Appx3688-3689 ('027 patent discussing same at 16:25-17:29); Appx788-789

interpretation does not meet this Court's standard that specifications teach, claims claim.[18] *SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 n.14 (Fed. Cir. 1985) (en banc).

In October 2000, storing venue-based video data perspectives from multiple cameras, digitizing them into compressed video data packets, and transmitting them over a digital network to produce interactive video subject to real-time user control (after authenticating the user's access to such transmissions) on a handheld, two-way communicating device capable of receiving, decompressing and displaying the user controlled video were unknown concepts in the art. These core elements use existing technology inventively by enabling real-time interactive selection by the consumer, which extant technologies did not employ. Appx793-794, Appx756, Appx829-830, Appx1018-1019. The systems the Front Row patents created are new and useful, and therefore inventive. *See X One, Inc. v. Uber Techs., Inc.,* No. 16-CV-06050-LHK, 2017 WL 878381 at *18 (N.D. Cal. Mar. 6, 2017) (noting "two-way sharing of information, a feature not available in the conventional technology," constituted more than performing well-

---

('895 patent discussing same at 16:25-17:29).

[18] If *Affinity/Amazon* requires the specification to ***teach*** a specific method to effectuate a technological solution, it has transformed an examination of the ***elements*** in the claim language (per *Alice*) into analyzing whether the written description of the specification supports the claims. *See Affinity/Amazon*, 838 F.3d at 1269.

understood activities and indicated an inventive concept).

Appellees elide the impact of the *Mayo/Alice* inventive concept requirement by using "generic" and "conventional" as sorcerous incantations to make patents disappear without examining inventiveness at the time of the patent application. But as Front Row demonstrated in its Brief, the "inventive concept" notion forces courts to determine at least some level of the claimed inventions' novelty. Br. at 50-52.[19]

The inventive concept inquiry necessarily creates overlap between the eligibility and novelty requirements—"inventive" means "having or showing an ability to think of new ideas and methods."[20] How can a court determine whether an inventive concept exists, which entails determining whether conventional products are used to perform more that "well-understood, routine [and] conventional activities previously known in the industry," without examining evidence of the patent's new ideas and methods—the hallmarks of novelty?[21] *See Content Extraction and Trans. LLC v. Wells Fargo Bank, N.A.,* 776

---

[19] In *Diehr,* the Supreme Court held novelty has "no relevance in determining ***whether the subject matter of a claim*** falls within the § 101 categories." *Id.* But *Diehr* did not discuss saving a patent from elimination as "ineligible" by inquiring whether the claims contained inventive concepts. *See Mayo,* 566 U.S. at 72-73.

[20] http://www.merriam-webster.com/dictionary/inventive.new

[21] This inquiry is distinct from, and broader than, the novelty requirement in §

F.3d 1343, 1347-48 (Fed. Cir. 2014) (quoting *Alice*, 134 S.Ct. at 2359).

In *Affinity/DirecTV,* this Court ignored historical context in determining a patent ineligible. 838 F.3d at 1265. In that case, this Court looked only to whether the claims had meaningful limitations. *Id*. But ignoring the inventiveness of a combination of steps at the time the inventor claimed that combination cannot comport with Supreme Court precedent—what use is the Supreme Court's inventive concept test if this Court does not examine inventiveness? *See Verint Sys., Inc.*, *v. Red Box Recorders Ltd.*, 14-cv-5403 (KBF), 2016 WL 7156768 at *4 (S.D.N.Y. Dec. 7, 2016) (citing *Alice* to hold that claims alleging an improvement in a technical field meet inventive concept test).

Only if the steps set forth in a patent examined ***in context*** are purely conventional, can a patent lack an inventive concept. *Alice*, 134 S.Ct. at 2359; *Mayo,* 566 U.S. at 78-79 (patent on decades-old medical concept invalid). An inventive concept can exist "in the non-conventional and non-generic arrangement of known, conventional pieces." *Bascom*, 827 at 1350.[22] Such "non-

---

102 because the anticipation defense to patent infringement requires proof that all elements of the claimed invention be disclosed in a single prior art reference. *E.g., In re Gleave*, 560 F.3d 1331, 1334 (Fed. Cir. 2009).

[22] The district court did not analyze this crucial aspect of *Bascom*. Appx46; Appx2951-2953. *Bascom*'s holding that the patentee's arrangement of known, conventional pieces can determine if an inventive concept is present and the *Affinity/DirecTV* opinion's choice to avoid that analysis effectively create an

conventional" and "non-generic" ***arrangements*** are immeasurable without reference to the state of the art on the patent's priority date. Once again, in this action the parties disputed the state of the art at the time of the inventions and the district court acted as its own factfinder regarding the state of the art. Appx91-92. That constitutes reversible error.

The district court also held that "[t]aken as a whole, the claims do not create any new innovation, such as an improvement in online shopping, or an improved filter for web browsers." Appx129. That conclusion is incorrect—the innovation described in the Front Row patents provided interactive video and data access to event attendees that had been previously unavailable.[23] The district court analyzed the separate components employed in Front Row's patents, not their combination, and held "the claims use them in conventional ways" without determining, nor allowing Front Row to provide refuting evidence, that the claimed amalgam of components combined as a system was conventional or inventive. Appx134-135. The district court's concurrent holding that "[t]he system has not overcome a problem [regarding] computer networks" nor "improved any existing technological process" misses the point—the Front Row

---

intra-circuit conflict.

[23] In that portion of its opinion, the district court was evaluating claim 15 of the '856 patent but the examples it gave have a wider scope. Appx128-129. Its analyses of claim 15 of the '856 patent and claim 1 of the '895 patent are similar.

patents "leverage [ ] certain technical capabilities" of existing handheld device capabilities and combine them with specific video capture, data compression, and cellular and wireless communications technologies to create systems and methods to achieve new dynamic and interactive technological ends. *See X One, Inc., supra*, 2017 WL 878381 at *17 (inventive concept present where "the system appears to leverage the certain technical capabilities of the phones … to effectuate the dynamic nature of the 'buddy list.'").[24]

Front Row noted the analysis that Judge Forrest of the Southern District of New York developed to determine if a potentially ineligible patent contained sufficient inventive concept. Br. at 35-37.[25] Contrary to Appellees' argument, none of Judge Forrest's five inventive-concept factors could be met by "using a computer to implement an abstract idea" because the Supreme Court foreclosed that possibility. Resp. Br. at 65. Judge Forrest does not claim otherwise. Instead, she formulated a set of considerations that courts can use so that the § 101 test does not become what inequitable conduct allegations were a decade ago—a

[24] Appellees complain that Front Row did not argue its patents pass the "machine-or-transformation" test, but that issue is irrelevant. *Bilski* made clear the Supreme Court's relative disdain for the test. 561 U.S. at 604 (2010)(analyzing cases). The "inventive concept" test is more applicable here.

[25] The Appellees deride Judge Forrest's work by exalting this Court's *ad hoc* approach to patent eligibility determinations. Resp. Br. at 64-65. Appellees may wish to maintain the pleasant fiction that this Court's prior precedents provide clear guidance to the 94 district courts but both this Court's own opinions and those issued daily by the district courts belie such utopic views.

bane upon the patent system.

Ultimately, Front Row's patent specifications all teach this 5-step ordered combination of technical features: (1) simultaneously capturing a plurality of video perspectives utilizing more than one camera, (2) processing the video perspectives in data packets, (3) authorizing receipt of the data packets by handheld devices, (4) transmitting the data packets over the wireless data network, (5) processing the data packets for selective display video at the handheld device. *E.g.,* Appx802-803, Appx805-807 (figs. 5, 6, 8-10 of '856 patent—all Front Row patents contain these figures). This ordered sequence uses the capabilities of existing technology in new ways—such as transmitting digital data packets even though in 2000 handheld devices had not received and displayed video, or utilizing wireless intelligent networks' storage capacities for the patents' authentication features. Appx824, Appx1013, Appx754, Appx788. If such previously unknown use cannot constitute an inventive concept, the phrase becomes meaningless.

D. The '027 patent contains additional inventive concepts.

The district court's finding that the '027 patent uses "generic components in conventional ways" and therefore lacks an inventive concept cannot stand. Appx137. The district court stated "the ['027 Patent's Claim 1 fails to explain *how* the elements will accomplish their intended result." Appx137. That analysis

is backward—"[s]pecifications teach, claims claim." *SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 n.14 (Fed. Cir. 1985) (en banc).

The '027 specification teaches "[a] location of at least one user can be determined based on communications of … computing device[s] utilized by the … user[s] with the data communications network supporting data communications of the … computing device." Appx3693 (25:36-40). It further teaches that "[t]he computing device can be authorized to receive the … service based on the location as determined by the data communications network." *Id.* (25:40-43). In addition, "HLR subscriber information as used in WINs includes identity, service subscription information, ***location information*** … service restrictions and supplementary services/information" and the HLRs initiate "transactions with VLRs to complete incoming calls and update subscriber data." Appx3689 (17:52-59). The specification provides a detailed description of how the VPN system works to locate mobile device users. Appx3691-3692 (22:17-23:45).[26]

Thus, the specification teaches the use of a wireless handheld device to

[26] Appellees argued that the only two paragraphs in the '027 patent "that relate to the use of location to determine access to video do not appear in the '895 Patent [but only] appeared in the specification when the '027 Patent was filed in February 2012." Resp. Br. at 15 n.3 (citing Appx759-794). This point is irrelevant for patent eligibility review and is incorrect. The '027 patent claims priority to the '895 patent, which claims priority to the 60/243,561 provisional application—filed October 26, 2000—which described location-based access.

communicate with the "assets of a data communications network" and limiting the users by preventing "service beyond or within a particular geographic area based on said location determination by said data communication network." Appx3693 (claim 1). To find a "complete absence of explanation here" in the '027 patent required the district court to ignore the specification, which explains why the district court never referenced the specification. Appx137.

Appellees' claim that "this Court rejected another patent that similarly used location to determine content presented to a user" reverses the order of cart and horse. Resp. Br. at 60-61 (citing *Intellectual Ventures I LLC v. Capital One Bank (USA),* 792 F.3d 1363, 1369-70 (Fed. Cir. 2015)). In *Intellectual Ventures,* the content ***provider*** tailored the content it provided the user based upon user-location, which was not new; the '027 patent puts content control in the ***user's*** hands by letting the user choose what to view, which is inventive. *Intellectual Ventures* does not apply.

The district court's ruling is erroneous; this Court should reverse and remand.

CONCLUSION

Front Row's asserted claims are not abstract, include inventive concepts, and do not pre-empt anything. The district court's holding that the patents are not directed to patent-eligible concepts is factually and legally wrong. The Court should reverse the district court's decision dismissing Front Row's case and erasing a large portfolio of patents and remand this case to the district court.

Date: March 15, 2017

Submitted By,

/s/ *Michael W. Shore*
Michael W. Shore (Texas 18294915)
mshore@shorechan.com
Alfonso Garcia Chan (Texas 24012408)
achan@shorechan.com
Christopher L. Evans (Texas 24058901)
cevans@shorechan.com
Russell J. DePalma (Texas 00795318)
rdepalma@shorechan.com
Ari B. Rafilson (Texas 24060456)
arafilson@shorechan.com
SHORE CHAN DEPUMPO LLP
901 Main Street, Suite 3300
Dallas, Texas 75202
Telephone: (214) 593-9110
Facsimile: (214) 593-9111

COUNSEL FOR FRONT ROW TECHNOLOGIES, LLC.

CERTIFICATE OF SERVICE

I certify that on the 15th day of March, this brief was filed through the Court's CM/ECF system and served upon all parties in compliance with Fed. Cir. R. 25(e).

/s/*Michael W. Shore*
Michael W. Shore

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the Court's typeface requirements and page limitations for motions. The typeface is 14-point Calisto MT, which is a proportional type font with serifs. The brief contains 6,989 words in the portions of the brief not exempt from the word count limitations.

/s/*Michael W. Shore*
Michael W. Shore