



ARE Law Helps Didomi Win Again on Appeal Achieving Dismissal of Nuisance Patent Infringement Suit By Veripath

Amster Rothstein & Ebenstein LLP, a New York City intellectual property boutique law firm, advised Didomi, a Paris-based marketing technology company, on its successful appeal in a U.S. federal appeals court achieving the dismissal of a nuisance patent infringement lawsuit by Veripath, Inc.

Veripath claimed that cookie consent notices on Didomi's website violated its patent called "Methods and Systems for User Opt-In to Data Privacy Agreements" (U.S. Patent No. 10,075,451), but a U.S. federal district court dismissed the lawsuit in March 2020 finding Veripath's patent was invalid as being directed merely to an abstract idea and lacked any "inventive concept".

This week, the Federal Circuit affirmed the District Court's decision, dismissing Veripath's claims as patent-ineligible pursuant to 35 U.S.C. § 101.

On Monday February 8, 2021, a three-judge panel of the U.S. Federal Circuit Appeals Court affirmed the District Court's 2020 decision, which dismissed Veripath's claims as patent-ineligible pursuant to 35 U.S.C. § 101.

The Federal Circuit agreed with Didomi's arguments and found unpersuasive the tenuous and unsupported arguments advanced by Veripath. The Federal Circuit's reasoning predominantly followed the arguments and logic set forth in the District Court's 2020 decision, which disagreed with Veripath's claim that its patent was patent-eligible.

The Federal Circuit found that "at its most basic level, [Veripath's patent] is anchored on the abstract idea of exchanging privacy for functionality" and "at most, [it] is directed to no more than an improvement to the abstract notion of exchanging privacy for functionality." The Court indicated that it was not enough to merely improve a fundamental practice or abstract process



by invoking a computer merely as a tool.

Furthermore, akin to what the District Court's 2020 decision already stated, the Federal Circuit was unconvinced by Veripath's arguments and found that the patent lacked any "inventive concept." The Federal Circuit held that Veripath's claims were insufficient to transform the invention into patent-eligible subject matter and affirmed the District Court's 2020 decision.

"The district court's grant of Didomi's motion to dismiss Veripath's nuisance lawsuit in March 2020 set a very important precedent in our industry. We at Didomi are very happy that the appeals court agreed and found Veripath's "new" arguments unpersuasive and affirmed the initial judgment. We just cannot let people with vague ideas obtain patents and then file frivolous lawsuits against innovative companies because it would stifle innovation unlawfully. I am thankful that our counsel at Amster, Rothstein & Ebenstein LLP helped us defend our case. All companies should be able to put consent at the heart of their digital operations," said Romain Gauthier, CEO of Didomi

"We are pleased to say that the Federal Circuit and District Court agreed with Didomi and concluded that the claims of Veripath's patent are clearly patent-ineligible pursuant to 35 U.S.C. § 101. Such findings are necessary to ensure that only quality patents that adequately meet the statutory eligibility requirements are enforceable," said Charles R. Macedo, lead counsel on the case from Amster, Rothstein & Ebenstein LLP

ARE Law associate Christopher Lisiewski also worked on this matter.

[Read Didomi's press release on the victory.](#)

The prior timeline of the case can be found here: [Didomi Obtains Dismissal By US Court of Nuisance Patent Infringement Suit By Veripath Over "User Opt-in and Data Privacy" Patent \(April 2020\)](#)

About Amster, Rothstein & Ebenstein LLP



Since 1953, Amster, Rothstein & Ebenstein LLP has focused exclusively on representing clients in all facets of intellectual property law both domestically and internationally. The firm partners with clients to protect and maximize their intellectual property in a broad spectrum of industries such as financial services, fashion and retail, life sciences, medical devices, toys, entertainment, housewares, consumer electronics as well as blockchain and artificial intelligence. Our lawyers handle all facets of intellectual property law including: patent, trademark, copyright and other related intellectual property law areas. Learn more about us at <https://www.arelaw.com/>.

About Didomi

Didomi builds technology that allows organizations to place customer consent at the core of their strategy. By making consent and preferences easily accessible, companies benefit from compliant customer data while seeing higher engagement and increased user trust. Consumers, on their side, are free to choose what data to share and how to stay connected to their favorite brands across touchpoints. Our products include a globally adopted Consent Management Platform (CMP), which collects billions of consents every month, a highly popular Preference Center (PC), and a powerful suite of bespoke solutions to build better consent and preference management. Find out more at www.didomi.io.

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