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Patent Trial and Appeal Board



Appeals Review Panel vacates PTAB new ground of rejection under 35 U.S.C. § 101

Today, an Appeals Review Panel consisting of Director John A. Squires, Acting Commissioner Valencia Martin Wallace, and Vice Chief Judge Michael W. Kim issued a decision in *Ex parte Desjardins* that reverses the Patent Trial and Appeal Board's new ground of rejection under § 101.

The application on appeal relates to training machine learning models, and reflects improvements in artificial intelligence (AI) technology that “‘us[e] less of their storage capacity,’ enables ‘reduced system complexity,’” and “‘effectively learn new tasks in succession whilst protecting knowledge about previous tasks.’”

The ARP decision explains that the claims are patent-eligible, pointing to the Federal Circuit's *Enfish* decision, which observes that many advancements in computer technology, “by their very nature, may not be defined by particular physical features but rather by logical structures and processes.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1339 (Fed. Cir. 2016). The ARP decision further explains that the claims at issue stand rejected under § 103, demonstrating that §§ 102, 103, and 112 are the traditional and appropriate tools to limit patent protection to its proper scope, and should be the focus of examination.

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