18-1697

In the

United States Court of Appeals

For the

Federal Circuit

BRIDGE AND POST, INC.,

Plaintiff-Appellant,

v.

VERIZON COMMUNICATIONS, INC., CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, VERIZON INTERNET SERVICES INC., VERIZON ONLINE LLC, AOL INC., AND OATH, INC.

Defendants-Appellees,

Appeal from the United States District Court for the Eastern District of Virginia, Case Nos. 3:17-cv-00094-JAG (Lead) and 3:17-cv-710-JAG The Honorable John A. Gibney, Jr. Presiding.

APPELLANT'S PETITION FOR REHEARING EN BANC

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Dated: August 19, 2019

CERTIFICATE OF INTEREST

Counsel for Appellant Bridge and Post, Inc., certifies the following:

1. The full name of every party or amicus curiae represented by counsel is:

Bridge and Post, Inc.

2. The name of the real party in interest represented by counsel is:

Bridge and Post, Inc.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by counsel are:

N/A

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

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5. The Title and number of any case known to counsel pending in this or any other court or agency that will directly affect or be directly affected by this court's

decision in the pending appeal. *See* Fed. Cir. R. 47.4(a)(5) and 47.5(b). (The parties should attach continuation pages as necessary):

Cellco Partnership dba Verizon Wireless v. Bridge and Post, Inc., 19-1962 and 19-1963 (appeal from IPR2018-00054 and 2018-00055 (April 15, 2019)).

The patents were also at issue in the following *inter partes* review proceedings:

Unified Patents Inc. v. Bridge and Post, Inc., IPR2017-01423 (P.T.A.B.)

Cellco Partnership dba Verizon Wireless v. Bridge and Post, Inc., IPR2017-02046 (P.T.A.B.)

Cellco Partnership dba Verizon Wireless v. Bridge and Post, Inc., IPR2018-00054 (P.T.A.B.)

Cellco Partnership dba Verizon Wireless v. Bridge and Post, Inc., IPR2018-00055 (P.T.A.B.)

Cellco Partnership dba Verizon Wireless v. Bridge and Post, Inc., IPR2018-00321 (P.T.A.B.)

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STATEMENT OF COUNSEL
UNDER FEDERAL RULE OF APPELLATE PROCEDURE 35(B)
AND FEDERAL CIRCUIT RULE 35(B)

Based on my professional judgment, I believe the panel decision is contrary to the following decision(s) of the Supreme Court of the United States or the precedent(s) of this court: *Alice Corp. Pty. Ltd. v. CLS Bank Intern.*, 571 U.S. 1090 (2014); *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012); *Bilski v. Kappos*, 561 U.S. 593 (2010); *Diamond v. Diehr*, 450 U.S. 175 (1981).

Dated: August 19, 2019

By: */s/ Denise M. De Mory*
Denise M. De Mory

I. INTRODUCTION

The result in this case demonstrates that this Circuit's application of the two-prong *Alice*[1] test no longer accomplishes its sole purpose: to determine whether patent claims preempt others from using laws of nature, natural phenomena, or abstract ideas—the fundamental building blocks of innovation.

Every § 101 decision by this Court follows a "choose your own adventure" narrative, with the fate of each computer-related patent dependent on how a panel decides step one of the *Alice* test. Yes, there's a second part to the *Alice* test. But in *only two* out of 50-plus decisions where a panel of this Court held a computer-related patent to be directed to an abstract idea in step one, has the panel then determined in step two that the claim elements, "individually and as an ordered combination," amounted to an "inventive concept."[2]

That step two has been effectively written out of the test for computer-related inventions is a red flag that this Court is misapplying Supreme Court authority as it relates to the eligibility of these inventions.

The warning signs are no less clear in this Court's step one analyses. Since *Alice,* this Court has invalidated one computer-related patent after another as each

[1] *Alice Corp. Pty. v. CLS Bank Int'l*, 573 U.S. 208 (2014).
[2] *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1347–48 (Fed. Cir. 2016); *see also Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1300–02 (Fed. Cir. 2016).

judge decides whether the claims "improve a computer's functionality"[3] by assessing whether the patent is directed to something a computer "could not do before."[4] Through this backdoor, the Court has ressurected the machine-or-transformation test years after the Supreme Court warned in *Bilski*[5] that it was too blunt an instrument for evaluating subject-matter eligibility in computer-related patents.

In addition to sounding in novelty or obviousness—but not preemption—this test is nonsensical for computer-related arts. Computers have always been comprised of some combination of a processor, memory, and sets of instructions, and in the case of computer networks, the ability to communicate with other computers. From the start, suitably-programmed computers *could do all the things* that this Court has deemed to be eligible "improvements to computer functionality."

For example, by providing additional instructions to standard computer hardware, VisiCalc (circa 1978) could have included navigation using tabs like the

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[3] *See, e.g., Solutran, Inc. v. Elavon, Inc.,* No. 2019-1345, 2019 WL 3418471 (Fed. Cir. July 30, 2019); *Univ. of Fla. Research Found., Inc. v. Gen. Elec. Co.*, 916 F.3d 1363 (Fed. Cir. 2019); *Ancora Techs., Inc. v. HTC Am., Inc.*, 908 F.3d 1343 (Fed. Cir. 2018); *Data Engine Techs. LLC v. Google LLC*, 906 F.3d 999 (Fed. Cir. 2018); *Finjan, Inc. v. Blue Coat Sys., Inc.*, 879, F.3d 1299, 1305 (Fed. Cir. 2018).

[4] *See, e.g.,* Slip Op. at 13 ("None of these alleged improvements 'enables a *computer* . . . to do things it could not do before.'" (quoting *Finjan*, 879 F.3d at 1305)).

[5] *Bilski v. Kappos*, 561 U.S. 593 (2010).

patent that passed muster in *Data Engine*. Software Services System (circa 1983) could have stored license information in the BIOS (circa 1975), like the patent deemed eligible in *Ancora*. But no one invented these processes before the inventors in *Ancora* or *Data Engine*.

The Bridge and Post patents likewise claim new processes implemented on standard computer hardware. The patents issued from two different specifications that culminate in claims directed to technological advances to ISP systems that improve targeted content delivery online. Defendant Verizon itself values innovation in this technological discipline and has patents covering similar methods, *which it has argued are patentable over Bridge and Post's patents*. *See, e.g.*, Appx628; Appx662-665.

Nonetheless, the panel invalidated all three patents, finding they were directed to nothing more than "communicating information using a personalized marking" or "using persistent identifiers to implement targeted marketing." But "communicating information using a personalized marking" could describe *nearly every* network communication at any time, across any hardware and utilizing any communication protocol.

The claims here recite *so much more* than "communicating using a personalized marking"; they show how, and they do so with sufficient detail to make clear that they do not preempt all internet communications, or even other

means of delivering targeted content over the internet. They claim eligible improvements to computer networking technology, even if used to deliver advertising.

The "improvement to computer functionality" test is highly subjective, untethered to the realities of the computer-related arts, and almost always decided on a motion to dismiss without the record that would be present for a novelty or obviousness finding. As a result, the Court's § 101 jurisprudence is unpredictable, and as many patent experts have noted, a mess.

The Court should grant rehearing en banc because it is time to meaningfully examine how far this Circuit's caselaw on the computer-related arts has deviated from the Supreme Court's rulings in *Alice*, *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*,[6] and *Bilski*, and to return to applying the test as it was intended in *Mayo* and *Alice*: to assess preemption—the core concern that undergirds the Supreme Court's Section 101 caselaw.

II. BACKGROUND

A. The Challenges Of Identifying The Location And Demographics Of Internet Users

The patents-in-suit address specific challenges that have no equivalent in the brick-and-mortar world. Offline, zip codes can be used to direct content

[6] 566 U.S. 66 (2012).

(advertising, political information, public safety announcements, etc.) through the mail or newspaper insert, or via broadcast radio or television. Using just zip codes, pertinent content can be directed to recipients who remain anonymous to the sender.

There is a multi-billion dollar market for delivering targeted content online, but there are no zip codes on the internet. The one thing remotely analogous—the IP address—is unreliable for a variety of reasons, with estimates of a match between IP address and location only as high as 60 percent. Appx76, 2:26-37; Appx39, 2:35-43. Cell phone numbers aren't much help either. A user with a cell phone number starting with the (202) area code could be anywhere in the world. *Id*.

Then there's the "cookie"—a computer file placed on a user's network access device that was invented to keep track of user browsing history. Appx76, 1:43-52. That information is then used to tailor content to the user. *Id.*, 1:59-64. But techniques for erasing, blocking, and disabling cookies limit their utility. *Id.*, 1:56-67.

ISPs—companies that provide the pipes of the internet (traditional landlines (dial-up or DSL), cable, cellular internet service, and dedicated high-speed lines)—know the identity and demographic information of users accessing the internet.

Appx113, ¶15. But legal restrictions and privacy concerns make it nearly impossible to use this information for directing targeted content.

B. The Innovations Of The Patents-In-Suit

The inventors had a revelation. They realized that software could be added to existing ISP hardware to create more effective technology for delivering content to users with particular demographics without *using or revealing* any personally identifiable information (PII) about any user. Instead, the new technology relies on the physical locations where a device connects to its network over time.

The inventors built an innovative technology platform for content providers to connect to relevant communities online. The new platform used non-personal information from ISPs detailing where a device accessed the internet; correlated that data with location and other information; and provided demographic and location information for a user to content providers in real time, while maintaining user anonymity and privacy. Appx59, 3:33-4:31. Because the platform was ISP-based, the ISP also had the ability to allow a user to opt-in or opt-out. *Id.*, 4:59-63.

The ’594 patent, filed first, claimed a method whereby the ISP collected location-access information; built a profile that was associated with the device accessing the network (a phone, tablet, or computer), thereby keeping the identity of the user private; correlated that profile with location-specific information; assigned the profile to one or more groups (market segments); and then inserted

relevant content into the webpage requested by the network access device.[7]

The '594 claims provide that the ISP:

- isolates a unique persistent identifier associated with a network access device (e.g., mobile phone) requesting access to a website;
- identifies the location and other characteristics of the device;
- retrieves information about the times and locations when the device previously accessed the ISP's network;
- builds a user profile with this information and stores it;
- generates a series of group characteristics (reflecting the user's likely demographics) based on the device's historic use, generates [a] group identifier[s], and adds to the user profile;
- determines appropriate directed media based on the information included in the user profile and the group identifiers;
- and delivers customized media in the requested website without ever using PII.

The '747 and '314 patents represent further improvements in network communication technology.[8] The inventors devised a way to provide demographic

[7] Two IPR petitions were filed against the '594 Patent, but were both denied institution. *See* Appx989-1007; Appx1069-1085.

[8] The '747 and '314 claims were found obvious in *Inter Partes* review. *See* IPR2018-00054 and 2018-00055 (Paper 40) (April 15, 2019); IPR2018-000321 (Paper 27) (June 19, 2019). The '747 IPR decisions are currently on appeal to this Court, Nos. 19-1962 and 19-1963 (consolidated).

information about a user to content providers in real time, in a manner that protected the privacy and anonymity of users. Appx78, 5:11-6:4.

The '747 patent claims a process by which the ISP:

- intercepts each request made over the network (for example an HTTP request to access a website);
- inserts anonymous geographic, demographic, historic, and location information about the user into an extensible field in the request header (such as an extensible HTTP header field), using a unique alphanumeric string;
- encrypts the alphanumeric string;
- sends the encrypted information to the website, with decoding tools; and
- receives from the website requests to decode the encrypted information so that it is available for the website to use.

The '314 patent claims an alternative method, alleviating the need to transmit demographic information in the tagged traffic and providing users with greater control over the source of targeted content they receive. Appx46, 15:3-26. The '314 patent claims a process where the ISP:

- intercepts each request made over the network (for example an HTTP request to access a website);
- inserts an encrypted user identifier that corresponds to the device accessing the network;
- transmits the modified request to the content provider;
- receives a request from the content provider for further non-PII demographic information about the requester;

- decodes the identifier and securely provides the requested demographic information to the content provider.

C. A Split Decision By The Panel Highlights The Error In This Court's Approach To Computer-Related Patents

The panel's written opinion reflects a subjective view of whether the patents "improve computer functionality"—untethered to the claim language or teachings in the specification—instead of an objective focus on whether the patents seek to monopolize the building blocks of innovation.

In step one of the *Alice* test, the panel unanimously held that the '594 patent is directed to "the abstract idea of using persistent identifiers to implement targeted marketing." Slip Op., 7-8. The panel also unanimously held that the '314 patent is "directed to the abstract idea of communicating information using a personalized marking." *Id.*, 13-14.

In so holding, the panel ignored *the specific claim language* which described *improvements* over prior art technology for delivery of targeted content to devices on a network. The panel wrongly called them "generic computer functions" and said that "even a highly specific method for implementing an abstract idea is, at step 1 of *Alice*, still directed to that abstract idea." *Id.,* 13. These conclusions carried over to step two, where the panel found that, "[e]ven as an ordered combination, the limitations of claim 1 recite no more than a computer

implementation of the abstract idea of using persistent identifiers to implement targeted marketing." *Id.*, 16, 19-20.

On the '747 patent, the panel split, with the majority concluding that the claims were directed to "the abstract idea of communicating information using a personalized marking," with remaining claim elements functioning only as generic computer implementation. *Id.*, 12. The majority also asserted that "Bridge and Post does not claim to have invented new networking hardware or software." *Id.* That is wrong. The'747 patent changed how ISP systems function. Appx78, 6:49-66.

The dissent, by contrast, understood the '747 patent and correctly noted that it describes a "technique [that] entails intercepting network traffic in HTTP format at a routing device coupled between a client and server computer, embedding that traffic with an alphanumeric string identifying client user information in an HTTP header field normally unused or left blank, and send that traffic onward." Dissent, at 2. That's not an abstract idea, the dissent wrote, because it describes one specific way to use personalized marking to facilitate the delivery of targeted content on the internet.

Without saying so, the dissent rightly focused on preemption by noting that the '747 patent claimed specific technological improvements in how ISP systems

function to direct targeted content online but not *all ways* to carry out online targeted marketing or use ISPs in that way.

But the same is true of the '594 and '314 patents. The Court simply ignored the inventions described while searching for an amorphous and subjective improvement in "computer functionality."

III. REHEARING EN BANC SHOULD BE GRANTED

A. The Court's Decisions Applying The *Alice* Test To Computer-Related Patents Conflict With The Supreme Court's Clear Directives

The Supreme Court rejected the patents in *Alice* and *Bilski* because the patents did *nothing more* than describe a traditionally-recognized offline process (escrow instructions in *Alice* and hedging in *Bilski*) implemented through a generic computer implementation. These patents would have granted the patentees a monopoly on *all* computer implementations of long-standing financial practices.

Avoiding such monopolies on basic organizational principles is what motivates the Supreme Court's directives on subject-matter eligibility. "We have repeatedly emphasized this concern that patent law not inhibit further discovery by improperly tying up the future use of these building blocks of human ingenuity."[9]

But *there is nothing* in the Supreme Court's decisions which suggests that a process cannot be patented if it is implemented *in a new and specific way* on

[9] *Alice,* 573 U.S. at 216 (citations omitted); *see also Mayo*, 566 U.S. at 73.

standard computer hardware in conformity with existing protocols. This is especially so when the process is an improvement over prior methods in the same technological field. Indeed, the *Alice* Court, citing *Diamond v. Diehr*, 450 U.S. 175, 177-178 (1981), held that the "escrow on a generic computer" claims were abstract because they did not "effect an improvement in any other technology or technical field" nor "purport to improve the functioning of the computer itself."[10]

In assessing subject-matter eligibility, this Court has largely and detrimentally focused only on the latter rationale (improvements in computer functionality) and ignored the former (improvements in technology or a technical field). That's given rise to an approach that favors computer-related patents that claim inventions judges can "see" and "feel" and disfavors computer-related patents that claim less "tangible" improvements.

If the specification appears to describe an improvement to an existing and understood computer function, then the patent meets the test for eligibility. The Court found improvements to computer functionality with patents that improved navigability of websites on small screens[11] and of spreadsheets using tabs;[12]

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[10] 573 U.S. at 225-26.

[11] *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1361-63 (Fed. Cir. 2018).

[12] *Data Engine*, 906 F.3d at 1008.

organized databases in a new way;[13] improved methods to detect suspicious activity on a network by tagging a suspicious downloadable file[14] and verifying that programs are authorized or licensed;[15] and improved rendering software.[16]

But the Court has rejected computer-related patents that do not, in a panel's view, improve computer functionality. It does not matter how narrowly the claims are drafted, whether the claimed process solves technological problems in the prior art, or whether there is any risk of preemption at all. If the patents claim technological improvements outside of what is subjectively deemed to fall within the category of "computer functionality," they are *a fortiori* directed to an abstract idea and unpatentable.[17] In these cases, as occurred here, the highest possible level of abstraction is assigned to the claims in step one, and any additional specificity is ignored in step two.

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[13] *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016).

[14] *Finjan*, 879 F.3d at 1304-05.

[15] *Ancora*, 908 F.3d at 1347-49.

[16] *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016).

[17] *See, e.g., Two-Way Media Ltd. v. Comcast Cable Commc'ns LLC*, 874 F.3d 1329 (Fed. Cir. 2017) (holding patent that improved on complex routing computers at service providers ineligible); *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307 (Fed. Cir. 2016) (holding patents for detecting email viruses and malware ineligible); *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253 (Fed. Cir. 2016) (patent that improved networking applications running on smartphones ineligible).

This is particularly problematic for networking-related patents, the complexities of which are not as commonly understood. Networking technology, by its nature, must be described using words that seem generic: communicating using an identifier, and transmitting, delivering, and analyzing information or data. Yet the Court has categorically determined that patent claims using these words are directed to ineligible subject matter.[18]

These decisions improperly read the term "process"—which includes an improvement to a process—out of the Patent Act. The Supreme Court rejected this approach in *Bilski*, when it ruled that this Court's machine-or-transformation test was too crude for assessing for subject-matter eligibility of Information Age patents. By focusing solely on whether computer-related patents claim to improve computer functionality, this Court has, in essence, resurrected the machine-or-transformation test. That's a misapplication of Supreme Court precedents.

This Court's approach to patent-eligibility for computer-related patents undermines innovation and competitiveness by limiting patents to a tiny slice of technological inventions—and one that is subjectively and variably defined. This

[18] *See, e.g., Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1340 (Fed. Cir. 2017) (listing cases that rejected patents for "collecting, displaying, and manipulating data").

approach favors large technology companies with market power at the expense of inventors and entrepreneurs.[19]

Innovation is fostered when inventors use the basic building blocks of technology to create *new processes*. That's why patents that take an abstract idea and "supply a 'new and useful' application of the idea" remain eligible for patent protection.[20]

B. The Patents-In-Suit Claim Eligible Subject Matter

In this case, the inventors did *not* simply take a well-known process (delivery of targeted content) and claim a patent for "doing it on the internet." Many other ways of delivering directed content already existed, but as the patents describe, they had various technological limitations. The patents-in-suit overcame these limitations in ways that do not preempt other variations on those techniques.

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[19] The panel's decision benefited Verizon, a company that *repeatedly swore under oath* (including during the pendency of this action) that its own patent applications—with nearly identical specifications and claims to patents at issue here—comprise eligible subject matter. That is because Verizon, and other major companies that innovate in the software arena, know that this type of innovation is eligible subject matter (*see* http://blog.ipfolio.com/10-patents-that-launched-billion-dollar-empires), but they have exploited the confusion created by this Court's recent jurisprudence to deprive the innovators—on whose backs they stand—of due compensation.

[20] *Alice*, 573 U.S. at 222.

The panel majority held that the '747 and '314 patents were *directed to* the "abstract idea of communicating information using a personalized marking."[21] Applying the *Alice* test, that means that this Court necessarily believes that the '747 and '314 patents preempt the process of "communicating using a personalized marking"—unless there is an "inventive concept" found during the step two analysis that redeems them. The Court found there was not.

In reality, the panel could not have analyzed what the claims are actually "directed to" because *every communication* over a network can be described as "communicating information using a personalized marking." Every communication originates at one device on the network with the intention that it be delivered to a device somewhere else on the network, and hence must include a personalized marking that indicates the device or person to which the communication is to be delivered— for example, an IP address.

The panel's heavy reliance on *Secured Mail Sols. LLC v. Universal Wilde, Inc.*[22] proves the folly of its approach. The *Secured Mail* patents are directed to

[21] Slip Op., 12, 14. Because of the subjective nature of the step one inquiry, it is impossible to reconcile the decision in this case with other decisions of this Court. For example, how is storing a license record in the BIOS instead of other memory in *Ancora* any different than embedding and encrypting demographic and other information in the http header instead of storing browsing history in a cookie? They are both improvements to existing processes.

[22] 873 F.3d 905, 911 (Fed. Cir. 2017).

placing a sticker with a barcode or QR code on a piece of physical mail that is then handed to a mail carrier for delivery. By contrast, the Bridge and Post claims relate to network traffic, not physical mail, and have nothing to do with addressing anything or using PII. Such wildly different patents cannot both monopolize "communicating using a personalized marking."[23]

None of the patents-in-suit seek to monopolize communicating using a personalized marking. The same is true regarding "using persistent indentifiers to implement targeted marketing." This was done before and has been done since, using other methods.

The patents-in-suit claim new technological methods to meet the technological challenges of a 21st century economy. They don't seek to—and don't—monopolize the building blocks of innovation. They advance innovation by building and improving on prior methods of online targeted content delivery. That they do so within the confines of existing network architecture and existing protocols that were available to all for decades (like the spreadsheet in *Data Engine* or the license information in *Ancora*) is *evidence of their inventive nature*,

[23] Courts would be better positioned to avoid this kind of over-generalized patent analysis by declining to consider such motions at the Rule 12 stage and/or putting off Section 101 motions until after claim construction, particularly where there are factual disputes over the scope of the claims. *See, e.g., Cellspin Soft., Inc. v. Fitbit, Inc.*, 927 F.3d 1306, 1317-19 (Fed. Cir. 2019).

not evidence that they are ineligible. They are precisely the kinds of innovations deserving of protections under the Patent Act.

IV. CONCLUSION

Bridge and Post, Inc. respectfully requests that the Court grant rehearing en banc in this case and overrule the panel decision.

Respectfully Submitted,

Dated: August 19, 2019

/s/ Denise De Mory

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ADDENDUM

Panel Decision Dated July 5, 2019

United States Court of Appeals for the Federal Circuit

BRIDGE AND POST, INC.,
Plaintiff - Appellant

v.

VERIZON COMMUNICATIONS, INC., CELLCO PARTNERSHIP, DBA VERIZON WIRELESS, VERIZON INTERNET SERVICES INC., VERIZON ONLINE LLC, AOL INC., OATH INC.,
Defendants - Appellees

2018-1697

Appeal from the United States District Court for the Eastern District of Virginia in Nos. 3:17-cv-00094-JAG, 3:17-cv-00710-JAG, Judge John A. Gibney, Jr.

JUDGMENT

THIS CAUSE having been considered, it is

ORDERED AND ADJUDGED:

AFFIRMED

ENTERED BY ORDER OF THE COURT

July 5, 2019

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

PROOF OF SERVICE

I hereby certify that on August 19, 2019, I electronically filed the foregoing Appellant's Petition for Panel Rehearing and Rehearing En Banc with the Court's CM/ECF filing system, which constitutes service, pursuant to Fed. R. App. P. 25(c) and Fed. Cir. R. 25(a).

Dated: August 19, 2019

/s/ Denise M. De Mory
Denise De Mory (SBN 168076)

Counsel for Appellant/Plaintiff,
BRIDGE AND POST, INC.

CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rule of Federal Circuit Rule 32(a). This brief contains 3,879 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f), Federal Circuit Rule 32(b) and 35(c)(2).

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