

## Fed. Circ. Affirms Nix Of Medical Records IP Under Alice

By **Kevin Penton**

Law360, New York (April 13, 2017, 8:33 PM EDT) -- The Federal Circuit on Wednesday affirmed a Texas federal court's ruling that the asserted claims of a patent covering medical record technology are invalid as abstract and not inventive under the U.S. Supreme Court's Alice ruling.

The appellate court panel did not expand in its one-sentence order on its rationale for affirming the May 2016 Eastern District of Texas opinion that the asserted claims of Preservation Wellness Technologies LLC are invalid under the Supreme Court's 2014 ruling in *Alice v. CLS Bank International*, which held that abstract ideas implemented through a computer are patent-ineligible under Section 101 of the Patent Act.

The patent covers a system for maintaining electronic medical records that both patients and doctors can access through secure, remote locations and that allows them to read and edit the information contained, according to court records.

Preservation Wellness told the Federal Circuit in its August opening brief that the Texas court erred by not accepting all factual allegations as true and by not drawing all reasonable references in its favor.

"The court below erred by failing to construe these allegations in the light most favorable to Preservation Wellness, including giving Preservation Wellness the benefit of all reasonable inferences," the company argued in its brief.

Defendants Allscripts Healthcare Solutions Inc., Epic Systems Corp. and NextGen Healthcare Information Systems LLC — which all faced allegations that they infringed Preservation Wellness' patent — argued in their October response brief that the Texas court was correct in its determination that securely managing medical records and providing patients and doctors with remote access to the information are abstract ideas that are not eligible for a patent.

"The district court applied the correct substantive and procedural law to determine that the claims of the ... patent are not directed to patent-eligible subject matter," the companies argued.

Counsel for Preservation Wellness could not be reached for comment Thursday.

"NextGen is pleased to see its position vindicated," said Michael Renaud, an attorney who argued for all the defendants in the case, in a statement. "This should send a message that these patents directed to long-standing methods of organizing human activity will be dismissed at the pleading stage of litigation, and the quick affirmance suggests that the Federal Circuit has provided sufficient clarity on Section 101 jurisprudence in the wake of Alice."

U.S. Circuit Judges Timothy B. Dyk, Kimberly A. Moore and Jimmie V. Reyna sat on the panel for the Federal Circuit.

The patent-in-suit is U.S. Patent Number 7,640,271.

Preservation Wellness is represented by Nicole Dominique Galli of the Law Offices of N.D. Galli

LLC.

NextGen Healthcare Information Systems LLC is represented by Michael Timothy Renaud, Sandra Badin, Michael Newman and James M. Wodarski of Mintz Levin Cohn Ferris Glovsky & Popeo PC.

Allscripts Healthcare Solutions Inc. is represented by Brian Douglas Siff of Duane Morris LLP and Ashley Taylor Corbit and Harnaik S. Kahlon of Riley Safer Holmes & Cancila.

Epic Systems Corp. is represented by Anthony Allen Tomaselli, Carly Levin, Kristin Graham Noel, Martha Jahn Snyder and Louis A. Klapp of Quarles & Brady LLP.

The cases are Preservation Wellness Technologies LLC v. Allscripts Healthcare Solutions Inc. et al., case numbers 16-2193, 16-2194 and 16-2195, in the U.S. Court of Appeals for the Federal Circuit.

--Editing by Sara Ziegler.