

**The AIPLA’s
2024–2025 Giles Sutherland Rich Memorial
Moot Court Competition**

Pygmalion, Inc. v. Wonderland, Inc., Case No. 2024-GSR

Problem Materials:

This year’s problem materials include:

- (1) This problem prompt.
- (2) The Joint Appendix. The Joint Appendix includes pages Appx1–Appx23.

Patent-in-Suit:

The Patent-in-Suit is United States Patent GSR,853,913 to Pygmalion, Inc. (the “’913 patent”). The ’913 patent is directed to systems and methods of reducing motion sickness in Virtual Reality systems.

Issues on Appeal:

Two issues are on appeal to the United States Court of Appeals for the Federal Circuit:

- (1) Whether the ’913 patent is invalid under 35 U.S.C. §101 as being directed to the computer-based implementation of an abstract idea.
- (2) Whether Defendant Wonderland Inc. is entitled to summary judgment as to Plaintiff’s federal trade secret misappropriation claim.

Trial Counsel:

The appellant was represented at the district court level by the law firm of Smith & Smith LLP. The appellee was represented at the district court level by the law firm of Jones & Jones LLP. The competitors are engaged as counsel only for the purposes of this appeal.

Background:

Plaintiff Pygmalion: Pygmalion, Inc. (“Pygmalion”), a Virtual Reality startup, was founded by Harriet Higgins (“Higgins”), who founded in 2013 while Higgins was a Ph.D. student in computer science at George B. Shaw University (“GBS”). From 2006 through 2011,

Higgins was an engineer at West End Inc., a major technology company, where she worked on smartphone and video game products. Higgins' educational background includes computer science, biology, and visual art.

In Fall 2013, Higgins founded Pygmalion, seeking to create a Virtual Reality headset system. In her years of prior experience with VR systems and with Pygmalion's early prototype VR headset system, Higgins experienced motion sickness when using VR headsets. VR users sometimes experience motion sickness, headaches, eye fatigue, nausea, and other symptoms. The term "cybersickness" or "virtual reality sickness" has also been used.

Beginning as early as 2014, as part of Pygmalion's product development, Higgins sought to solve the problem of motion sickness in VR system use.

On June 5, 2015, Pygmalion filed the application that led to the '913 patent, which issued on July 14, 2019. Higgins and Doolittle are the listed inventors, and the '913 patent is assigned to Pygmalion.

On September 10, 2016, Pygmalion released its Virtual Reality system, "The Dance." Like many prior other VR systems, The Dance comprised a wired headset, and it could play software such as video games. The Dance practiced the '913 patent.

With respect to motion sickness, The Dance was moderately effective at reducing motion sickness, headaches, and similar symptoms. The Dance's features included the ability to change the interpupillary distance ("IPD"). Many earlier VR systems, such as the Tweedle, had fixed IPD.

By mid-2018, The Dance was one of the leading VR system products. But Pygmalion had difficulty licensing game content. Accordingly, Pygmalion's VR video game library was not extensive.

Defendant Wonderland: Defendant Wonderland Co. ("Wonderland") is a major multinational technology company that was founded in 1984. Wonderland's founder is Carol Lewis ("Lewis").

Wonderland had made video game consoles since 1988, when it created the “White Rabbit,” which is also known as the “WR.” Over the subsequent years, Wonderland has released subsequent numbered systems, such as the “White Rabbit 3.” Wonderland is one of the most successful video game console companies in the world.

In 1995, Wonderland released an early VR headset product, the Tweedle. Although widely considered innovative in the mid-1990’s, the Tweedle was only a modest commercial success. The Tweedle equipment was heavy, slow, and expensive. In addition, the Tweedle had a fixed IPD. In addition, Tweedle VR users would frequently suffer from motion sickness, eye fatigue, headaches, and nausea.

Pygmalion and Wonderland Engage in Business Discussions: In March 2019, Wonderland approached Pygmalion to discuss a potential business relationship. Wonderland wanted to explore, *inter alia*, a possible acquisition of Pygmalion and to discuss Pygmalion’s VR technology.

On May 13, 2019, Wonderland and Pygmalion executed a non-disclosure agreement, which required Wonderland to “maintain as secret and not to disclose, and not to use in any capacity whatsoever any Confidential Information for any purpose, other than the purposes for which such information was disclosed,” namely, to facilitate “business discussions.”

In addition, the NDA provided that Wonderland was not permitted to “make written or electronic copies or summaries of Confidential Information” without Pygmalion’s prior written consent.

During the discussions, Pygmalion had extensive discussions with Wonderland about its motion sickness reduction techniques and the ’913 patent.

On October 6, 2019, Wonderland informed Pygmalion that it was no longer interested in pursuing a business relationship with Pygmalion. Wonderland did not license the ’913 patent from Pygmalion.

Wonderland's Release of its VR System: On January 19, 2021, Wonderland commercially released its competing VR system, the "White Rabbit Vision." Like many VR systems, the White Rabbit Vision comprises a VR headset.

Wonderland released a broad range of its White Rabbit console games for use with the White Rabbit Vision. In addition, Wonderland included features seeking to reduce motion sickness, headaches, and other symptoms. For instance, the White Rabbit Vision's hardware settings include adjusting the user's interpupillary distance ("IPD"). By adjusting the VR headset to the user's IPD, the image quality and user's comfort improve.

The White Rabbit Vision quickly became a market leader. In addition, the White Rabbit Vision has consistently been sold \$100 less than Pygmalion's System, "The Dance." Since Wonderland's release of the White Rabbit Vision, Pygmalion's VR market share has steadily decreased.

The Case Below:

On August 15, 2023, Pygmalion filed suit in the Southern District of New York against Wonderland, alleging infringement of the '913 patent and federal trade secret misappropriation under the Defend Trade Secret Act. 18 U.S.C. § 1831 *et seq.*

Wonderland filed a counterclaim of patent invalidity. The District Court issued a claim construction order, which construed the identified terms by their respective plain and ordinary meaning. Wonderland moved for summary judgment of invalidity of the '913 patent; and on the federal trade secret misappropriation claim.

On November 22, 2024, the district court granted summary judgment in favor of Wonderland on both grounds. The district court entered judgment in favor of Wonderland.

On December 6, 2024, Pygmalion timely filed a notice of appeal.

The Appeal:

Pygmalion appeals the district court's grant of Wonderland's motion for summary judgment of ineligibility of all claims of the '913 patent and motion for summary judgment of no trade secret misappropriation.

Record facts:

The record on appeal is generally confined to the facts presented herein. Clearly established, general facts consistent with this record, including regarding Virtual Reality technology and motion sickness (including "cybersickness" or "virtual reality sickness"), may be judicially noticed.