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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Language Technologies Incorporated,

No. CV-23-00520-TUC-RCC

10 Plaintiff,

ORDER

11 v.

12 Microsoft Corporation,

13 Defendant.
14

15 Pending before the Court is Defendant Microsoft Corporation's ("Microsoft")
16 Motion to Dismiss. (Doc. 16.) This matter has been fully briefed. (Docs. 16, 18, 20.) On
17 March 19, 2024, the Court held oral argument. For the reasons set forth below, the Court
18 will grant the motion with leave to amend.

19 **I. Case Background**

20 Language Technologies, Inc. ("LTI") brought suit against Microsoft Corporation
21 ("Microsoft") for patent infringement. (Doc. 1.) LTI alleges that Microsoft's "Bling FIRE
22 Tokenizer"¹—used in, among other things, Microsoft's Bing search engine—infringes on
23 U.S. Patent No. 7,069,508 ('508 Patent) and U.S. Patent No. 7,346,489 ('489 Patent) owned
24 by LTI (collectively "the Patents"). (*Id.* at 14–17.)

25 **II. The Patents**

26 In 2000, LTI filed for the '508 Patent for a "System and Method for Formatting Text

27
28 ¹ In the realm of natural language processing and machine learning, *tokenization* refers to
the process of parsing text into smaller bits of data, including sentences, phrases, words, or
even characters.

1 According to Linguistic, Visual and Psychological Variables." (Doc. 1-2 at 2.) The '508
2 Patent was issued in 2006. (*Id.*) The patent describes an "invention [that] analyzes text and
3 reformats it to establish optimal spacing and related features for readability, reader
4 comprehension and publishing economies." (*Id.* at 7.) "The invention has a neural network
5 that uses a library of text data to analyze text and determine phrases. The text is then
6 formatted according to the determined phrases. The neural network learns additional phrase
7 indicators as it analyzes text and adds the additional data to the library." (*Id.*) The '508
8 Patent provides an alternative to this embodiment saying that "an expert system can be
9 established having rules and templates to be used for analyzing text or the neural network
10 can be used to develop such an expert system." (*Id.*) The '508 Patent describes a method
11 whereby input comes "from any one of a number of different types of devices such as a
12 computer keyboard, a client computer, or a speech recognition device[]" and "output can
13 be used for a number of different types of reading material including printed books,
14 electronic books, Web pages, direct mailing literature, and closed caption systems." (*Id.*)

15 LTI alleges that Microsoft infringed on Claim 23 of the '508 Patent. (Doc. 1 at 14.)

16 Claim 23 reads:

17 A computer-implemented method for formatting text,
18 comprising the steps of:

- 19 (a) providing text input;
- 20 (b) providing a library of key words and punctuation
21 definitions that identify the beginning or end of a phrase;
- 22 (c) using said key words and punctuation definitions to
23 determine characteristics that predict boundary
24 punctuation;
- 25 (d) examining a plurality of words of said text input;
- 26 (e) using said determined characteristics to predict phrase
27 boundaries within said plurality of words;
- 28 (f) repeating steps d–e for a next plurality of words until all
the text input has been analyzed; and
- (g) formatting said text input according to the predicted
phrase boundaries.

(Doc. 1-2 at 11.) Claim 23 is representative of the '508 Patent for purposes of this Motion

1 to Dismiss because the other claims are substantially similar. *Content Extraction &*
2 *Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n, et al.*, 776 F.3d 1343, 1348 (Fed. Cir.
3 2014). The parties have also agreed that Claim 23 is representative. (Doc. 16 at 10 n.3;
4 Doc. 18 at 7 n.2.)

5 In 2006, LTI filed for the '489 Patent for a "System and Method of Determining
6 Phrasing in Text." (Doc. 1-3 at 2.) The '489 Patent was issued in 2008. (*Id.*) It is almost
7 identical to the '508 Patent. (*See id.* at 7–10.) LTI alleges that Microsoft infringed on Claim
8 1 of the '489 Patent. (Doc. 1 at 15.) Claim 1 reads:

9 A method for determining phrasing in text, comprising
10 the steps of:

- 11 (a) providing text input;
12 (b) providing a library of key words and punctuation
13 definitions that identify the beginning and end of a phrase;
14 (c) using said key words and punctuation definitions to
15 determine characteristics that predict phrase or sentence
16 boundaries;
17 (d) examining a plurality of words of said text input;
18 (e) using said determined characteristics to predict phrase
19 boundaries within said plurality of words; and
20 (f) repeating steps d–e for a next plurality of words until
21 phrase boundaries are predicted for each between words
22 between word space in the text input.

23 (Doc. 1-3 at 10.) Claim 1 is representative of the '489 Patent because it is substantially
24 similar, *Content Extraction*, 776 F.3d at 1348, and the parties have agreed that it is
25 representative (Doc. 16 at 10 n.3; Doc. 18 at 7 n.2).

26 **III. Motion to Dismiss**

27 On January 25, 2024, Microsoft filed a Motion to Dismiss Under Federal Rule of
28 Civil Procedure 12(b)(6). (Doc. 16.) LTI filed a Response (Doc. 18) and Microsoft
followed with its Reply (Doc. 20). Microsoft seeks to dismiss both claims in the Complaint,
arguing that the Patents are not eligible for patent protection under 35 U.S.C. § 101 as
interpreted by *Alice Corporation Pty. Ltd. v. CLS Bank International*, 573 U.S. 208 (2014).
(Doc. 16 at 1.) Microsoft contends that the Patents are merely "abstract mental processes

1 with generic computer technology" (*Id.* at 2.)

2 Specifically discussing the '489 Patent, Microsoft argues "[C]laim [1] is directed to
3 an abstract idea of identifying phrases in text by evaluating words and punctuation used in
4 the text. But the human mind practices this when writing, reviewing, or editing text." (*Id.*
5 at 11.) This is similar to, if not more abstract than, claims that other courts have found
6 patent ineligible because, Microsoft explains, "the idea of identifying phrases in text by
7 evaluating words and punctuation is simply the idea of evaluating data (words and
8 punctuation in text) to recognize some information about the data (phrases in the text)."
9 (*Id.*) Microsoft reiterates these arguments against the '508 Patent, although the '508 Patent
10 discloses an additional step of formatting the input text. (*Id.* at 12.) Microsoft argues that
11 the formatting step is similarly abstract and does not save the '508 Patent because "such
12 formatting has been in the realm of human knowledge since at least the advent of
13 typesetting" (*Id.*)

14 Furthermore, Microsoft hones in on the lack of specificity regarding how the
15 Patents' methods rely on computer implementation and computer technology. (*Id.* at 13.)
16 Microsoft emphasizes that Claim 23 of the '508 Patent only mentions that the method is
17 "computer-implemented," and Claim 1 of the '489 Patent does not even specify computer
18 implementation. (*Id.*) Microsoft also argues that the Patents disclose the use of
19 conventional neural networks, "[b]ut nothing in the few general lines of patent description
20 on the subject suggests that the described 'neural network' was inventive or anything other
21 than generic." (*Id.*) Moreover the methods do not even require a neural network but "can
22 be implemented on any type of generic computer" and reliance on conventional computer
23 technology to merely carry out an otherwise abstract function is not patent eligible material.
24 (*Id.* at 13–16.)

25 Microsoft emphasizes that the Patents do not describe any prior art in computerized
26 text processing that the claimed methods supposedly improve upon. (Doc. 20 at 2.) In other
27 words, the Patents do not identify any problem specific to existing computerized text
28 processing that LTI solves. (*Id.*) The Patents only describe the prior art *before* computers
saying the inventions outline methods "distinct from the processes used by linguists to

1 identify phrases by hand in the prior art." (*Id.* at 3 (quoting Complaint, Doc. 1 at 8).)

2 In response, LTI argues that Microsoft "overgeneralizes and oversimplifies the
3 claimed methods" when, actually, "the claimed methods are directed to computerized
4 processing of text that improves the operation of devices that present text, whether in visual
5 or verbal form, and do not simply use computers as a tool for carrying out an abstract idea
6" (Doc. 18 at 1–2.) As LTI describes it, "[t]he claimed methods automate the process
7 of phrase prediction in a body of text through a specific, computerized method that
8 eliminates the subjectivity inherent in the brain's process of phrase identification" (*Id.*
9 at 3.) The "specific method" includes "first provid[ing] 'a library of key words and
10 punctuation definitions that identify the beginning or end of a phrase,' which are used to
11 'determine characteristics that predict boundary punctuation.'" (*Id.* at 7 (quoting '508
12 Patent, Doc. 1-2 at 11).) At oral argument, LTI explained that phrase prediction using the
13 Patents did not just relate to punctuation—like grammar editing—but it instead suggested
14 that the "key words" referenced in the Patents and throughout the pleadings may signal
15 phrase boundaries where there is no corresponding punctuation. However, no further
16 information was given about the "key words."

17 LTI asserts that it gave two primary examples of how the Patents function to
18 improve existing computer technology in its Complaint. (*Id.* at 4.) The first is ReadSmart
19 that "automates and applies phrase-based processing of text through software algorithms .
20 . . [and] adjust[s] the spacing between words, the size of words, and line endings." (Doc. 1
21 at 9.) LTI has launched this implementation of the Patents in ReadSmart Format, a
22 typesetting tool for printed materials, and ReadSmart Mobile, an app for publishing
23 documents to mobile devices. (*Id.* at 10.) The second example is the use of tokenization in
24 internet search engines that improves search results by parsing out phrases in the search.
25 (*Id.*) LTI also emphasized closed captioning technology as an important application of the
26 Patents during oral argument.

27 LTI opposes Microsoft's argument that humans can perform the Patents' method
28 because the claims explicitly disclose a computerized method. (Doc. 18 at 8.) For example,
LTI alleges that "library" is clearly "an electronic repository of data, and not the human

1 brain." (*Id.*) It also emphasizes that the text input comes from a computer or other electronic
2 device. (*Id.* at 9.) Therefore, humans cannot perform any step of the claimed methods. (*Id.*)
3 Instead, the "claims are directed to a method of computerized text phrase prediction that
4 specifically *replaces* the observation, recognition, evaluation, judgment, and opinion of a
5 human reader or linguist with a computer method previously unknown in the art." (*Id.* at
6 14.)

7 LTI puts forth the Patents' prosecution history to demonstrate that the claimed
8 methods offer improvements over the prior art. (*Id.* at 10.) After initially rejecting the
9 application, the patent examiner allowed the claims upon understanding that the prior art
10 did not use key words and punctuation definitions to identify characteristics and predict
11 phrase boundaries as applied to specific text. (*Id.*) Moreover, LTI argues that the functional
12 results-based language (i.e., "providing text input" and "using said key words") does not
13 render the Patents ineligible because, far from being "agnostic as to how the step is
14 performed" like Microsoft alleged, they still describe a specific improvement. (*Id.* at 10–
15 11 (quoting Doc. 16 at 13).)

16 Even if the Court finds the idea abstract at step one, LTI argues the Patents add an
17 inventive concept, namely "unconventional computerized methods and systems for
18 predicting phrase boundaries in a body of text and (for the '508 Patent) formatting the text
19 using the predicted phrase boundaries" (*Id.* at 15.) These methods are allegedly
20 "unconventional" because they differ from the prior art and improve upon existing
21 computer technology. (*See id.* at 16.) LTI asserts that the Court must take the Complaint's
22 allegations that the claimed methods are unconventional as true on a motion to dismiss.
23 (*Id.*) At a minimum, LTI believes its allegations in the Complaint create a plausible factual
24 dispute about whether "the claimed methods are not well-understood, routine or
25 conventional" that makes dismissal inappropriate at this stage. (*Id.* at 2, 6.) If the Court
26 grants Microsoft's Motion to Dismiss, LTI requests leave to amend the Complaint to add
27 more factual allegations. (*Id.* at 17.)

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IV. Relevant Law

a. Motion to Dismiss

Federal Rule of Civil Procedure 12(b)(6) "tests the legal sufficiency of a claim" and allows a party to seek dismissal for failure to state a claim because either the complaint lacks a cognizable legal theory or lacks the factual allegations to support such a theory. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001); *see also Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990). "[A] complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is only plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* The law requires the complaint to contain more than "a statement of facts that merely creates a suspicion [of] a legally cognizable right of action." *Twombly*, 550 U.S. at 555. This means that "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.*

Patent eligibility is appropriate for decision on a motion to dismiss "only when there are no factual allegations that, taken as true, prevent resolving the eligibility question as a matter of law." *Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121, 1128 (Fed. Cir. 2018); *Coop. Ent. Inc. v. Kollektive Tech., Inc.*, 50 F.4th 127, 130 (Fed. Cir. 2022). "A patent shall be presumed valid." 35 U.S.C. § 282(a). Therefore, "[t]he burden of establishing invalidity of a patent . . . shall rest on the party asserting such invalidity." *Id.* A party seeking to invalidate a granted patent "may overcome this presumption with 'clear and convincing evidence' proving [the patent does not satisfy 35 U.S.C. § 101]." *Datanet LLC v. Microsoft Corp.*, No. 2:22-cv-1545, 2023 WL 3947829, at *2 (W.D. Wash. June 12, 2023) (quoting *Microsoft Corp. v. i4i Ltd. P'ship*, 564 U.S. 91, 97 (2011)).

b. Patent Eligibility

Section 101 of the Patent Act describes patent eligible subject matter stating that "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent

1 therefor, subject to the conditions and requirements of this title." 35 U.S.C. § 101. A
2 process means "process, art or method, and includes a new use of a known process,
3 machine, manufacture, composition of matter, or material." 35 U.S.C. § 100(b). The
4 Supreme Court has long identified three categories of non-patent eligible material: "[I]aws
5 of nature, natural phenomena, and abstract ideas are not patentable." *Alice*, 573 U.S. at 216
6 (quoting *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589
7 (2013)). Because "[I]aws of nature, natural phenomena, and abstract ideas are 'the basic
8 tools of scientific and technological work,'" it would impede innovation if patent law
9 permitted parties to monopolize those tools and enforce that monopoly to the exclusion of
10 the world. *Id.* (quoting *Myriad*, 569 U.S. at 589).

11 However, "all inventions at some level embody, use, reflect, rest upon, or apply laws
12 of nature, natural phenomena, or abstract ideas." *Mayo Collaborative Servs. v. Prometheus*
13 *Lab'ys, Inc.*, 566 U.S. 66, 71 (2012). Thus, the Supreme Court has instructed courts to
14 "tread carefully in construing this exclusionary principle lest it swallow all of patent law."
15 *Alice*, 573 U.S. at 217. "[A]n invention is not rendered ineligible for patent simply because
16 it involves an abstract concept." *Id.* Rather, "an application of a law of nature . . . to a
17 known structure or process may [deserve] patent protection." *Diamond v. Diehr*, 450 U.S.
18 175, 185 (1981) (alteration in original).

19 The Supreme Court has established a two-step framework to determine whether a
20 patent falls into one of the three ineligible categories or whether it claims "patent-eligible
21 applications of those concepts." *Id.* The first step of the framework requires courts to ask
22 if the claims are directed to a law of nature, natural phenomena, or abstract idea. *Id.* "If so,
23 we then ask, '[w]hat else is there in the claims before us?'" *Id.* (quoting *Mayo*, 566 U.S. at
24 78). In other words, step two of the framework "consider[s] the elements of each claim
25 both individually and 'as an ordered combination' to determine whether the additional
26 elements 'transform the nature of the claim' into a patent-eligible application" because they
27 add a sufficient "inventive concept." *Id.* at 217–18 (quoting *Mayo*, 566 U.S. at 77–79).

28 **i. Abstractness**

"The 'abstract ideas' category embodies 'the longstanding rule that "[a]n idea of itself

1 is not patentable." *Id.* at 218 (quoting *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)). This
2 "exception prevents patenting a result where 'it matters not by what process or machinery
3 the result is accomplished.'" *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299,
4 1312 (Fed. Cir. 2016) (quoting *O'Reilly v. Morse*, 56 U.S. 62, 113 (1853)). In other words,
5 claims are patent eligible if they are directed to "the means or method that improves the
6 relevant technology" but not if the claims "are instead directed to a result or effect that
7 itself is the abstract idea and merely invoke generic processes and machinery." *Id.* at 1314
8 (citing *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016); *Rapid Litig.*
9 *Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1048 (Fed. Cir. 2016)).

10 The Supreme Court, for example, has concluded that mathematical algorithms,
11 including those implemented on a generic computer, are abstract. *See Gottschalk*, 409 U.S.
12 at 71–72 (holding algorithm for converting numerals was abstract and unpatentable
13 because it had no "substantial practical application except in connection with a digital
14 computer," meaning that a patent on that formula would amount to "a patent on the
15 algorithm itself"); *Parker v. Flook*, 437 U.S. 584, 594–95 (1978) (holding algorithm for
16 calculating alarm limits abstract and unpatentable because it required only "purely
17 conventional" computer implementation that was "well-known" in the art). *But c.f. Diehr*,
18 450 U.S. at 187, 192–93 (holding "an application of a . . . mathematical formula to a known
19 structure or process may well be deserving of patent protection" and finding patent eligible
20 an algorithm for molding rubber because it was not simply a computer-implemented
21 formula but an improvement upon "an industrial process").

22 Relatedly, the Federal Circuit has held that mental processes are abstract because
23 "the application of only human intelligence to the solution of practical problems is no more
24 than a claim to a fundamental principle." *CyberSource Corp. v. Retail Decisions, Inc.*, 654
25 F.3d 1366, 1371 (Fed. Cir. 2011) (citing *Benson*, 409 U.S. at 67; *Flook*, 437 U.S. at 586).
26 Mental processes are methods that "can be performed in the human mind" or "by a human
27 using a pen and paper." *Id.* at 1372–73. Accordingly, "collecting information, including
28 when limited to particular content (which does not change its character as information),"
and "analyzing information by steps people go through in their minds, or by mathematical

1 algorithms, without more," is an abstract idea. *Elec. Power Grp., LLC v. Alstom S.A.*, 830
2 F.3d 1350, 1353–54 (Fed. Cir. 2016) (collecting cases).

3 "In cases involving software innovations, this inquiry often turns on whether the
4 claims focus on 'the specific asserted improvement in computer capabilities . . . or, instead,
5 on a process that qualifies as an "abstract idea" for which computers are invoked merely as
6 a tool.'" *Finjan, Inc. v. Blue Coat Sys., Inc.*, 879 F.3d 1299, 1303 (Fed. Cir. 2018) (quoting
7 *Enfish*, 822 F.3d at 1335–36). In *McRO v. Bandai Namco Games America Incorporated*,
8 for example, the Federal Circuit held that software for rendering 3-D animations was not
9 abstract because it was not simply a mathematical formula but a set of computer-
10 implemented rules that improved upon existing technology. 837 F.3d at 1314–15. The
11 software "allow[ed] computers to produce 'accurate and realistic lip synchronization and
12 facial expressions in animated characters' that previously could only be produced by human
13 animators." *Id.* at 1313. Prior to the invention, animators made "subjective determinations
14 rather than [using] specific, limited mathematical rules." *Id.* at 1314. The Federal Circuit
15 reasoned that "[i]t [was] the incorporation of the claimed rules, not the use of the computer,
16 that 'improved [the] existing technological process' by allowing the automation of further
17 tasks." *Id.* (quoting *Alice Corp.*, 573 U.S. at 223). The court distinguished this from *Flook*
18 and other cases where the prior method was carried out in essentially the same way as the
19 computer automated process. *Id.*

20 **ii. Inventive Concept**

21 A claimed invention may still be eligible for patent although it is directed to an
22 abstract idea if the claims offer an "inventive concept" that "transform[s] the abstract
23 concept into a patent-eligible application." *Alice*, 573 U.S. 221. But it requires "more than
24 simply stat[ing] the [abstract idea] while adding the words 'apply it.'" *Id.* (quoting *Mayo*,
25 566 U.S. at 72). For example, in *Mayo Collaborative Services v. Prometheus Laboratories,*
26 *Incorporated*, the Supreme Court considered a method for measuring metabolites in blood
27 to determine proper treatment dosage in patients. 566 U.S. at 71. After finding that the
28 patent was directed to a natural law—i.e., the correlation between the level of metabolites
in the bloodstream and proper dosage—the Court reasoned that the patent amounted to

1 little more than instructing physicians to apply a well-known law, which did not constitute
2 an inventive concept. *Id.*

3 Similarly, implementing an abstract algorithm using generic and existing computer
4 technology is not an inventive application of an abstract idea. *See Benson*, 409 U.S. at 64;
5 *Flook*, 437 U.S. at 594. Indeed, "*Flook* stands for the proposition that the prohibition
6 against patenting abstract ideas cannot be circumvented by attempting to limit the use of
7 [the idea] to a particular technological environment." *Alice*, 573 U.S. at 222–23 (quoting
8 *Bilski*, 561 U.S. at 610–11). In contrast, the patent in *Diehr* was sufficiently inventive
9 because it employed a well-known algorithm but in combination with additional steps
10 within a larger industrial process and improved upon that process. 450 U.S. at 178–79. The
11 patent used a thermocouple to obtain previously unknown constant temperatures inside a
12 rubber mold and feed those measurements into a computer that then used the algorithm to
13 repeatedly recalculate cure time. *Id.*

14 **V. Discussion**

15 The Court finds that the Patents are not patent eligible. First, the Patents are directed
16 to the abstract concept of using "key words" and punctuation to define and identify phrases
17 in text. Because "key words" have not been further defined for this Court, the Court will
18 take them to mean well-established vocabulary in the English language. The Patents
19 describe research in linguistics and discuss how the way text is written and displayed
20 impacts the speed with which we can read it and our ability to understand it, but this does
21 not make the Patents less abstract. Rather, it expands upon the abstract idea, explaining
22 laws of nature regarding how our brains function and how the English language is designed.
23 In other words, the actual steps in Claim 23 and Claim 1 seem to rely on teaching a generic
24 computer well-established rules of grammar and instructing it to identify phrases based on
25 these rules. This is comparable to invoking computers merely as a tool to carry out an
26 abstract mental process like collecting, identifying, and storing particular types of data—
27 in this instance, phrases of text—much in the way that the non-automated process would
28 unfold. *See Elec. Power*, 830 F.3d at 1353–54. Although the Patents remove some of the
subjectivity that a human editor might employ, they do not appear to create or solidify new

1 rules of writing. The additional step in the '508 Patent of formatting the text based on the
2 phrase locations is similarly abstract, at least the way it is described in Claim 23.

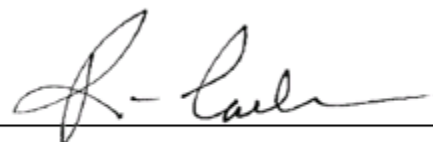
3 Having found the Patents are directed to an abstract idea, the Court must also
4 consider whether they disclose an additional inventive element. The Court finds they do
5 not. The steps, individually, are abstract function- and outcome-based directions for
6 inputting text, looking at the text, and instructing the computer to apply the rules it was
7 taught (i.e., keywords and punctuation). Likewise, as an ordered combination, the steps in
8 both the representative claims describe an abstract mental process—using well-known
9 grammar rules to identify phrases. The Court disagrees with LTI that the Complaint's
10 allegations that the Patents disclose an "unconventional" method create a bar to dismissal
11 at this point. Although the Court must take as true the factual allegations in a complaint on
12 a motion to dismiss, it need not deny dismissal based on "[t]hreadbare recitals of the
13 elements of a cause of action, supported by mere conclusory statements." *Twombly*, 550
14 U.S. at 555. LTI's repeated allegation that its method is unconventional—and therefore
15 survives the second step of the *Alice* test—is conclusory and not clearly grounded in the
16 text of the Patents themselves.

17 Therefore, the Court finds that Microsoft has met its burden of providing clear and
18 convincing evidence that the Patents are not patent eligible under § 101. LTI has, however,
19 requested the alternative remedy of allowing it leave to amend. The Court will grant that
20 request.

21 Accordingly,

22 **IT IS ORDERED** that Microsoft's Motion to Dismiss is **GRANTED**. (Doc. 16.)
23 **IT IS FURTHER ORDERED** that LTI may file an Amended Complaint within **thirty**
24 **(30) days of the date of this Order**. If LTI does not file an Amended Complaint before
25 this deadline, the matter will be closed.

26 Dated this 29th day of March, 2024.

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Honorable Raner C. Collins
Senior United States District Judge